



Volume 33 (2003)

Pennsylvania Bulletin
Repository

9-13-2003

September 13, 2003 (Pages 4543-4652)

Pennsylvania Legislative Reference Bureau

Follow this and additional works at: http://digitalcommons.law.villanova.edu/pabulletin_2003

Recommended Citation

Pennsylvania Legislative Reference Bureau, "September 13, 2003 (Pages 4543-4652)" (2003). *Volume 33 (2003)*. 37.
http://digitalcommons.law.villanova.edu/pabulletin_2003/37

This September is brought to you for free and open access by the Pennsylvania Bulletin Repository at Villanova University Charles Widger School of Law Digital Repository. It has been accepted for inclusion in Volume 33 (2003) by an authorized administrator of Villanova University Charles Widger School of Law Digital Repository. For more information, please contact Benjamin.Carlson@law.villanova.edu.

PENNSYLVANIA BULLETIN

Volume 33
Saturday, September 13, 2003 • Harrisburg, Pa.
Number 37
Pages 4543—4652

Agencies in this issue:

The Courts
Department of Banking
Department of Conservation and
Natural Resources
Department of Education
Department of Environmental Protection
Department of General Services
Department of Health
Department of Labor and Industry
Department of Revenue
Environmental Hearing Board
Environmental Quality Board
Health Care Cost Containment Council
Independent Regulatory Review Commission
Insurance Department
Liquor Control Board
Milk Marketing Board
Pennsylvania Public Utility Commission
State Board of Funeral Directors
State Real Estate Commission

Detailed list of contents appears inside.



PRINTED ON 100% RECYCLED PAPER



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

No. 346, September 2003

CUT ON DOTTED LINES AND ENCLOSE IN AN ENVELOPE

CHANGE NOTICE

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

**FRY COMMUNICATIONS, INC.
Attn: *Pennsylvania Bulletin*
800 W. Church Rd.
Mechanicsburg, PA 17055-3198**

CUSTOMER NUMBER (6 digit number above name)

NAME OF INDIVIDUAL

OFFICE NAME—TITLE

ADDRESS (Number and Street)

(City) (State) (Zip Code)

TYPE OR PRINT LEGIBLY

PENNSYLVANIA



BULLETIN

(ISSN 0162-2137)

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

Postmaster send address changes to:

FRY COMMUNICATIONS
Attn: *Pennsylvania Bulletin*
800 W. Church Rd.
Mechanicsburg, Pennsylvania 17055-3198
(717) 766-0211 ext. 2340
(800) 334-1429 ext. 2340 (toll free, out-of-State)
(800) 524-3232 ext. 2340 (toll free, in State)

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

Fry Communications, Inc.
Attn: *Pennsylvania Bulletin*
800 W. Church Rd.
Mechanicsburg, PA 17055-3198

Copyright © 2003 Commonwealth of Pennsylvania
ISBN 0-8182-0004-9

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

CONTENTS

THE COURTS

APPELLATE PROCEDURE

Proposed amendment to Rule 1931, transmission of the record	4552
Proposed amendment to Rule 2117, statement of the case.....	4552

EXECUTIVE AGENCIES

DEPARTMENT OF BANKING

Notices

Action on applications.....	4585
-----------------------------	------

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Notices

Conservation and Natural Resources Advisory Council meeting	4586
---	------

DEPARTMENT OF EDUCATION

Notices

Application of Point Park College for approval of university status	4586
---	------

DEPARTMENT OF ENVIRONMENTAL PROTECTION

See also ENVIRONMENTAL QUALITY BOARD

Notices

Applications, actions and special notices.....	4587
Availability of technical guidance	4630
Cleanup Standards Scientific Advisory Board meeting cancellation.....	4630
Oil and Gas Technical Advisory Board meeting cancellation	4630
Pennsylvania Bituminous Mine Safety Advisory Committee meeting cancellation	4631

DEPARTMENT OF GENERAL SERVICES

Notices

State contracts information.....	4649
----------------------------------	------

DEPARTMENT OF HEALTH

Notices

Availability of draft preventative health and health services block grant application for Federal fiscal year 2004; revised notice	4631
Health Research Advisory Committee public hearings and meetings	4631
Infant Hearing Screening Advisory Committee meeting.....	4632
Special supplemental nutrition program for women, infants and children (WIC Program)	4632
Tobacco Use Prevention and Cessation Advisory Committee public meeting.....	4633

DEPARTMENT OF LABOR AND INDUSTRY

Notices

Current Prevailing Wage Act debarments.....	4633
---	------

DEPARTMENT OF REVENUE

Notices

Taxable and exempt property.....	4634
----------------------------------	------

ENVIRONMENTAL HEARING BOARD

Notices

Wheatland Tube Company—Division of John Maneely Company v. DEP; EHB doc. no. 2003-221-L	4642
---	------

ENVIRONMENTAL QUALITY BOARD

Proposed Rulemaking

Bond adjustment and bituminous mine subsidence control standards	4554
Stream redesignations (Brushy Meadow Creek, et al.) (correction)	4568

HEALTH CARE COST CONTAINMENT COUNCIL

Notices

Invitation to bid	4642
-------------------------	------

INDEPENDENT REGULATORY REVIEW COMMISSION

Notices

Actions taken by the Commission.....	4643
--------------------------------------	------

INSURANCE DEPARTMENT

Notices

Application for merger	4643
Blue Cross of Northern Pennsylvania; nongroup basic; rate filing no. 750-BC NG base—1/1/04.	4643
Blue Cross of Northern Pennsylvania; nongroup special care; rate filing no. 751-BC-SP—1/1/04.	4644
Erie Insurance Exchange; homeowners insurance rate revision	4644
HealthGuard; premium rate increase; group business; rate filing	4644
Highmark, Inc. d/b/a Highmark Blue Shield; Security65 hospital and medical/surgical plan E (western region); rate filing.....	4644
Review procedure hearings; cancellation or refusal of insurance	4645
Review procedure hearings under the Unfair Insurance Practices Act	4645

LIQUOR CONTROL BOARD

Notices

Expiration of leases.....	4646
---------------------------	------

MILK MARKETING BOARD

Notices

Hearing postponement:	
Milk marketing area no. 2.....	4646
Milk marketing area no. 3.....	4646

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Notices

Service of notice of motor carrier applications.....	4646
Telecommunications (5 documents).....	4647, 4648
2004 schedule of filing dates for recovery of purchased gas costs; doc. no. L-840102	4648

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

4546

STATE BOARD OF FUNERAL DIRECTORS

Proposed Rulemaking

Continuing education 4569

STATE REAL ESTATE COMMISSION

Proposed Rulemaking

Education 4571

READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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

Printing Format

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

Fiscal Notes

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

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

Reproduction, Dissemination or Publication of Information

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

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

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

List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2003.

1 Pa. Code (General Provisions)

Proposed Rulemaking

301	3501
303	3501
305	3501
307	3501
309	3501
311	3501

4 Pa. Code (Administration)

Adopted Rules

1	1452, 3476, 4063, 4065
5	3478, 3480, 3600
7	3483, 3486, 3989

Proposed Rulemaking

243	892
249	892

Statements of Policy

1 (with correction)	1624
9	34, 760, 1722, 2984, 3510, 3615, 4178

7 Pa. Code (Agriculture)

Adopted Rules

21	1329
59	4445
106	541

Statements of Policy

133	2172
-----	------

17 Pa. Code (Conservation and Natural Resources)

Adopted Rules

23	21
----	----

22 Pa. Code (Education)

Adopted Rules

4	255, 283
403	2980

Proposed Rulemaking

4	1847
11	4300
14	4306
73	2885
215	882

25 Pa. Code (Environmental Protection)

Adopted Rules

86	3608
93	1226, 1227

Proposed Rulemaking

86	4554
89	4554
93 (with correction)	4165, 4571
109 (with correction)	1234, 1239, 1350, 3609, 3730
215	4393
216	4393
217	4393
218	4393
219	4393
220	4393

221	4393
223	4393
224	4393
225	4393
226	4393
227	4393
228	4393
230	4393
240	4393
271	2880
287	2880

28 Pa. Code (Health and Safety)

Adopted Rules

912	2865
-----	------

Proposed Rulemaking

25	2169
1001	4450
1003	4450
1005	4450
1007	4450
1051	4450

31 Pa. Code (Insurance)

Adopted Rules

115	346
165	24

Proposed Rulemaking

84d	4297
-----	------

34 Pa. Code (Labor and Industry)

Adopted Rules

65	25
----	----

37 Pa. Code (Law)

Adopted Rules

11	4074
13	4074
14	4074
21	4074
31	4074
33	4074
41	4074
51	4074
53	4074
55	4074
56	4074
58	4074
59	4074
421	353
431	1617

Proposed Rulemaking

203	1246
-----	------

49 Pa. Code (Professional and Vocational Standards)

Adopted Rules

9	28
36	358, 2476, 2869
49	1346

Proposed Rulemaking

9 1116
 13 1358, 4569
 19 1124
 21 4462
 23 1118, 1120, 4464
 31 1359
 35 4571
 40 1715

52 Pa. Code (Public Utilities)

Proposed Rulemaking

53 1106
 54 31
 57 2064
 59 2064

55 Pa. Code (Public Welfare)

Adopted Rules

183 4161
 1101 (with correction) 361
 4225 1051
 4226 1051

58 Pa. Code (Recreation)

Adopted Rules

51 1348
 53 1228
 61 1229
 63 1468, 4447
 65 1229, 3496, 4074
 69 1230, 3496
 71 4447
 73 4447
 75 3496
 77 3496
 91 1348, 3496, 3497
 93 1348
 109 3497
 111 1231, 3496
 117 3497
 135 2748, 2871
 137 (with correction) 1470, 1471
 139 2872, 2878
 141 (with correction) 1473, 2749, 2751, 2752, 2753, 2871
 143 1475, 2753
 147 1714, 2748, 2754

Proposed Rulemaking

51 3126
 61 2757, 3992, 4076
 63 2757, 2762, 3126, 3992
 65 1479, 2757, 2760, 3127, 3992, 4076
 69 1479, 2757, 3127, 3992
 71 2762
 73 2762
 75 1479
 77 1479
 91 1482
 97 3127
 105 4077
 109 1482
 111 1479
 117 1482
 131 2589
 135 1350, 2763
 139 1098, 1103
 141 1103, 1351, 1353, 1355, 1357, 2590, 2591, 2881, 2882

143 1357, 1484, 2589, 2883
 147 1350, 2589, 2884

Statements of Policy

57 3513

Proposed Statements of Policy

57 1487

61 Pa. Code (Revenue)

Adopted Rules

34 2756
 71 1842
 85 1842
 815 1845
 951 3124

64 Pa. Code (Securities)

Adopted Rules

102 (with correction) 3365, 3500
 202 (with correction) 3365, 3500
 203 (with correction) 3365, 3500
 204 (with correction) 3365, 3500
 207 (with correction) 3365, 3500
 305 (with correction) 3365, 3500
 606 (with correction) 3365, 3500

Proposed Rulemaking

102 884
 202 884
 203 884
 204 884
 207 884
 305 884
 606 884

67 Pa. Code (Transportation)

Adopted Rules

177 2479, 3608
 449 2378

Proposed Rulemaking

83 4171
 175 4175
 201 1930
 203 1930
 211 1930
 212 1930

Statements of Policy

102 1624
 204 1361

Proposed Statements of Policy

41 2889

201 Pa. Code (Rules of Judicial Administration)

Adopted Rules

3 2044
 7 634
 17 1926
 19 1711

204 Pa. Code (Judicial System General Provisions)

Adopted Rules

85 967
 401 4430

Proposed Rulemaking

81 3306
 83 744, 2857
 401 2468

207 Pa. Code (Judicial Conduct)

Adopted Rules
 4 3359
 51 3359
 121 1449

Proposed Rulemaking

4 2474
 51 745

210 Pa. Code (Appellate Procedure)

Adopted Rules
 1 2586
 21 1711, 2044, 2586
 35 2973
 67 2973

Proposed Rulemaking

15 2259
 17 3603
 19 4552
 21 4552
 33 3603

225 Pa. Code (Rules of Evidence)

Adopted Rules
 IV 2973

Proposed Rulemaking

IV 197, 2355
 VII 198

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules
 200 634, 748, 1712, 2356, 2974, 4071
 400 2974
 1000 748, 751, 1450, 1926, 2356, 2587, 2974
 1300 2359
 1910 4072, 4435
 1920 4072
 1930 13
 2120 751, 1450
 2150 751, 1450
 2170 751, 1450
 2350 1927
 2950 2974
 2970 2974
 3000 2974
 4000 748, 2974

Proposed Rulemaking

200 3361
 1910 3490
 1930 1580
 4000 3362

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules
 1 1324, 4287
 4 969, 1324, 4289
 7 1927, 4436
 10 3363

Proposed Rulemaking

1 967, 1048, 2161
 2 2163
 6 1049, 2164
 7 2161

237 Pa. Code (Juvenile Rules)

Proposed Rulemaking
 1 1581
 2 1581
 3 1581
 4 1581
 5 1581
 6 1581
 8 1581

246 Pa. Code (Minor Court Civil Rules)

Adopted Rules
 100 2167
 300 3491

Proposed Rulemaking

600 753
 1000 753

249 Pa. Code (Philadelphia Rules)

Unclassified 532, 2269, 2360, 2655, 2656, 2745, 3606

252 Pa. Code (Allegheny County Rules)

Unclassified 757

255 Pa. Code (Local Court Rules)

Unclassified 14, 17, 200, 341, 540, 635, 758
 873, 874, 875, 878, 879, 880, 1221, 1450,
 1713, 1838, 1929, 2045, 2047, 2168, 2270,
 2272, 2374, 2375, 2376, 2474, 2588, 2857,
 2858, 2862, 2864, 2977, 2978, 3123, 3494,
 3728, 3729, 4073, 4159, 4439

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 19]

Proposed Amendment to Rule 1931, Transmission of the Record

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rules of Appellate Procedure 1931 (Transmission of the Record). The amendment is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed amendment should be sent no later than September 30, 2003 to the Appellate Court Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055.

An Explanatory Comment follows the proposed amendment and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

By the Appellate Court Procedural Rules Committee

HONORABLE JOSEPH A. HUDOCK,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

RECORD ON APPEAL FROM LOWER COURT

Rule 1931. Transmission of the Record.

* * * * *

(c) *Duty of clerk to transmit the record.*—When the record is complete for the purposes of the appeal, the clerk of the lower court shall transmit it to the prothonotary of the appellate court. The clerk of the lower court shall number the documents comprising the record and shall transmit with the record a list of the documents correspondingly numbered and identified with reasonable definiteness. Documents of unusual bulk or weight and physical exhibits other than documents shall not be transmitted by the clerk unless he is directed to do so by a party or by the prothonotary of the appellate court. A party must make advance arrangements with the clerk for the transportation and receipt of exhibits of unusual bulk or weight. Transmission of the record is effected when the clerk of the lower court mails or otherwise forwards the record to the prothonotary of the appellate court. The clerk of the lower court shall indicate, by endorsement on the face of the record or otherwise, the date upon which [**it**] **the record** is transmitted to the appellate court.

(d) [*Multiple appeals*] *Service of the List of Record Documents.*—The clerk of the lower court shall, at the time of the transmittal of the record to the appellate court, mail a copy of the list of record documents to all counsel of record and shall note on the docket the giving of such notice.

(e) *Multiple appeals.*—Where more than one appeal is taken from the same order, it shall be sufficient to transmit a single record, without duplication.

* * * * *

Explanatory Comment—1976

This provision makes clear that in multiple appeals only one original record need be transmitted.

Explanatory Comment—2003

It is hoped that the 2003 amendment to Rule 1931 will alleviate the potential waiver problem which results when counsel is unable to ascertain whether the entire record in a particular case has been transmitted to the appellate court for review. The rule change is intended to assist counsel in its responsibility under the Rules of Appellate Procedure to provide a full and complete record for effective appellate review. See *Commonwealth v. Williams*, 552 Pa. 451, 715 A.2d 1101 (1998) (“The fundamental tool for appellate review is the official record of what happened at trial, and appellate courts are limited to considering only those facts that have been duly certified in the record on appeal”); *Commonwealth v. Wint*, 1999 Pa.Super. 81, 730 A.2d 965 (1999) (“Appellant has the responsibility to make sure that the record forwarded to an appellate court contains those documents necessary to allow a complete and judicious assessment of the issues raised on appeal”). In order to facilitate counsel’s ability to monitor the contents of the original record which is transmitted from the trial court to the appellate court, new subdivision (d) requires that a copy of the list of record documents be mailed to all counsel of record and that the giving of such notice be noted on the record. Thereafter, in the event that counsel discovers that anything material to either party has been omitted from the certified record, such omission can be corrected pursuant to Pa.R.A.P. 1926.

[Pa.B. Doc. No. 03-1788. Filed for public inspection September 12, 2003, 9:00 a.m.]

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 21]

Proposed Amendment of Rule 2117, Statement of the Case

The Appellate Court Procedural Rules Committee proposes to amend Pennsylvania Rules of Appellate Procedure 2117 (Statement of the Case). The amendment is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court.

All communications in reference to the proposed amendment should be sent no later than September 30,

2003 to the Appellate Court Procedural Rules Committee,
5035 Ritter Road, Suite 700, Mechanicsburg, PA 17055.

By the Appellate Court Procedural Rules Committee

HONORABLE JOSEPH A. HUDOCK,
Chair

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE II. APPELLATE PROCEDURE

**CHAPTER 21. BRIEFS AND REPRODUCED
RECORD**

CONTENT OF BRIEFS

Rule 2117. Statement of the Case.

* * * * *

(d) [*Appeals from case stated*] *Appeals from cases submitted on stipulated facts.*—When the appeal is from an order on a [**case stated, in the nature of a special verdict,**] **case submitted on stipulated facts**, the statement of the case may consist of the facts as [**agreed upon**] **stipulated** by the parties.

Official Note:

* * * * *

The 2003 amendment replaces references in subdivision (d) to appeals from a “case stated” because this procedure was abolished pursuant to Pa.R.C.P. 1038.2. In its place, the Supreme Court adopted Pa.R.C.P. 1038.1 providing for a “case submitted on stipulated facts.” The statement of the case under subdivision (a)(1) of this rule may now only consist of those facts stipulated to by the parties.

[Pa.B. Doc. No. 03-1789. Filed for public inspection September 12, 2003, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 86 AND 89]

Bond Adjustment and Bituminous Mine Subsidence Control Standards

The Environmental Quality Board (Board) proposes to amend Chapters 86 and 89 (relating to surface and underground coal mining; general; and underground mining of coal and coal preparation facilities). The proposed rulemaking affects application requirements, bonding requirements and performance standards relating to the restoration of structures and water supplies affected by underground coal mining.

This proposal was adopted by the Board at its meeting of July 15, 2003.

A. *Effective Date*

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

B. *Contact Persons*

For further information contact Joseph G. Pizarchik, Director, Bureau of Mining and Reclamation, P. O. Box 8461, Rachel Carson State Office Building, Harrisburg, PA 17105-8461, (717) 787-5103; or William Shakely, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Information regarding the submission of comments on this proposed rulemaking appears in Section I. Persons with a disability may use the AT&T Relay Service, (800) 654-5988 (voice users). This proposed rulemaking is available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

The rulemaking is proposed under the authority of section 7 of The Bituminous Mine Subsidence and Land Conservation Act (BMSLCA) (52 P.S. § 1406.7) and section 1920-A of The Administrative Code of 1929 (71 P.S. § 510-20). Additionally, the rulemaking is proposed under the BMSLCA (52 P.S. §§ 1406.1–1406.21), as amended, and as undergoing modification by a Federal rulemaking to supersede or "set aside" six sections of the BMSLCA through an action of the United States Secretary of the Interior. The Secretary's action, taken under section 505 of the Surface Mining Control and Reclamation Act (SMCRA) (30 U.S.C.A. § 1255), will supersede/set aside sections 5.1(b), 5.2(g)—(h), 5.4(a)(3) and (c) and 5.5(b) of the BMSLCA (52 P.S. §§ 1406.5a(b), 1406.5b(g)—(h), 1406.5d(a)(3) and (c) and 1406.5e(b)) to the extent these sections are inconsistent with the SMCRA.

Parts of the rulemaking, which affect bonding requirements for surface mining activities, coal preparation activities and coal refuse disposal, are proposed under the authority of section 5 of The Clean Streams Law (52 P.S. § 691.5), section 4.2 of the Surface Mining Conservation and Reclamation Act (52 P.S. § 1396.4b), section 3.2 of the Coal Refuse Disposal Control Act (52 P.S. § 30.53b) and section 1920-A of The Administrative Code of 1929.

D. *Background and Purpose*

The rulemaking is proposed to satisfy the conditions for maintaining a State primacy program under the SMCRA. To maintain primacy, the Commonwealth must maintain a regulatory program that is as effective as and not inconsistent with the Federal regulatory program. The Commonwealth first obtained primacy in 1982 and, since that time, has updated its regulations as necessary to track changes in Federal law and regulations. This proposed rulemaking is intended to address Federal program changes relating to the repair of subsidence damage to structures and the replacement of water supplies affected by underground bituminous coal mining operations. The following is a brief history of the actions leading up to this proposed rulemaking.

In 1992, the United States Congress enacted the Federal Energy Policy Act (EPACT) (P.L. 102-486, 106 Stat. 2776 (1992)), which amended several Federal statutes, including the SMCRA. The amendments to the SMCRA included the addition of section 720 (30 U.S.C.A. § 1309). Section 720 of the SMCRA was specific to effects on dwellings and related structures and noncommercial buildings and drinking, domestic and residential water supplies in place prior to the time of permit application. It became effective on October 24, 1992.

The General Assembly enacted amendments to the BMSLCA by the act of June 22, 1994 (P.L. 357, No. 54) (Act 54). Act 54 established requirements relating to the repair of structures damaged by mine subsidence and the replacement of water supplies affected by underground mining operations. The amended BMSLCA covered a wider range of structures and water supplies than EPACT and established specific procedures for the resolution of claims. EPACT did not include claim resolution procedures. The Commonwealth amendments were based on the recommendations of an independent mediation group that was convened in the late 1980s to negotiate the needs of landowners and mine operators in this Commonwealth. The Commonwealth amendments became effective on August 21, 1994.

On March 31, 1995, the United States Office of Surface Mining Reclamation and Enforcement (OSM) promulgated final regulations to implement the EPACT provisions. The Federal regulations (60 FR 16722) included broad program provisions, including information requirements, performance standards and bonding requirements to fully implement the provisions of section 720(a) of the SMCRA.

On July 28, 1995, OSM announced the implementation of a dual enforcement program in this Commonwealth. OSM recognized that the Commonwealth's law did not mirror the provisions of the 1995 Federal regulations in scope or effective date. Under dual enforcement, the Department enforced the provisions of the amended BMSLCA and OSM enforced section 720(a) of the SMCRA and the provisions of the 1995 Federal regulations in cases where damages were outside the scope of the BMSLCA. OSM enforcement activity focused primarily on damages that occurred between October 24, 1992 (the effective date of EPACT) and August 21, 1994 (the effective date of Act 54).

On March 17, 1998, the Board promulgated a final-form rulemaking, published at 28 Pa.B. 2761 (June 13, 1998), to codify the provisions of Act 54. The final-form rule-

making also included definitions and requirements to clarify the statutory provisions of Act 54 and to facilitate their implementation.

On July 29, 1998, the Department submitted the amended BMSLCA and the final-form rulemaking published at 28 Pa.B. 2761 to OSM for approval as part of the Commonwealth's approved primacy program. The submission was identified as PA-122 in the Federal tracking system.

On December 27, 2001, OSM published its findings regarding the Commonwealth's July 29, 1998, program amendment in the *Federal Register* at 66 FR 67010 (OSM Rule). The OSM Rule approved the Commonwealth's program amendment with the exception of 47 items that were found to be less effective than corresponding provisions of the Federal program. Twenty-two of the items related to provisions of the BMSCLA and 25 items related to the Commonwealth's regulations. The OSM Rule also directed the Commonwealth to amend its law and regulations to resolve the issues that were the basis for its disapproval. The revisions required by OSM are set forth in 30 CFR 938.16(hhhh)—(bbbbb).

On February 25, 2002, the Department submitted an informal proposal to OSM describing the changes it was prepared to make in regard to 15 of the 47 requirements in the OSM Rule. The proposal also identified those sections of the BMSLCA which the Department thought OSM must supersede/set-aside under section 505(b) of the SMCRA to accommodate the proscribed regulatory amendments.

On February 25, 2002, the Department also filed a Federal lawsuit challenging portions of the OSM Rule. The Pennsylvania Coal Association also filed a Federal lawsuit challenging the OSM Rule. The two cases were consolidated. Petitions to intervene were submitted by the Pennsylvania Coal Association and the Tri-States Citizens Mining Network. Active litigation was delayed pending the outcome of negotiations. The Department and OSM agreed that proposed solutions would be finalized through the completion of State and Federal rulemaking processes.

Between March 2002 and January 2003, the Department and OSM met in a series of discussions to resolve differences over issues raised by the OSM Rule. The Department and OSM also sought and received input on draft solutions from the Tri-States Citizens Mining Network and from the Pennsylvania Coal Association. As a result of these discussions, the Department and OSM reached agreement on proposed resolutions of all 47 items in the OSM Rule. The draft solutions would be finalized through State and Federal rulemakings. Eight issues are to be resolved without the need for statutory or regulatory amendments. The remaining 39 issues, including the 15 the Department had previously decided to change, are to be resolved through the proposed amendments to Commonwealth regulations shown in Annex A. The final resolution also provides for an action by the Secretary of the Interior to supersede/set aside six provisions of the BMSLCA to the extent that they conflict with the SMCRA. These provisions will be superseded/set aside through Federal rulemaking. Additional information regarding the resolution of issues identified in the OSM Rule is available in the Commonwealth's *Formal Amendment in Regard to 30 CFR 938.16(hhhh)—(bbbbb)* from the contact persons identified in Section B.

After this proposal was approved as proposed rulemaking by the Board, the Department formally submitted

a program amendment titled *Formal Amendment in Regard to 30 CFR 938.16(hhhh)—(bbbbb)* to OSM. This formal program amendment addresses all 47 items in the OSM Rule, including the amendments being proposed by this proposed rulemaking. OSM will publish notice of receipt of the formal amendment in the *Federal Register* and will begin the Federal approval process. OSM will also initiate a separate Federal rulemaking to supersede the previously mentioned six provisions of the BMSLCA to the extent they are inconsistent with Federal law. Parts of this proposed rulemaking are predicated upon completion of the Federal rulemaking to supersede portions of the BMSLCA. The two Federal rulemakings and this proposed rulemaking will proceed concurrently through their respective rulemaking procedures.

The public is encouraged to review and comment on the two Federal rulemakings and this proposed rulemaking. Information concerning the publication of the two Federal rulemakings in the *Federal Register* can be obtained from the previously identified contact persons. To simplify the process and to facilitate the public comment process the Board's two public hearings will be held on the same days as the OSM public hearings. The State public hearings and the Federal public hearings will be held sequentially—with one hearing following the other—and they will be held at the same location. The Board will consider the OSM hearing transcripts, written presentations, exhibits and copies of all comments submitted to OSM to allow for the Board to consider all comments pertinent to this proposed rulemaking.

The amendments proposed in this rulemaking represent the outcome of negotiations between the Department and OSM. The proposed rulemaking will make Commonwealth requirements relating to the repair of subsidence damage and replacement of water supplies at underground mining operations as effective as and not inconsistent with those of the Federal program in all respects. This proposed rulemaking is part of the Commonwealth's continuing effort to maintain primary enforcement responsibility over coal mining activities within this Commonwealth.

The proposed rulemaking was discussed with representatives of the underground coal mining industry on February 18, 2003, and with representatives of coalfield citizens' organizations on February 19, 2003. Both groups also provided input on a preliminary resolution document dated July 2002.

The proposed amendment to § 86.152(a) (relating to bond adjustments) was discussed with the Mining and Reclamation Advisory Board (MRAB) because the proposed amendment will affect bonding requirements of all types of coal mining activities, including surface coal mining. At its January 9, 2003, meeting, the MRAB asked the Department to modify its original proposal to conform more closely to the Federal counterpart in 30 CFR 800.15. The Department subsequently revised its proposal to comply with the MRAB's request. On April 24, 2003, the MRAB approved the revised proposal with the condition that the preamble to the proposed rulemaking include an explanation of how amended § 86.152(a) will apply to mine subsidence bonds. The approved version of § 86.152(a) and requested explanation are included in this proposed rulemaking. The other provisions of this proposed rulemaking were not presented to the MRAB because the MRAB's authority does not extend to underground mining.

E. Summary of Regulatory Requirements

§ 86.151(b)(2) (period of liability)

Under the proposed amendment to § 86.151(b)(2) (relating to period of liability), the undefined term "mining and reclamation operation" is deleted and replaced with "underground mining operations," which is defined in § 89.5 (relating to definitions). This amendment clarifies that the period of liability for which a subsidence bond is held is 10 years after completion of underground construction, operation and reclamation of shafts, adits, support facilities located underground, in situ processing and underground mining, hauling, storage and blasting. The period of liability for subsidence bonds is not connected to post closure mine pool maintenance. This amendment is being made to clarify that the amendments made to the definition of "underground mining activities" do not change the period of time the subsidence bond is held. "Underground mining activities" is being modified, as described later, to clarify that stabilization of the post-closure mine pool marks the beginning of the final 3-year period in which an operator remains liable for contamination, diminution or interruption of water supplies.

§ 86.152(a) (bond adjustments)

Under the proposed amendment to § 86.152(a), the first sentence of subsection (a) is deleted and replaced with language similar to 30 CFR 800.15(a) and a clarification is added to the last sentence. The first amendment clarifies that the Department is obligated to adjust the amount of bond when it determines that the area requiring bond coverage has increased or decreased or when the cost of future reclamation changes or where the projected subsidence damage repair liability changes. It also allows the Department to specify periodic times or to set a schedule for reevaluating and adjusting the bond amounts. For details on when subsidence bond for structure damage will be adjusted see Technical Guidance Document 563-2504-101. The second amendment clarifies that § 86.152(a) does not expand the types of liabilities the subsidence bond covers. The BMSLCA specifically identifies what the subsidence bond covers. See section 6(b) of the BMSLCA (52 P.S. § 1406.6(b)). Proposed § 86.152(a) does not authorize the subsidence bond to be adjusted to cover water supply replacement liability.

The proposed amendment to § 86.152(a) is included in this rulemaking to address two Federal requirements. First, the proposed rulemaking will affect adjustment of reclamation bonds for all coal mining activities. In doing so, it will satisfy an OSM requirement raised in regard to other aspects of the Commonwealth's coal mining regulatory program. In a letter dated September 22, 1999, OSM directed the Commonwealth to revise its bonding requirements to make bond adjustments mandatory for coal mining activities that were subject to full cost bonding. Since 1999, the Department has converted all active surface mining permits from an alternative bonding system to conventional bonding also known as full cost bonding. As a result, the requirement for mandatory bond adjustment now applies to reclamation bonds for all coal mining activities. The proposed amendments to § 86.152(a) will satisfy the requirement in the September 22, 1999, letter by requiring mandatory bond adjustments for all coal mining activities that are now bonded at the full cost of reclamation.

The proposed amendment also addresses the Federal requirement in 30 CFR 938.16(ccccc) (regarding bonds posted to ensure the repair of EPACT structures and the

replacement of EPACT water supplies. OSM had found the Commonwealth's bonding requirements to be less effective than Federal counterpart requirements because there was no requirement for operators to post additional bond when individual claims of subsidence damage or water supply impact were not resolved within 90 days. During discussions with OSM on this issue, the Department apprised OSM that the Commonwealth's subsidence bonding requirements, although different in approach, were no less effective than those of the Federal regulations with respect to ensuring the repair of structure damage because what the Department was now requiring was significantly different than what OSM had found to be less effective.

During the period of time OSM was considering the program amendments, the Department, in response to court decisions, changed its subsidence bond requirements. OSM was informed that instead of a minimum \$10,000 subsidence bond, operators are now required to post a subsidence bond in an amount which is based on the extent of anticipated subsidence damage and the value of surface property within the approved subsidence control plan area. The Department reevaluates the potential liability at each permit renewal and whenever the permit is amended to modify the subsidence control plan area or mining method. The subsidence bond must be posted prior to permit issuance rather than at the time of damage. Detailed procedures are described in Technical Guidance Document 563-2504-101. OSM has tentatively agreed that the Department's approach to calculating the required amount of subsidence bonds is no less effective than the approach described in the Federal regulations. OSM has, however, found that § 86.152(a) must be amended to clarify that the Department has a mandatory obligation to adjust the amount of a subsidence bond when periodic evaluation, performed in accordance with the Department's technical guidance, indicates a change in potential repair liability. The proposed amendment to § 86.152(a) accomplishes this objective by requiring an adjustment to the bond amount when a periodic evaluation indicates a change in the subsidence control plan area or a change in the extent of subsidence damage expected within that area. The proposed rulemaking will satisfy the Federal requirement in 30 CFR 938.16(ccccc) with respect to liability for subsidence damage to EPACT structures.

The proposed amendment does not address OSM's requirement in regard to bonds for water supply replacement. Section 6(b) of the BMSLCA is limited to bonds for structure damage and does not address bonds for purposes of ensuring the replacement of water supplies affected by underground mining operations. The Department will satisfy this aspect of 30 CFR 938.16(ccccc) by requiring operators to carry appropriate insurance coverage in accordance with § 86.168 (relating to terms and conditions for liability insurance) or by accepting other financial assurance instruments which meet the requirements of the law. Consequently, this rulemaking does not propose to add additional bonding requirements for water supply restoration or replacement.

§§ 86.1 and 89.5 (definitions of "underground mining activities" and "underground mining operations")

The proposed rulemaking includes a revised definition of the term "underground mining activities" in § 86.1 (relating to definitions) and § 89.5 and a revised definition of the term "underground mining operations" in § 89.5. These amendments are proposed to clarify the conditions that trigger certain regulatory requirements under existing and proposed regulations.

One proposed amendment amends the definition of "underground mining activities" to clarify that the management of the pool that develops in underground mine workings after mine closure is an underground mining activity. These pools may cause contamination of adjacent water supplies triggering the need for restoration and replacement. The BMSLCA requires mine operators to replace all water supplies affected by their underground mining activities and extends this requirement for 3 years after all mining activity has ceased. Since management of the postclosure pool will normally be the last activity involved in the reclamation of an underground mine, it is appropriate to clarify that this activity is within the scope of the definition. The Department has historically considered the management of the postclosure mine pool to be part of an underground mining activity and has held operators liable for the effects of the pool. The proposed amendment is intended to codify the Department's interpretation and, in addition, to demonstrate that the Commonwealth's regulations are as effective as the Federal regulations in regard to the scope and duration of liability for water supply effects.

Another proposed amendment amends the definition of "underground mining operations" to clarify that the term only includes those operations that take place in the subsurface parts of an underground mine. Within the definition, the term "underground support facilities" is replaced with "support facilities located underground." The proposed amendment eliminates the possibility that the underground mining operations could be construed to include operations at a surface support facility, such as a coal storage site, bathroom or mine drainage treatment plant located at the surface. This amendment is necessary to clarify the scope of the term "underground mining operations," which is inserted in many information and performance standards under this proposed rulemaking. A parallel change is proposed in subparagraph (ii) of the definition of "underground mining activities," which repeats the definition of "underground mining operations."

§ 89.5 (definition of "EPACT structures")

The proposed rulemaking includes the addition of the term "EPACT structures" and an associated definition in § 89.5. The term is used to identify structures covered under section 720(a) of the SMCRA and corresponding Federal regulations. It is used to facilitate reference to structures that are subject to minimum information and performance standards under the Federal regulations. The use of the term also indicates the basis for special requirements or restrictions that are derived from the Federal regulations.

The proposed definition includes all structures that fall within the scope of the Federal terms "occupied residential dwellings and structures related thereto" and "non-commercial buildings." These terms are used in section 720(a) of the SMCRA to define the scope of Federal subsidence damage repair and compensation requirements. Although these terms are not defined in the SMCRA, they are defined in 30 CFR 701.5.

The definition of "EPACT structures" draws on various terms that are currently defined in § 89.5 and 30 CFR 701.5. The definition incorporates the terms "dwelling" and "noncommercial building," which are defined separately in § 89.5. These terms effectively capture all structures that fall within the scope of the Federal terms "occupied residential dwellings" and "noncommercial buildings." The definition also includes structures that are adjunct to or used in conjunction with dwellings to capture those appurtenant structures that fall within the

scope of the Federal term "occupied residential dwellings and structures related thereto."

§ 89.5 (definition of "EPACT water supplies")

The proposed rulemaking includes the addition of the term "EPACT water supplies" and an associated definition in § 89.5. The term is used to identify water supplies covered under section 720(a) of the SMCRA and corresponding Federal regulations regarding water supply replacement. It is used to facilitate reference to water supplies that are subject to minimum information and performance standards under the Federal regulatory program. The use of the term also indicates the basis for special requirements or restrictions that are derived from the Federal regulations.

The proposed definition includes all drinking, domestic and residential water supplies from a well or spring in existence prior to the application for a permit, as specified in section 720(a) of the SMCRA. It further describes "drinking, domestic and residential water supplies" as wells and springs and the appurtenant delivery systems that provide water for direct human consumption or household use, drawing from the definition in 30 CFR 701.5. The definition specifically excludes wells and springs that serve only agricultural, commercial or industrial enterprises except to the extent the water supply is for direct human consumption or human sanitation or domestic use.

§ 89.5 (definition of "permanently affixed appurtenant structures")

The proposed rulemaking include several changes affecting the scope of the term "permanently affixed appurtenant structures." These amendments are in response to 30 CFR 938.16(f) of the OSM Rule, which requires the phrase "securely attached to the land surface" to be deleted from the existing definition in § 89.5. OSM reasoned that the phrase could be interpreted to exclude structures that would fall within the scope of the Federal term "occupied residential dwellings and structures related thereto." Under the Federal regulations, all "occupied residential dwellings and structures related thereto" are covered by damage repair and compensation requirements regardless of their attachment to the land surface.

The proposed rulemaking addresses the OSM requirement by deleting the existing term and definition in § 89.5 and incorporating descriptions of permanently affixed appurtenant structures in the performance standard under § 89.142a(f) (relating to subsidence control: performance standards). This approach allows permanently affixed appurtenant structures to be divided into two groups depending on whether they fall within or outside the scope of the Federal regulations. Permanently affixed appurtenant structures that qualify as EPACT structures, based on their relationship to a dwelling, are described in amended § 89.142a(f)(1)(iii). There is no requirement for these structures to be securely attached to the land surface. The second group of permanently affixed appurtenant structures is presented under amended § 89.142a(f)(1)(i). These permanently affixed appurtenant structures are eligible for repair and compensation provisions under the BMSLCA based on their relationship to a building that is accessible to the public. The permanently affixed appurtenant structures in this group are not EPACT structures and therefore remain subject to the qualification regarding secure attachment to the land surface.

The proposed rulemaking will satisfy the requirement of the OSM Rule while preserving the provisions of the

BMSLCA to the extent possible. Permanently affixed structures that are adjunct to or used in conjunction with dwellings need not be securely attached to the land surface to qualify for damage repair and compensation. Permanently affixed appurtenant structures that are adjunct to or used in conjunction with buildings that are accessible to the public must be securely attached to the land surface to qualify for damage repair and compensation.

§ 89.141(d) (plans for mining beneath EPACT structures)

The proposed rulemaking includes several amendments to § 89.141(d) (relating to subsidence control: application requirements), which affect the contents of subsidence control plans. The amendments involve the addition of paragraphs (9) and (10), which require descriptions of the measures the operator will take to protect EPACT structures. The new requirements reflect 30 CFR 784.20(b)(5) and (7).

Proposed subsection (d)(9) requires a description of the measures an operator will take to minimize damage to EPACT structures when using a mining method that results in planned subsidence. The description must address the measures the operator will take to comply with the corresponding performance standard in § 89.142a(d)(1)(i). The addition of this paragraph is proposed in response to 30 CFR 938.16(ggggg) of the OSM Rule.

Proposed subsection (d)(10) requires a description of the measures an operator will take to prevent damage to EPACT structures when using a mining method that does not result in planned subsidence. The description must address the measures the operator will take to comply with the corresponding performance standard in § 89.142a(d)(1)(ii). The addition of this paragraph is proposed in response to 30 CFR 938.16(hhhhh) of the OSM Rule. The effect of this proposed amendment will be minimal since operators are currently required to describe measures for maximizing mine stability in areas where the mining method does not result in planned subsidence.

§ 89.142a(c) (suspension of mining)

The proposed rulemaking includes an amendment to § 89.142a(c)(3), regarding protection of public buildings and facilities, churches, schools, hospitals, impoundments with storage capacities of 20 acre-feet or more, bodies of water with volume of 20 acre-feet or more and aquifers and bodies of water that serve as significant sources to public water supply systems. The proposed rulemaking authorizes the Department to suspend mining when an operator's measures fail to adequately protect one of the designated structures or features and to require the modification of subsidence control plans to prevent further damage. The proposed language mirrors the Federal requirement in 30 CFR 817.121(e). The amendment is proposed to satisfy the requirement in 30 CFR 938.16(iiiiii) of the OSM Rule.

§ 89.142a(d) (requirements for mining beneath EPACT structures)

The proposed rulemaking includes the addition of new requirements regarding the prevention or minimization of damage to EPACT structures. The requirements have been added to § 89.142a(d). The proposed amendments are based on the Federal requirements in 30 CFR 817.121(a) and apply to mining beneath all EPACT structures except for noncommercial buildings, such as public buildings, churches, schools and hospitals, which are subject to higher levels of protection under

§ 89.142a(c). The new requirements are in § 89.142a(d)(1). Paragraph (1) is further subdivided to specify requirements for different types of mining.

Paragraph (1)(i) addresses situations where EPACT structures are undermined using a mining technology that results in planned subsidence. Under the proposed rulemaking, if mining will result in the planned subsidence of an EPACT structure, the operator must take measures that are necessary and prudent, consistent with the mining method employed and technologically and economically feasible, to minimize material damage. There are two exceptions to this general requirement. One is where the structure owner consents, in writing, to allow the damage to occur. The other exception is where the operator determines that the costs of the measures would exceed the anticipated cost of repairs and the anticipated damage will not constitute a threat to health or safety.

Paragraph (1)(ii) describes a separate set of requirements that apply in situations where EPACT structures are undermined using a mining technology that does not result in planned subsidence. In these situations, mine operators must take measures consistent with known technology to prevent subsidence and subsidence-related damage to the extent technologically and economically feasible. Subparagraph (ii) includes a list of measures that may be applied to comply with the damage prevention requirement.

The proposed amendments are included in this rulemaking to satisfy the requirement in 30 CFR 938.16(jjjjj).

§ 89.142a(f)(1) (prompt response to structure damage claims)

Proposed amendments to § 89.142a(f)(1) include the addition of a requirement for "prompt" action in regard to an operator's obligation to rehabilitate, restore, replace or compensate for material damage to designated structures. This requirement is proposed in response to 30 CFR 938.16(tttt) and (kkkkk) of the OSM Rule and is based on the specific language of section 720(a)(1) of the SMCRA. The term "prompt" is not defined in the SMCRA or the Federal regulations. Federal preamble discussions indicate that decisions regarding "promptness" should take into account site conditions, potential repair and compensation alternatives and other relevant factors (66 FR 67023). Under amended § 89.142a(f)(1), decisions regarding promptness would be based on the same considerations.

§ 89.142a(f)(1) (requirements for dwellings, permanently affixed appurtenant structures and improvements to be in place on specific dates)

The proposed rulemaking also includes an amendment to § 89.142a(f)(1)(iii) which describes a subset of the structures covered by the Commonwealth's subsidence damage repair and compensation provisions. Subparagraph (iii) includes the group "dwellings, permanently affixed appurtenant structures and improvements." Under the proposed rulemaking, the phrase "in place on August 21, 1994, or on the date of first publication of the application for a coal mining activity permit or a 5-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in the application" is deleted. This amendment is in response to 30 CFR 938.16(uuuu) and (lllll) of the OSM Rule, which require the removal of this qualification.

Subparagraph (iii) is also amended to include a description of the structures that fall within the scope of the term "permanently affixed appurtenant structures." The

reasons for this amendment are addressed in a separate part of this preamble. In combination, the proposed amendments ensure that subparagraph (iii) includes all structures that fall within the scope of the Federal term "occupied residential dwellings and structures related thereto." These amendments effectively extend the subsidence damage repair and compensation provisions of § 89.142a(f) to all dwellings, permanently affixed appurtenant structures and improvements in place at the time of mining.

The proposed rulemaking requires a Federal action to supersede/set aside the language in section 5.4(a)(3) of the BMSLCA, which constitutes the basis for the exclusionary phrase in § 89.142a(f)(1)(iii). The Federal action is required under 30 CFR 938.16(uuuu) of the OSM Rule.

§ 89.143a(c) (filing structure damage claims)

Proposed amendments to § 89.143a(c) (relating to subsidence control: procedure for resolution of subsidence damage claims) include deletion of the phrase "within 6 months of the date that the building owner sent the operator notification of subsidence damage to the structure." The deletion of this phrase clarifies that owners of damaged structures may file claims with no minimum waiting period. The amendment is proposed in response to 30 CFR 938.16(xxxx) and (nnnnn) of the OSM Rule. The existing language was disapproved because it could interfere with the provision of "prompt" repair or compensation.

§ 89.143a(c) (statute of limitations for filing structure damage claims)

The proposed rulemaking also amends § 89.143a(c) to clarify the time frames in which landowners must file claims for structure damage with the Department. The proposed amendment deletes language that requires claims for EPACT structures to be filed within 2 years of the date of damage. This amendment clarifies that the 2-year deadline cannot serve as a statute of limitations for filing claims for damage to EPACT structures. This amendment is proposed to satisfy the requirements of 30 CFR 938.16(xxxx) and (nnnnn) of the OSM Rule. The deletion of this provision requires a Federal action to supercede/set aside section 5.5(b) of the BMSLCA to the extent it establishes a 2-year statute of limitations on filing subsidence damage claims for EPACT structures.

The proposed rulemaking also clarifies that a 2-year filing deadline still exists in regard to claims involving damage to non-EPACT structures. This reflects the provisions of section 5.5(b) of the BMSLCA which are beyond the scope of the Federal set aside action. Under this proposed rulemaking, the owner of a non-EPACT structure remains obligated to file a claim within 2 years of the date of damage.

§ 89.143a(d) (investigations and orders relating to the repair of structure damage)

Proposed amendments to § 89.143a also include an amendment to subsection (d). Subsection (d)(1), as amended, requires the Department to provide the results of its investigation to the property owner and mine operator within 10 days of completing the investigation. With this amendment, Commonwealth procedures for responding to citizen complaints will conform to Federal standards for timeliness. This amendment is proposed in response to 30 CFR 938.16(yyyy) of the OSM Rule.

Subsection (d)(3) also includes several proposed amendments that are intended to ensure prompt repair or the prompt provision of compensation for structure damage.

Subsection (d)(3) describes the actions the Department will take upon finding that an operator's underground mining operations caused damage to a structure. Proposed amendments include the addition of language expressly requiring prompt repair or compensation and the elimination of references to specific time periods. These amendments are proposed in response to 30 CFR 938.16(zzzz) and (ooooo), which prohibit the use of fixed periods as standards for prompt action.

§ 89.144a (denial of access for premining or postmining structure surveys)

The proposed amendments to § 89.144a (relating to subsidence control: relief from responsibility) limit the circumstances under which an operator may be relieved of liability for damage to an EPACT structure. Existing § 89.144a(1) provides relief of liability in cases where an operator is denied access to perform a premining or postmining survey of a structure after fulfilling all prescribed notification requirements. OSM found this provision to be inconsistent with the Federal regulations, which provide no similar release of liability. OSM directed the Commonwealth to remove this provision from its law and regulations to the extent the release would affect liability for damage to EPACT structures.

Proposed § 89.144a addresses the Federal requirement by creating an exception to the relief of liability that is created when a landowner denies an operator access to perform a premining or postmining survey of a structure. The exception, which is explained in proposed subsection (b), applies only to EPACT structures. Under the exception, the release of liability does not apply to damage that can be shown to be the result of an operator's underground mining operations. The liability established through this proof of causation cannot be overturned on the basis that access was denied to perform a premining or postmining survey.

The exception in proposed subsection (b) is only applicable to damages that can be shown to be the result of an operator's underground mining operations by a preponderance of evidence. The term "preponderance of evidence" is used to describe the level of proof needed to substantiate a finding of liability against the operator. It is the standard the Environmental Hearing Board would normally require in upholding a Department order to repair or compensate for subsidence damage. The term is specifically mentioned in the proposed rulemaking to clarify that the Department and the landowner incur additional obligations in cases where an operator is denied access to perform a premining or postmining survey. It also denotes the possibility that damage may go unrepaired or uncompensated if there is insufficient evidence to link the damage to a suspect underground mining operation. Although proposed subsection (b) provides relief to landowners who deny access for premining or postmining surveys, it is not intended to encourage denial of access. Premining and postmining surveys are the most reliable means of identifying damage caused by underground mining operations and ensuring that all mining-related damage is repaired or compensated.

The proposed amendments require a corresponding Federal action to supersede section 5.4(c) of the BMSLCA, which is the statutory basis for the relief of liability in § 89.144a(1). The Federal action will supersede section 5.4(c) of the BMSLCA to the extent it applies to EPACT structures. The relief of liability will still apply in situations where mine operators are denied access to perform premining or postmining surveys of non-EPACT structures.

The proposed amendments to § 89.144a will satisfy the Federal requirement in 30 CFR 938.16(ppppp) by removing the absolute relief of liability as it pertains to structures covered by Federal damage repair and compensation provisions.

§ 89.145a(a) (water supply survey requirements)

The proposal involves several changes to § 89.145a(a)(1) (relating to water supply replacement: performance standards) regarding the performance of premining water supply surveys. The requirement to conduct a premining survey prior to mining within 1,000 feet of a water supply is deleted and replaced with a requirement to conduct a survey prior to the time a water supply is susceptible to mining-related effects. This amendment ensures that premining information will be available for all water supplies prior to the time of impact and that the collection of survey information is not hampered by a fixed distance criterion. Under the amended requirement, the Department will determine an appropriate distance for individual mining operations based on local geologic and hydrologic conditions and the observed effects of previous mining. The requirement in subsection (a) represents the deadline by which operators must obtain premining survey information; however, as a general practice, the Department will require operators to provide water quality and quantity information at the time of permit application or permit renewal for all water supplies that are likely to suffer impacts during the succeeding permit term.

Another proposed amendment to subsection (a) amends the conditions under which the collection of some or all survey information may be waived. The existing regulation limits survey requirements to information that can be collected without extraordinary efforts or the expenditure of excessive sums of money. Under the amended language, an operator is only excused from collecting information if required collection measures pose an inconvenience to the landowner. This exception is intended to address situations where an operator would have to damage a building to gain access to a well or spring.

The proposed amendments in water supply survey requirements are in response to 30 CFR 938.16(qqqqq) of the OSM Rule.

§ 89.145a(b) (prompt replacement of water supplies)

The proposed rulemaking includes two amendments to § 89.145a(b) regarding an operator's obligation to replace water supplies that are affected by its underground mining operations. One amendment adds the requirement that replacement or restoration be done "promptly." This requirement is proposed to make the Commonwealth's standard for timeliness of action as effective as the Federal standard in section 720(a)(2) of the SMCRA and 30 CFR 817.41(j). The term "promptly" is not defined in the SMCRA or Federal regulations. Under the Federal program, promptness is evaluated on the basis of site-specific considerations. Under the amendment provision, the Department will also assess promptness of an operator's actions based on site-specific considerations. This amendment is proposed in response to 30 CFR 938.16(iiii) and (rrrrr) of the OSM Rule.

The second proposed amendment to § 89.145a(b) is in regard to the general standards for adequacy of replacement water supplies. The existing language suggests that an operator has an option to provide a replacement water supply that meets the premining uses of the original water supply or a replacement water supply that meets the reasonably foreseeable uses of the original water

supply. The revised language clarifies that an operator must consider both the premining uses and the reasonably foreseeable uses of the original water supply. This amendment is necessary to ensure that the Commonwealth's standards for replacement water supplies are no less effective than those of Federal regulations and is required by 30 CFR 938.16(rrrrr) of the OSM Rule.

§ 89.145a(e) (provision of temporary water)

The proposed rulemaking includes an amendment to § 89.145a(e) to address the provision of temporary water in cases where the rebuttable presumption is not applicable. The new provision, which is added as paragraph (2), requires the operator to promptly provide temporary water when either the operator or the Department finds that the operator's underground mining operations have caused contamination, diminution or interruption of a water supply. The existing regulation is silent in regard to the operator's obligations when effects occur outside the rebuttable presumption area or when the rebuttable presumption does not apply for other reasons. This amendment is required under 30 CFR 938.16(sssss) of the OSM Rule.

The proposed rulemaking also amends existing paragraph (2), which has been renumbered as paragraph (3), regarding the quantity of temporary water supplies. This amendment deletes the term "premining" in describing the needs that must be satisfied by a temporary water supply. Under the amended language, an operator is required to provide a temporary water supply that meets all needs that existed prior to impact and additional needs that arise between the time of impact and the time a permanent replacement water supply is established. In fulfilling this requirement, an operator is not expected to satisfy needs that exceed the capacity of the original water supply. This amendment is required under 30 CFR 938.16(ttttt) of the OSM Rule.

§ 89.145a(f) (compensation for increased cost of restored or replacement water supply)

This proposed rulemaking includes several amendments to § 89.145a(f), which establishes criteria for determining the adequacy of replacement water supplies. These amendments pertain to the operation and maintenance costs of replacement water supplies. Existing § 89.145a(f)(1)(v) requires that operation and maintenance costs for replacement water supplies may not exceed those of the previous water supply by more than a de minimis amount. It further provides that an operator must provide for the permanent payment of the increased costs if the amount of increase is more than de minimis. Under this proposed rulemaking, separate criteria are established for EPACT water supplies and other water supplies. Due to the complexity of this amendment, cost criteria are moved to new paragraph (5).

Proposed paragraph (5) requires that, in the case of an EPACT water supply, a restored or replacement water supply may cost no more to operate and maintain than the previous water supply. If the restored or replacement water supply costs more to operate than the previous water supply, the operator must make permanent arrangements to prevent the additional costs from being passed on to the landowner or water user. The revised provision uses the term "arrangements" to allow for various types of settlements, such as direct compensation to the landowner, a trust fund or an agreement with a public water supplier. This amendment is in response to the 30 CFR 938.16(ddddd) and (uuuuu) of the Federal Rule.

Proposed paragraph (5) retains the de minimis cost criterion for non-EPACT water supplies, since these water supplies are outside the scope of 30 CFR 938.16(ddddd) and (uuuuu). For non-EPACT water supplies, determinations of adequacy will continue to be based on the criteria specified in the definition of the term de minimis cost increase in § 89.5. In situations where cost increases are more than de minimis, the operator shall provide for the permanent payment of the increased costs to prevent the additional costs from being passed on to the landowner or water user.

§ 89.146a(c) (Department investigation of water supply claims)

The proposed rulemaking includes an amendment to § 89.146a(c)(2) (relating to water supply replacement: procedure for resolution of water supply damage claims) regarding Department investigations of water supply claims. A new provision is added which requires the Department to report its findings to the landowner and mine operator within 10 days of completing its investigation and reaching a determination regarding the cause of effects. This amendment is proposed to conform to Federal time frames for responding to citizen complaints and will satisfy the requirement in 30 CFR 938.16(wwwww).

§ 89.152 (special conditions relating to water supply replacement)

The proposed rulemaking includes an amendment to § 89.152 (relating to water supply replacement: special provisions) which establishes conditions under which a claim of water supply contamination, diminution or interruption may be addressed without the provision of a restored or replacement water supply. Subsection (a) is added to address special conditions that relate to EPACT water supplies. The provisions of existing subsection (a), which now apply to water supplies that do not qualify as EPACT water supplies, are moved to new subsection (b).

The proposal to amend subsection (a) also includes the addition of specific conditions that are applicable in cases involving EPACT water supplies. Two of these conditions narrow the range of circumstances under which a mine operator may satisfy its water supply replacement obligations for an affected EPACT water supply without providing an adequate replacement water supply. The first condition requires a Department determination that a replacement water supply meeting the criteria of § 89.145a(f) cannot be developed and requires compensation that is at least equal to the reduction in the fair market value of the affected property. The second condition requires an agreement between the mine operator and landowner waiving the development of a replacement water supply and a Department determination that an adequate replacement water supply could feasibly be developed.

New subsection (a) also contains a provision, drawn from existing subsection (a), which provides that an operator may not be required to restore or replace a water supply if it can demonstrate any one of three situations. One is that the contamination, diminution or interruption existed prior to the underground mining activities. Another is that the water supply was affected by underground mining activities that occurred 3 years prior to the impact. The third is that the water supply was affected by some cause other than the operator's underground mining activities. Unlike the existing regulation, new subsection (a) does not provide a 2-year statute of limitations on filing claims for EPACT water supplies.

Department determinations regarding the possibility of developing an adequate replacement water supply would be based on factors such as the replacement methods described in the permit application, the operator's efforts in attempting to replace the water supply, the means of replacing nearby water supplies, the hydrologic resources of the property, the availability of public water and the potential for extending public water service to the property. The Department would only consider replacement to be unachievable if the affected property could not be provided with a well or spring meeting the criteria in § 89.145a(f) or connected to a public water line for reasons of system limitations.

These amendments are proposed in response to 30 CFR 938.16(nnnn), (oooo), (qqqq) and (rrrr) of the OSM Rule.

Federal regulations require the replacement of all EPACT water supplies affected by underground mining.

An exception is allowed if the landowner expressly waives the development of replacement water supply and the operator demonstrates that a suitable alternative water source could feasibly be developed. The Federal regulations do not specifically identify the requirements that come into play when replacement cannot be achieved, but can be interpreted to require compensation equal to the reduction in fair market value of the property. The provisions of new subsection (a) are necessary to ensure that the Commonwealth's conditions for nonreplacement of EPACT water supplies are no broader than those of the Federal program.

Existing § 89.152 comes directly from the BMSLCA. There is a corresponding Federal action to supersede/set aside the conflicting provisions of the BMSLCA to the extent they are inconsistent with the Federal SMCRA. Sections 5.1(b) and 5.2(g) of the BMSLCA must be set aside to the extent that they would relieve an operator of liability to restore or replace an EPACT water supply. Section 5.2(h) of the BMSLCA must also be set aside to the extent that it would bar the Department from requiring the restoration or replacement of an EPACT water supply if the Department determined that an adequate water supply could be developed.

Other amendments to § 89.152 are proposed to accommodate new subsection (a). Additionally, the introductory statement to new subsection (b) is modified to clarify that the provisions of this subsection only apply to water supplies that do not qualify as EPACT water supplies.

Global changes relating to "underground mining operations"

The proposed rulemaking includes replacing the term "underground mining" with the term "underground mining operations" in various sections of the regulations governing information requirements and performance standards relating to the repair of subsidence damage. The term "underground mining operations" is defined in § 89.5 to include underground construction, operation and reclamation of shafts, adits, support facilities located underground, in situ processing and underground mining. In comparison, the term "underground mining" only includes the extraction of the coal. This amendment is proposed in response to 30 CFR 938.16(mmmmm) and (bbbbbb). Federal requirements regarding the repair of subsidence damage and replacement of water supplies apply to all effects arising from "underground mining operations" and not just effects arising from coal extraction. The proposed amendments affect §§ 89.141(d), (d)(9)—(11), 89.142a(a), (f)(1)—(2), (g)(1), (h)(1)—(2) and (i)(1) and 89.143a(a) and (d)(1)—(3).

Editorial changes

The proposed rulemaking includes several changes that are intended to support or clarify regulations amended by this rulemaking.

Section 89.141(d)(3) is amended to delete the list of measures that can be used to protect public buildings and facilities, churches, schools, hospitals, impoundments with storage capacities of 20 acre-feet or more, bodies of water with volume of 20 acre-ft or more and aquifers and bodies of water that serve as significant sources to public water supply systems. The measures in existing paragraph (3) are only a subset of a larger list of measures that may be used for protecting this group of structures and features. The complete list of measures appears in the performance standard, § 89.142a(c). To avoid confusion, the incomplete list of measures is deleted from § 89.141(d)(3), which is simply an information requirement.

In § 89.142a(c)(1), the term "surface features" is replaced with the term "features" to more accurately describe the types of features within the referenced group. The features described in paragraph (1) include aquifers, which are usually not regarded as "surface features."

New paragraph (3) is proposed under § 89.142a(d). The new paragraph reflects the provision in section 5(e) of the BMSLCA that "nothing in this subsection shall be construed to prohibit planned subsidence in a predictable and controlled manner or the standard method of room and pillar mining." The provision is included to more fully reflect the intent of paragraph 5(e), which serves as the statutory basis for the new damage prevention and minimization requirements in § 89.142a(d).

The titles of one section and one subsection are amended to more accurately reflect their revised content. The title of § 89.142a(d) is changed from "general measures to prevent or minimize subsidence" to "protection of EPACT structures and certain agricultural structures." The title of § 89.152 is changed from "water supply replacement: relief from responsibility" to "water supply replacement: special provisions."

In § 89.143a, the requirement for the Department to notify a mine operator of the receipt of a structure damage claim is moved from subsection (c) to subsection (d). The purpose of this amendment is to clarify and separate Department responsibilities from the responsibilities of landowners.

The proposed rulemaking also includes various stylistic changes that were made to conform to standards for drafting regulations.

*F. Benefits, Costs and Compliance**Benefits*

The proposed rulemaking will benefit the Commonwealth, the underground coal mining industry and coalfield residents by simplifying program requirements. Currently a dual enforcement program exists in this Commonwealth under which the Department enforces the BMSLCA and Chapter 89 and OSM enforces the Federal regulations when the Federal regulations provide more effective remedies than the BMSLCA and Chapter 89. The dual enforcement arrangement has, at times, created confusion regarding the obligations of mine operators, the remedies available to affected landowners and agency jurisdiction. The proposed rulemaking will eliminate the need for dual enforcement and consolidate all requirements relating to subsidence damage repair and compen-

sation and the replacement of water supplies affected by underground coal mining operations in Chapter 89.

The proposed rulemaking will also enable the Commonwealth to fulfill its primacy obligations and retain primary enforcement responsibility over underground coal mining operations.

Compliance Costs

The proposed rulemaking will slightly increase the costs of preparing permit applications and subsidence control plans. These additional costs will affect 28 companies that operate underground bituminous coal mines in this Commonwealth. No additional cost will be imposed on government entities or the public. The proposed rulemaking will simplify mine operators' obligations in regard to the repair of subsidence damage and replacement of affected water supplies.

Compliance Assistance Plan

The Department will provide written notification to all underground coal mine operators to inform them of the final promulgation of these regulatory changes. The Department will also hold roundtable meetings with mine operators and consultants to explain program changes and answer questions.

The Department will also conduct outreach to landowners in active mining areas to assist them in understanding their rights and obligations under the amended law and regulations. The Department will update its fact sheets explaining the remedies provided by the amended law and regulations and the procedures for obtaining those remedies and will distribute the revised fact sheets to landowners in active mining areas. The Department will continue to deploy surface subsidence agents to meet with affected landowners and assist them in obtaining the remedies provided by the amended law and regulations.

Paperwork Requirements

The proposed rulemaking will require the Department to update its fact sheets explaining the remedies provided by the amended law and regulations and the procedures for obtaining those remedies.

G. Sunset Review

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 2, 2003, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House 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 shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

I. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. The Board must receive comments, suggestions or objections by November 12, 2003. 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 November 12, 2003. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final regulation will be considered.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us and must also be received by November 12, 2003. A subject heading of the proposal and a return name and address must be included in each transmission.

The public is encouraged to review and comment on the two Federal rulemakings as well as this proposed rulemaking. Information concerning the publication of the two Federal rulemakings in the Federal Register can be obtained from the contact persons previously identified.

J. Public Hearings

The Board will hold two public hearings for the purpose of accepting comments on this proposal. Two sessions—one in the afternoon and one in the evening—will be provided for each hearing to accommodate the public. The public hearings will be held from 1 p.m. to 2:30 p.m. and 5 p.m. to 6:30 p.m. as follows:

October 15, 2003 Best Western University Inn
1545 Wayne Avenue
Indiana, PA 15701

October 16, 2003 Holiday Inn
Washington—Meadowlands
340 Racetrack Road
Washington, PA 15301

Persons wishing to present testimony at a Board hearing are requested to contact the 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 is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

To facilitate the public comment process, the OSM public hearings will be held at the same locations and will immediately follow each of the Board's hearings.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Board 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: 7-385. 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 I. LAND RESOURCES

CHAPTER 86. SURFACE AND UNDERGROUND COAL MINING: GENERAL

Subchapter A. GENERAL PROVISIONS

§ 86.1. Definitions.

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

* * * * *

Underground mining activities—Includes the following:

* * * * *

(ii) Underground operations such as underground construction, operation and reclamation of shafts, adits, [underground] support facilities located underground, in situ processing and underground mining, hauling, storage and blasting.

(iii) Operation of a mine, including preparatory work in connection with the opening and reopening of a mine, backfilling, sealing and other closing procedures, postclosure mine pool maintenance and any other work done on land or water in connection with a mine.

* * * * *

Subchapter F. BONDING AND INSURANCE REQUIREMENTS
AMOUNT AND DURATION OF LIABILITY

§ 86.151. Period of liability.

* * * * *

(b) Liability under bonds posted for the surface effects of an underground mine, coal preparation activity or other long-term facility shall continue for the duration of the mining operation or use of the facility, its reclamation as provided in the acts, regulations adopted thereunder and the conditions of the permit, and for 5 years thereafter, except for:

* * * * *

(2) The risk of subsidence from bituminous underground mines for which liability under the bond shall continue for 10 years after completion of [the mining and reclamation operation] underground mining operations.

* * * * *

§ 86.152. Bond adjustments.

(a) [The Department may require a permittee to deposit additional bonding if the methods of mining or operation change, standards of reclamation change or the cost of reclamation, restoration or abatement work increases so that an additional amount of bond is necessary.] The amount of bond required and the terms of the acceptance of the applicant's bond will be adjusted by the Department from time to time as the area requiring bond coverage is increased or decreased, or when the cost of future reclamation changes, or when the

projected subsidence damage repair liability changes. The Department may specify periodic times or set a schedule for reevaluating and adjusting the bond amount to fulfill this requirement. This requirement shall only be binding upon the permittee and does not compel a third party, including surety companies, to provide additional bond coverage and does not extend the coverage of a subsidence bond beyond the requirements imposed by sections 5, 5.4, 5.5 and 5.6 of The Bituminous Mine Subsidence and Land Conservation Act.

* * * * *

CHAPTER 89. UNDERGROUND MINING OF COAL AND COAL PREPARATION FACILITIES

Subchapter A. EROSION AND SEDIMENTATION CONTROL GENERAL PROVISIONS

§ 89.5. Definitions.

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

* * * * *

EPACT structures—Structures that are subject to repair and compensation requirements under section 720(a) of the Surface Mining Control and Reclamation Act (30 U.S.C.A. § 1309a). The term includes:

- (i) Noncommercial buildings.
- (ii) Dwellings.
- (iii) Structures adjunct to or used in conjunction with dwellings, including, but not limited to:
 - (A) Garages.
 - (B) Storage sheds and barns.
 - (C) Greenhouses and related buildings.
 - (D) Customer-owned utilities and cables.
 - (E) Fences and other enclosures.
 - (F) Retaining walls.
 - (G) Paved or improved patios.
 - (H) Walks and driveways.
 - (I) Septic sewage treatment facilities.
 - (J) Inground swimming pools.
 - (K) Lot drainage and lawn and garden irrigation systems.

EPACT water supplies—

- (i) Water supplies that are subject to replacement under section 720(a) of the Surface Mining Control and Reclamation Act, including drinking, domestic or residential water supplies in existence prior to the date of permit application.
- (ii) The term includes water received from a well or spring and any appurtenant delivery system that provides water for direct human consumption or household use.
- (iii) The term does not include wells and springs that serve only agricultural, commercial or industrial enterprises except to the extent the water supply is for direct human consumption or human sanitation, or domestic use.

* * * * *

[Permanently affixed appurtenant structures—A structure or facility securely attached to the land surface if that structure or facility is adjunct to and used in connection with structures listed in § 89.142a(f)(1)(i) and (iii) (relating to subsidence control: performance standards). Examples of these structures include:

- (i) Garages.
- (ii) Storage sheds and barns.
- (iii) Greenhouses and related structures.
- (iv) Customer-owned utilities and cables.
- (v) Fences and other enclosures.
- (vi) Retaining walls.
- (vii) Paved or improved patios, walks and driveways.
- (viii) Septic treatment facilities.
- (ix) Inground swimming pools.
- (x) Lot drainage and lawn and garden irrigation systems.]

* * * * *

Underground mining activities—[The term includes] Includes the following:

- (i) Surface operations incident to underground extraction of coal or in situ processing, such as construction, use, maintenance and reclamation of roads, aboveground repair areas, storage areas, processing areas, shipping areas, areas upon which are sited support facilities, including hoist and ventilating ducts, areas used for the disposal and storage of waste[,] and areas on which materials incident to underground mining operations are placed.
- (ii) Underground operations such as underground construction, operation[,] and reclamation of shafts, adits, [underground] support facilities located underground, in situ processing[,] and underground mining, hauling, storage and blasting.
- (iii) Operation of [the] a mine including preparatory work in connection with the opening [or] and reopening of a mine, backfilling, sealing, and other closing procedures, postclosure mine pool maintenance and any other work done on land or water in connection with [the] a mine.

Underground mining operations—Underground construction, operation and reclamation of shafts, adits, [underground] support facilities located underground, in situ processing and underground mining, hauling, storage and blasting.

* * * * *

Subchapter F. SUBSIDENCE CONTROL AND WATER SUPPLY REPLACEMENT

§ 89.141. Subsidence control: application requirements.

* * * * *

(d) *Subsidence control plan.* The permit application shall include a subsidence control plan which describes the measures to be taken to control subsidence effects from the proposed underground mining operations. The plan shall address the area in which structures, facilities or features may be materially damaged by mine subsid-

ence. At a minimum, the plan shall address all areas within a 30° angle of draw of underground mining **operations** which will occur during the 5-year term of the permit. The subsidence control plan shall include the following information:

(1) A description of the method of coal removal, such as longwall mining, room and pillar mining, hydraulic mining or other extraction methods, including the size, sequence[,] and timing for the development of underground workings.

* * * * *

(3) For each structure and feature, or class of structures and features, described in § 89.142a(c) (relating to subsidence control: performance standards), a detailed description of the measures to be taken to ensure that subsidence will not cause material damage to, or reduce the reasonably foreseeable uses of the structures or features. **[The measures shall include one or more of the following:**

- (i) **Backfilling or backstowing of voids.**
- (ii) **Leaving support pillars of coal.**
- (iii) **Leaving areas in which no coal extraction will occur.**
- (iv) **Taking measures on the surface to prevent material damage or reduction of the reasonably foreseeable use of the structure or feature.**
- (v) **Other measures approved by the Department.]**

* * * * *

(9) For EPACT structures other than noncommercial buildings protected under § 89.142a(c), a description of the methods to be employed in areas of planned subsidence to minimize damage or otherwise comply with § 89.142a(d)(1)(i).

(10) For EPACT structures other than noncommercial buildings protected under § 89.142a(c), a description of the subsidence control measures to be taken under § 89.142a(d)(1)(ii) to prevent subsidence and subsidence-related damage in areas where underground mining operations are not projected to result in planned subsidence.

(11) A description of the measures which will be taken to maintain the value and foreseeable uses of perennial streams which may be impacted by underground mining **operations**. The description shall include a discussion of the effectiveness of the proposed measures as related to prior underground mining **operations** under similar conditions.

[(10)] (12) * * *

[(11)] (13) * * *

[(12)] (14) * * *

* * * * *

[(13)] (15) * * *

§ 89.142a. Subsidence control: performance standards.

(a) *General requirements.* Underground mining **operations** shall be planned and conducted in accordance with the following:

* * * * *

(c) *Restrictions on underground mining.*

(1) Unless the subsidence control plan demonstrates that subsidence will not cause material damage to, or reduce the reasonably foreseeable use of the structures and **[surface]** features listed in **[subparagraph] subparagraphs** (i)—(v), no underground mining **[shall]** may be conducted beneath or adjacent to:

* * * * *

(3) If the measures implemented by the operator cause material damage or reduce the reasonably foreseeable use of the structures or features listed in paragraph (1), the Department **[will impose additional measures to further minimize the potential for these effects]** may suspend mining under or adjacent to these structures or features until the subsidence control plan is modified to ensure prevention of further material damage to these facilities or features.

(d) **[General measures to prevent or minimize irreparable damage]** *Protection of certain EPACT structures and agricultural structures.*

(1) For EPACT structures other than noncommercial buildings protected under subsection (c):

(i) If an operator employs mining technology that provides for planned subsidence in a predictable and controlled manner, the operator shall take necessary and prudent measures, consistent with the mining method employed, to minimize material damage to the extent technologically and economically feasible to the structure, except where one of the following applies:

(A) The structure owner has consented, in writing, to allow material damage.

(B) The costs of these measures would exceed the anticipated cost of repairs and the anticipated damage will not constitute a threat to health or safety.

(ii) If an operator employs mining technology that does not result in planned subsidence in a predictable and controlled manner, the operator shall adopt measures consistent with known technology to prevent subsidence and subsidence-related damage to the extent technologically and economically feasible to the structure. Measures may include, but are not limited to:

(A) **Backstowing or backfilling of voids.**

(B) **Leaving support pillars of coal.**

(C) **Leaving areas in which no coal is removed, including a description of the overlying area to be protected by leaving coal in place.**

(D) **Taking measures on the surface to prevent or minimize material damage or diminution in value of the surface.**

(E) **Other measures approved by the Department.**

(2) If the Department determines and so notifies a mine operator that a proposed mining technique or extraction ratio will result in irreparable damage to a structure enumerated in subsection (f)(1)(iii)—(v), the operator may not use the technique or extraction ratio unless the building owner, prior to mining, consents to the mining or the operator, prior to mining, takes measures approved by the Department to minimize or reduce impacts resulting from subsidence to these structures.

(3) Nothing in paragraph (1) or (2) prohibits planned subsidence in a predictable and controlled manner or the standard method of room and pillar mining.

* * * * *

(f) *Repair of damage to structures.*

(1) *Repair or compensation for damage to certain structures.* Whenever underground mining **operations** conducted on or after August 21, 1994, [**causes**] **cause** damage to any of the structures listed in subparagraphs (i)–(v), the operator responsible for extracting the coal shall **promptly and** fully rehabilitate, restore, replace or compensate the owner for material damage to the structures resulting from the subsidence unless the operator demonstrates to the Department's satisfaction that one of the provisions of § 89.144a (relating to subsidence control: relief from responsibility) relieves the operator of responsibility.

(i) Buildings that are accessible to the public including, but not limited to, commercial, industrial and recreational buildings and all [**permanently affixed appurtenant**] structures [.] **that are securely attached to the land surface and adjunct to or used in conjunction with these buildings, including:**

- (A) **Garages.**
- (B) **Storage sheds and barns.**
- (C) **Greenhouses and related buildings.**
- (D) **Customer-owned utilities and cables.**
- (E) **Fences and other enclosures.**
- (F) **Retaining walls.**
- (G) **Paved or improved patios.**
- (H) **Walks and driveways.**
- (I) **Septic sewage treatment facilities.**
- (J) **Inground swimming pools.**
- (K) **Lot drainage and lawn and garden irrigation systems.**

* * * * *

(iii) Dwellings which are used for human habitation and permanently affixed appurtenant structures or improvements [**in place on August 21, 1994, or on the date of first publication of the application for a coal mining activity permit or a 5-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in the application**]. In the context of this paragraph, the phrase “**permanently affixed appurtenant structures and improvements**” includes, but is not limited to, structures adjunct to or used in conjunction with dwellings, such as:

- (A) **Garages.**
- (B) **Storage sheds and barns.**
- (C) **Greenhouses and related buildings.**
- (D) **Customer-owned utilities and cables.**
- (E) **Fences and other enclosures.**
- (F) **Retaining walls.**
- (G) **Paved or improved patios.**
- (H) **Walks and driveways.**
- (I) **Septic sewage treatment facilities.**

(J) **Inground swimming pools.**

(K) **Lot drainage and lawn and garden irrigation systems.**

* * * * *

(2) *Amount of compensation.*

(i) If, rather than repair the damage, the operator compensates the structure owner for damage caused by the operator's underground mining **operations**, the operator shall provide compensation equal to the reasonable cost of repairing the structure or, if the structure is determined to be irreparably damaged, the compensation shall be equal to the reasonable cost of its replacement except for an irreparably damaged agricultural structure identified in paragraph (1)(iv) or (v) which at the time of damage was being used for a different purpose than the purpose for which the structure was originally constructed. For such an irreparably damaged agricultural structure, the operator may provide for the reasonable cost to replace the damaged structure with a structure satisfying the functions and purposes served by the damaged structure before the damage occurred if the operator can affirmatively prove that the structure was being used for a different purpose than the purpose for which the structure was originally constructed.

* * * * *

(g) *Protection of utilities.*

(1) Underground mining **operations** shall be planned and conducted in a manner which minimizes damage, destruction or disruption in services provided by oil, gas and water wells; oil, gas and coal slurry pipelines; rail lines; electric and telephone lines; and water and sewerage lines which pass under, over, or through the permit area, unless otherwise approved by the owner of the facilities and the Department.

* * * * *

(h) *Perennial streams.*

(1) Underground mining **operations** shall be planned and conducted in a manner which maintains the value and reasonably foreseeable uses of perennial streams, such as aquatic life; water supply; and recreation, as they existed prior to coal extraction beneath streams.

(2) If the Department finds that the underground mining [**has**] **operations have** adversely affected a perennial stream, the operator shall mitigate the adverse effects to the extent technologically and economically feasible, and, if necessary, file revised plans or other data to demonstrate that future underground mining **operations** will meet the requirements of paragraph (1).

(i) *Prevention of hazards to human safety.*

(1) The Department will suspend underground mining **operations** beneath urbanized areas; cities; towns; and communities and adjacent to or beneath industrial or commercial buildings; lined solid and hazardous waste disposal areas; major impoundments of 20 acre-feet (2.47 hectare-meters) or more; or perennial streams, if the operations present an imminent danger to the public.

* * * * *

§ 89.143a. Subsidence control: procedure for resolution of subsidence damage claims.

(a) The owner of a structure enumerated in § 89.142a(f)(1) (relating to subsidence control: performance standards) who believes that underground mining **operations** caused mine subsidence resulting in damage

to the structure and who wishes to secure repair of the structure or compensation for the damage shall provide the operator responsible for the underground mining with notification of the damage to the structure.

* * * * *

(c) If [, within 6 months of the date that the building owner sent the operator notification of subsidence damage to the structure,] the parties are unable to agree as to the cause of the damage or the reasonable cost of repair or compensation for the structure, the owner of the structure may [within 2 years of the date damage to the structure occurred,] file a claim in writing with the Department. [The Department will send a copy of the claim to the operator.] The owner of a structure that is not an EPACT structure shall file the claim within 2 years of the date the structure was damaged.

(d) Upon receipt of the claim, the Department will send a copy of the claim to the operator and conduct an investigation in accordance with the following procedure:

(1) Within 30 days of receipt of the claim, the Department will conduct an investigation to determine whether underground mining operations caused the subsidence damage to the structure and provide the results of its investigation to the property owner and mine operator within 10 days of completing the investigation.

(2) Within 60 days of completion of the investigation, the Department will determine, and set forth in writing, whether the damage is attributable to subsidence caused by the operator's underground mining operations and, if so, the reasonable cost of repairing or replacing the damaged structure.

(3) If the Department finds that the operator's underground mining operations caused the damage to the structure, the Department will either issue a written order directing the operator to promptly compensate the structure owner or issue an order directing the operator to promptly repair the damaged structure [within 6 months of the date of issuance of the order]. The Department may [allow more than 6 months] extend the time for compliance with the order if the Department finds that further damage may occur to the same structure as a result of additional subsidence.

§ 89.144a. Subsidence control: relief from responsibility.

(a) [The] Except as provided in subsection (b), the operator will not be required to repair a structure or compensate a structure owner for damage to structures identified in § 89.142a(f)(1) (relating to subsidence control: performance standards) if the operator demonstrates to the Department's satisfaction that one or more of the following apply:

* * * * *

(b) The relief in subsection (a)(1) will not apply in the case of an EPACT structure if the landowner or the Department can show, by a preponderance of evidence, that the damage resulted from the operator's underground mining operations.

§ 89.145a. Water supply replacement: performance standards.

(a) Water supply surveys.

(1) The operator shall conduct a premining survey and may conduct a postmining survey of the quantity and quality of all water supplies within the permit and adjacent areas, except when the landowner denies the operator access to the site to conduct a survey and the operator has complied with the notice procedure in this section. Premining surveys shall be conducted prior to [mining within 1,000 feet (304.80 meters) of] the time a water supply [unless otherwise authorized or required by the Department based on site specific conditions] is susceptible to mining-related effects. Survey information shall include the following information to the extent that it can be collected without [extraordinary efforts or the expenditure of] excessive [sums of money] inconvenience to the landowner:

* * * * *

(b) Restoration or replacement of water supplies. When underground mining activities conducted on or after August 21, 1994, affect a public or private water supply by contamination, diminution or interruption, the operator shall promptly restore or replace the affected water supply with a permanent alternate source which adequately serves the premining uses of the water supply [or] and any reasonably foreseeable uses of the water supply. The operator shall be relieved of any responsibility under The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21) to restore or replace a water supply if the operator demonstrates that one of the provisions of § 89.152 (relating to water supply replacement: relief from responsibility) relieves the operator of further responsibility. This subsection does not apply to water supplies affected by underground mining activities which are covered by Chapter 87 (relating to surface mining of coal).

* * * * *

(e) Temporary water supplies.

* * * * *

(2) An operator shall promptly provide a temporary water supply if the operator or the Department finds that the operator's underground mining activities have caused contamination, diminution or interruption of an EPACT water supply, and the landowner or water user is without a readily available alternate source of water. This requirement applies regardless of whether the water supply is located within, or outside of, the rebuttable presumption area.

(3) The temporary water supply provided under this subsection shall meet the requirements of [paragraph] subsection (f)(2) and provide a sufficient amount of water to meet the water supply user's [premining] needs.

(f) Adequacy of permanently restored or replaced water supply. A permanently restored or replaced water supply shall include any well, spring, municipal water supply system or other supply approved by the Department, which meets the criteria for adequacy as follows:

(1) Reliability. [cost,] maintenance and control. A restored or replaced water supply, at a minimum, shall:

* * * * *

[(v) Not result in more than a de minimis cost increase to operate and maintain. If the operating

and maintenance costs of the restored or replaced water supply are more than a de minimis cost increase, the operator shall provide for the permanent payment of the increased operating and maintenance costs of the restored or replaced water supply.]

* * * * *

(5) *Cost to landowner or water user.* A restored or replacement water supply shall meet the following cost criteria:

(i) The restored or replacement water supply for an affected EPACT water supply may not cost the landowner or water user more to operate and maintain than the previous water supply. Operation and maintenance costs of the replacement water supply which exceed the operation and maintenance costs of the previous water supply are the responsibility of the operator. Upon agreement by the operator and the landowner or water user, the obligation to pay these operation and maintenance costs may be satisfied by a one-time payment in an amount which covers the present worth of the increased annual operation and maintenance cost for a period agreed to by the operator and the landowner or water user.

(ii) The restored or replacement water supply for an affected water supply, which does not qualify as an EPACT water supply, may not have operation and maintenance costs that exceed those of the previous water supply by more than a de minimis cost increase. If the operation and maintenance costs of the restored or replacement water supply are more than a de minimis cost increase, the operator shall provide for the permanent payment of the increased operating and maintenance cost of the restored or replacement water supply.

§ 89.146a. Water supply replacement: procedure for resolution of water supply damage claims.

* * * * *

(c) If the affected water supply has not been restored or an alternate water supply has not been provided by the operator or if the operator provides and later discontinues an alternate source, the landowner or water supply user may so notify the Department and request that the Department conduct an investigation in accordance with the following procedure:

* * * * *

(2) Within 45 days of notification, the Department will make a determination of whether the contamination, diminution or interruption was caused by the operator's underground mining activities **[and]**. **The Department** will notify all affected parties of **[the Department's]** its determination **within 10 days of completing the investigation.**

* * * * *

§ 89.152. Water supply replacement: [relief from responsibility] special provisions.

(a) **[The]** In the case of an EPACT water supply, an operator may not be required to restore or replace the water supply if one of the following has occurred:

(1) The Department has determined that a replacement water supply meeting the criteria in

§ 89.145a(f) (relating to water supply replacement: performance standards) cannot be developed and the operator has purchased the property for a sum equal to the property's fair market value immediately prior to the time the water supply was affected or has made a one-time payment equal to the difference between the property's fair market value determined immediately prior to the time the water supply was affected and the fair market value determined at the time payment is made.

(2) The landowner and operator have entered into a valid voluntary agreement under section 5.3(a)(5) of The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. § 1406.5c(a)(5)) which does not require restoration or replacement of the water supply and the Department has determined that an adequate replacement water supply could feasibly be developed.

(3) The operator can demonstrate one of the following:

(i) The contamination, diminution or interruption existed prior to the underground mining activities as determined by a premining survey, and the operator's underground mining activities did not worsen the preexisting contamination, diminution or interruption.

(ii) The contamination, diminution or interruption occurred more than 3 years after underground mining activities occurred.

(iii) The contamination, diminution or interruption occurred as the result of some cause other than the underground mining activities.

(b) In the case of a water supply other than an EPACT water supply, an operator will not be required to restore or replace a water supply if the operator can demonstrate one of the following:

* * * * *

[(b)] (c) * * *

[Pa.B. Doc. No. 03-1790. Filed for public inspection September 12, 2003, 9:00 a.m.]

[25 PA. CODE CH. 93]

[Correction]

Stream Redesignations (Brushy Meadow Creek, et al.)

An error occurred in Part I (Public Comments) of the preamble to the proposed rulemaking which appeared at 33 Pa.B. 4165, 4167 (August 23, 2003). The Environmental Quality Board will accept comments until October 7, 2003. The correct version of Part I is as follows:

I. Public Comments

Written Comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments 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 must be received by the Board by October 7, 2003. 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 October 7, 2003. 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 proposed amendments will be considered. If sufficient interest is generated as a result of this publication, a public hearing will be scheduled at an appropriate location to receive additional comments.

Electronic Comments—Comments may be submitted electronically to the Board at RegComments@state.pa.us. A subject heading of the proposal and return name and address must be included in each transmission. Comments submitted electronically must also be received by the Board by October 7, 2003.

KATHLEEN A. MCGINTY,
Chairperson

[Pa.B. Doc. No. 03-1628. Filed for public inspection August 22, 2003, 9:00 a.m.]

STATE BOARD OF FUNERAL DIRECTORS

[49 PA. CODE CH. 13] Continuing Education

The State Board of Funeral Directors (Board) proposes to amend §§ 13.12 and 13.231 (relating to fees; and biennial registration; unregistered status and inactive status; failure to renew) and to add §§ 13.401—13.406 (relating to continuing education) to read as set forth in Annex A.

Effective date

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

Statutory Authority

The proposed rulemaking is authorized under sections 10(b) and 16(a) of the Funeral Director Law (act) (63 P. S. §§ 479.10(b) and 479.16(a)).

Background and Need for the Proposed Rulemaking

The act of June 22, 2000 (P. L. 376, No. 48) required the Board to adopt regulations implementing continuing education for licensed funeral directors.

Description of the Proposed Rulemaking

The proposed rulemaking will require licensed funeral directors to successfully complete 6 hours of continuing education each biennial renewal period, beginning with the 2004-06 biennial renewal period. Upon application for renewal, each licensee will provide verification of successful completion of the required continuing education. The Board may require documentary proof of successful completion. The Board will not renew the license of a licensee who did not complete the required continuing education prior to the renewal date; upon completion of continuing education, the Board may then renew that license.

In addition, the proposed rulemaking provides for approval by the Board of providers of courses of continuing education, including limited approval for specific courses.

Without additional review, the Board will approve any provider currently approved by the Conference of Funeral Service Examining Boards or the American Board of Funeral Service Education or by the licensing authority of Delaware, Maryland, New Jersey, New York, Ohio or West Virginia. Approval of a provider is considered to include approval of each course offered by the provider. The Board may deny approval of any course whose provider has failed to or is unable to comply with the provider responsibilities of the proposed rulemaking and the Board may withdraw approval where the applicant has made material misstatements in the application.

The proposed rulemaking also provides for the payment of a fee for application for approval of a provider or course. Because the fees are set to enable the Board to recover the cost of providing the service of application review and approval, the fee for approval of a course or provider that is already approved by one or more of the identified bodies (\$50) is lower than the fee for full review (\$100). Additionally, provider or course approval registration is subject to biennial renewal and a fee (\$50) will be charged for renewal. In general, renewal fees are set at an amount sufficient to fund the entire operations of a licensing board and to spread that cost out over all licensees. However, providers of continuing education are not licensees, and the total cost of all Board operations cannot fairly be imposed on continuing education providers as well as funeral directors and other licensees. Because the Board has not previously required continuing education, there is no historical basis upon which the Board could estimate its total cost associated with continuing education. Therefore, the fee to renew registration of approval as a continuing education provider is set at the same amount as the lower fee for initial application for approval, which would also be consistent with the cost of processing the renewal.

Under the proposed rulemaking, each provider will be required to disclose to prospective attendees in advance the objective, content, teaching method and number of hours of continuing education credit, to open the course to licensees, to provide adequate physical facilities, to provide accurate instructional materials, to employ qualified instructors and to evaluate the program. Each provider will also be required to provide to each attendee a record of the continuing education, including the participant's name, the dates of the program, the name of the program, the provider's name and the number of continuing education credits.

The proposed rulemaking does not address the issue of a waiver of continuing education, because section 10(b)(4) of the act adequately addresses this issue.

Finally, the proposed rulemaking will permit demonstration of embalming techniques as part of a program of continuing education, so long as it is approved in advance by the Board and performed by a licensed funeral director.

Fiscal Impact and Paperwork Requirements

The Board will track compliance by licensees with the required continuing education. Also, the Board will review and approve providers of courses of continuing education. The proposed rulemaking will have no other adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no other additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 3, 2003, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Michelle Smey, Administrative Officer, State Board of Funeral Directors, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-489 (Continuing Education) when submitting comments.

JAMES O. PINKERTON, FD,
Chairperson

Fiscal Note: 16A-489. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS

LICENSURE

§ 13.12. Fees.

Following is the schedule of fees charged by the Board:

* * * * *

Application for continuing education course with approval in other jurisdiction	\$50
Application for continuing education course without approval in other jurisdiction	\$100
Application for continuing education provider with approval in other jurisdiction	\$50
Application for continuing education provider without approval in other jurisdiction	\$100

Application for continuing education course with approval in other jurisdiction	\$50
Renewal of registration of continuing education provider or course registration	\$50

LICENSE RENEWAL

§ 13.231. Biennial registration; unregistered status and inactive status; failure to renew.

(a) A licensee shall register each biennial period to retain the right to practice. Initial registration shall automatically occur when a license is issued. Registration for a biennial period expires on the first day of February of every even numbered year. **The Board will grant an application for renewal of a funeral director license only when the licensee has certified that the licensee has completed the amount of continuing education required by § 13.401 (relating to credit hour requirements). If requested by the Board, an application for renewal shall also include the documentation required by § 13.402 (relating to reporting completion of continuing education).**

* * * * *

(d) A licensee whose licensure status has lapsed by failing to register biennially with the Board may apply to the Board for reactivation of licensure status by satisfying the requirements of paragraph (1) on forms prescribed by the Board. **An application for reactivation of an inactive or lapsed funeral director license shall also include the documentation required by § 13.402.**

* * * * *

CONTINUING EDUCATION

§ 13.401. Credit hour requirements.

(a) During each biennial renewal period, a licensed funeral director shall complete 6 hours of continuing education. This provision does not require a funeral director to complete continuing education during the renewal period in which the funeral director is first issued a license.

(b) A funeral director who has not completed the required continuing education during one or more renewal periods may complete the required continuing education subsequent to the applicable biennial renewal period. However, unless excused by the Board for good cause under section 10(b)(4) of the act (63 P. S. § 479.10(b)(4)), the Board will not renew or reactivate any funeral director license until all continuing education required prior to the current biennial renewal period has been successfully completed.

(c) The requirement of subsection (a) will take effect, beginning with the biennial renewal period of February 1, 2004—January 31, 2006.

§ 13.402. Reporting completion of continuing education.

(a) In general, proof of completion of a course of continuing education shall consist of a certified continuing education record, as defined in § 13.405(b) (relating to provider responsibilities).

(b) A licensed funeral director for whom the Board has not been provided certified continuing education records sufficient to comply with § 13.401 (relating to credit hour requirements) shall otherwise demonstrate completion of courses of continuing education.

§ 13.403. Credit for approved continuing education.

(a) Credit for continuing education will be granted only for courses that have been approved in advance by the Board.

(b) Approval will not extend to any course for which continuing education credit is precluded by section 10 of the act (63 P.S. § 479.10) (regarding expiration of licenses; renewal; continuing education).

(c) The Board will be deemed to have approved any course of continuing education provided by a provider of continuing education that is approved by the Board.

§ 13.404. Approval of continuing education courses or providers.

(a) Anyone, to include any college, university, school, association, professional society and organization, seeking approval to offer continuing education shall apply for approval on forms provided by the Board and shall fully provide the information required by those application forms for the Board to fulfill its duties under this section. The application shall include payment of the fee required under § 13.12 (relating to fees).

(b) The Board will approve without further review any course or provider of continuing education that is approved by one or more of the following:

- (1) Conference of Funeral Service Examining Boards.
- (2) Delaware Board of Funeral Services.
- (3) Maryland Board of Morticians.
- (4) State Board of Mortuary Science of New Jersey.
- (5) New York Department of Health, Bureau of Funeral Directors.
- (6) Ohio Board of Embalmers and Funeral Directors.
- (7) West Virginia Board of Embalmers and Funeral Directors.
- (8) American Board of Funeral Service Education.

(c) The Board will approve without further review any course or provider of continuing education that is approved by the appropriate licensing authority of one or more jurisdictions other than those listed in subsection (b). The Board will grant credit for a course of continuing education that has been approved under this subsection only for those licensees who are also licensed by the appropriate licensing authority in another jurisdiction that previously approved the course or provider.

(d) The Board may deny approval of a provider or course of continuing education when the applicant has previously failed or is not currently able to comply with § 13.405 (relating to provider responsibilities). The Board may approve in part and deny in part an application for approval of a provider or course.

(e) The Board may terminate its prior approval of a provider or program of continuing education when the applicant made one or more false or misleading material statements on the application.

The Board may also terminate in part or in whole its prior approval of a provider or program when it is later determined that the Board has grounds to deny approval in accordance with this section.

§ 13.405. Provider responsibilities.

(a) For each course of continuing education, the provider shall:

(1) Disclose in advance to prospective attendees the objectives, content, teaching method and number of hours of continuing education credit.

(2) Open each course to all licensees.

(3) Provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used.

(4) Provide accurate instructional materials.

(5) Employ qualified instructors who are knowledgeable in the subject matter.

(6) Evaluate the program through the use of questionnaires of the participants and instructors.

(7) Issue a certified continuing education record to each participant.

(8) Retain attendance records, written outlines and a summary of evaluations for 5 years.

(b) Each continuing education record must include:

- (1) The name of the participant.
- (2) The dates of the program.
- (3) The name of the program.
- (4) The provider's name.
- (5) The number of hours of continuing education credit.

§ 13.406. Demonstration of embalming techniques.

(a) With prior approval of the Board, embalming of human remains to demonstrate techniques during a program of continuing education will not be considered to be the practice of funeral directing at an establishment not authorized by the Board.

(b) Only a licensed funeral director may demonstrate embalming techniques at a program of continuing education in this Commonwealth.

[Pa.B. Doc. No. 03-1791. Filed for public inspection September 12, 2003, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

[49 PA. CODE CH. 35]
Education

The State Real Estate Commission (Commission) proposes to amend Chapter 35 to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The amendments are proposed under the authority of sections 402, 404, 404.1 and 513 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. §§ 455.402, 455.404, 455.404a and 455.513).

C. Purpose and Background

As part of its on-going review of its regulations, the Commission amended §§ 35.201—35.327 at 30 Pa.B. 5954 (November 18, 2000). This proposed rulemaking will amend and update the remaining regulations (§§ 35.252—35.392), many of which were last amended at 19 Pa.B. 781 (February 25, 1989) and 24 Pa.B. 2904 (June 11, 1994).

The Commission proposes to amend § 35.252 (relating to termination of business of deceased broker with sole proprietorship) and add §§ 35.253 and 35.254 (relating to replacement of broker of record due to death; and substitution of broker or broker of record due to illness or injury) to address practice when the broker or broker of record dies or is incapacitated for a significant time due to illness or injury. The Commission also proposes to address licensees' and applicants' desire to complete their prelicensure and continuing education requirements at a date, place and time most convenient to them. Under current regulations, these education requirements may only be satisfied in a traditional classroom setting. Given the importance of the Internet to real estate practice as well as the trend in other real estate licensing jurisdictions to permit distance education, the Commission proposes liberalizing the delivery system for real estate prelicensure and continuing education courses (§§ 35.201 and 35.358 (relating to definitions; and administration of curriculum)).

Lastly, the Commission proposes consolidating duplicative prelicensure and continuing education provisions and revising outdated, burdensome and unnecessary provider requirements (§§ 35.203, 35.228, 35.229, 35.271—35.273, 35.275, 35.341—35.344, 35.351—35.363 and 35.381—35.392).

D. Description of Proposed Amendments

1. Death or injury of broker/broker of record

Section 35.252 addresses the termination of a sole proprietorship when the broker dies. Subsection (b) contains the rules which must be followed by an appointed broker during the termination period. Paragraph (3) requires that all agreements of sale or lease pending at the time of the sole proprietor's death consummate within the 90-day period. Currently, pending agreements or leases that do not consummate within this time frame have to be terminated and transferred to another broker resulting in unreasonable delay for the parties in the transaction. To eliminate the delay and unnecessary paperwork, the Commission proposes permitting pending agreements of sale or lease to proceed to consummation beyond the 90-day termination period. Because paragraph (1) prohibits the appointed broker from entering into new agreements, the Commission believes that there will not be any harm, but rather convenience, to the public by extending the termination period.

New §§ 35.253 and 35.254 address the instances when the broker of record of a corporation or partnership dies or is incapacitated due to illness or injury. Both track the requirements of § 35.252(a) and do not require that the business be terminated. Rather, as in the case of a sole proprietorship, the proposed sections would require a partner or corporate officer to notify the Commission of

the broker of record's death, illness or injury and appoint another broker of record, in the case of death, or an interim broker, in the case of illness or injury.

2. Prelicensure and Continuing Education

Section 402 of the RELRA grants the Commission authority over real estate schools and the courses taught at the schools. In addition, section 404.1(c) of the RELRA grants the Commission authority over the courses, materials, locations and instructors for continuing education.

A. Consolidation

Currently, the regulations relating to real estate education are divided into two separate subchapters: Subchapter F (relating to real estate schools) addresses the prelicensure requirements and Subchapter H (relating to continuing education) addresses the continuing education requirements. Because many of the provisions are either substantially similar or redundant, the Commission proposes to consolidate these provisions into one subchapter and replace all references to real estate "schools" with real estate "education providers." The following chart outlines the consolidation.

<i>Current Section</i>	<i>Subject Matter</i>	<i>Consolidated Into</i>
§ 35.387	Administration of curriculum	§ 35.358
§ 35.388	Facilities	§ 35.352
§ 35.389	Instructors	§ 35.353
§ 35.390	Advertising, solicitation and promotion	§§ 35.354 and 35.355
§ 35.391	Course transcripts and certificates of instruction	§ 35.359
§ 35.392	Inspections	§ 35.362

Provisions specifically applicable only to continuing education remain in Subchapter H.

B. Simplify/Liberalize Processes

As part of this proposed rulemaking, the Commission proposes to streamline the approval process for educational providers, permit applicants for licensure and licensees to complete their educational requirements by traditional and distance education learning programs and liberalize the continuing education requirements for all licensees.

(i) Real Estate Education Providers

Section 35.341(5) (relating to approval of real estate school) requires providers to post a surety bond for the greater of \$10,000 or the maximum number of students expected to be enrolled on any one day in the first year of operation times the amount of the tuition. The Commission proposes eliminating the per-student calculation and simply requiring providers to post a \$10,000 bond. The Commission believes that this amount sufficiently protects the student's contractual rights.

Section 35.341(6)(i)(D) and (ii)(B) requires providers to provide the Commission with complete details about any criminal convictions on their applications for approval. Upon being notified of the conviction, the Commission requests certified copies of the conviction documents. To streamline the process, the Commission proposes requiring applicants to provide the conviction documents at the time of the application. Similarly, current paragraph (6)(vi)—(viii) and (xi) requires providers to attach copies of student enrollment agreements, transcripts, a statement of prerequisites and a photograph or sketch of the

sign with their application. Because the inspector reviews this information again during the inspection prior to licensure, the Commission proposes eliminating this duplicative requirement.

Section 35.342 (relating to approval of school director) addresses the approval of the director. The regulations are silent, however, on whether a provider may continue operation when the director dies, withdraws or is terminated. To provide guidance to providers on this issue, the Commission proposes adding subsection (d). This provision would permit an interim director, upon notice to the Commission, to operate for up to 90 days following the death, withdrawal or termination of the director. The interim director would not be permitted to make changes to the curriculum, testing or facilities. After 90 days, continued operation is contingent upon approval of a director under subsection (a) or (b).

The Commission also proposes technical amendments to § 35.344(b)(1) and (5) (relating to withdrawal of school or director approval). Rather than simply using the term "incompetency" to describe when the Commission may withdraw a director's approval, paragraph (1) would delineate that the conduct must demonstrate bad faith, dishonesty, untrustworthiness or incompetency. Similarly, rather than simply using the terms "involving moral turpitude," paragraph (5) would be modified to parallel the language in section 604(a)(14) of the RELRA (63 P. S. § 455.604(a)(14)), regarding convictions.

Current §§ 35.351 and 35.351a (relating to duty of school director; and assistant school director) address the requirements for a director and assistant director. In the proposed rulemaking, the Commission seeks to clarify the requirements of a director and eliminate the regulation governing assistant directors. The Commission believes that because the RELRA does not contain provisions delineating the qualifications or responsibilities for assistant directors, no regulation is necessary. In addition, since the director has the ultimate responsibility for the education provider, the director may decide which responsibilities to delegate to the assistant director.

The Commission also proposes to eliminate unnecessary facility requirements in § 35.352 (relating to location and facilities). So long as the location or facility is suitable for classroom space and does not share office, instruction or common space with a real estate franchise, network or organization, the Commission believes that it is unnecessary to regulate the amount of floor or air space mentioned in paragraphs (5) and (6). Similarly, the Commission proposes to remove the requirement in subsection (c) that a lease be in effect when the school is in session as this is a private contractual matter between the school and the landlord.

Current § 35.353 (relating to selection of instructors) assigns a complicated point system in the selection of instructors. The proposed rulemaking would eliminate the point system and the dual teaching and experience requirement and reduce the number of years of teaching or practical experience needed from 5 years to 3 years. The Commission believes that the current requirement is confusing, onerous and does not guarantee better instruction. The Commission is satisfied that an instructor who has an undergraduate, graduate or postgraduate degree or 3 years of practical or teaching experience in the subject matter of the course to be taught is sufficiently qualified.

The Commission also seeks to simplify the documentation that an instructor must provide to the Commission.

Current § 35.353(c) requires instructors to submit certified documents from educational institutions and real estate organizations attesting to the applicant's acquisition of diplomas, degrees and industry designations and completion of continuing education programs and courses as well as letters from teaching supervisors certifying the applicant's past satisfactory performance as an instructor. Since these documents are viewed during the educational provider's inspection, the Commission would amend this provision to simply require providers to maintain documentation substantiating education or experience rather than submit them to the Commission.

Current § 35.354(b) (relating to prohibited forms of advertising and solicitation) requires the educational provider to post a sign advising students that recruiting for employment opportunities is prohibited. However, the Commission understands that instruction often occurs in multiple locations. Therefore, the Commission proposes eliminating the sign requirement and instead requiring that students be provided with written documentation about this prohibition with the other course materials.

Current § 35.357 (relating to student enrollment agreements) sets forth a sample student enrollment agreement. To avoid private contractual matters between providers and students and because the agreement is exemplary and not mandatory, the Commission proposes deleting this section.

(ii) *Traditional and Distance Education*

In addition to consolidating the precensure and continuing education requirements, the Commission proposes increasing the types of programs that licensees and applicants may complete to meet their educational requirements. Currently, applicants and licensees may only complete these requirements by means of traditional methods—in a live classroom setting. This proposed rulemaking would permit applicants and licensees to learn by means of traditional and distance education learning programs.

Distance education is currently accepted in the majority of jurisdictions in the United States and Canada. In 39 of these jurisdictions, 34 within the United States, course content is reviewed and approved by the jurisdiction while the delivery system is reviewed and approved by the Association of Real Estate License Law Officials (ARELLO).

Like traditional learning programs, distance learning programs fall into two categories: instructor-led learning and independent learning. The distinction between the categories depends upon the amount of interactivity between instructors, students/learners and content in the learning process. Instructor-led learning provides significant ongoing interactive feedback from the instructor to the participant during the learning process, while independent learning permits the participant to learn a real estate subject with no contact with the instructor.

To account for the various learning methods, the Commission proposes amending § 35.358. Subsection (a)(1) would be amended to clarify that instructor-led learning may not exceed 7 1/2 hours of instruction per day. Subsection (a)(2), which permits home study and correspondence courses in Commission-permitted instances, would be deleted since these courses fall within distance learning. Subsection (a)(3) and (6) would be moved to new subsection (b), which deals exclusively with precensure requirements.

The Commission also proposes to add subsection (a)(4). Like the 39 other jurisdictions that permit distance

learning, the new provision would require that the course content comply with § 35.384 (relating to qualifying courses; required and elective topics) and that the delivery system be approved by ARELLO or another certifying body with similar approval standards approved by the Commission. Although there are currently no other certifying bodies, in drafting this proposed rulemaking, the Commission wants to ensure that if another acceptable certifying body becomes available the regulations would not have to be amended further.

(iii) *Continuing education.*

Current continuing education requirements are found in Subchapter H. Section 35.383 (relating to waiver of continuing education requirement) requires licensees seeking to renew their licenses, with the exception of those listed in § 35.383, to complete 14 hours of continuing education from an approved sponsor specified in current § 35.385 (relating to approved continuing education providers). The 14 hours are currently broken down into a 7 1/2-hour mandatory course developed by the Commission and a 7 1/2-hour elective described in § 35.384(b) and (c).

The Commission proposes to shorten the length of the continuing education programs. Under the current regulation, licensees are required to complete their continuing education in 7 1/2-hour increments. In this proposed rulemaking, the Commission proposes reducing the minimum hours in § 35.384(a) from 7 1/2 hours to 3 1/2 hours. The Commission believes that the reduced hours will enable licensees to learn more efficiently.

In addition, the Commission proposes to eliminate the mandatory course requirement in § 35.384(b) in all but prenotified instances and replace it with all elective courses. Except for instances where the RELRA or the regulations have been substantively modified or where, in the Commission's view, licensees require specific Commission-guidance, the Commission believes that licensees should be able to take continuing education in subjects that directly benefit their practice or interest.

Under current § 35.385, an applicant for a waiver of the continuing education requirement submits a request with the biennial renewal application. In the event that the Commission would deny the request, the applicant must cease practice until the continuing education is completed. The Commission proposes changing the deadline for submission of the waiver request to March 31, rather than at the time of the renewal. By adjusting the submission deadline, the Commission would be able to approve or deny the applications at its April meeting and advise each applicant in time for the applicant to complete the missing hours prior to the May 31 renewal deadline. The Commission believes that this time frame would be of assistance to applicants because they would be able to obtain the requisite hours without having to cease practice.

The Commission also proposes to expand the list of acceptable topics in § 35.384 to include real estate investment analysis, management of real estate brokerage operations, property development, real estate securities and syndication, real property exchange, broker courses encompassing supervisory duties and standards of conduct and practice contained in Subchapter E (relating to standards of conduct and practice), marketing promotion and advertising of real estate inventory and use of technology in delivering real estate services. The Commission believes that these courses are valuable given licensees' current practice.

E. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 3, 2003, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

F. *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking should have no fiscal impact on the Commonwealth, its political subdivisions or the public, that is, the regulated community. The proposed rulemaking should reduce the legal, accounting, reporting or other paperwork requirements on the regulated community.

G. *Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Judith Pachter Schulder, Counsel, State Real Estate Commission, 116 Pine Street, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

HELEN M. BILLAK,
Chairperson

Fiscal Note: 16A-561. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 35. STATE REAL ESTATE COMMISSION

Subchapter B. GENERAL PROVISIONS

§ 35.201. Definitions.

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

* * * * *

Distance education—Real estate instruction delivered in an independent or instructor-led format during which the student and the instruction are separated by distance and sometimes time.

* * * * *

Independent learning—An interactive educational program, including computer-based technology courses, that provides no contact with an instructor.

* * * * *

Instructor-led learning—An interactive educational program, including a classroom or simulated classroom, that provides significant ongoing contact from the instructor to the participant during the learning process.

* * * * *

Real estate [school] education provider—[An individual or entity that conducts classes in] A person or institution who offers real estate [subjects. The term does not include a college, university or institute] education regardless of whether the learning is instructor-led or independent, excluding colleges, universities or institutes of higher learning accredited by the Middle States Association of Colleges and Secondary Schools or equivalent accreditation.

* * * * *

§ 35.203. Fees.

The following fees are charged by the Commission:

* * * * *

Approval of real estate [school] education provider	\$120
Reinspection of real estate [school] education provider after first failure	\$65
Annual renewal of approval of real estate [school] education provider ...	\$250 plus \$10 for each satellite location, course and instructor
* * * * *	
Change of ownership or directorship of real estate [school] education provider	\$75
Change of name of real estate [school] education provider	\$45
Change of location of real estate [school] education provider	\$70
Addition of satellite location or instructor for real estate [school] education provider	\$20
Addition of course for real estate [school] education provider	\$25
* * * * *	

**Subchapter C. LICENSURE
LICENSURE REQUIREMENTS**

§ 35.228. Licensure as campground membership salesperson.

(a) An individual who wants to obtain a Pennsylvania campground membership salesperson's license shall:

* * * * *

(2) Have successfully completed the one-credit (15 hours), Commission-developed course titled Campground Membership Sales, provided the following conditions are met:

* * * * *

(ii) The course was taught at an accredited college, university or institute of higher learning in this Commonwealth or a real estate [school] education provider in this Commonwealth approved by the Commission.

* * * * *

§ 35.229. Licensure as time-share salesperson.

(a) An individual who wants to obtain a Pennsylvania time-share salesperson's license shall:

* * * * *

(2) Have successfully completed the two-credit (30 hours), Commission-developed course titled Time Share Sales, provided the following conditions are met:

* * * * *

(ii) The course was taught at an accredited college, university or institute of higher learning in this Commonwealth or a real estate [school] education provider in this Commonwealth approved by the Commission.

* * * * *

STATUS OF LICENSURE

§ 35.252. Termination of business of deceased broker with sole proprietorship.

(a) Within 15 days following the death of a broker with a sole proprietorship, the deceased broker's estate [may] shall notify the Commission that [it] the estate has appointed another licensed broker to supervise the termination of the deceased broker's business [for 90 days following the appointment]. The appointment is subject to verification that the appointed broker has a current license.

(b) The appointed broker shall observe the following rules during the [90-day] termination period:

* * * * *

(2) Unexpired listing agreements may be promoted unless the seller or lessor elects to cancel the agreement. Unexpired listings will expire automatically [at the conclusion of the 90-day termination period] 90 days after the broker dies and may not be renewed.

* * * * *

§ 35.253. Replacement of broker of record due to death.

Within 15 days following the death of a broker of record, a partner or corporate officer shall file an application with the Commission designating another individual to serve as broker of record.

§ 35.254. Substitution of broker or broker of record due to illness or injury.

If a broker with a sole proprietorship or broker of record is unable to act as a broker/broker of record due to illness or injury, the broker's attorney or another with power of attorney for the broker in a sole proprietorship, a corporate officer or partner shall notify the Commission within 15 days that it has appointed another licensed broker to act as the interim broker/broker of record for the corporation, partnership or sole proprietorship until the broker/broker of record is able to resume his responsibilities.

Subchapter D. LICENSING EXAMINATIONS

§ 35.271. Examination for broker's license.

* * * * *

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(4):

* * * * *

(3) To be counted toward the education requirement, a real estate course shall have been offered by:

* * * * *

(ii) A real estate [school] education provider in this Commonwealth approved by the Commission.

(iii) A real estate [school] education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the [school] provider is located. The course transcript or certificate of completion shall state that the course is approved by the licensing authority of the jurisdiction where the [school] provider is located.

* * * * *

(6) Two credits will be allowed for each year of active practice the candidate has had as a licensed broker in another jurisdiction during the 10-year period immediately preceding the submission of the examination application.

§ 35.272. Examination for salesperson's license.

* * * * *

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(2):

* * * * *

(2) Credits will be allowed for each of the Commission-developed real estate courses—Real Estate Fundamentals and Real Estate Practice—when offered by:

* * * * *

(ii) A real estate [school] education provider in this Commonwealth approved by the Commission.

(3) Credits will be allowed for acceptable basic real estate courses when offered by:

* * * * *

(ii) A real estate [school] education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the [school] provider is located.

* * * * *

§ 35.273. Examination for cemetery broker's license.

* * * * *

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(3):

* * * * *

(2) Credits will be allowed for each of the Commission-developed real estate courses—Real Estate Fundamentals and Real Estate Practice—when offered by:

* * * * *

(ii) A real estate [school] education provider approved by the Commission in this Commonwealth.

(3) Credits will be allowed for cemetery courses when offered by:

* * * * *

(ii) A real estate [school] education provider in this Commonwealth approved by the Commission.

(4) Credits will be allowed for acceptable basic real estate courses when offered by:

* * * * *

(ii) A real estate [school] education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the [school] provider is located.

* * * * *

§ 35.275. Examination for rental listing referral agent's license.

* * * * *

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(2):

* * * * *

(2) Credits will be allowed for each of the Commission-developed real estate courses—Real Estate Fundamentals and Real Estate Practice—when offered by:

* * * * *

(ii) A real estate [school] education provider in this Commonwealth approved by the Commission.

(3) Credits will be allowed for acceptable basic real estate courses when offered by:

* * * * *

(ii) A real estate [school] education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the [school] provider is located.

* * * * *

Subchapter F. REAL ESTATE [SCHOOLS] EDUCATION PROVIDERS APPROVAL OF [SCHOOLS AND SCHOOL DIRECTORS] EDUCATION PROVIDERS

§ 35.341. Approval of real estate [school] education provider.

A real estate [school] education provider shall obtain the Commission's approval before commencing operations in this Commonwealth. To obtain approval from the Commission, the [school] provider shall:

(1) Be owned by persons who [are 21 years of age or older and] possess [a] good moral character, or, if the owner is a corporation, have officers and directors who meet [these requirements] this requirement.

* * * * *

(3) Have a director of [school] operations who meets the requirements of § 35.342 (relating to approval of [school] director).

(4) Designate a person or entity [located in this Commonwealth] to serve as custodian of [school] records if the [school] provider were to terminate operations.

(5) Post a surety bond of \$10,000 to the Commonwealth for the protection of the contractual rights of the [school's] provider's students[, the amount of which shall be the greater of \$10,000 or the maxi-

mum number of students expected to be enrolled at any one day in the first year of operation times the amount of the tuition].

(6) Submit a completed [school] provider approval application to the Commission with:

(i) A completed [school] provider owner application with:

(A) A resume of the applicant's experience in owning, administrating or teaching in, a college[,] or university or as a real estate [school] education provider.

* * * * *

(C) [A notarized pro forma profit and loss statement and balance sheet.

(D) Complete details of] Certified copies of court documents related to a conviction of, or plea of guilty or nolo contendere to, a felony or misdemeanor and the sentence imposed.

(ii) A completed [school] provider director application with:

* * * * *

(B) [Complete details of] Certified copies of court documents related to conviction of, or plea of guilty or nolo contendere to, a felony or misdemeanor and the sentence imposed.

(iii) A fictitious name registration, if the [school] provider has a fictitious name.

(iv) A certificate of incorporation, if the [school] provider is a corporation.

* * * * *

(vi) [A copy of the student enrollment agreement.

(vii) A copy of the school transcript.

(viii) A statement of the prerequisites for admission.

(ix)] A statement of policy regarding refund of tuition and other fees.

[(x)] (vii) * * *

[(xi) For the main school location and each proposed satellite location, a sketch or photograph of the school sign.]

§ 35.342. Approval of [school] educational director.

(a) A real estate [school] education provider shall obtain the Commission's approval of its director before commencing operations in this Commonwealth. The applicant for director shall have a combination of experience in teaching, supervision and educational administration [to be able] which, in the opinion of the Commission, will enable the applicant to competently administer a real estate education program in areas that include, but are not limited to, the following: evaluation of instructor performance; evaluation of curriculum and specific course content; analysis of course examinations; and management of [school] records and [school] facilities.

* * * * *

(c) An approved [school] education provider shall obtain the Commission's approval before changing directors. The prospective director shall submit to the Com-

mission the information required by § 35.341(6)(ii) (relating to approval of real estate [school] education provider).

(d) If the director dies, withdraws or is terminated, an approved education provider will not lose its approved status, nor will it be required to terminate operations within this Commonwealth provided that:

(1) The provider shall submit the name of an interim director to the Commission within 15 days of the death, withdrawal or termination of the director.

(2) The interim director is authorized to operate for up to 90 days following the death, withdrawal or termination of the director. Thereafter, continued operation is contingent upon approval of a director under subsection (a) or (b).

(3) No changes may be made to the curriculum, testing or facilities until the new director is approved by the Commission.

§ 35.343. Renewal of [school] education provider approval.

An approved real estate [school] education provider shall renew its approval annually. To obtain renewal of approval, [a school] an education provider shall submit a completed renewal of approval application to the Commission with:

(1) A notarized certification of compliance with this chapter signed by the [school] director.

(2) A copy of the \$10,000 surety bond showing coverage for the upcoming renewal period[, the amount of which shall be the greater of \$10,000 or the maximum number of students enrolled at any one day during the previous year times the amount of the tuition].

* * * * *

§ 35.344. Withdrawal of [school] education provider or director approval.

(a) The Commission may, following notice and hearing under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies), withdraw the approval of a real estate [school] education provider that it finds guilty of:

* * * * *

(2) Failing to maintain compliance with § 35.341 (relating to approval of real estate [school] education provider).

(3) Violating a requirement of §§ 35.351—35.363 (relating to administration of [schools] education providers).

(b) The Commission may, following notice and hearing under 2 Pa.C.S. §§ 501—508, withdraw the approval of a [school] director that it finds guilty of:

(1) [Incompetency] Any conduct in connection with the administration of an education provider which demonstrates bad faith, dishonesty, untrustworthiness or incompetency.

(2) Failing to [ensure the schools] maintain compliance with [the requirements of §§ 35.351—35.363] § 35.341 (relating to approval of real estate education provider).

* * * * *

(4) Having been convicted of, or having pled guilty or nolo contendere to[,] a felony [or].

(5) Having been convicted of, or having pled guilty or nolo contendere to a misdemeanor [involving moral turpitude] related to the practice of real estate, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud or any similar offense.

ADMINISTRATION OF [SCHOOLS] EDUCATION PROVIDERS

§ 35.351. Duty of [school] director.

The director [of] for a real estate [school] education provider is responsible for [the] day-to-day administration [of the school], including [the school's] evaluation of instructor performance, evaluation of curriculum and specific course content, analysis of course examinations, management of records and facilities and otherwise assuring compliance with §§ 35.352—35.363.

§ 35.351a. [Assistant school director] (Reserved).

[(a) A school may, upon notification to the Commission, appoint an approved instructor under § 35.353 (relating to selection of instructors) to serve as assistant school director.

(b) An assistant school director may not become a school director without the Commission's approval under § 35.342 (relating to approval of school director).]

§ 35.352. Location and facilities.

(a) A real estate [school] education provider shall have a main location [within this Commonwealth] that contains its [administration] administrative offices, its records, and a telephone with a listed number for the [school's] provider's exclusive use. [Classes may be taught at the main location or at satellite locations.]

(b) The [main] location [and each satellite location] where classes are taught shall:

(1) Be [designed primarily for classroom purposes or, in the case of a meeting hall, convention hall or motel/hotel facility, be] suitable for classroom space.

(2) Not share office space, [classroom] instruction space or a common [entrance] space with a real estate franchise, network or organization. This paragraph does not apply to a real estate trade association.

* * * * *

[(4) Have adequate illumination on horizontal work surfaces in each classroom.

(5) Have 15 square feet of floor space per student in each classroom.

(6) Have 150 cubic feet of airspace per student in each classroom.

(c) If the school rents facilities for its main or satellite location, the lease agreement shall be in effect for the period when the school is in session at that location.]

§ 35.353. Selection of instructors.

(a) *Qualified instructors.*

[(1)] A real estate [school] education provider shall employ instructors who are qualified to teach the [curriculum] courses for which the instructors have been hired. The [school] provider may consider an individual qualified to teach a course if the individual satisfies one of the following criteria:

[(i) Has accumulated a minimum of 75 total points under the points system in subsection (b), with a minimum of 30 education points (including points in both formal and continuing education), three industry experience points and 20 teaching experience points.

(ii) Has accumulated a minimum of 53 total points under the points system in subsection (b), with a minimum of 30 education points (including points in both formal and continuing education) and three industry experience points.

(iii) [(1) Possesses an undergraduate, graduate or postgraduate degree [and has 2 years of practical experience] in the subject matter of the course to be taught. [The experience requirement does not apply when the individual holds a teaching certificate in the subject matter of the course to be taught.]

[(iv)] (2) Has [5] 3 years of [full-time] practical or teaching experience in a profession, trade or occupation directly related to the subject matter of the course to be taught.

[(2) If the school determines that an individual is qualified as an instructor under paragraph (1)(ii), the school shall require the individual to acquire at least 20 teaching experience points within 3 years after commencing employment as an instructor for the school.

(b) *Point system.* A school shall award points for education, industry experience and teaching experience as follows:

(1) *Education.* Education requirements are as follows:

(i) *Formal education.*

(A) High school or general equivalency diploma—five points.

(B) Degrees—only one degree may be considered for points:

(I) Associate's degree, or its equivalent, in any area—five points.

(II) Bachelor's or master's degree in any area—10 points.

(III) Bachelor's or master's degree in real estate—15 points.

(IV) Doctorate degree in any area—15 points.

(ii) *Industry designations.* Ten points for each industry-awarded designation earned in the area of study to be taught, up to a maximum of 30 points.

(iii) *Continuing education programs.* One point for each Continuing Education Unit/Program (CEUP) in the area of study to be taught. For purposes of this clause, a CEUP is defined as 10 hours of classroom participation as a student.

(iv) *Continuing education courses.* One point for each Continuing Education Unit/Course (CEUC) earned in the area of study to be taught. For purposes of this clause, a CEUC is defined as 10 hours of classroom participation as a student.

(2) *Industry experience.* One point for each year of industry-related experience in the area of study to be taught, up to a maximum of 15 years.

(3) *Teaching experience.* One point for each Continuing Teaching Unit (CTU) earned in the area of study to be taught. For purposes of this paragraph, a CTU is defined as 10 hours of classroom participation as an instructor in an industry-related curriculum.

(c)] (b) *Proof of qualifications.* [A school] An education provider shall [require an instructor applicant to prove qualifications by the submission of:] maintain documentation substantiating the instructor's education and experience.

[(1) Certified documents from educational institutions and real estate organizations attesting to the applicant's acquisition of diplomas, degrees and industry designations and completion of continuing education programs and courses.

(2) Letters from teaching supervisors certifying the applicant's past satisfactory performance as an instructor.]

§ 35.354. Prohibited forms of advertising and solicitation.

(a) A real estate [school] education provider may not:

(1) Hold itself out under a name other than the name approved for it by the Commission under § 35.341 (relating to approval of real estate [school] education provider).

(2) Hold itself out as being recommended or endorsed by the Commission, the Department of Education or other agency of the Commonwealth, except that the [school] education provider may advertise that it has been approved by the Commission to provide instruction in real estate courses and that credits earned in certain named courses will be accepted by the Commission toward fulfillment of the professional education prerequisite for taking the Pennsylvania real estate licensing examinations.

(3) Hold itself out to be an educational institution that conforms to the standards and requirements prescribed for colleges and universities by the Department of Education, unless the [school] education provider meets those standards and requirements.

* * * * *

(9) Permit an instructor or guest lecturer while on [school] the provider's premises to wear any identification relating to the name of the real estate licensee or a real estate organization, franchise or network.

* * * * *

(b) A [school] real estate education provider may not allow its main or satellite locations to be used by others for the solicitation or recruitment of students for employment or affiliation with a real estate licensee or a real estate organization, franchise or network. [The

following sign] Students shall be informed of this prohibition through a written statement which shall [be conspicuously displayed in each classroom whenever a class is in session] contain the following:

* * * * *

§ 35.355. Prospectus materials.

(a) A real estate [school] education provider shall provide copies of catalogs, bulletins, pamphlets and other prospectus materials to the Commission upon request. Prospectus materials shall state the following in clear and unambiguous terms:

* * * * *

§ 35.356. Tuition and other fees.

A real estate [school] education provider shall charge tuition that bears a reasonable relationship to the quality and quantity of instructional services rendered. If additional fees are charged for books, supplies and other materials needed for coursework, the [school] provider shall itemize the fees and the books, supplies and materials, upon payment therefor, shall become the property of the student.

§ 35.357. [Student enrollment agreements] (Reserved).

[(a) A real estate school shall require each of its students to enter into a student enrollment agreement that has been approved by the Commission. The agreement shall itemize the tuition and other fees and the services and materials to be received from them. The agreement also shall state the school's policy regarding the refund of tuition and fees if the student were to withdraw or be dismissed or if the school were to terminate operations before the end of the academic year. The agreement also shall contain the Bureau's toll-free telephone number, 1(800) 822-2113, that the student may call to obtain information about filing a complaint against the school.

(b) The following real estate school enrollment agreement is exemplary of the requirements of subsection (a):

REAL ESTATE SCHOOL STUDENT ENROLLMENT AGREEMENT

In consideration of (Name of School) (hereinafter the "School") accepting me as a student and giving me the instruction specified in its (Name of Course) (Fall or Spring Session) (Day or Evening Class) (Year) according to the curriculum of the School, I, (Name of Student) (hereinafter the "Student"), agree to pay the School tuition in the amount of \$ _____, \$ _____ of which shall be paid at the signing and execution of this agreement and the balance paid in (Weekly or Monthly) installments of \$ _____.

The School and the Student agree that the portion of the tuition paid at the time of the signing and execution of this agreement is nonrefundable. The Student agrees to acquire all books, tools and supplies required for the course, according to the current catalog, for which a fee of \$ _____ shall be paid at the signing and execution of this agreement.

The Student agrees to abide by the rules and regulations of the School as may be established from time to time in connection with the course.

The School shall have the right to cancel this agreement at any time if the student shall (i) violate a rule or regulation established by the School in connection with course; (ii) fail to advance satisfactorily in the course; or (iii) refuse to take the instruction offered. In the event of cancellation, the School shall refund the unearned portion of the tuition paid, in accordance with the refund schedule in the current catalog.

The School shall have the right to substitute any study or laboratory work in connection with the course when changing conditions in the field of study require such substitution in the School's judgment.

The School shall not be bound by any agreement or representation other than those specified in this contract and the current catalog.

IN WITNESS WHEREOF, I (We) have hereunto set my (our) hand(s) and seal(s) this (Date) day of (Month) (Year)

(Witness) (Name of Student)

(Date) (Parents or Guardian, if Student is a minor)

The (Name of School) herewith agrees to enroll (Name of Student) for the (Name of Course) (Fall or Spring Session) (Day or Evening Class) (Year).

(School Director)]

§ 35.358. Administration of curriculum.

(a) [A real] Real estate [school] education providers shall observe the following standards in the administration of [its] prelicensure and continuing education curriculum:

(1) [No day of the academic year] Instructor-led learning may not exceed 7 1/2 clock hours of instruction per day. For purposes of this section, a clock hour is defined as a 60-minute period comprising 50 minutes of [inspection] instruction and a 10-minute break. A student may not be required to attend class for more than 90 consecutive minutes without a break.

(2) [A correspondence or home study course may be offered to students whom the Commission certifies as being unable to attend classes.

(3) A course shall be assigned one credit for 15 clock hours, two credits for 30 clock hours, three credits for 45 clock hours or, if the course is a combination of Real Estate Fundamentals and Real Estate Practice, four credits for 60 clock hours.

(4)] The substantive content of the course, as evidenced by the course outline, text and other instructional materials, shall adequately reflect the stated purpose of the course, as evidenced by the course title and course description. [If the course purports to offer instruction] Instruction in a Commission[-developed] required course[, the course outline] shall [be substantially the same as] conform to the content or the outline developed by the Commission for the course.

[(5) If copyrighted test materials are to be used in a course that purports to be a review for a Pennsylvania real estate licensing examination, the

school shall obtain permission to use the materials from the Commission and the testing service that administers the examination.

(6) A course shall be graded by written examination, except when a student's handicap or disability would make grading by written examination impractical. In the case of a home study course, at least 50% of the student's grade shall be determined by the proctored written examination.

(7)] (3) Unless [enrolled in a correspondence or home study course] the course is taught by means of distance education, a student shall be physically present during at least 80% of the classroom instruction for a [pre-licensure] prelicensure course and during at least 90% of the classroom instruction for a continuing education course, [in order] to receive [a passing grade] credit. [A sign-in/sign-out attendance roster shall be maintained for each class session.] The provider shall be responsible for verifying student attendance.

[(8) Each class shall be taught via live presentation by the instructor. An instructor's live presentation may be augmented by the use of an audiotape, videotape or other audio/visual aid.]

(4) Courses delivered by distance education, in addition to meeting the content requirements in § 35.384 (relating to qualifying courses), shall be approved by the Association of Real Estate License Law Officials or another certifying body with similar approval standards approved by the Commission.

(b) In addition to the requirements in subsection (a), an education provider shall observe the following standards in the administration of its prelicensure curriculum:

(1) A prelicensure course shall be assigned one credit for every 15 clock hours of instruction.

(2) A prelicensure course shall be graded by written examination, except when a student's handicap or disability would make grading by written examination impractical.

§ 35.359. Course transcripts.

(a) *Prelicensure.* Within 30 days after a course has been taught, a real estate [school] education provider shall provide each student in the course with an official course transcript that contains the information in § 35.360(a)(5) (relating to records) and is signed by the [school] director.

(b) *Continuing education.* Effective with the renewal period commencing June 1, 2004, within 30 days after a continuing education course has ended, the continuing education provider shall provide the Commission with a roster in a format approved by the Commission, listing each licensee who satisfactorily completed/taught the course. Continuing education providers shall be required to issue course transcripts/certificates of instruction to students only upon request.

§ 35.360. Records.

(a) A real estate [school] education provider shall maintain complete and accurate records in the following areas:

(1) *Financial.* The [school's] provider's assets and liabilities and the sources and amounts of its income.

(2) *Physical plant.* For the main location and for each satellite location, the following:

(i) [A detailed floor plan depicting offices, classrooms, restrooms, entrances, halls, doors and windows, including the size and seating capacity of each classroom.

(ii) A certificate of occupancy issued by the Department of Labor and Industry under the act of April 27, 1927 (P. L. 465, No. 299), known as the Fire and Panic Act (35 P. S. §§ 1221—1235) or, if the location is in Philadelphia, Pittsburgh or Scranton, proof that the building being used by the school has been approved for fire safety by that city's Bureau of Fire Inspections.] Copies of documentation showing compliance with applicable building, fire safety and sanitary requirements imposed by state, county or municipal governments.

[(iii)] (ii) A copy of the lease or rental agreement, if the [school] provider does not own the building being used.

(3) *Personnel.* The [point] qualifications of each instructor and the documentary evidence of those qualifications. See § 35.353 (relating to selection of instructors).

(4) *Curriculum.* For each course the [school] provider has offered, the following:

* * * * *

(5) *Scholastic.* An academic transcript for each student [that includes the following information for each course taken by the student] which shall contain:

(i) The [school] provider's name and Commission approval number.

* * * * *

(v) [The semester in which the course was taught.

(vi)] The date that the student completed the course.

[(vii)] (vi) * * *

[(viii)] The number of sessions that the student was present and the number that he was absent, except for a home study course.]

[(ix)] (vii) The student's final grade in the course, if an examination is required for the course.

[(x)] (viii) * * *

[(xi)] (ix) * * *

[(xii)] The fact that the course will be accepted by the Commission towards fulfillment of the education requirement for either the real estate broker's examination or real estate salesperson's examination, as the case may be.]

(6) *Attendance.* [A daily attendance record for each student.]

(b) [A school] An education provider shall store its records at its main location. Upon termination of operations, a [school] provider shall transfer its records to the designated custodian of records. The

[school] provider shall notify the Commission whenever it changes the custodian of records.

(c) [A school] An education provider shall produce its records for examination by the Commission or its representatives upon written request or pursuant to an inspection under § 35.362 (relating to inspection of [school] education providers).

(d) [A school] An education provider shall make copies of a student's scholastic and attendance records available to the student upon request.

(e) [A school] An education provider shall retain attendance and scholastic records [pertaining to continuing] as follows:

(1) Continuing education records shall be maintained for 4 years [and all].

(2) All other [attendance and scholastic] records shall be retained for 10 years.

§ 35.361. Display of documents and approved name.

(a) A real estate [school's] education provider's certificate of approval shall be displayed prominently at the [school's] provider's main location. A copy of the certificate shall be displayed prominently at each satellite location.

(b) [A school's] An education provider's approved name shall be displayed prominently [outside] at each [school] location where courses are taught.

(c) The [school director's] education provider's letter of approval shall be displayed prominently at the [school's] provider's main location. A copy of the letter shall be displayed prominently at each satellite location.

(d) [An alphabetical list of all courses currently offered by the school, together with their instructors, shall be displayed prominently at each school location.

(e)] An alphabetical list of the [school's] education provider's satellite locations shall be displayed prominently at the [school's] provider's main location.

§ 35.362. [Inspection of school] Inspections.

(a) *Routine inspections.* No more than [4] four times a year while classes are in session, the Commission or its authorized representatives may conduct a routine inspection of the main location or satellite location of a real estate [school] education provider for the purpose of determining whether the [school] provider is in compliance with §§ 35.351—35.363 (relating to administration of [schools] education providers).

(b) *Special inspections.* In addition to the routine inspections authorized by subsection (a), the Commission or its authorized representatives may conduct a special inspection of [a school's] an education provider's main location or satellite location:

(1) Upon a complaint or reasonable belief that the [school] provider is not in compliance with §§ 35.351—35.363.

(2) As a follow-up to a previous inspection that revealed the [school's] provider's noncompliance with §§ 35.351—35.363.

(c) *Scope of inspection.* Prior to the start of a routine or special inspection, the Commission or its authorized representatives will advise the [school owner] education provider, [school] director or other person in charge at the time of the inspection that the inspection is being made under this section and is limited in scope by this section.

(d) During the course of a routine or special inspection or investigation, the Commission or its authorized representatives will be permitted to:

- (1) Examine [school] provider records.
- (2) Inspect all areas of the [school] provider's premises.

* * * * *

(4) Interview the [school owner] provider, [school] director and other administrative personnel, instructors and students.

§ 35.363. Termination of operations.

A real estate [school] education provider that desires to terminate operations shall submit to the Commission, within 60 days of the planned termination, a termination plan that includes the following:

* * * * *

(2) The date that [school] provider records will be transferred to the designated records custodian.

* * * * *

Subchapter H. CONTINUING EDUCATION

§ 35.381. [Purposes and goals] (Reserved).

[The purposes and goals of continuing education are to provide an education program through which a licensee may obtain the knowledge and skills to:

- (1) Maintain and Increase competency to engage in licensed real estate activities.
- (2) Keep a licensee abreast of changes in laws, regulations, practices and procedures that affect the real estate business.
- (3) Better ensure that the public is protected from incompetent practice by licensees.]

§ 35.382. Requirement.

(a) *Condition precedent to renewal of current license.* [Beginning with the 1994-1996 biennial license period and continuing with each biennial license period thereafter, a] A broker or salesperson who desires to renew a current license shall, as a condition precedent to renewal, complete 14 hours of Commission-approved continuing education during the preceding license period. **The continuing education shall be completed by the May 31 renewal deadline.**

(b) *Condition precedent to reactivation and renewal of noncurrent license.* [Effective March 1, 1994, a] A broker or salesperson who desires to reactivate and renew a noncurrent license shall, as a condition precedent to reactivation and renewal, complete 14 hours of Commission-approved continuing education during the 2-year period preceding the date of submission of the reactivation application. A broker or salesperson may not use the same continuing education coursework to satisfy the requirements of this subsection and subsection (a).

* * * * *

(d) *Documentation.* A licensee shall provide the Commission with information necessary to establish the licensee's compliance with this subchapter.

§ 35.383. Waiver of continuing education requirement.

(a) The Commission may waive all or part of the continuing education requirement of § 35.382 (relating to requirement) upon proof that the licensee seeking the waiver is unable to fulfill the requirement because of illness, emergency or hardship. [Subsections (b)—(d)] The following are examples of situations in which hardship waivers will be granted[. Hardship waivers will be granted in other situations for good cause shown.]:

[(b)] (1) * * *

[(c)] (2) * * *

[(d)] (3) A licensee who is a qualified continuing education instructor will be deemed eligible[, on the basis of hardship,] for the waiver of 1 hour of continuing education for each hour of actual classroom instruction in an approved continuing education topic [that the instructor is qualified to teach]. Duplicate hours of instruction in the same topic during the same biennial license period will not be considered for waiver purposes.

(b) Requests to waive the continuing education requirement shall be filed with the Commission on or before March 31 of the renewal year unless the applicant proves to the satisfaction of the Commission that it was impracticable to do so.

§ 35.384. Qualifying courses[; required and elective topics].

(a) [*Qualifying courses.* A] Except as provided in subsection (b), a licensee [may satisfy the continuing education requirement by doing one of the following:] shall complete 14 hours of continuing education in acceptable topics in a minimum of 3 1/2-hour increments.

[(1) Completing a 14-hour continuing education course comprising 5-to-8 hours in required topics and 6-to-9 hours in elective topics.

(2) Completing a 5-to-8 hour continuing education course in required topics and one of the following courses:

(i) A 6-to-9 hour continuing education course in elective topics.

(ii) A course approved by the Commission for broker licensure if 6-to-9 hours are in elective topics.]

(b) [*Required topics.* A minimum of 5 and a maximum of 8 hours shall be in required topics. A minimum of 2 hours shall be in the act and this chapter and a minimum of 3 hours shall be in fair housing laws and practices.] The Commission may, for a given biennial license period and with adequate notice to licensees, require [up to 3 hours] that all or part of the 14 hours be completed in [a topic that address a critical issue of current relevance to licensees] required topics.

(c) [*Elective topics.* The balance of the 14 hours shall be in elective topics that have significant intellectual and practical content to increase the competency of licensees. A minimum of 2 hours shall be in each elective topic. The elective topics may address either real estate specialties or matters of general interest to licensees.

(1)] Acceptable [**elective**] topics include:

[(i)] (1) * * *

[(ii) New laws] (2) Laws affecting real estate.

[(iii)] (3) Real estate financing and mathematics.

[(iv)] (4) * * *

[(v)] (5) * * *

[(vi)] (6) * * *

[(vii)] (7) * * *

[(viii)] (8) * * *

[(ix)] (9) * * *

[(x)] (10) * * *

[(xi)] (11) * * *

[(xii)] (12) * * *

[(xiii)] (13) * * *

[(xiv)] (14) * * *

[(xv)] (15) * * *

[(xvi)] (16) * * *

[(xvii)] (17) * * *

(18) Real estate investment analysis.

(19) Management of real estate brokerage operations.

(20) Property development.

(21) Real estate securities and syndication.

(22) Real property exchange.

(23) Broker courses encompassing supervisory duties and standards of conduct and practice contained in Subchapter E (relating to standards of conduct and practice).

(24) Marketing promotion and advertising of real estate inventory.

(25) Use of technology in delivering real estate services.

[(2)] (d) Unacceptable elective topics include:

[(i) Mechanical] mechanical office and business skills; for example, typing, speed writing, preparation of advertising copy, development of sales promotional devices, word processing, calculator and computer operation[.

(ii) Office] and office management and related internal operations procedures that do not have a bearing on the public interest.

[(iii) Real estate mathematics.]

§ 35.385. [**Approved continuing**] Continuing education providers.

The following providers [**are approved to**] may offer instruction for continuing education:

* * * * *

(2) A real estate [**school**] education provider in this Commonwealth approved by the Commission.

(3) A real estate [**school**] education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the [**school**] provider is located.

[(4) A real estate industry organization outside this Commonwealth, if the Commission has given its prior approval to the industry organization's continuing education curriculum.]

§ 35.386. [**Course content outlines and course titles**] (Reserved).

[(a) *Course outlines.* The Commission will develop content outlines for the required continuing education topics and make them available to continuing education providers within a reasonable time prior to the biennial license period during which the required topics are taught. Each continuing education provider is responsible for developing content outlines for the elective continuing education topics.

(b) *Course titles.* The Commission will specify the titles for continuing education courses authorized under § 35.384(a)(1) and (2)(i) (relating to qualifying courses; required and elective topics).]

§ 35.387. [**Administration of curriculum**] (Reserved).

[A continuing education provider shall comply with the requirements of § 35.358 (relating to administration of curriculum) except for paragraphs (3), (5) and (6).]

§ 35.388. [**Facilities**] (Reserved).

[A continuing education course shall be taught at a facility that conforms to § 35.352(b) (relating to location and facilities).]

§ 35.389. [**Instructors**] (Reserved).

[A continuing education course shall be taught by an instructor who meets the requirements of § 35.353 (relating to selection of instructors).]

§ 35.390. [**Advertising, solicitation and promotion**] (Reserved).

[A continuing education provider shall comply with the requirements in §§ 35.354 and 35.355 (relating to prohibited forms of advertising and solicitation; and prospectus materials).]

§ 35.391. [**Course transcripts and certificates of instruction**] (Reserved).

[(a) Within 30 days after a continuing education course has ended, the continuing education provider shall issue a course transcript to each licensee who satisfactorily completed the course and a certificate of instruction to the course instructor if

the instructor is also a licensee. The course transcript and certificate of instruction shall contain, to the extent applicable, the information in § 35.360(a)(5) (relating to records), as well as the licensee's license numbers.

(b) A continuing education provider shall retain attendance rosters, course transcripts and certificates of instruction for 4 years and shall issue a duplicate transcript or certificate to the licensee or the Commission upon request.

(c) A licensee shall provide the Commission with information necessary to establish the licensee's compliance with this subchapter.]

§ 35.392. [Investigations and inspections] (Reserved).

[(a) *Investigations.* Continuing education providers and licensees shall cooperate with investigations conducted by the Commission or its authorized representatives to ensure compliance with this subchapter.

(b) *Routine and special inspections.* No more than 4 times a year while classes are in session, the Commission or its authorized representatives may conduct a routine inspection of the facilities of a continuing education provider for the purpose of determining whether the provider or a licensee is in compliance with this subchapter. In addition to the routine inspections, the Commission or its authorized representatives may conduct a special in-

spection of the facilities of a provider upon a complaint or reasonable belief that the provider is not in compliance with this subchapter or as a follow-up to a previous inspection that revealed the provider's noncompliance with this subchapter.

(c) *Scope of inspection.* Prior to the start of a routine or special inspection, the Commission or its authorized representatives will advise the person in charge at the time of the inspection that the inspection is being made under this section and is limited in scope by this section. During the course of a routine or special inspection, the Commission or its authorized representatives will be permitted to:

- (1) Examine continuing education records.
- (2) Inspect all areas of the facility where continuing education courses are taught.
- (3) Monitor the performance of continuing education instructors in classrooms.
- (4) Interview the director of the continuing education program, the instructors and the students.

(d) *Combined inspections.* The Commission or its authorized representatives may combine an inspection under this section with an inspection under § 35.362 (relating to inspection of school).]

[Pa.B. Doc. No. 03-1792. Filed for public inspection September 12, 2003, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending September 2, 2003.

BANKING INSTITUTIONS

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-29-03	Market Street Interim Bank Camp Hill Cumberland County	Camp Hill	Filed

Interim bank being formed to merge with Pennsylvania State Bank, Camp Hill; surviving institution will be acquired by The Pennsylvania State Banking Company, a bank holding company in organization.

Mutual Holding Company Reorganization

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-2-03	First Savings Bank of Perkasie Perkasie Bucks County	Perkasie	Approved

Application represents reorganization into a mutual holding company structure to be known as FSB Mutual Holdings, Inc.

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-27-03	Lafayette Ambassador Bank Easton Northampton County	Easton	Filed

Purchase of assets/purchase of liabilities of two branch offices of Premier Bank, Doylestown, Located at:

2201 Northampton Street Easton Northampton County	1401 Easton Avenue Bethlehem Northampton County
---	---

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-18-03	Reliance Savings Bank Altoona Blair County	1824 S. Atherton St. State College Centre County	Opened
8-26-03	Pennsylvania Business Bank Philadelphia Philadelphia County	1132 Cooper Street Deptford Gloucester County, NJ	Filed
8-28-03	Citizens Bank of Philadelphia Philadelphia Philadelphia County	Chadds Ford Giant 1393 Wilmington Pike West Chester Chester County	Opened
9-2-03	Farmers First Bank Lititz Lancaster County	270 Good Drive Lancaster East Hempfield Township Lancaster County	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-18-03	Farmers First Bank Lititz Lancaster County	<i>To:</i> 3199 Cape Horn Rd. Red Lion York County <i>From:</i> 5 West High Street Red Lion York County	Effective

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-26-03	Farmers First Bank Lititz Lancaster County	1419 Lancaster Rd. Manheim Lancaster County	Filed
8-29-03	Community Banks Millersburg Dauphin County	29 East Main Street Tremont Schuylkill County	Filed

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
8-29-03	The Rittenhouse Trust Company Radnor Delaware County	Provides for an amendment to Article 1 changing the corporate title to The Haverford Trust Company.	Approved and Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
8-29-03	Federal Credit Union, Philadelphia, and Eagle One Federal Credit Union, Philadelphia Surviving Institution— Eagle One Federal Credit Union, Philadelphia	Philadelphia	Effective

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 03-1793. Filed for public inspection September 12, 2003, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

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 at 9 a.m. on Wednesday, September 24, 2003, in the Conference Room, Comfort Inn St. Marys, 976 South St. Mary's Road, St. Marys, PA.

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

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Claire Guisewite 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. 03-1794. Filed for public inspection September 12, 2003, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of Point Park College for Approval of University Status

Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. §§ 6503 and 6504(a) (relating to certification of institutions; and fundamental changes),

the Department of Education (Department) will consider the application of Point Park College for a Certificate of Authority approving the change to university status and the use of the name Point Park University.

In accordance with 24 Pa.C.S. § 6503(e), the Department will act upon the application without hearing, unless within 30 days after the publication of this notice in the *Pennsylvania Bulletin* a written request for public hearing is filed with the Department, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protests and requests for hearing should be filed with Carol Gisselquist, Higher Education Specialist, (717) 787-4448 or Paula Fleck, Chief, Division of Program Services, 333 Market Street, Harrisburg, PA

17126-0333, (717) 772-3623 by 4 p.m. on the due date prescribed by this notice. Persons wishing to review the application should phone or write to the aforementioned office to schedule a time for an in-office review. Duplicate copies are not available.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate, should contact Carol Gisselquist, (717) 787-4448 or Paula Fleck, (717) 772-3623 to discuss how the Department may best accommodate their needs.

VICKI L. PHILLIPS, Ed. D.,
Secretary

[Pa.B. Doc. No. 03-1795. Filed for public inspection September 12, 2003, 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 contact office noted before the 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 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 any public hearings are 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 Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0051551	Alstom Power, Inc. 1550 Lehigh Drive Easton, PA 18042	West East Borough Northampton County	Lehigh River 2C	Y
PA0061417	Northeastern Power Company P. O. Box 7 McAdoo, PA 18237	Kline Township Schuylkill County	5E	Y
PA0063843 Renewal	Milford Borough Municipal Authority 120 Pear Alley P. O. Box 459 Milford, PA 18337	Pike County Milford Township	Vantine Brook 1D	Y
PAS802219 Renewal	United States Postal Service Eastern Area 5315 Campbells Run Road One Marquis Plaza Pittsburgh, PA 15277-7060	Bethlehem Township Northampton County	Unnamed tributary to Monocacy Creek 02C	N

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0083429	West Cocalico Township Authority P. O. Box 95 Reinholds, PA 17569-0095	Lancaster County West Cocalico Township	Little Cocalico Creek 7-J	Y
PA0085928	Eldorado Properties Corporation 900 Eisenhower Blvd. Harrisburg, PA 17057	Dauphin County Lower Swatara Township	UNT to Laurel Run 7-C	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0113883 Sewerage	George E. Bittner Bittners Mobile Home Park 68 Rt. 14 Highway Trout Run, PA 17771	Lycoming County Lewis Township	Lycoming Creek 10A	Y
PA0112305 Sewerage	Wyalusing Municipal Authority P. O. Box 61 Wyalusing, PA 18853-0061	Wyalusing Borough Bradford County	Susquehanna River 4-D	Y
PA0114367 Sewage	Danny R. Deivert P. O. Box 221 Mifflinburg, PA 17844	Buffalo Township Union County	UNT to Rapid Run 10C	Y
PA0115266 Sewerage Public	Gregg Township Sewer Authority P. O. Box 103 Spring Mills, PA 16875	Centre County Gregg Township	Penns Creek 6A	Y

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

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

PA0041742-A1, Sewage, **Nazareth Borough Municipal Authority**, P. O. Box A, Nazareth, PA 18064. This proposed facility is in Lower Nazareth Township, **Northampton County**.

Description of Proposed Activity: Amendment of existing NPDES permit.

The receiving stream, Schoeneck Creek, is in the State Water Plan watershed no. 1F. The nearest downstream public water supply intake for the Keystone Water Company is on the Delaware River, over 50 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 1.6 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	15	23	30
(11-1 to 4-30)	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	4.5		9.0
Dissolved Oxygen	minimum of 6.0 mg/l at all times		
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times		
Total Residual Chlorine	0.5		1.2

In addition to the effluent limits, the permit contains the following major special conditions: WETT monitoring; and stormwater conditions.

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

PA0028720, Sewage, **Reading Regional Airport Authority**, 2501 Bernville Road, Reading, PA 19605-9611. This facility is in Bern Township, **Berks County**.

Description of activity: Issuance of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Schuylkill River, is in Watershed 3-C and classified for WWF, water supply recreation and fish consumption. The nearest downstream public water supply intake for Pottstown Borough is on the Schuylkill River, approximately 24 miles downstream. The discharge is not expected to affect the water supply.

The proposed Interim effluent limits for Outfall 001 for a design flow of 0.175 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	20		40
Total Dissolved Solids	2,605		5,210
Total Residual Chlorine	1.0		1.5
Oil and Grease	15		30
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)	10,000/100 ml as a geometric average		

The proposed Final effluent limits for Outfall 001 for a design flow of 0.42 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	20		40
Total Dissolved Solids	2,605		5,210
Total Residual Chlorine	0.5		1.6
Oil and Grease	15		30
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)	10,000/100 ml as a geometric average		

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

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

PA0022276, Sewage, **Southmoreland School District**, 609 Parker Avenue, Scottdale, PA 15683. This application is for amendment of an NPDES permit to discharge treated sewage from the Southmoreland School District STP in East Huntingdon Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Stauffer Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Municipal Water Authority.

Outfall 001: existing discharge, new design flow of .021 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	6.5			13.0
(11-1 to 4-30)	19.5			39.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0026069, Sewage, **Latrobe Municipal Authority**, P. O. Box 88, Latrobe, PA 15650. This application is for renewal of an NPDES permit to discharge treated sewage from Latrobe Municipal Authority Sewage Treatment Plant in Latrobe Borough, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Loyalhanna, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Freeport Water Company.

Outfall 001: existing discharge, design flow of 5.0 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅				
(5-1 to 10-31)	10	15		20
(11-1 to 4-30)	20	30		40
Suspended Solids	25	37.5		50
Ammonia Nitrogen				
(5-1 to 10-31)	3.0	4.5		6.0
(11-1 to 4-30)	9.0	13.5		18.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000 as a geometric mean			
Total Residual Chlorine	0.4			1.2
pH	not less than 6.0 nor greater than 9.0			
Cobalt	36			90

Outfalls 003—019, which discharge to the receiving waters known as Loyalhanna Creek, serve as combined sewer overflows necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant and are permitted to discharge only for this reason. There are at this time no specific limitations on the outfalls. Each discharge shall be monitored for cause, frequency, duration and quantity of flow.

Outfalls 020—022, which discharge to the receiving waters known as Loyalhanna Creek and Saxman Run, serve as stormwater discharges from areas in and around the treatment plant. The stormwater discharges shall meet the requirements in Part C of the NPDES permit.

The EPA waiver is not in effect.

PA0027219, Amendment 1, Sewage, **Greater Uniontown Joint Sewage Plant Authority**, 90 Romeo Lane, Uniontown, PA 15401. This application is for amendment of an NPDES permit to discharge uncontaminated stormwater runoff from areas in and around the Uniontown STP in North Union Township, **Fayette County**.

Stormwater Outfalls SWO-1—SWO-3 are added to the permit. These outfalls which discharge to the receiving waters known as Redstone Creek serve as stormwater discharges from areas in and around the treatment plant. Refer to Part C—Requirements Applicable to Storm Water Outfalls.

The EPA waiver is not in effect.

PA0098477, Sewage, **Highland Tank & Manufacturing Company**, One Highland Road, Stoystown, PA 15563. This application is for renewal of an NPDES permit to discharge treated sewage from the Highland Tank & Manufacturing Company Sewage Treatment Plant in Quemahoning Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Oven Run, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Hooversville Municipal Authority on Stony Creek.

Outfall 001: existing discharge, design flow of 0.0003 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
controw;3				
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	100,000/100 ml as a geometric mean			
Total Residual Chlorine	Monitor and Report			
pH	not less than 6.0 nor greater than 9.0			

Outfalls SW1—SW8, which discharge to the receiving waters known as Oven Run, serve as stormwater outfalls and are permitted to discharge only uncontaminated stormwater runoff. There are at this time no specific effluent limitations on the outfalls.

The EPA waiver is in effect.

PA0205753, Sewage, **East Bethlehem Township Municipal Authority**, P. O. Box 136, Fredericktown, PA 15333. This application is for renewal of an NPDES permit to discharge treated sewage from East Bethlehem Township Municipal Authority Wastewater Treatment Plant in East Bethlehem Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Monongahela River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Pennsylvania American Water Company.

Outfall 001: existing discharge, design flow of 0.35 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	50,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0218006, Sewage, **Conemaugh Township Municipal Water and Sewer Authority**, 16980 Route 286 Highway West, Saltsburg, PA 15681-8023. This application is for issuance of an NPDES permit to discharge treated sewage from the Blacklegs Sewage Treatment Plant in Conemaugh Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Blacklegs Creek, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Buffalo Township Municipal Authority—Freeport.

Outfall 001: new discharge, design flow of 0.08755 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	15			

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	10,000/100 ml as a geometric mean			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

WQM Permit No. 6703408, Sewerage, **Northeastern York County Sewer Authority**, P. O. Box 516, 175 Chestnut Street, Mount Wolf, PA 17347. This proposed facility is in East Manchester Township, **York County**.

Description of Proposed Action/Activity: Upgrade of the Saginaw sanitary sewer system and wastewater treatment plant.

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

WQM Permit No. 1803202, Industrial Waste, 4244, **Fish and Boat Commission**, 450 Robinson Lane, Bellefonte, PA 16823. This proposed facility is in Logan Township, **Clinton County**.

Description of Proposed Action/Activity: The Commission proposes to upgrade the industrial wastewater treatment system at the Tylersville Fish Culture Station with the addition of high capacity disc filters (microscreens) and a traveling bridge sand filter. The Commission also proposes to convert the existing polishing pond to an aerated chemical retention/detoxification basin.

WQM Permit No. 4903404, Sewerage 4952, **Milton Municipal Authority**, P. O. Box 433, Milton, PA 17847. This proposed facility is in West Chillisquaque Township, **Northumberland County**.

Description of Proposed Action/Activity: Construction of a new sewage collection system to serve 560 EDUs comprised of Montandon Village, East Lewisburg along Old Route 45, Sodom Road, Colonial Park, Milton Center East and along SR 405, north of Housels Run Road.

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

WQM Permit No. 0203408, Sewerage, **Bell Acres Municipal Authority**, 1151 Campmeeting Road, Sewickley, PA 15143. This proposed facility is in Bellacres Borough, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a force main to serve the Skymark Farm Plan of Lots.

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

WQM Permit No. 2703402, Sewerage, **Jenks Township**, P. O. Box 436, Marienville, PA 16239. This proposed facility is in Jenks Township, **Forest County**.

Description of Proposed Action/Activity: This project is for the construction of a sanitary sewage pump station to serve the proposed State correctional institution, residential and small commercial customers along the SR 66 corridor.

WQM Permit No. 3303403, Sewerage, **Brockway Area Sewer Authority**, 501 Main Street, Brockway, PA 15824. This proposed facility is in Brockway Borough and Snyder Township, **Jefferson County** and Horton Township, **Elk County**.

Description of Proposed Action/Activity: This project is for wastewater treatment and collection system improvements with three new pump stations.

WQM Permit No. 4303408, Sewerage, **Reynolds/322 Company, LTD**, 9 Corporation Center, Broadview Heights, OH 44167. This proposed facility is in French Creek Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for the replacement of the current inadequate chlorination system with a new tablet chlorination/dechlorination system.

WQM Permit No. 4303410, Sewerage, **Gentile Enterprises, LLC**, 270 Sharon Road, Greenville, PA 16125. This proposed facility is in West Salem Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to replace a malfunctioning on-lot system.

WQM Permit No. 4303411, Sewerage, **Hempfield Township**, 278 South Mercer Street, Greenville, PA 16125. This proposed facility is in Hempfield Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for the construction of a proposed gravity sewer to replace an existing forcemain which serves 39 homes is the Country Estates Development.

WQM Permit No. 6203415, Sewerage, **Michael C. Hornstrom**, R. R. 1, Box 79, Youngsville, PA 16371. This proposed facility is in Sugar Grove Township, **Warren County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. 4303412, Sewerage, **Robert C. Montgomery**, 1042 Enterprise Road, Grove City, PA 16127. This proposed facility is in Pine Township, **Mercer County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. 4303413, Sewerage, **Ricky K. Truesdell**, P. O. Box 321, Stoneboro, PA 16153. This proposed facility is in Coolspring Township, **Mercer County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. 4203404, Sewerage, **John E. Thompson Jr. and Kimberly D. Thompson**. This proposed facility is in Eldred Township, **McKean County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

IV. NPDES Applications for Stormwater Discharges from MS4

V. Applications for NPDES Waiver Stormwater Discharges from MS4

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

<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Waiver Granted (Y/N)</i>
Clinton Township 118 Clark Road Factoryville, PA 18419	Wyoming	Clinton Township	Tunkhannock Creek TSF	Y
Lowhill Township 7000 Herber Road New Tripoli, PA 18066	Lehigh	Lowhill Township	Jordan Creek TSF, MF Lyon Creek HQ-CWF, MF Switzer Creek HQ-CWF, MF Mill Creek CWF, MF Hassen Creek HQ-CWF, MF	Y
Freeland Borough P. O. Box 117 Centre and Walnut Street Freeland, PA 18224	Luzerne	Freeland Borough	Black Creek CWF	Y
Banks Township P. O. Box 231 Tresckow, PA 18254	Carbon	Banks Township	Strip Mines Catawissa Creek CWF Beaver Creek CWF	Y
Beaver Meadows Borough P. O. Box 215 100 E. Broad Street Beaver Meadows, PA 18216-0215	Carbon	Beaver Meadows Borough	Beaver Creek CWF	Y
Carbondale Township 115 Main Street Carbondale Township, PA 18407	Lackawanna	Carbondale Township	Lackawanna River TSF	Y
Chapman Borough 1400 Main Street Bath, PA 18014	Northampton	Chapman Borough	Monocacy Creek Basin HQ-CWF	Y

<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Waiver Granted (Y/N)</i>
Conyngham Township P. O. Box 1 10 Pond Hill Road Mocanaqua, PA 18655	Luzerne	Conyngham Township	Black Creek Turtle Creek Rocky Run CWF Little Wapwallopen Creek CWF Big Wapwallopen Creek CWF Susquehanna River WWF	Y
East Bangor Borough 204 Bray Street East Bangor, PA 18013	Northampton	East Bangor Borough	Discharges go to various quarries Martins Creek Watershed	Y
East Penn Township 167 Municipal Road Lehighton, PA 18235	Carbon	East Penn Township	Lehigh River TSF	Y
Sugarloaf Township Box 61 Sybertsville, PA 18251	Luzerne	Sugarloaf Township	Nescopeck Creek TSF-CWF Little Nescopeck Creek CWF UNT to Little Nescopeck CWF	Y
Franklin Township 900 Fairyland Road Lehighton, PA 18235	Carbon	Franklin Township	Lehigh River TSF Long Run CWF Pohopoco Creek CWF	Y
Glendon Borough Fourth and Franklin Streets Glendon, PA 18042	Northampton	Glendon Borough	Lehigh Canal WWF	Y
Hazle Township P. O. Box 506 Harleigh, PA 18225-0506	Luzerne	Hazle Township	Black Creek CWF	Y
Lehighton Borough P. O. Box 29 Lehighton, PA 18235	Carbon	Lehighton Borough	Lehigh River TSF Mahoning Creek CWF	Y
Mahoning Township 2685 Mahoning Drive East Lehighton, PA 18235	Carbon	Mahoning Township	Lehigh River TSF Beaver Run CWF Mahoning Creek CWF Nis Hollow CWF	Y
Palmerton Borough 443 Delaware Avenue Palmerton, PA 18071	Carbon	Palmerton Borough	Aquashicola Creek TSF, MF Lehigh River TSF	Y
Roseto Borough Box 361 Roseto, PA 18013	Northampton	Roseto Borough	Unnamed tributary to Martins Creek CWF	Y

<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Waiver Granted (Y/N)</i>
Upper Mt. Bethel Township 387 Ye Olde Hwy. Mount Bethel, PA 18343	Northampton	Upper Mt. Bethel Township	Jacoby Creek CWF Allegheny Creek CWF Oughoughton Creek CWF Martins Creek CWF	Y
Washington Township Flicksville Road Bangor, PA 18013	Northampton	Washington Township	Martins Creek CWF Little Martins Creek CWF Oughoughton Creek CWF	Y
Fell Township P. O. Box 55 Simpson, PA 18407	Lackawanna	Fell Township	Lackawanna River TSF	Y

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023903031	K & M Associates, Inc. P. O. Box 332 Trexlerstown, PA 18087	Lehigh	City of Allentown	Trout Creek HQ-CWF
PAI023903032	Lower Macungie Township 3400 Brookside Rd. Macungie, PA 18062	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024503015	Bruce N. and Wanda A. George R. R. 2, Box 331 Kunkletown, PA 18058	Monroe	Hamilton Township	McMichael Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024803024	Teramo Enterprises LLC 6464 Ruch Road Bethlehem, PA 18017	Northampton	Plainfield Township	Bushkill Creek HQ-CWF

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

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act, 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 may 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 (35 P. S. §§ 721.1—721.17)

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

Application No. Minor Amendment—Construction. Public Water Supply.

Applicant	Walker Township Water Association P. O. Box 160 Mingoville, PA 16856
Township	Walker Township, Centre County
Responsible Official	David Foreman, Board President Walker Township Water Association P. O. Box 160 Mingoville, PA 16856
Type of Facility	PWS
Consulting Engineer	Daniel B. Guss Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801
Application Received Date	August 29, 2003

Description of Action	Work required to slot the casing to regain yield on Zion Well 2.
-----------------------	--

Application No. Minor Amendment—Construction. Public Water Supply.

Applicant	Centre Hall Borough P. O. Box 54 Centre Hall, PA 16828-0054
Township	Ferguson Township, Centre County
Responsible Official	Lynn Dutrow, Manager Centre Hall Borough P. O. Box 54 Centre Hall, PA 16828-0054
Type of Facility	PWS
Consulting Engineer	Dana R. Boob, Surveying & Engineering P. O. Box 699 Millheim, PA 16854
Application Received Date	August 25, 2003

Description of Action	Install a new 50-foot diameter by 33-foot high standpipe to replace the existing reservoir. Install all necessary interconnecting pipe and controls.
-----------------------	--

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

Permit No. 2503501, Public Water Supply.

Applicant	Girard Borough 34 Main Street West Girard, PA 16417
Township or Borough	Girard Borough, Erie County
Responsible Official	Richard C. Higley, Borough Manager
Type of Facility	PWS
Consulting Engineer	Henry T. Welka and Associates 3200 West 32nd Street Erie, PA 16506
Application Received Date	August 1, 2003
Description of Action	Addition of Butternut well water system and water treatment to existing water system.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. Minor Amendment.

Applicant	Pennsylvania Suburban Water Company
Township or Borough	Kingston Township

Responsible Official Mark J. Kropilak, Vice President
Corporate Development and
Corporate Council
Pennsylvania Suburban Water
Company
762 West Lancaster Avenue
Bryn Mawr, PA 19010

Type of Facility PWS

Application Received August 14, 2003
Date

Description of Action The application requests the
transfer of PWS Operations
Permit No. 2400018 originally
issued to the Maple Crest Water
Company on June 7, 1995, to the
Pennsylvania Suburban Water
Company.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Envi- ronmental 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 after 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, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

John R. Young & Company, Lower Salford Township, **Montgomery County**. Mark J. Irani, P. G., ATC Associates, Inc., 920 Germantown Pike, Suite 200, Plymouth Meeting, PA 19462, on behalf of John R. Young, 751 Lumber St., P. O. Box 2247, Green Lane, PA 18054-0247, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with BTEX and PAHs. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Intelligencer* on June 23, 2003.

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

Former Tarkett Inc. Facility, Whitehall Township, **Lehigh County**. Ken Battyanyi, Project Manager, ENSR International, Four Gateway Center, 444 Liberty Avenue, Pittsburgh, PA 15222 has submitted a Notice of Intent to Remediate (on behalf of Domco-Tarkett, Inc. c/o Andre Marcil, 1001 Rue Yamaska Est, Farnham, Quebec, J2N 1J7) concerning the remediation of site groundwater found or suspected to have been contaminated with chlorinated solvents. The applicant proposes to meet the nonresidential Statewide Health Standard. A summary of the Notice of Intent to Remediate was published in *The Morning Call* on June 18, 2003.

Cherry Valley—Domotor Location (Pocono Wildlife Rehab Center, 361 Cherry Drive), Hamilton Township, **Monroe County**. David A. Everitt, III, Senior Environmental Scientist, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 has submitted a Notice of Intent to Remediate (on behalf of The Nature Conservancy, Hauser Nature Center, P. O. Box 55, Long Pond Road, Long Pond, PA 18334) concerning the remediation of soils found or suspected to have been contaminated with no. 2 fuel oil. The applicant proposes to meet the residential Statewide Health Standard. A summary of the Notice of Intent to Remediate will be published in local newspaper serving the site location area in the near future. A Final Report was simultaneously submitted.

PPL—Providence Substation (Theodore Street and North Lincoln Avenue), City of Scranton, **Lackawanna County**. PPL Electric Utilities, 2 North Ninth Street, Allentown, PA 18101 has electronically submitted a Notice of Intent to Remediate concerning the remediation of site soils found or suspected to be contaminated with PCBs. The notice indicates that the site will

be remediated to meet the Statewide Human Health Standard. A summary of the Notice of Intent to Remediate was published in *The Scranton Times* on July 29, 2003.

PPL—Peckville Substation (North Main Street), Archbald Borough, **Lackawanna County**. PPL Electric Utilities, 2 North Ninth Street, Allentown, PA 18101 has electronically submitted a Notice of Intent to Remediate concerning the remediation of site soils found or suspected to be contaminated with PCBs. The notice indicates that the site will be remediated to meet the Statewide Human Health Standard. A summary of the Notice of Intent to Remediate was published in *The Scranton Times* on July 29, 2003.

Meade Residence, Middle Smithfield Township, **Monroe County**. Ronald S. Carvalho, Principal, FT Associates, LLC, 12 Marshall Street, Unit 8B, Irvington, NJ 07111 has submitted a Notice of Intent to Remediate (on behalf of William Meade, Mountain Top Road, East Stroudsburg, PA 18301) concerning the remediation of soils found or suspected to have been contaminated with no. 2 fuel oil. The applicant proposes to meet the Residential Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pocono Record* on August 15, 2003. A Final Report was simultaneously submitted.

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

Callahan Residence, Straban Township, **Adams County**. Hydro Environmental Technologies, Inc., 54 Nonset Path, Acton, MA 01720, on behalf of Mr. Callahan, 218 Ewell Avenue, Gettysburg, PA 17325, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with fuel oil no. 2. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Gettysburg Times* on August 27, 2003.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

GE Thermometrics, Mount Jewett Borough, **McKean County**. Michael Sykes (on behalf of Tim Connors, GE Thermometrics, 967 Windfall Rd., St. Marys, PA 15857) has submitted a Notice of Intent to Remediate Soil and Groundwater contaminated with Inorganics and Other Organics. The applicant proposes to remediate the site to meet the Statewide Health, Residential Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bradford Era* on August 8, 2003.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications 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; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Permit Application No. 100930. Philadelphia City Streets Department, Municipal Services Bldg., 1401 John F. Kennedy Blvd., Philadelphia, PA 19102-1676, Philadelphia City, **Philadelphia County**. This applica-

tion is a permit application for a radiation protection action plan for the facility. The application was received by the Southeast Regional Office on May 13, 2003.

Southcentral Region: Regional Solid Waste Manager; 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit Application No. 301347. Recoil, Inc., 280 East Street, York, PA 17403, York City, **York County**. The application is for the new residual waste processing facility. The application was determined to be administratively complete by the Southcentral Regional Office on August 25, 2003.

Comments concerning the application should be directed to John Krueger, Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Persons interested in obtaining more information about the permit application may contact the Waste Management Program, (717) 705-4706. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

Permit received under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southcentral Region: Regional Solid Waste Manager; 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 400683. Tyrone Borough, 1100 Logan Ave., Tyrone, PA 16686, Tyrone Borough, **Blair County**. The permit renewal is for the Tyrone Borough sewage sludge incinerator. The permit was received by the Southcentral Regional Office on August 1, 2003. This is a correction to the notice published at 33 Pa.B. 4117 (August 16, 2003).

Persons interested in reviewing the general permit may contact John Krueger, Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

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 may 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; Contact: Mark Wejkszner, New Source Review Chief, (570) 826-2531.

66-315-044: The Procter and Gamble Paper Products Co. (P. O. Box 32, Mehoopany, PA 18629) for installation of an air cleaning device to control particulate emissions from the 1M paper machine room at their facility in Washington Township, **Wyoming County**.

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

36-03147: A and M Composting, Inc. (2022 Mountain Road, Manheim, PA 17545) for reconstruction of their sludge composting facility in Penn Township, **Lancaster County**.

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

12-399-015D: GE Transportation Systems (55 Pine Street, Emporium, PA 15834) for modification of an armature and motor frame vacuum pressure impregnation and surface coating operation by increasing the allowable throughput and VOC emission rate in Emporium Borough, **Cameron County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

30-00089B: Dominion Transmission, Inc. (Dominion Tower, 20th Floor, 625 Liberty Avenue, Pittsburgh, PA 15222) for installation of two turbines to replace the two existing turbines at Crayne Station in Franklin Township, **Greene County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act 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, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

23-0030A: Swarthmore College (500 College Avenue, Swarthmore, PA 19081) for modification of three boilers at their hearing plant in Swarthmore Borough, **Delaware County**. Swarthmore College is a Title V facility. This modification will result in NOx emissions increase of 21.45 tons per year. The boilers are limited to 750,000 gallons no. 6 oil usage in a 12-month rolling sum. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

46-0146A: Republic Environmental Systems, Inc.—PA (2869 Sandstone Drive, Hatfield, PA 19440) in Hatfield Township, **Montgomery County** for modification of its continuous emission monitoring requirements in its current Plan Approval 46-313-057E. This facility is a non-Title V (State-only) facility. This modification will not result in any emission changes in the facility. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

15-0103A: Christiana Cabinetry (504 Rosemont Avenue, Atglen, PA 17509) for installation of six spray booths at their facility in Atglen Borough, **Chester County**. This facility is a non-Title V facility. The VOC emissions from the source will be 8.67 tons per year. The PM emissions will be less than 0.02 grain per standard cubic feet. 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.

46-317-005E: Moyer Packing Co. (P. O. Box 395, Souderton, PA 18964) for revision of the VOC emission limit for the scrubbing system controlling emissions from various rendering equipment. No modification in any rendering equipment is proposed. No modification of the scrubbing system controlling emissions from the rendering equipment is proposed. The increase in VOC emission is due to stack testing performed on the stack of the scrubber. The revised emission limit will be 1.6 lb/hr and 7.0 tons per year (as a 12-month rolling basis). The owner/operator will comply with the monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

01-05016D: ISP Minerals, Inc. (P. O. Box O, 1455 Old Waynesboro Road, Blue Ridge Summit, PA 17214-0914)

for installation of a new 250 ton per hour bucket elevator controlled by a fabric filter baghouse at their Charmian facility in Hamiltonban Township, **Adams County**. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

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

49-00010A: Fleetwood Motor Homes of Pennsylvania, Inc. (Route 487, P. O. Drawer 5, Paxinos, PA 17860) for the construction of a recreational vehicle surface coating operation at the company's existing Paxinos facility in Ralpho Township, **Northumberland County**. The existing facility is a major facility for which a Title V operating permit (49-00010) has been issued.

The proposed recreational vehicle surface coating operation will consist of two initial preparation areas, six spray booths, one touchup booth, two clean rooms and two curing ovens. The air contaminant emissions from everything other than the two initial preparation areas will be captured with enclosures and subsequently controlled by two regenerative thermal oxidizers. The resultant VOC and HAP emissions will be a maximum of 29.0 and 10.39 tons, respectively, in any 12 consecutive month period.

The Department's review of the information contained in the application indicates that the proposed recreational vehicle surface coating operation will comply with all applicable requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department intends to approve the application and issue plan approval for the construction of the proposed recreational vehicle surface coating operation.

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

1. Each spray booth shall be equipped with three stage dry filter banks capable of removing 99% of the particulate matter from the booth's exhaust. Each filter bank shall be equipped with instrumentation to continuously monitor the pressure differential across the filter bank.

2. Only high volume low pressure spray technology (or technology determined by the Department to be equivalent or better) shall be used to apply coatings.

3. The curing oven shall be fired on natural gas only.

4. The six spray booths, one touch up booth, two clean rooms and two curing ovens shall each be equipped with an enclosure.

5. All doors and other openings in an enclosure shall be kept closed at all times that a VOC-emitting or volatile HAP-emitting activity is occurring within the respective enclosure except as may be necessary to allow movement of personnel into and out of the enclosure.

6. Each of the two regenerative thermal oxidizers shall be operated at a minimum combustion chamber temperature of 1,500°F at any time VOC or volatile HAP emissions are being ducted to the respective regenerative thermal oxidizer. Each of the two regenerative thermal oxidizers shall destroy at least 95% of the VOC and volatile HAP emissions ducted to it.

7. Each of the two regenerative thermal oxidizers shall be equipped with instrumentation to continuously monitor the combustion chamber temperature.

8. The basecoat/graphics coating identified in the plan approval application shall be the only basecoat/graphics coating used unless the Department approves the use of an alternate coating having an equivalent or lower VOC and volatile HAP content. The VOC and volatile HAP contents of this coating shall not exceed 6.59 and 4.69 pounds per gallon, respectively, as applied.

9. The clearcoat identified in the plan approval application shall be the only clearcoat used unless the Department approves the use of an alternate coating having an equivalent or lower VOC and volatile HAP content. The VOC and volatile HAP contents of this coating shall not exceed 4.08 and 1.76 pounds per gallon, respectively, as applied.

10. The only solvent to be used for preparing surfaces prior to surface coating shall be the solvent identified in the plan approval application as being for this purpose unless the Department approves the use of an alternate coating of equivalent or lower volatility and equivalent or lower volatile HAP content. The volatile HAP content of this coating shall be no greater than zero.

11. The only solvent to be used for coating equipment cleanup purposes shall be the solvent identified in the plan approval application as being for this purpose unless the Department approves the use of an alternate solvent having an equivalent or lower VOC and volatile HAP. The VOC and volatile HAP contents of this solvent shall not exceed 1.83 and 1.08 pounds per gallon, respectively.

12. The usage of each material listed shall not be in excess of the limitation specified for the respective material:

<i>Material</i>	<i>Amount used per 12 consecutive month period</i>
Basecoat	17,160 gallons
Basecoat stabilizer	17,160 gallons
Clearcoat	13,104 gallons
Clearcoat hardener	4,368 gallons
Clearcoat reducer	4,368 gallons
Surface prep solvent	12,480 gallons
Coating equipment cleanup solvent	12,480 gallons

13. All coatings, coating additives and solvents shall only be mixed, applied and/or used within an enclosure ducted to an operating regenerative thermal oxidizer except that up to 25% of the total amount of surface prep solvent used in the surface coating operation may be used outside of an enclosure ducted to an operating regenerative thermal oxidizer.

14. All containers of coatings, coating additives and solvents shall be kept closed except when in actual use.

15. Spray equipment, lines, and the like, shall be cleaned by either flushing solvent through the equipment, lines, and the like, in a solid liquid stream into an appropriate solvent recovery container or by soaking the equipment, lines, and the like, in a closed container. Solvent-laden rags may be used for wipe down but they must be stored in closed containers when not in actual use.

16. The total combined VOC emissions from the recreational vehicle surface coating operation shall not exceed 29.0 tons in any 12 consecutive month period. The total combined emissions of any single HAP shall not exceed 4.25 tons in any 12 consecutive month period and the total combined emissions of all HAPs shall not exceed 10.39 tons in any 12 consecutive month period.

17. In addition to maintaining regenerative thermal oxidizer combustion chamber temperature records and up-to-date accurate product composition data sheets for all coatings, coating additives and solvents used, records shall be maintained of the amount of each individual coating, coating additive and solvent used anywhere in the surface coating operation as well as records of the amount of each material used outside of an enclosure ducted to an operating regenerative thermal oxidizer. The records generated for each calendar quarter shall be submitted to the Department by the 30th day of the month following the respective calendar quarter.

18. Within 120 days of startup, stack testing shall be performed to demonstrate the VOC/volatile HAP destruction efficiency of both regenerative thermal oxidizers. The VOC/volatile HAP capture efficiency of the emission capture enclosures must also be demonstrated.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

65-00837B: Dominion Transmission, Inc. (625 Liberty Avenue, Pittsburgh, PA 15222) to issue a Plan Approval for their Oakford Compressor Station in Salem Township, **Westmoreland County** in accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b). The facility currently has a Title V Operating Permit TV-65-00837. The provisions of this plan approval will subsequently be incorporated into the Title V Operating Permit through an amendment in accordance with 25 Pa. Code § 127.450.

The proposed replacement is subject to the applicable requirements of 25 Pa. Code Chapter 127. The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

1. The facility is to be constructed in accordance with the plans submitted with the application (as approved herein).

2. Upon completion of the construction of the facility, an operating permit must be obtained. Notify the Department when the installation is completed so that the facility can be inspected for issuance of an operating permit.

3. This Plan Approval is for the modification and installation of air cleaning devices on 12 2,500 Bhp Cooper Bessemer natural gas-fired, stationary, reciprocating IC engines, model GMW-10-TF, at Dominion Transmission's Oakford Compressor Station in Salem Township, Westmoreland County (25 Pa. Code § 127.12b).

4. Physical changes covered under this plan approval include installation of jet cells, jet cell heads, pilot gas systems, power cylinders, power pistons turbochargers, air intercoolers and new concrete foundations (25 Pa. Code § 127.12b).

5. These sources shall comply with the fugitive emission and fugitive particulate matter regulations (25 Pa. Code §§ 123.1 and 123.2).

6. Visible emissions from the IC engines shall not equal or exceed 20% opacity for a period, or periods, aggregating more than 3 minutes in any 1 hour or 60% opacity at any time (25 Pa. Code § 123.41).

7. The owner/operator shall not permit the emission to the outdoor atmosphere of any odorous air contaminants from any source determined to be objectionable by the Department in a manner that odorous air contaminants

are detectable outside the property on which the source is being operated (25 Pa. Code § 127.12b).

8. Emissions of the following contaminants from each Cooper Bessemer IC engine shall not exceed the following (25 Pa. Code § 127.12b):

<i>Pollutant</i>	<i>(lb/hr)</i>	<i>(ton/yr)</i>
CO	8.36	36.2
NOx	16.53	72.4
VOC *	1.65	7.22

* Based on Method 18.

9. Per 25 Pa. Code § 127.211(b), the facility-wide maximum allowable emissions rate for NOx (as NO₂), CO and VOC (as propane) is as follows (25 Pa. Code § 127.12b):

<i>Pollutant</i>	<i>(ton/yr)</i>
CO	695.8
NOx	1,168.3
VOC	106.1

By completing this modification and considering the 1994 boiler replacement and the 1999 heater replacement the facility has consumed 26.9 tons for VOC of the 40-ton major modification increment.

10. The owner/operator shall stack test the effluent of each Cooper Bessemer IC engine for CO, NOx (as NO₂) and VOC (as propane) emissions in accordance with 25 Pa. Code Chapter 139 and the Department's Source Testing Manual within 180 days of the completion of each retrofit. VOC testing by EPA Method 18 shall be required to determine compliance with the emission limits of Condition No. 8. Testing during the ozone season (April to October) as required in TV-65-00837 shall be conducted prior to each renewal of the Title V Operating Permit (25 Pa. Code § 127.12b).

a. Two copies of the stack test protocol shall be submitted to the Department at least 60 days in advance of the stack test date. Stack testing shall not take place until the owner/operator has received written approval of the stack test protocol.

b. The owner/operator shall notify the Department of the stack test date at least 2 weeks prior to the test so the an observer may be present.

c. Two copies of the stack test results shall be submitted to the Department within 60 days of completion of the test.

d. The owner/operator shall record all pertinent IC engine operating parameters during the stack test and include this data with the stack test results.

11. The owner/operator shall stack test the effluent of each Cooper Bessemer IC engine for VOC (as propane) and HAP emissions by EPA Method 320 in accordance with 25 Pa. Code Chapter 139 and the Department's Source Testing Manual within 180 days of the completion of each retrofit. Dominion shall submit a proposal to revise VOC and HAP emission rates (lb/hr and ton/yr) based on the results of the EPA Method 320 testing of a minimum of six premodification engines and six post-modification engines within 180 days of completion of testing sixth post-modification engine (25 Pa. Code § 127.12b).

a. Two copies of the stack test protocol shall be submitted to the Department at least 60 days in advance of the stack test date. Stack testing shall not take place until the owner/operator has received written approval of the stack test protocol.

b. The owner/operator shall notify the Department of the stack test date at least 2 weeks prior to the test so the an observer may be present.

c. Two copies of the stack test results shall be submitted to the Department within 60 days of completion of the test.

d. The owner/operator shall record all pertinent IC engine operating parameters during the stack test and include this data with the stack test results.

12. The Department reserves the right to revise the emission limitations established in this Plan Approval based on the results of the EPA Method 320 testing (25 Pa. Code § 127.12b).

13. This Plan Approval authorizes the temporary operation of the sources covered by this Plan Approval provided the following conditions are met (25 Pa. Code § 127.12b):

(a) The Department must receive written notice from the owner/operator of the completion of construction and the operator's intent to commence operation at least 5 days prior to the completion of construction. The notice should state when construction will be completed and when the operator expects to commence operation.

(b) Operation is authorized only to facilitate the start-up and shakedown of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit or to permit the evaluation of the source for compliance with all applicable regulations and requirements.

(c) This condition authorizes temporary operation of the sources for a period of 180 days from the commencement of operation, provided the Department receives notice from the owner/operator under subpart (a).

(d) The owner/operator may request an extension if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of the period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reasons compliance has not been established.

(e) The notice submitted by the owner/operator under subpart (a) prior to the expiration of this Plan Approval shall modify the Plan Approval expiration date. The new Plan Approval date shall be 180 days from the date of the notice.

The change in potential emissions for all 12 engines, based on the manufacturer's guarantee for NOx and CO and VOC based on Method 18, are estimated by the applicant as follows:

Pollutant	Preretrofit Potential Emissions (ton/yr)	Post-Retrofit Potential Emissions (ton/yr)
PM10		9.9
SOx		0.6
CO	262.8	434.4
NOx	3,911.0	868.8
VOC	63.1	86.6

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at 400 Waterfront Drive, Pittsburgh, PA 15222.

Interested persons may submit written comments, suggestions or objections concerning the proposed Plan Approval to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the commentator, identification of proposed Permit No. TV-65-00837 and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the comments received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, when the Department determines this notification is sufficient. Written comments or requests for a public hearing should be directed to Mark R. Gorog, New Source Review, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4333.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

09-00013: Wheelabrator Falls, Inc. (1201 New Ford Mill Road, Morrisville, PA 19067) in Falls Township, **Bucks County** for an administrative amendment to Title V Operating Permit 09-00013. The permit is being amended to incorporate changes based on the appeal of the Title V operating permit, as well as a Minor Operating Permit Modification. The facility's major emission points include municipal waste combustors. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act and 25 Pa. Code § 127.462. The amended Title V operating permit will contain monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

36-03073: Prospect Concrete (P. O. Box 278, Landisville, PA 17538) for operation of their batch concrete plant in West Hempfield Township, **Lancaster County**. This is a non-Title V (State-only) facility. The operating permit will contain appropriate conditions designed to keep the facility operating below Title V thresholds for VOCs, HAPs and within all other applicable air quality requirements.

36-05022A: Bird in Hand Woodworks, Inc. (3031 Industry Drive, Lancaster, PA 17603) for operation of their wood furniture surface coating facility in East Hempfield Township, **Lancaster County**. This is a non-Title V (State-only) facility. The operating permit will contain appropriate conditions designed to keep the facility operating below Title V thresholds for VOCs, HAPs and within all other applicable air quality requirements.

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); and 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 the 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 the 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 same address 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 to the previous, 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 the 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 those requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; 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; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

Parameter	30-Day Average	Daily Maximum	Instantaneous Maximum
Iron (total)	3.0mg/l	6.0mg/l	7.0mg/l
Manganese (total)	2.0mg/l	4.0mg/l	5.0mg/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.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

54860206C14. WPS Westwood Generation, LLC (1088 Springhurst Drive, Green Bay, WI 54307-9002), correction to an existing coal refuse reprocessing operation in Frailey and Porter Townships, **Schuylkill County** affecting 441.4 acres, receiving stream: Rausch Creek. Application received August 21, 2003.

54860206R4 and NPDES Permit PA0593583. WPS Westwood Generation, LLC (1088 Springhurst Drive, Green Bay, WI 54307-9002), renewal of an existing coal refuse reprocessing operation and NPDES permit for discharge of treated mine drainage in Frailey and Porter Townships, **Schuylkill County** affecting 441.4 acres, receiving stream: Rausch Creek. Application received August 22, 2003.

49773204C3. Gilberton Coal Company (P. O. Box 423, Gilberton, PA 17934), correction to an existing coal refuse reprocessing operation to add strip mining in Mt. Carmel and Conyngham Townships, **Northumberland and Columbia Counties** affecting 958 acres, receiving stream: unnamed tributary to Big Run Creek. Application received August 27, 2003.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

16-03-04 and NPDES Permit PA0242438. RFI Energy, Inc. (555 Philadelphia Street, Indiana, PA 15701). Proposal to enter into a Government Financed Reclamation Construction Contract on an 80-acre site in Perry Township, **Clarion County**. The proposal includes total reclamation of 64 acres of abandoned mine lands as well as 32.5 acres of coal removal incidental and necessary to the reclamation activities. This proposal also includes a request to reclaim and reconstruct approximately 800 feet of an unnamed tributary to the Allegheny River. Receiving streams: unnamed tributary to the Allegheny River (CWF). The first downstream potable water supply intake from the point of discharge is Parker Area Water Authority. Application received August 6, 2003.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32990110 and NPDES Permit PA0235164. KMP Associates, 1094 Lantz Road, Avonmore, PA 15618, permit revision to add 4.4 acres to the permit area. Total SMP acres goes from 36.9 to 41.3 in Young Township, **Indiana County**. Receiving streams: unnamed tributary

ies to Harpers Run and Harpers Run to Blacklegs Creek to the Kiskiminetas River (CWF). There are no potable water supply intakes within 10 miles downstream. Application received August 20, 2003.

56030107 and NPDES Permit PA0249521. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, commencement, operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 121.7 acres. Receiving streams: Buffalo Creek and Millers Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received August 26, 2003.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

02-03-02 and NPDES Permit PA0250473. Binotto Contracting, Inc. (608 E. McMurray Road, Suite 208, McMurray, PA 15317). Application for a government financed construction contract in Collier Township, **Allegheny County**, affecting 38 acres. Receiving streams: unnamed tributaries to Robinson Run and Robinson Run (WWF). There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received August 22, 2003.

26910108 and NPDES Permit 02492366. Stash Mining Co. (675 Old Route 51 Rd., P. O. Box 20, Waltersburg, PA 15488). Renewal application for reclamation only of an existing bituminous surface mine, in Georges Township, **Fayette County**, affecting 65 acres. Receiving streams: unnamed tributary to North Branch of Browns Run to Browns Run (WWF). There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received August 26, 2003.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

17030111 and NPDES Permit PA0243558. AMFIRE Mining Company, LLC, One Energy Place, Latrobe, PA 15650. Commencement, operation and restoration of a bituminous surface mine-auger permit in Boggs and Decatur Townships, **Clearfield County** affecting 235 acres. Receiving streams: Morgan Run and Little Laurel Run (CWF). The first downstream potable water supply intake from the point of discharge is: none. Application received August 22, 2003.

Coal Applications Withdrawn

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

11920205 and NPDES Permit No. PA0599492. AMFIRE Mining Co., LLC, One Energy Place, Latrobe, PA 15650, permit transfer from Senate Coal Mines, Inc., One Energy Place, Suite 5100, Latrobe, PA 15650, for continued operation of a bituminous surface mine (coal refuse reprocessing) in Adams Township, **Cambria County**, affecting 17.4 acres. Receiving streams: Paint Creek (CWF) and unnamed tributaries to Paint Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received March 11, 2003. Application withdrawn August 29, 2003.

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:

Parameter	30-Day	Daily	Instantaneous
	Average	Maximum	Maximum
suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*	greater than 6.0; less than 9.0		

* The parameter is applicable at all times.

A settleable solids instantaneous maximum of 0.5 ml/l applied to surface runoff resulting from a precipitation 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 Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

60840401C8 and NPDES Permit PA0614181. Eastern Industries, Inc. (4401 Camp Meeting Road, Center Valley, PA 19034), renewal of NPDES permit for discharge of treated mine drainage in Buffalo Township, **Union County**, receiving stream: Buffalo Creek (CWF). Application received August 26, 2003.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

07030801. Ritchey Brothers, P. O. Box 53, Curryville, PA 16631, commencement, operation and restoration of a small noncoal topsoil limestone mine in Taylor Township, **Blair County**, affecting 1.0 acre. Receiving streams: Cabbage Creek (wild trout). The first downstream potable water supply intake from the point of discharge is Roaring Spring. Application received August 25, 2003.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

08030805. Anthony P. Bennett, R. R. 4, Box 4056, Wyalusing, PA 18853. Commencement, operation and restoration of a Small Industrial Minerals (Bluestone) permit in Pike Township, **Bradford County** affecting 3 acres. Receiving streams: Johnson Creek. Application received August 20, 2003.

08030806. Ralph Newton, R. R. 2, Box 50A, Wyalusing, PA 18853. Commencement, operation and restoration of a Small Industrial Minerals (Bluestone) permit in Terry Township, **Bradford County** affecting 3 acres. Receiving streams: unnamed tributary, tributary to Susquehanna River. Application received August 26, 2003.

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 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 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 may 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 of the FWPCA (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E13-139. Towamensing Township, 120 Stable Road, Lehighton, PA 18235 in Towamensing Township, **Carbon County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a 91-inch by 58-inch elliptical concrete culvert depressed 1 foot below streambed elevation across Hunter Creek (HQ-CWF). The project is on Strohl Alley Road approximately 100 feet west of SR 2011 (Palmerston, PA Quadrangle N: 21.6 inches; W: 6.3 inches).

E45-453. Stroud Township, 1211 North Fifth Street, Stroudsburg, PA 18360 in Stroud Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To maintain four wooden pedestrian bridges and a 45-foot long by 4-foot wide wooden boardwalk across tributaries to Broadhead Creek (HQ-CWF) and in adjacent wetlands. The crossings were constructed without a permit during the development of a trail system within Pine Brook Park. The project is in the 100-year floodplain of Broadhead Creek between SR 0447 and SR 0191 (East Stroudsburg, PA Quadrangle N: 6.2 inches; W: 11.5 inches).

E52-188. Stephen S. Woodman, 232 Mount Airy Road, Glen Gardner, NJ 08826 in Palmyra Township, **Pike County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove approximately ten large boulders along the shoreline of Lake Wallenpaupack (HQ-CWF) for the purpose of improving access for boating. Boulder Heights will be made equal to the surrounding ground surface elevations, impacting an area of approximately 1,800 square feet below normal pool elevation. The project is on Lot No. 5 in the Whispering Pines Subdivision, approximately

3,300 feet northwest of the intersection of SR 507 and T-413 (Hawley, PA Quadrangle N: 7.4 inches; W: 13.8 inches).

E52-189. John A. McCarthy, 714 Weadley Road, Radnor, PA 19087 in Palmyra Township, **Pike County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove approximately ten large boulders along the shoreline of Lake Wallenpaupack (HQ-CWF) for the purpose of improving access for boating. Boulder Heights will be made equal to the surrounding ground surface elevations, impacting an area of approximately 250 square feet below normal pool elevation. The project is on Lot No. 11 in the Whispering Pines Subdivision, approximately 3,400 feet northwest of the intersection of SR 507 and T-413. (Hawley, PA Quadrangle N: 7.0 inches; W: 14.1 inches).

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

E36-765: Department of Transportation, District 8-0, 2140 Herr Street, Harrisburg, PA 17103 in West Cocalico Township, **Lancaster County**, ACOE Baltimore District.

To remove the twin culvert and then to construct and maintain a 10-foot by 5-foot concrete box culvert at the channel of Harnish Run (WWF) on SR 1057, Sec 0001, Segment 0020, Offset 1434 and to fill in 0.007 acre of de minimis wetland to improve the roadway width about 0.8 mile northwest of Blainsport Village (Womelsdorf, PA Quadrangle N: 7.2 inches; W: 3.2 inches) in West Cocalico Township, Lancaster County. The wetland impact is considered de minimis; therefore a mitigation is not required.

E67-747: Jackson Township Board of Supervisors, 439 Roth's Church Road, Spring Grove, PA 17362 in Jackson Township, **York County**, ACOE Baltimore District.

To remove an existing bridge then construct and maintain a 20-foot by 6-foot concrete box culvert at a point where Pine Road (T-513) crosses the Little Conewago Creek (TSF) (West York, PA Quadrangle N: 10.7 inches; W: 16.1 inches) in Jackson Township, York County.

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

E04-274. Bet-Tech International, 3468 Brodhead Road, Monaca, PA 15061. Bet-Tech Barge Dock in Hopewell Township, **Beaver County**, Pittsburgh ACOE District (Latitude: 40° 38' 57"—Longitude: 80° 14' 33") (Baden, PA Quadrangle N: 4.4 inches; W: 16.3 inches). The applicant proposes to amend Permit No. E04-274 to rescind Special Conditions C.3 and E-H and replace Special Condition C.3 with the following: permittee shall manage dredge material removed from the river in accordance with the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations promulgated thereunder. Permittee should contact the Facilities Chief, Bureau of Waste Management, Southwest Regional Office with questions regarding this requirement. Permittee will provide for mitigation of stream impacts by contributing \$25,000. to the Fish and Boat Commission for river enhancement activities. The project is near River Mile 21.0. This amendment is being done to satisfy the terms of a Consent Order and Agreement which resolves the issues of a permit appeal EHB Docket No. 2002-110-R.

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

E62-391, Allegheny Partners, L. P., P. O. Box 1474, Smethport, PA 16749. Access road across Pedler Run in Triumph Township, **Warren County**, ACOE Pittsburgh District (Tidioute, PA Quadrangle N: 15.4 inches; W: 11.2 inches).

To install and maintain a 30-foot long, 83-inch wide by 57-inch high corrugated metal pipe arch culvert in Pedler Run (CWF) on an existing access road to Warren 56 Tract approximately 0.25 mile south of T-362 (Youngsville Road).

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 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 Notices of Intent (NOI) for coverage under General NPDES Permits. The approval for coverage under these 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. The 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 may 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 to 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

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0091227 Industrial Waste	Calgon Carbon Corporation 200 Neville Road Pittsburgh, PA 15225	Allegheny County Neville Township	Ohio River (Back Channel)	Y

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0023892 Sewage	Masontown Municipal Authority 2 Court Street Masontown, PA 15461-1841	Fayette County Masontown Borough	Cats Run	Y
PA0023906 Sewage	Masontown Municipal Authority 2 Court Street Masontown, PA 15461-1841	Fayette County Masontown Borough	UNT of the Monongahela River	Y
PA0027430 Sewage	Jeannette City Municipal Authority P. O. Box 294 Penn, PA 15675-0294	Westmoreland County City of Jeannette	Brush Creek	N
PA0028011 Sewage	Sunoco, Inc. East Quaker Park Bldg. 1001 Hector Street, 4th Floor Conshohocken, PA 19428	Beaver County New Sewickley Township	Brush Creek	Y
PA0098663 Sewage	R. P. Woodhouse 339 West Pike Street Canonsburg, PA 15317	Washington County Somerset Township	Opossum Run	Y

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

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327 3666.

PA0034576, Sewerage SIC, 4952, **Towanda Municipal Authority**, 724 Main Street, Towanda, PA 18848. This existing facility is in Towanda Borough, **Bradford County**.

Description of Proposed Activity: This proposed action is for amendment of an NPDES permit to expand an existing discharge of treated sewage wastewater and add stormwater best management practices.

The receiving stream, Susquehanna River, is in the State Water Plan watershed 4C and classified for WWF. The nearest downstream public water supply intake for the Danville Municipal Authority is on the Susquehanna River, 133 miles below the point of discharge.

The proposed effluent limits for the expansion of Outfall 001 based on a design flow of 1.74 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40		50
TSS	30	45		60
% UV Transmittance	Report Daily Minimum			
Fecal Coliform (5-1 to 9-30)	200 col/100 ml as a geometric mean			
(10-1 to 4-30)	2,000 col/100 ml as a geometric mean			
pH	6.0 to 9.0 at all times			

In addition to the effluent limits, the permit contains Part C 8 that requires reporting of sanitary sewer overflows and Part C 9 Stormwater Management.

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

NPDES Permit No. PA0218618, Industrial Waste, **Toby Brothers Iron & Metal**, 3782 West Crawford Avenue, Dunbar, PA 15431. This proposed facility is in Dunbar Township, **Fayette County**.

Description of Proposed Action/Activity: Authorization to discharge from a facility at Toby Brothers Iron & Metal Facility to receiving waters named Craig Branch.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

WQM Permit No. 3699402, Amendment 03-1, Sewerage, **Kevin Weaver**, 2520 Ironville Pike, Columbia, PA 17512. This proposed facility is in West Hempfield Township, **Lancaster County**.

Description of Proposed Action/Activity: Transfer of permit.

WQM Permit No. 2103403, Sewerage, **Mr. and Mrs. Harold E. Weaver, Jr.**, 201 Bulls Head Road, Newville, PA 17241. This proposed facility is in North Newton Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction of a SFTF consisting of dual septic tanks, dosing tank, subsurface sand filter, tablet chlorination with contact tank and outfall.

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

WQM Permit No. 1703401, Sewerage 4952, **Muddy Run Regional Authority**, P. O. Box 474 Madera, PA 16661-0474. This proposed facility is in Glen Hope Borough, **Clearfield County**.

Description of Proposed Action/Activity: Applicant is granted a Water Quality Management Part II permit for the construction of a 0.022 MGD wastewater treatment facility and collection system. The project will entail the construction of wastewater collection, conveyance and treatment facilities for Glen Hope Borough. The system will include one wastewater pumping station, two grinder pump stations, approximately 12,600 LF of gravity sanitary sewer and 2,740 LF of force main. The wastewater treatment plant will discharge an average of 22,000 GPD to Clearfield creek and will utilize an extended aeration activated sludge process.

WQM Permit No. 4999403-T1, Sewerage 4952, **Northumberland National Bank**, 245 Front Street, P. O. Box 271, Northumberland, PA 17857. This facility is in Lower Augusta Township, **Northumberland County**.

Description of Proposed Action/Activity: Transfer of permit for small flow sewage treatment system.

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

WQM Permit No. 1103402, Sewerage, **Pyramid Healthcare, Inc.**, 1512 12th Avenue, Altoona, PA 16601. This proposed facility is in Reade Township, **Cambria County**.

Description of Proposed Action/Activity: Construction of Pyramid Healthcare STP No. 2.

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

WQM Permit No. 6203413, Sewerage, **Fritz Shoup**, P. O. Box 821, Warren, PA 16365. This proposed facility is in Glade Township, **Warren County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. 4303406, Sewerage, **John E. and Mary A. Daley**, 10 Grange Road, New Wilmington, PA 16142. This proposed facility is in Shenango Township, **Mercer County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. 2003423, Sewerage, **Mark D. and Lisa Schlosser**, 17317 South Mead Road, Saegertown, PA 16433. This proposed facility is in Hayfield Township, **Crawford County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023903018	Vinart Realty 675 State Road Emmaus, PA 18049	Lehigh	Salisbury Township Emmaus Borough	Little Lehigh Creek HQ-CWF
PAS10U189	Borough of Nazareth 30 Belvidere St. Nazareth, PA 18064	Monroe	Borough of Nazareth	Monocacy Creek HQ-CWF Shoeneck Creek WWF
PAI024803017	Ashley Development Corp. 559 Main St., Suite 300 Bethlehem, PA 18018	Northampton	Upper Nazareth Township	Bushkill Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032103003	Sutliff Hummer LLC 6462 Carlisle Pike Mechanicsburg, PA 17050	Cumberland	Silver Spring Township	Trindle Spring Run HQ-CWF
PAI033603003	Wanner's Pride & Joy Dairy 5800 Wanner Road Narvon, PA 17555	Lancaster	Salisbury Township	Pequea Creek HQ-CWF

Cumberland Conservation District: 43 Brookwood Avenue, Carlisle, PA 17013, (717) 240-7812.

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG2002103022	Letterman, Inc. 716 North West Street Carlisle, PA 17013	Cumberland	Silver Spring	Conodoguinet Creek WWF

Dauphin County Conservation District: 1451 Peters Mountain Rd, Dauphin, PA 17018, (717) 921-8100.

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG2002203024	Deer Path Woods The McNaughton Co. 4400 Deer Path Rd. Harrisburg, PA 17110	Dauphin	Susquehanna Township	Paxton Creek WWF
PAG2002203026	Weaver Repair Garage Timothy Weaver P. O. Box 135 Berrysburg, PA 17005	Dauphin	Berrysburg Borough	Wiconisco Creek WWF
PAR10I308-1	Old Iron Estates M. Kevin Ricker 6450 Red Top Rd. Harrisburg, PA 17111	Dauphin	Lower Paxton Township	Beaver Creek WWF

Lebanon County Conservation District, 2120 Cornwall Road, Suite 5, Lebanon, PA 17042, (717) 272-3908.

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG2003803032	Todd Lawrence 1236 Hilltop Road Myerstown, PA 17067	Lebanon	Jackson Township	Little Swatara Creek
PAG2003803035	Weavertown Fire Company 1528 Suzy Street Lebanon, PA 17042	Lebanon	North Lebanon Township	Quittapahilla Creek TSF
PAG2003803033	Dale and Dawn Snader 44 Werner Road Fredericksburg, PA 17026	Lebanon	Bethel Township	Little Swatara Creek WWF
PAI033803001	Vincent Achey Plain 'N Fancy Kitchens Rt. 501 and Oak Street Schaefferstown, PA 17088	Lebanon	Heidelberg Township	Hammer Creek HQ-CWF

York County Conservation District: 118 Pleasant Acres Road, York, PA 17402, (717) 840-7430.

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG2006703098	John Huenke Buttonwood Gardens LLP 300 Bailey Drive Stewartstown, PA 17363	York	Hallam Borough	Kreutz Creek WWF
PAG2006703087	Irvin S. Naylor Self Storage Facility for CSC Properties 100 Boxwood Lane York, PA 17403	York	York Township	UNT to Mill Creek WWF
PAG2006703069	Gary Gregory 165 Woodthrust Lane York, PA 17403	York	York Township	Lake Redman CWF
PAG2006703033	Leader Property Kinsley Equities II P. O. Box 131-AA York, PA 17403	York	York Township	UNT to Codorus Creek WWF

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG2006703057	Supplemental Water Supply Project Jeffrey Hines The York Water Co. 130 E. Market Street York, PA 17405	York	York, North Hopewell, Windsor and Lower Windsor Townships	Barshinger Creek CWF Lake Redman CWF North Branch Muddy Creek CWF Pine Run CWF Beaver Creek tributary CWF Fishing Creek TSF Susquehanna River WWF
PAG2006703105	Cloverleaf Commerce Park Tim Kinsley Kinsley Equities 2700 Water Street York, PA 17403	York	Conewago Township	UNT to Big Conewago Creek TSF
PAR10Y345R	Gregg Snyder 4846 W. Market Street York, PA 17404	York	Jackson Township	Conewago Creek TSF
PAG2006703107	Wrights Crossing Tim Kinsley Kinsley Equities 2700 Water Street York, PA 17403	York	Hellam Township	UNT to Susquehanna River WWF
PAG2006703106	Karen Fritz Susquehanna Village Inc. 1225 Valley Green Road Etters, PA 17319	York	Newberry Township	Susquehanna River WWF
PAG2006703085	Thomas Bross 315 Round Hill Road East Berlin, PA 17316	York	Washington Township	Conewago Creek WWF
PAG2006703052	Bill Bashore Garland Construction 336 W. King Street Lancaster, PA 17603	York	East Manchester Township	Codorus Creek TSF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS101915R	Robert Maguire Soo Berry Ridge Partners P. O. Box 400 Mill Hall, PA 17751	Clinton	Lamar Township	Long Run HQ-CWF
PAI044103002	Lycoming County Commissioners Lycoming County Courthouse Williamsport, PA 17701	Lycoming	Pine Township	Zimmerman Creek HQ-CWF
PAI044903002	Watsontown Trucking Co. R. R. 1, Box 73B New Columbia, PA 17856	Northumberland	Milton Borough	UNT Montandon Marsh EV Wetland
PAI2045703001	George M. Jenkins Merritt Capital Corp. 215 Hermitage Dr. Radnor, PA 19087	Sullivan	Laporte Township	Shanersburg Run EV Pole Bridge Run HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041703003	Department of Transportation Engineering District 2-0 1924-30 Daisy St. Clearfield, PA 16830	Clearfield	Lawrence Township	W. Br. Susquehanna River WWF Wolf Run CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI071703001	EOG Resources Inc. Southpointe Plaza One 400 Southpointe Blvd., Suite 300 Canonsburg, PA 15317	Clearfield	Bell Township	Whiskey, Clover and Laurel Runs

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 Plant
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 (CSO)
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 and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Luzerne County City of Wilkes-Barre	PAG2004003031	Michael Pasonick 165 N. Wilkes-Barre Blvd. Wilkes-Barre, PA 18702	Susquehanna River WWF	Luzerne County Conservation District (570) 674-7991
Northampton County Lower Nazareth and Palmer Townships	PAG2004803009	Prologis Development Services, Inc. One Capital Drive Cranbury, NJ 08512	Shoeneck Creek WWF	Northampton County Conservation District (610) 746-1971
Northampton County Allen Township	PAG2004803028	Robert Bayuk, President Blue Ridge Development, LLC P. O. Box 3512 Easton, PA 18043	Hokendauqua Creek CWF	Northampton County Conservation District (610) 746-1971
Schuylkill County North Manheim Township	PAG2005403021	Schuylkill Products Inc. Storage Schuylkill Products Inc. Gordan A. Nagle, President 121 River St. Cressona, PA 17929	W. Branch Schuylkill River CWF	Schuylkill County Conservation District (570) 622-3742

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Centre County Boggs Township	PAG2001403027	Bald Eagle Valley Community Church 111 Runville Road Bellefonte, PA 16823	Bald Eagle Creek CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Montour County Mahoning Township	PAG2004470307	Geisinger Health System 100 N. Academy Ave. Danville, PA 17822	Sechler Run CWF	Montour County Conservation District 112 Woodbine Lane Suite 2 Danville, PA 17821 (570) 271-1140
Somerset County	PAG2005603005	Iron Creek Properties, LLC 230 West Church St. Somerset, PA 15501	UNT West Branch of Coxes Creek WWF	Somerset County Conservation District (814) 445-4652
Washington County Peters Township	PAG2006303026	Robert Quarture 569 Justabout Road Venetia, PA 15317	UNT Chartiers Creek WWF	Washington County Conservation District (724) 228-6774
Butler Cranberry Township	PAG2001003014	Rolling Road Regency LLP 114 Woody Drive Butler, PA 16001	Brush Creek WWF	Butler County Conservation District 122 McCune Drive Butler, PA 16001-6501
Butler County Adams Township	PAG2001003021	Mark and Pamela Rutledge 275 Powder Mill Road Renfrew, PA 16053	Breakneck Creek WWF	Butler County Conservation District 122 McCune Drive Butler, PA 16001-6501
Jefferson County Young Township	PAG2003303003	Young Township P. O. Box 125 Walston, PA 15781	Tributary to Little Elk Run CWF	Jefferson County Conservation District R. R. 5 Box 51 Brookville, PA 15825
Jefferson County Snyder Township	PAG2003303004	Department of Transportation 2550 Oakland Avenue P. O. Box 429 Indiana, PA 15701-0429	Mill Creek CWF	Jefferson County Conservation District R. R. 5 Box 51 Brookville, PA 15825
Jefferson County Snyder Township	PAG2003303005	Department of Transportation 2550 Oakland Avenue P. O. Box 429 Indiana, PA 15701-0429	Mill Creek CWF	Jefferson County Conservation District R. R. 5 Box 51 Brookville, PA 15825

General Permit Type—PAG-3

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Juniata County Beale Township	PAR213550	Scott D. Marstellar Marstellar Oil & Concrete P. O. Box 210 Port Royal, PA 17082-0210	Marque Creek CWF-12-B	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Summit Township Butler County	PAR218308	Ervin Industries, Inc. 681 East Butler Road Butler, PA 16002-9127	Bonnie Brook and unnamed tributary to Bonnie Brook	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Erie Erie County	PAR208314	Gunite EMI Corporation 302 Peoples Avenue Rockford, IL 61104	City storm sewers to Presque Isle Bay-Lake Erie	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-4

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Franklin County Hamilton Township	PAG043619	William N. Hartman 1046 Tallow Hill Road Chambersburg, PA 17201	UNT to Conococheague Creek WWF-13-C	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Bethel Township	PAG043709	Doug and Cheri Wright 131 Camp Strauss Road Bethel, PA 19597	UNT to Meck Creek CWF-7-D	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lower Augusta Township Northumberland County	PAG045077 Sewerage	Northumberland National Bank 245 Front Street P. O. Box 271 Northumberland, PA 17857	Boile Run WWF	Water Management Program 208 West Third Street Williamsport, PA 17701 (570) 327-3666
Glade Township Warren County	PAG048919	Fritz Shoup P. O. Box 821 Warren, PA 16365	Unnamed tributary to Glade Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Shenango Township Mercer County	PAG048903	John E. and Mary A. Daley 10 Grange Road New Wilmington, PA 16142	Unnamed tributary to Buchanan Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Hayfield Township Crawford County	PAG048921	Mark D. and Lisa Schlosser 17317 South Mead Road Saegertown, PA 16433	Kerns Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-8

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
North Annville, South Annville and North Londonderry Townships Lebanon County	PAG083504	Annville Township P. O. Box 320 Annville, PA 17003	MFS Farm North Annville, South Annville and North Londonderry Townships Lebanon County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Tyrone Township Perry County	PAG083574	Loysville Village Municipal Authority P. O. Box 133 Loysville, PA 17047	George and Rebecca Brubaker Farm Tyrone Township Perry County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Metal Township Franklin County	PAG083580	Metal Township Municipal Authority P. O. Box 216 Willow Hill, PA 17271	Metal Township Municipal Authority WWTF Field Metal Township Franklin County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-9

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
East St. Clair Township Bedford County	PAG093516	Smith Septic Tank Service 989 Adams Run Road Bedford, PA 15522		SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Maxatawny Township Berks County	PAG093517	Fischers Sanitary Septic Service 482 East Main Street Kutztown, PA 19530	Ruben Nolt Farm No. 2 Maxatawny Township Berks County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-10

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Lancaster County Penn Township	PAG103519	Columbia Gas Transmission Corporation 525 Highlands Blvd., Ste. 100 Coatesville, PA 19320	Chickies Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Safe Drinking Water Act 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 may 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 to 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 (35 P. S. §§ 721.1—721.17).

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

Operations Permit issued to **Pennsylvania Suburban Water Co.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, PWS ID 2640020, Canaan Township, **Wayne County** on August 19, 2003, for the operation of facilities approved under Construction Permit N/A.

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

Permit No. 1402506—Construction. Public Water Supply.

Applicant	Spring Township Water Authority 1309 Blanchard Street Bellefonte, PA 16823
Township	Spring Township
County	Centre County
Type of Facility	PWS—Construction of the Carles Well with disinfection facilities and a section of transmission line.
Consulting Engineer	Uni-Tec Consulting Engineers Inc. 2007 Cato Avenue State College, PA 16801
Permit to Construct Issued	September 2, 2003

Permit No. Minor Permit Amendment—Operation. Public Water Supply.

Applicant	Knoxville Borough P. O. Box 191 149 East Main Street Knoxville, PA 16928
Township	Deerfield Township
County	Tioga County
Type of Facility	PWS—Operation of the aluminum dome cover that was recently installed on the finished reservoir.

Consulting Engineer Alfred Benesch and Company
400 One Norwegian Plaza
P. O. Box 1090
Pottsville, PA 17901

Permit to Operate August 29, 2003
Issued

Permit No. 2414-T1—Transfer. Public Water Supply.

Applicant **Dushore Water Authority**
P. O. Box 248
Dushore, PA 18614-0248

Borough Dushore Borough

County **Tioga County**

Type of Facility PWS—Original distribution
system.

Permit to Operate September 2, 2003
Issued

Permit No. 4930-T1—Transfer. Public Water Supply.

Applicant **Dushore Water Authority**
P. O. Box 248
Dushore, PA 18614-0248

Borough Dushore Borough

County **Tioga County**

Type of Facility PWS—Well 2

Permit to Operate September 2, 2003
Issued

Permit No. 265W008-T1—Transfer. Public Water
Supply.

Applicant **Dushore Water Authority**
P. O. Box 248
Dushore, PA 18614-0248

Borough Dushore Borough

County **Tioga County**

Type of Facility PWS—Well 4 and 2,500 gallon
chlorine contact tank

Permit to Operate September 2, 2003
Issued

Permit No. 5769501-T1—Transfer. Public Water
Supply.

Applicant **Dushore Water Authority**
P. O. Box 248
Dushore, PA 18614-0248

Borough Dushore Borough

County **Tioga County**

Type of Facility PWS—Wells 5 and 6 and 4,500
gallon chlorine contact tank

Permit to Operate September 2, 2003
Issued

Permit No. 5783501-T1—Transfer. Public Water
Supply.

Applicant **Dushore Water Authority**
P. O. Box 248
Dushore, PA 18614-0248

Borough Dushore Borough

County **Tioga County**

Type of Facility PWS—Gas chlorination for Wells
2 and 4—6

Permit to Operate September 2, 2003
Issued

Permit No. Minor Amendment-T1—Transfer. Public
Water Supply.

Applicant **Dushore Water Authority**
P. O. Box 248
Dushore, PA 18614-0248

Borough Dushore Borough

County **Tioga County**

Type of Facility PWS—2,200 feet of 8-inch
distribution main along German
and Water Streets.

Permit to Operate September 2, 2003
Issued

Permit No. Minor Amendment-T1—Transfer. Public
Water Supply.

Applicant **Dushore Water Authority**
P. O. Box 248
Dushore, PA 18614-0248

Borough Dushore Borough

County **Tioga County**

Type of Facility PWS—218,000 gallon storage tank
and transmission main from Well
2 to treatment building.

Permit to Operate September 2, 2003
Issued

Permit No. 2414. Public Water Supply.

Applicant **Dushore Water Authority**
P. O. Box 248
Dushore, PA 18614-0248

Borough Dushore Borough

County **Tioga County**

Type of Facility PWS—Cancellation of approval to
use a series of springs, Well 1 and
the spring collection reservoir.

Permit to Operate September 2, 2003
Cancelled

Permit No. 265W008. Public Water Supply.

Applicant **Dushore Water Authority**
P. O. Box 248
Dushore, PA 18614-0248

Borough Dushore Borough

County **Tioga County**

Type of Facility PWS—Cancellation of approval to
hypochlorinate Well 4.

Permit to Operate September 2, 2003
Cancelled

Permit No. 5769501. Public Water Supply.

Applicant **Dushore Water Authority**
P. O. Box 248
Dushore, PA 18614-0248

Borough Dushore Borough

County **Tioga County**

Type of Facility PWS—Cancellation of approval to
hypochlorinate Wells 5 and 6.

Permit to Operate September 2, 2003
Cancelled

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

Permit No. 2594501-MA9, Minor Amendment, Public Water Supply.

Applicant **Erie Water Works**
340 West Bayfront Parkway
Erie, PA 16507

Borough or Township Summit Township

County **Erie**

Type of Facility PWS—construct of a 1-million gallon storage tank on east side of Cherry Street.

Consulting Engineer KLH Engineers
5173 Campbells Run Road
Pittsburgh, PA 15205.

Permit to Construct Issued September 2, 2003

Operations Permit issued to **Erie Water Works**, 340 West Bayfront Parkway, Erie, PA 16507, PWS ID 6250028, City of Erie, **Erie County** on September 2, 2003, for the operation of facilities approved under Construction Permit 7223-T1-MA2.

Permit No. 6830-MA3, Minor Amendment. Public Water Supply.

Applicant **Brookville Municipal Authority**
Three Jefferson Court
Brookville, PA 15285

Borough or Township Brookville

County **Jefferson**

Type of Facility PWS

Consulting Engineer Nichols & Slagle Engineering, Inc.
333 Rouser Road
Airport Office Park
Building 4, Suite 600
Moon Township, PA 15108.

Permit to Construct Issued August 19, 2003

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a).

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
City of New Castle	City of New Castle 230 North Jefferson Street New Castle, PA 16101	Lawrence

Plan Description: The approved plan provides for increasing the capacity of the proposed West Bank Relief Interceptor to accommodate a proposed industrial park in Neshannock Township. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following final 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 final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where 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.

For further information concerning a final report, contact the environmental cleanup program manager in the Department regional office after which the notice of receipt of a final 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 final reports:

Southeast Region: Environmental Cleanup Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Johnson Matthey, Inc., Precious Metals Division, West Whiteland Township, **Chester County**. William Gilchrist, Roux Associates, Inc., 1222 Forest Parkway, Suite 190, West Deptford, NJ 08066 on behalf of Johnson Matthey, Michael Malter, 1401 King Road, West Chester, PA 19380-1467, has submitted a Final Report concerning remediation of site soil contaminated with diesel fuel. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

Former Worthington Steel Facility, East Whiteland Township, **Chester County**. Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, on behalf of Guy Wolfington, Malvern Hill Associates, 700 S. Henderson Road, Suite 225, King of Prussia, PA 19406, has submitted a combined Remedial Investigation/Risk Assessment/Cleanup Plan Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents, fuel oil no. 2, inorganics and unleaded gasoline.

Former Hajoca Building, City of Philadelphia, **Philadelphia County**. Bruce Middleman, P. G., Jacques Whitford Co., Inc., 450 S. Gravers Rd., Suite 105, Plymouth Meeting, PA 19462, on behalf of University of Pennsylvania, Attn: Kyle Rosato, 3160 Chestnut St., Philadelphia, PA 19104-6287, has submitted a Final Report concerning remediation of site soil contaminated

with fuel oil no. 2 and lead; and site groundwater contaminated with fuel oil no. 2. The report is intended to document remediation of the site to meet Statewide Health and 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 and the 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 its 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 after 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; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Former Pathan Chemical Site, City of Philadelphia, **Philadelphia County**. Paul Martino, Pennoni Associates, Inc., 3001 Market St., Suite 200, Philadelphia, PA 19104-2897, has submitted a Remedial Investigation/Risk Assessment/Cleanup Plan Report concerning the remediation of site soil contaminated with inorganics, lead and PAHs; and site groundwater contaminated with chlorinated solvents. The report was approved by the Department on August 27, 2003.

Nursing Care Center at the 58th Street Presbyterian Home, City of Philadelphia, **Philadelphia County**. Nancy R. Repetto, Powell-Harpstead, Inc., 800 E. Washington St., West Chester, PA 19380, on behalf of Presby Homes & Services, Inc., Margaret Bucci, 2000 Joshua Rd., Lafayette Hills, PA 19444-2430, has submitted a Final Report concerning the remediation of site soil contaminated with fuel oil no. 2. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 21, 2003.

Northeast Region: Joseph A. Brogna, Environmental Cleanup Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Lockhardt Residence, City of Easton, **Northampton County**. Marshall Miller & Associates, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 submitted a Final Report (on behalf of Curtis Lockhardt, E. Wilkes-Barre Street, Easton, PA) concerning the remediation of soils found or suspected to have been accidentally contaminated with home heating oil as the result of an oil delivery to the wrong address. The report documented attainment of the Statewide Health Standard and was approved on July 25, 2003.

Laubach Farm Property, Bethlehem Township, **Northampton County**. James S. Meenan, III, Environmental Scientist, Marshall Miller & Associates, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 submitted a Final Report (on behalf of Mrs. George Laubach, Bethman Road, Easton, PA) concerning the remediation of soils found or suspected to have been contaminated with kerosene as the result of a vehicular accident on the property. The report documented attainment of the Statewide Health Standard and was approved on August 12, 2003.

Steven Johnson Property, Bethlehem Township, **Northampton County**. James S. Meenan, III, Environmental Scientist, Marshall Miller & Associates, 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011 submitted a Final Report (on behalf of Mr. and Mrs. Steven Johnson, Bethman Road, Easton, PA) concerning the remediation of soils found or suspected to have been contaminated with kerosene as the result of a vehicular accident on the property. The report documented attainment of the Statewide Health Standard and was approved on August 12, 2003.

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

Eastern Industries, Inc.—Formerly Douglassville Hot Mix Asphalt Plant, Amity Township, **Berks County**. EarthRes Group, Inc., P. O. Box 468, Pipersville, PA 18947 on behalf of Eastern Industries, Inc., 4401 Camp Meeting Road, Center Valley, PA 18034-9454, sub-

mitted a Remedial Investigation Report concerning remediation of site soils and groundwater contaminated with solvents. The applicant seeks to attain a combination of Statewide Health and Site-Specific Standards. The Remedial Investigation Report was approved by the Department on August 26, 2003.

New Holland North American Inc., Cooling Tower Area, New Holland Borough, **Lancaster County**. CNH Global N. V., 700 State Street, Racine, WI 53404, submitted a Final Report concerning remediation of site soils contaminated with chromium. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 27, 2003.

Gettysburg & Northern Railroad Company, Gettysburg Borough, **Adams County**. EA Engineering, Science, and Technology, Inc., 15 Loveton Circle, Sparks, MD 21152, on behalf of Gettysburg College, 300 North Washington Street, Gettysburg, PA 17325 and Gettysburg & Northern Railroad Company, 1318 South Johansen Road, Peoria, IL 61607, submitted a Final Report concerning remediation of site soils and groundwater contaminated with used motor oil. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 27, 2003.

Former Wild's Auto, New Holland Borough, **Lancaster County**. Mid-Atlantic Associates, P. A., P. O. Box 1128, North Wales, PA 19454, on behalf of Geoffrey Class, 508 West Main Street, New Holland, PA 17557, submitted a Final Report concerning remediation of site soils contaminated with fuel oil no. 2. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 28, 2003.

Defense Distribution Depot Susquehanna, PA IRP Site 60, Fairview Township, **York County**. Defense Distribution Depot Susquehanna, PA, 2001 Mission Drive, Suite 1, New Cumberland, PA 17070-5002 submitted a Remedial Investigation Report concerning remediation of groundwater contaminated with solvents. The applicant proposes to remediate the site to meet the requirements of the Site-Specific Standard. The report was approved by the Department on August 29, 2003.

Former CJ Tires Service Station, Borough of New Holland, **Lancaster County**. Mid-Atlantic Associates, Inc., P. O. Box 1128, North Wales, PA 19454, on behalf of Geoffrey Class, 508 West Main Street, New Holland, PA 17557, submitted a Final Report concerning remediation of site soils contaminated with lead, new and used motor oil and organics. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 2, 2003.

Sunoco Station 0003-7382, Susquehanna Township, **Dauphin County**. GES, Inc., 410 Eagleview Boulevard, Suite 110, Exton, PA 19341, on behalf of Gelder Realty, 2456 Mercedes Court, Harrisburg, PA 17112, resubmitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with benzene, toluene, ethylbenzene, xylenes (total), MTBE, isopropyl benzene and naphthalene. The report demonstrated attainment of a combination of Statewide Health and Site-Specific Standards and the combined Remedial Investigation and Final Report was approved by the Department on August 28, 2003.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PAD086673407. Safety Kleen Systems, Inc., 1606 Pittsburgh Avenue, Erie, PA 16505, Millcreek Township, **Erie County**. Permit renewal application for commercial hazardous waste storage facility. The permit was issued by the Northwest Regional Office on August 28, 2003.

RESIDUAL WASTE GENERAL PERMITS

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 residual waste regulations for a general permit to operate residual waste processing facilities and 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. WMGR083. Sunoco Inc. (R & M), 10 Penn Center, Philadelphia, PA 19103 for the processing and beneficial use of dewatered dredge as a roadway construction material, landscaping soil, topsoil, lightweight aggregate in concrete, soil amendment, stream bank stabilization or scour protection and as a cover, cap or other component of a remediation or closure project. The general permit was issued by Central Office on August 28, 2003.

Persons interested in reviewing the general permit may contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and 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.

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.

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

General Permit No. WMGR090R014. Glenn O. Hawbaker, Inc., 1952 Waddle Road, State College, PA 16801.

General Permit No. WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement (RAP) materials as a roadway construction material. Central Office approved this registration for coverage under the general permit on August 29, 2003.

General Permit No. WMGR090R015. Lindy Paving, Inc., R. D. 3, Box 2A, Northgate Industrial Park, New Castle, PA 16105.

General Permit No. WMGR090 authorizes the processing and beneficial use of RAP materials as a roadway construction material. Central Office approved this registration for coverage under the general permit on August 29, 2003.

General Permit No. WMGR090R016. Hanson Aggregates Pennsylvania, Inc., P. O. Box 231, Easton, PA 18044-0231.

General Permit No. WMGR090 authorizes the processing and beneficial use of RAP materials as a roadway construction material. Central Office approved this registration for coverage under the general permit on August 29, 2003.

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. 301268. Hansen Engineering, Inc., Residual Waste Processing Facility, 167 Laidley's Run Road, West Alexander, PA 15376. Operation of a residual waste processing facility in West Findlay Township, **Washington County.** Permit modification approving a Radioactive Materials Detection and Monitoring Plan issued in the Regional Office on August 28, 2003.

Persons interested in reviewing the permit may contact the Department of Environmental Protection, Land Recycling and Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000; TDD users may contact the Department through the Pennsylvania Relay Service at (800) 654-5984.

MUNICIPAL AND RESIDUAL WASTE TRANSPORTER AUTHORIZATION

Issued applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act (27 Pa.C.S. §§ 6201—6209) and regulations to transport municipal or residual waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

Andrew Scott Williams d/b/a Williams Trucking, 809 Lower Main St., Saxton, PA 16678. Authorization No. WH5225. Effective August 27, 2003.

Marcelo F. Favetto, 130 Pompton Ave., Cedar Grove, NJ 07009. Authorization No. WH5158. Effective August 28, 2003.

Thunder Transportation, 13-51A River Road, Fairlawn, NJ 07410. Authorization No. WH5174. Effective August 28, 2003.

Trinda Inc., 1286 Lakemont Dr., Pittsburgh, PA 15243. Authorization No. WH5186. Effective August 28, 2003.

Repal Construction Co., Inc., 11075 Parker Dr., North Huntingdon, PA 15642. Authorization No. WH5198. Effective August 28, 2003.

Bagh Trucking LLC, 640 Belmont Ave., Haledon, NJ 07508. Authorization No. WH5206. Effective August 28, 2003.

Hank Guarnieri Builder, 310 Columbus Ave., Trenton, NJ 08629. Authorization No. WH5207. Effective August 28, 2003.

Egtor B. Palacios, 400 North 6 St., Newark, NJ 07107. Authorization No. WH5208. Effective August 28, 2003.

Levy Trucking Co., 5218 Bergenline Ave., West New York, NJ 07093. Authorization No. WH5209. Effective August 28, 2003.

Terry L. Welder Trucking, 123 Akita Dr., Houtzdale, PA 16651-8222. Authorization No. WH5211. Effective August 28, 2003.

Straub Roofing & Concrete Inc., 49 Sheephill Road, Fleetwood, PA 19522. Authorization No. WH5212. Effective August 28, 2003.

Roque A. Nunez and Indira N. Paulino, 2905 Joyce Road, Roslyn, PA 19001. Authorization No. WH5213. Effective August 28, 2003.

Prasad Trucking Inc., 2238 New Bold Ave., Bronx, NY 10462. Authorization No. WH5214. Effective August 28, 2003.

Hillside Composting Corp., P. O. Box 232, Tremont, PA 17981. Authorization No. WH5215. Effective August 28, 2003.

Jersey Shore Area School District, 175 A & P Dr., Jersey Shore, PA 17740. Authorization No. WH5217. Effective August 28, 2003.

Jamie A. Peralta, 3rd Floor, 135 Hudson St., Newark, NJ 07103. Authorization No. WH5218. Effective August 28, 2003.

Gerald Sigel d/b/a J & A Trucking, 7014 Bedford Valley Road, Bedford, PA 15522. Authorization No. WH5219. Effective August 28, 2003.

David Lemin, P. O. Box 71, Fishertown, PA 15539. Authorization No. WH5220. Effective August 28, 2003.

D P Construction, 2310 Forest St., Easton, PA 18042. Authorization No. WH5222. Effective August 28, 2003.

Dienner Home Improvements, 474 Meetinghouse Road, Gap, PA 17527. Authorization No. WH5223. Effective August 28, 2003.

Cherry Township, Sullivan County, R. R. 4 Box 4245, Dushore, PA 18614. Authorization No. WH5224. Effective August 28, 2003.

WBF Farms Inc., 1084 Route 45, Pilesgrove, NJ 08098. Authorization No. WH5239. Effective August 29, 2003.

Jerry W. Caudill, Jr., 2986 Colesmill Road, Franklinville, NJ 08322. Authorization No. WH5240. Effective August 29, 2003.

Jesse Nelson, 40 Woolman Road, Elmer, NJ 08318. Authorization No. WH5241. Effective August 29, 2003.

Wayne F. Miller, P. O. Box 449, Brookfield, OH 44403. Authorization No. WH5133. Effective August 21, 2003.

Paul Miller Roofing, 459 Franklin Farms, Washington, PA 15301. Authorization No. WH5061. Effective August 8, 2003.

Molly Leasing Co., Inc., 1137 E. Venango St., Philadelphia, PA 19134. Authorization No. WH4355. Effective May 2, 2003.

DAKK Transportation Services Inc., 2004 Commercial Ave., Mingo Junction, OH 43938. Authorization No. WH2612. Effective December 17, 2002.

Rotellini Trucking Co., 1118 Commercial Ave., Mingo Junction, OH 43938. Authorization No. WH2629. Effective December 17, 2002.

Parker's Paving, 1415 Morton Avenue, Chester, PA 19013. Authorization No. WH5096. Effective August 27, 2003.

Paul F. Panza, P. O. Box 211, Skippack, PA 19474. Authorization No. WH5144. Effective August 28, 2003.

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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

GP5-26-00552: Great Lakes Energy Partners, LLC (Route 85 and North Avenue, Yatesboro, PA) on August 27, 2003, for gas-fired engines at the Voytek Compressor Station in Menallen Township, **Fayette County**.

GP3-65-00958: The Berg Corp. (2519 Wilkens Avenue, Baltimore, MD 21223) on August 22, 2003, to operate a portable nonmetallic mineral processing plant at the Greengate Mall in Hempfield Township, **Westmoreland County**.

Plan Approvals Issued under the Air Pollution Control Act 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, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

15-0090A: National Service Industries (303 Eagleview Boulevard, Exton, PA 19341) on August 27, 2003, to operate flexographic and offset presses in Uwchlan Township, **Chester County**.

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

48-322-004: IESI PA Bethlehem Landfill Corp. (2335 Applebutter Road, Bethlehem, PA 18015) on July 10, 2003, to construct the Phase IV expansion and to install an air cleaning device at their site in Lower Saucon Township, **Northampton County**.

40-313-046: Fabri-Kal Corp. (150 Lions Drive, Hazleton, PA 18202) on August 12, 2003, to construct

plastic extrusion and forming lines and associated air cleaning devices at their facility in Hazle Township, **Luzerne County**.

40-328-003A: Hunlock Creek Energy Ventures (390 Route 11, P. O. Box 224, Hunlock Creek, PA 18621) on August 12, 2003, to modify the simple cycle natural gas turbine at their facility in Hunlock Township, **Luzerne County**.

48-301-046: Heintzelman Funeral Home Inc. (326 Main Street, Hellertown, PA 18055) on August 19, 2003, to construct a crematory incinerator and associated air cleaning device at their Lehigh Valley Crematory Services, Magnolia Road and Front Street, Hellertown Borough, **Northampton County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

26-00291A: Silbaugh Vault and Burial Services, Inc. (542 Morgantown Road, Uniontown, PA 15401) on August 25, 2003, to construct a new 2.25 mmBtu/hr, natural gas fired, CMS Millennium III crematory incinerator at their facility in South Union Township, **Fayette County**.

11-00370B: Laurel Highlands Landfill (260 Laurel Ridge Road, Johnstown, PA 15909) on August 26, 2003, to construct a landfill (LFG) control system in Jackson Township, **Cambria County** (25 Pa. Code § 127.12b).

63-00324B: Ginger Hill Synfuel, LLC (13 Elm Street, Suite 200, Cohasset, MA 02025) on August 26, 2003, to allow an increase in production at this coal fine recovery and synthetic fuel manufacturing facility process in Carroll Township, **Washington County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.

46-318-045: Willow Grove Air Reserve Station (2164 McGuire Street, Willow Grove, PA 19090) on August 26, 2003, to operate a paint spray booth in Horsham Township, **Montgomery County**.

46-0035B: SmithKline Beecham Corp. d/b/a GlaxoSmith Kline (709 Swedeland Road, King of Prussia, PA 19406) on August 26, 2003, to operate an emergency electric generator in Upper Merion Township, **Montgomery County**.

46-313-057E: Republic Environmental Systems of PA, Inc. (2869 Sandstone Drive, Hatfield, PA 19440) on August 28, 2003, to operate a hazardous waste TSD in Hatfield Township, **Montgomery County**.

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

39-318-111: Gateway Industrial Services (805 Harrison Street, Allentown, PA 18103) to construct of two paint spray booths, one drying oven and the associated air cleaning device at their facility in Allentown, **Lehigh County**. The Plan Approval is being extended.

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

01-05029: Reliant Energy Hunterstown LLC (1001 Broad Street, P. O. Box 1050, Johnstown, PA 15907-1050) on August 26, 2003, to construct a natural gas fired electric generating facility at their Hunterstown Station in Straban Township, **Adams County**. This source is subject to the following: 40 CFR Part 60, Subpart GG—Standards of Performance for Stationary Gas Turbines; 40 CFR Part 60, Subpart Da—Standards of Performance for Electric Utility Steam Generating Units; 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units; and 25 Pa. Code Chapter 127, Subchapters D and E. This plan approval was extended.

67-03028A: Dentsply International—Trubyte Division (570 West College Avenue, York, PA 17405-0872) on July 21, 2003, to construct a hard chromium electroplating unit controlled by a multistate mist eliminator in the City of York, **York County**. This source is subject to 40 CFR Part 63, Subpart N—National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. This plan approval has been extended.

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

41-399-026: Penn Recycling, Inc. (2525 Trenton Avenue, Williamsport, PA 17701) on August 15, 2003, to extend the plan approval, as well as the authorization to operate an automobile/metal shredding system and associated air cleaning devices (a foam injection system and a cyclone collector) on a temporary basis, until December 13, 2003, in the City of Williamsport, **Lycoming County**. The plan approval has been extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

26-00547A: Mypodiamond, Inc. (1101 Mountain View Drive, Smithville, PA 15478) on August 25, 2003, to construct an industrial diamond plant in Georges Township, **Fayette County**. This plan approval was extended.

32-040B: Reliant Energy Seward, LLC (1001 Broad Street, P. O. Box 1050, Johnstown, PA 15907) on August 26, 2003, for ownership change from Reliant Energy Mid-Atlantic Power Holdings, LLC to Reliant Energy Seward, LLC.

Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

23-00014: Kimberly-Clark PA, LLC (Front and Avenue of the States, Chester, PA 19013) on August 27, 2003, to issue a Title V Operating Permit minor modification under the Air Pollution Control Act and 25 Pa. Code § 127.462 in the City of Chester, **Delaware County**. The modification to the permit addresses a change to the averaging heat input for boiler no. 10. Corresponding monitoring, recordkeeping, reporting and testing has been modified. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility within all applicable air quality requirements.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

22-05025: Eldorado Properties Corp. (P. O. Box 2621, Harrisburg, PA 17105) on August 26, 2003, to operate a bulk petroleum product storage and loading operation at their Highspire Terminal facility in Lower Swatara Township, **Dauphin County**. This is a renewal of the Title V operating permit.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

46-00116: PECORA Corp. (165 Wambold Rd., Harleysville, PA 19438) on August 27, 2003, to operate a Natural Minor Operating Permit in Lower Salford Township, **Montgomery County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

36-05074: New Holland Custom Woodwork, Ltd. (P. O. Box 217, New Holland, PA 17557-0217) on August 22, 2003, to operate a high quality wood products manufacturing facility in New Holland Borough, **Lancaster County**.

67-05028: Reliant Energy Mid-Atlantic Power Holdings, LLC (1001 Broad Street, P. O. Box 1050, Johnstown, PA 15907) on August 26, 2003, to operate two turbines at their electric generating station in Hopewell Township, **York County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

65-00706: Jeannette Shade and Novelty Co. (P. O. Box 99, North Fourth Street, Jeannette, PA 15644) on August 28, 2003, to operate a customized glass product production plant in Jeannette, **Westmoreland County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permit Actions

California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.

30841310. NPDES Permit PA0046132, Duquesne Light Company (Warwick Mine No. 3, P. O. Box 457, Greensboro, PA 15338), to renew the permit for the Warwick Mine No. 3 in Dunkard Township, **Greene County**, to renew permit for reclamation only, 012 Meadow Run, tributary to Dunkard Creek, Mundell Hollow. Permit issued August 26, 2003.

30841310. NPDES Permit PA0046132, Duquesne Light Co. (P. O. Box 457, Greensboro, PA 15338), to revise the permit for the Warwick No. 3 Mine in Dunkard Township, **Greene County**, for post-mining reclamation land use change, no additional discharges. Permit issued August 26, 2003.

30841310. NPDES Permit PA0046132, Duquesne Light Co. (P. O. Box 457, Greensboro, PA 15338), to renew the permit for the Warwick Mine No. 3 in Dunkard, Greene, Perry and Whiteley Townships, **Greene County**, renewal deep mine permit, no additional discharges. Permit issued August 26, 2003.

30841310. NPDES Permit PA0046132, Duquesne Light Co. (Warwick No. 3 Mine, P. O. Box 457, Portal No. 3, Greensboro, PA 15338), to revise the permit for the Warwick No. 3 Mine, Portal No. 3 in Dunkard Township, **Greene County**, to revise post-mining land use plan on 11.5 acres, no additional discharges. Permit issued August 28, 2003.

03860701. NPDES Permit PA0213519, McVillie Mining Co. (301 Market Street, Kittanning, PA 16201), to revise the permit for the McVillie Coal Refuse Area in South Buffalo Township, **Armstrong County**, CRDP Refuse Disposal Acres Proposed 15.8, no additional discharges. The first downstream potable water supply intake from the point of discharge is Buffalo Township Municipal Authority at Freeport. Permit issued August 28, 2003.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56980103 and NPDES Permit PA0234699. Godin Brothers, Inc., 5433 Front Street, Stoystown, PA 15563, permit renewal for continued operation of a bituminous surface mine in Lincoln and Jenner Townships, **Somerset County**, affecting 133.5 acres. Receiving streams: unnamed tributaries to Quemahoning Creek (CWF). The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Quemahoning Surface Water Withdrawal. Application received June 30, 2003. Permit received August 26, 2003.

32813007 and NPDES Permit PA0125458, Cloe Mining Company, Inc., P. O. Box J, Grampian, PA 16838, permit renewal for reclamation only and for continued restoration of a bituminous surface and auger mine and for discharge of treated mine drainage in Rayne and East Mahoning Townships, **Indiana County**, affecting 323.7 acres. Receiving streams: unnamed tributaries to Pine Run and to Pine Run (CWF). The first downstream potable water supply intake from the point of discharge is Indiana County Municipal Service Authority Crooked Creek Intake. Application received July 3, 2003. Permit received August 26, 2003.

32970105 and NPDES Permit PA0234419. TLH Coal Company, 4401 Pollock Road, Marion Center, PA 15759, permit renewal for reclamation only and for continued operation of a bituminous surface mine in Grant Township, **Indiana County**, affecting 54.2 acres. Receiving streams: East Run (HQ-CWF). There are no

potable water supply intakes within 10 miles downstream. Application received August 15, 2003. Permit issued August 27, 2003.

11930102 and NPDES Permit PA02129393. E. P. Bender Coal Company, Main and Lehmier Streets, P. O. Box 594, Carrolltown, PA 15722, permit renewal for continued operation of a bituminous surface/auger and beneficial use of fly ash mine in Dean Township, **Cambria County**, affecting 275.8 acres. Receiving streams: Little Laurel Run (CWF), an unnamed tributary to Clearfield Creek (CWF) and Clearfield Creek (WWF). There are no potable water supply intakes within 10 miles downstream. Application received April 9, 2003. Permit issued August 27, 2003.

56980102 and NPDES Permit PA0234681. Hoffman Mining, Inc., P. O. Box 130, 118 Runway Road, Friedens, PA 15541, permit renewal for continued operation of a bituminous surface and auger mine and for discharge of treated mine drainage in Shade Township, **Somerset County**, affecting 92.7 acres. Receiving streams: unnamed tributaries to Oven Run (CWF). The first downstream potable water supply intake from the point of discharge is Hooversville Borough Municipal Authority Stonycreek Surface Water Withdrawal. Application received April 14, 2003. Permit issued August 28, 2003.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

02980101 and NPDES Permit PA0202142. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Renewal permit for reclamation only for an existing bituminous surface mine in Findlay and North Fayette Townships, **Allegheny County**, affecting 16.1 acres. Receiving streams: Potato Garden Run and an unnamed tributary to Little Raccoon Run. Renewal application received May 29, 2003. Renewal permit issued August 27, 2003.

26850107 and NPDES Permit PA0589373. Oak Run Coal, Inc. (257 S. Mt. Vernon Avenue, Uniontown, PA 15401). Permit renewal issued for continued reclamation only of a bituminous surface mine in Georges Township, **Fayette County**, affecting 124.7 acres. Receiving streams: Muddy Run to Georges Creek. Renewal application received June 5, 2003. Renewal permit issued August 28, 2003.

65980102 and NPDES Permit PA0202207. V. P. Smith Co., Inc. (P. O. Box 242, Ligonier, PA 15658). Permit renewal for continued operation and reclamation of an existing bituminous surface mine, in Fairfield Township, **Westmoreland County**, affecting 82.8 acres. Receiving streams: unnamed tributaries to Hannas Run. Renewal application received June 12, 2003. Renewal permit issued August 27, 2003.

02020201 and NPDES Permit PA0250121. Coal Valley Sales Corp. (623 West Walheim Road, Pittsburgh, PA 15215). Permit revision issued to add the Damian Hantz property, add pond C-1 and reduce the operational/mining area to cover the cost difference at a bituminous surface mine/coal refuse reprocessing facility in Plum Borough, **Allegheny County**, now affecting 157.8 acres. Receiving streams: Little Plum Creek. Revision application received March 19, 2003. Revision issued August 28, 2003.

03970109 and NPDES Permit 0202126. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Permit renewal for reclamation only for an existing bituminous surface mine, in Cowanshannock Township, **Armstrong County**, affecting 97 acres. Receiving

streams: unnamed tributaries to Huskins Run and Huskins Run. Renewal application received May 29, 2003. Renewal permit issued August 28, 2003.

Noncoal Permit Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

58030816. Gary Matusavige (R. R. 4 Box 4263, Meshoppen, PA 18630), transfer and enlargement of quarry operation in Rush Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Permit received May 15, 2003. Permit issued August 11, 2003.

58030818. Donald R. Taylor (R. R. 3 Box 3646, Nicholson, PA 18446), commencement, operation and restoration of a quarry operation in Lathrop Township, **Susquehanna County** affecting 5 acres. Receiving stream: tributary to Horton Creek. Application received June 2, 2003. Permit issued August 15, 2003.

58030813. Mike Ely (R. R. 6 Box 6176A, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Springville Township, **Susquehanna County** affecting 3.0 acres. Receiving stream: tributary to Thomas Creek. Application received April 14, 2003. Permit issued August 15, 2003.

64010806T. Laura Travis (R. R. 1 Box 1482, Starucca, PA 18462), transfer and enlargement of a quarry operation in Scott Township, **Wayne County** affecting 3.0 acres. Receiving stream: tributary to Shehawken Creek. Application received June 16, 2003. Permit issued August 21, 2003.

5074SM4C5 and NPDES Permit PA0595888. New Enterprise Stone & Lime Co., Inc. (P. O. Box 77, New Enterprises, PA 16664), renewal of NPDES permit for discharge of treated mine drainage in Fannett Township, **Franklin County**, receiving stream: tributary to Dry Run. Application received July 10, 2003. Renewal issued August 26, 2003.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

10960304 and NPDES Permit PA0227218. Quality Aggregates, Inc. (200 Neville Road, Neville Island, PA 15225). Transfer of an existing limestone operation from North Washington Limestone, Inc. in Washington Township, **Butler County** affecting 186.0 acres. Receiving streams: unnamed tributary to South Branch Slippery Rock Creek. Application received December 2, 2002. Permit received August 22, 2003.

ABANDONED MINE RECLAMATION

Cambria Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, (814) 472-1800.

Bond Forfeiture	BF 472-101.1
Contract Awarded	
Location	Jefferson Township, Greene County
Description	Act 181 Bond Forfeiture Reclamation Project CT & LT Enterprise
Contractor	Amerikohl Mining, Inc.
Amount	\$130,155
Date of Award	July 31, 2003

Bond Forfeiture	BF 372-101.1
Contract Awarded	
Location	McCalmont Township, Jefferson County
Description	Act 181 Bond Forfeiture Reclamation Project Glenn Coal Company
Contractor	P & N Coal Company
Amount	\$290,998
Date of Award	August 15, 2003

Bond Forfeiture	DMF 011-101.1
Contract Awarded	
Location	Adams Township, Cambria County
Description	Act 181 Bond Forfeiture Reclamation Project Meadows & Leonard Mining, Inc.
Contractor	Hoffman Mining, Inc.
Amount	\$186,983
Date of Award	August 19, 2003

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 17901-2454, (570) 621-3118.

64034013. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting in Berlin Township, **Wayne County** with an expiration date of August 10, 2004. Permit issued August 25, 2003.

22034020. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in Lower Paxton Township, **Dauphin County** with an expiration date of December 20, 2003. Permit issued August 25, 2003.

06034045. Keystone Drilling & Blasting Specialist, Inc. (27 Independence Road, Mountaintop, PA 18707) and **Austin Powder** (P. O. Box 289, Northampton, PA 18067), construction blasting in Bern Township, **Berks County** with an expiration date of April 20, 2004. Permit issued August 25, 2003.

45034036. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting in Smithfield Township, **Monroe County** with an expiration date of August 12, 2004. Permit issued August 25, 2003.

67034057. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting in East Manchester Township, **York County** with an expiration date of September 30, 2004. Permit issued August 26, 2003.

21034047. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting in South Middleton Township, **Cumberland County** with an expiration date of September 30, 2004. Permit issued August 26, 2003.

36034085. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in West Lampeter Township, **Lancaster County** with an expiration date of December 31, 2004. Permit issued August 26, 2003.

67034058. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Lower Windsor Township, **York County** with an expiration date of December 31, 2004. Permit issued August 26, 2003.

46034033. Labrador Construction (P. O. Box 1379, Marshalls Creek, PA 18335) and **Austin Powder Company** (559 Nor-Bath Company, Northampton, PA 18067), construction blasting in Hatfield Township, **Montgomery County** with an expiration date of October 1, 2004. Permit issued August 27, 2003.

23034014. Brubacher Excavating, Inc. (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting in Bethel Township, **Delaware County** with an expiration date of September 21, 2004. Permit issued August 27, 2003.

28034027. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013), construction blasting in Guilford Township, **Franklin County** with an expiration date of December 21, 2003. Permit issued August 27, 2003.

21034048. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013), construction blasting in Silver Spring Township, **Cumberland County** with an expiration date of March 20, 2004. Permit issued August 27, 2003.

28034028. Geological Technologies, Inc. (715 Baltimore Street, Martinsburg, WV 25401), construction blasting in Antrim Township, **Franklin County** with an expiration date of November 21, 2003. Permit issued August 27, 2003.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

10034002. Forbes Excavating (R. D. 6, Box 344, New Castle, PA 16101). Blasting activity permit to develop future sites in the Industrial Park in Clinton Township, **Butler County** for 90 days. Application received August 21, 2003. Application issued August 26, 2003.

33034001. Glenn O. Hawbaker, Inc. (P. O. Box D, DuBois, PA 15801). Blasting activity permit to expand the DuBois Jefferson County Airport in Washington Township, **Jefferson County** for 120 days. Application received August 21, 2003. Application issued August 26, 2003.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

29034001. Wampum Hardware Company (2856 Stoystown Road, Friedens, PA 15541). Blasting activity permit issued for a road construction project SR Rt. 0030 Section 02S in Brush Creek and Licking Creek Townships, **Fulton County**. Expected duration of blasting is 365 days. Permit issued August 27, 2003.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

65034004. Brentzel Contracting (217 Fifth St., Irwin, PA 15642), for construction blasting, in Hempfield Township, **Westmoreland County**, with an expected duration of 150 days. Permit issued August 19, 2003.

02034007. Pyramid Excavating, Inc. (650 Washington Rd., Pittsburgh, PA 15228), for construction blasting,

in Collier Township, **Allegheny County**, with an expected duration of 365 days. Permit issued August 27, 2003.

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 may 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 to 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.

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 may 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 to 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 P. S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E39-417. City of Bethlehem, Department of Parks and Public Properties, 10 East Church Street, Bethlehem, PA 18018. City of Bethlehem, **Lehigh County**, Army Corps of Engineers Philadelphia District, Subbasin 2-C.

To remove an existing building and various other site amenities and to construct and maintain the West Sand Island Park Improvement Project in the floodplain and floodway of the Lehigh River and Lehigh Canal. Improvements include: (1) a 12-foot wide boat dock cantilevered approximately 6 feet over the Lehigh Canal; (2) two 12-foot wide fishing piers cantilevered approximately 4 feet over the Lehigh Canal; (3) a 16-foot wide precast-concrete boat launching ramp extending 15 feet into the Lehigh River; (4) a 24-inch diameter outfall pipe with an 8-foot wide by 24-foot long riprap apron in the floodway of the Lehigh River; and (5) various other site amenities in the floodplain of the Lehigh River including a picnic pavilion/storage building, restroom facilities, parking facilities, gravel paths, site lighting, minor grading, landscaping and utilities. West Sand Island Park is between the Lehigh River (WWF, perennial) and Lehigh Canal (CWF, perennial), approximately 0.35 mile north of the intersection of SR 0378 and SR 0412 (Allentown East, PA Quadrangle N: 20.9 inches; W: 1.5 inches). The project proposes to directly affect 52 linear feet of stream and 0.004 acre of floodway.

E45-449. Antoine and Albina Baroudi, 3 Yardley Court, Erial, NJ 08081. Jackson Township, **Monroe County**, Army Corps of Engineers Philadelphia District, Subbasin 01-E.

To maintain an existing private bridge having a single span of approximately 16.0 feet and underclearance of approximately 9.75 feet across Appenzell Creek (HQ CWF, perennial). The entire superstructure of the existing bridge was replaced under Emergency Permit EP4503401. The project is along SR 3021 (Neola Road), approximately 0.3 mile downstream of SR 3026 (Saylorburg, PA Quadrangle N: 19.1 inches; W: 14.3 inches). The project affected 12 linear feet of stream.

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

E22-462: Township of Derry, 235 Hockersville Road, Hershey, PA 17033 in Derry Township, **Dauphin County**, ACOE Baltimore District.

To install and maintain a bicycle/pedestrian bridge to cross an unnamed tributary to the Swatara Creek (WWF), just north of Wood Road and west of the intersection of Wood and Bullfrog Valley Roads and to install and maintain dumped rock protection in accordance with GP-3 along an unnamed tributary to Swatara Creek, just south of Wood Road (Hershey, PA Quadrangle Lat: 40° 15' 29"; Lon: 76° 41' 07") in Derry Township, Dauphin County.

E31-187: Juniata Valley School District, R. R. 1, P. O. Box 318, Alexandria, PA 16611 in Porter Township, **Juniata County**, ACOE Baltimore District.

To rehabilitate and maintain a 725-foot reach of an intermittent and perennial, unnamed tributary of the Frankstown Branch of the Juniata River (WWF) directly behind the Juniata Valley High School (Alexandria, PA Quadrangle N: 11.1 inches; W: 10.65 inches) in Porter Township, Huntingdon County. The project will involve the excavation of pools, the placement of stone and cross vanes for riffle and step-pool creation, the filling of 235 feet of side channel and floodway excavation and grading. A 5-foot pedestrian bridge and a 40-foot culvert crossing have been waived under 105.12(a)(2). The project proposes to directly affect 770 feet of the unnamed tributary to the Frankstown Branch of the Juniata River.

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

E12-139. Department of Transportation, Engineering District 2-0, Clearfield, PA 16830. Four Mile Hollow Stream Crossing in Shippen Township, **Cameron County**, ACOE Baltimore District (Rich Valley, PA Quadrangle N: 15.7 inches; W: 8.4 inches).

To remove the existing single span concrete slab bridge along the abutments and construct, operate and maintain a reinforced concrete box culvert. The box culvert shall have a minimum underclearance of 4.25 feet and have a span of 14 feet. The actual rise of the structure shall be 5.25 feet but contain an invert depression of 1 foot to allow for aquatic passage through the structure. A temporary road crossing is also authorized with this permit. The temporary road crossing shall be constructed of a diversion dike system (concrete barrier lined with polyethylene 6 mil liner and capped with sandbags) and a 36-inch culvert pipe to convey the flow around the work area. All fills over the crossing shall be free of fines and constructed of nonerodible material. The construction activities will have temporary wetland impacts of .026 acre and the entire project will permanently impact .036 acre of wetlands. The wetland vegetation under the temporary roadway will be protected by placing geotextile over the ground surface prior to placing any fill material for the roadway. Once construction is complete all original grades temporarily impacted by all construction activities shall be restored to their original grades and contours. Since Fourmile Hollow is a HQ CWF, indigenous plantings shall be placed to restore all upland and wetland vegetation that was impacted by the construction activities. This project is 7 miles north on SR 46 from Emporium.

E14-449. Department of Transportation, Engineering District 2-0, 1924-30 Daisy Street, Clearfield, PA 16830. SR 4002 Section A01 Bridge Replacement in Snow Shoe Township, **Centre County**, ACOE Susquehanna River Basin District (Snow Shoe, PA Quadrangle N: 9.9 inches; W: 11.1 inches).

To remove the existing bridge and appurtenant structures and: (1) to construct and maintain a precast

reinforced concrete box culvert with a single clear span of 16.0 feet (16.0 feet normal), 4.25-foot rise (1-foot depressed invert) and 32.0-foot long with precast reinforced concrete inlet and outlet end section; (2) realign existing drainage ditches along the downstream roadway embankments due to the increased roadway width and proposed approach roadway guide rail; (3) construct a drainage system consisting of a Type D Endwall, inlets, 24-inch thermoplastic pipe, 30-inch thermoplastic pipe and 30-inch reinforced concrete pipe with R-5 rock aprons at the inlet and outlet of the drainage system; (4) permanently fill 0.044 acre of wetland as a result of roadway embankment placement, culvert construction, proposed rock protection, new utility poles and the proposed drainage system; and (5) place R-6 riprap for scour protection at the inlet and outlet of the proposed culvert. The project is 2.1 miles east of the intersection of SR 144 and SR 4002 along SR 4002.

E41-528. James and Joni Frank, 881 Browns Lane, Linden, PA 17744. Small Projects Water Obstruction and Encroachment Joint Permit Application in Woodward Township, **Lycoming County**, ACOE Susquehanna River Basin District (Linden, PA Quadrangle N: 15.75 inches; W: 4.75 inches).

To construct and maintain a 31-foot 1-inch long by 12-foot 1-inch wide residential structure in the floodway of the West Branch of the Susquehanna River, 0.9 mile south of SR 0220 along Browns Lane in Woodward Township, Lycoming County. The construction granted under this permit is an enclosed porch conversion to residential living area, no new construction is taking place. This permit was issued under section 105.13(e) "Small Projects."

E57-101. Dushore Volunteer Fire Company No. 1, P. O. Box F, Dushore, PA 18614. Fire Company Building Addition in Dushore Borough, **Sullivan County**, ACOE Baltimore District (Dushore, PA Quadrangle N: 4.25 inches; W: 3.90 inches).

To construct and maintain a 16-foot by 40-foot addition to the existing fire fighting building in the floodway of Dushore Creek (CWF) on the north side of SR 4018 about 200 feet west of the intersection of SR 4018 with SR 0220 in Dushore Borough, Sullivan County. The project will not impact wetlands or waterways. Approximately 0.03 acre of earth will be disturbed by the project. This permit was issued under section 105.13(e) "Small Projects."

E59-439. Mansfield Borough, 19 East Wellsboro Street, Mansfield, PA 16933. Ellen Run Restoration Project from SR 0015 east to U. S. Army Corps of Engineers Property in Mansfield Borough, ACOE Baltimore District (Mansfield, PA Quadrangle N: 9.8 inches; W: 12.1 inches).

To realign the stream channel and to construct, operate and maintain a minimum of 12 in-stream structures for grade control or stabilization of Ellen Run. The channel relocation and stream restoration project shall be limited to a minimum length of 2,000 feet in Ellen Run. Construction of channel profile, geometry and meander pattern, as well as in-stream structures, shall be constructed during stream flow conditions ample to determine stream flow centerline. All in-stream structures, boulder revetment and stacked stonewall shall be constructed and maintained with durable, large blocky rock. Within 20 days of completing the Ellen Run Restoration Project, the permittee shall submit as-built plans of the restored stream reach to the Department. Through a qualified representative that is approved by the Department in

writing, the permittee shall conduct construction and post-construction monitoring. The project is along the south right-of-way of SR 0006 immediately east of SR 0015 and SR 0006 intersection. This permit does not authorize any temporary or permanent impact to the wetlands adjacent to project area. This permit also authorizes the construction, operation, maintenance and removal of temporary access roads, channel diversions, cofferdams and stockpiles in and along Ellen Run. All temporary facilities used for project construction shall be removed from floodplain areas; upon project completion, all areas of disturbance shall be restored and stabilized.

E59-445. Department of Transportation, 715 Jordan Avenue, Montoursville, PA 17754-0218. West Branch Tony Fork Culvert replacement in Delmar Township, **Tioga County**, ACOE Baltimore District (Tiadaghton, PA Quadrangle N: 8.4 inches; W: 3.3 inches).

To remove the existing single span I-beam bridge structure in its entirety and to construct, operate and maintain a concrete box culvert measuring 19 feet wide by 9 feet tall and has a curb-to-curb width of 28 feet. There shall be a 1-foot depression of the invert elevations leaving the actual height of structure to be 8 feet. Flow during construction is authorized to be diverted through a culvert pipe for clean water conveyance. The structure will impact 100 linear feet of the West Branch of Stony Fork (CWF).

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

E63-541. Cross Creek Township, 28 Clark Avenue, Avella, PA 15312. Parker Road Bridge in Cross Creek Township, **Washington County**, Pittsburgh ACOE District (Latitude: 40° 17' 41"—Longitude: 80° 26' 0") (Avella, PA Quadrangle N: 8.1 inches; W: 8.2 inches). To remove the existing twin 48-inch diameter culverts and to construct and maintain two 72-inch diameter culverts (depressed 1.0 foot below the stream bed) in Middle Fork Cross Creek (HQ-WWF) for the purpose of improving Parker Road. The project is on Parker Road (T-433) approximately 1,500 feet west from the intersection of Parker Road (T-433) and T-733. This project proposes to permanently impact 40.0 linear feet of Middle Fork Cross Creek.

ENVIRONMENTAL ASSESSMENTS

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

E16-004NW, Aquascape Wetland and Environmental Services, 147 South Broad Street, Grove City, PA 16127. Culbertson Restoration Area in Perry Township, **Clarion County**, ACOE Pittsburgh District (Parker, PA Quadrangle N: 19.0 inches; W: 1.0 inch).

To mine and reclaim 71 acres of abandoned surface mine land through a Government Financed Construction Contract (GFCC). An additional 20 acres of previously reclaimed surface mine acreage will also be enhanced under this project. The project will impact 11 PEM/PSS wetland areas totaling 1.07 acres, 800 linear feet of an unnamed tributary (CWF) to the Allegheny River and 0.25 acre of deepwater aquatic habitat associated with an impoundment from previous mining activity. Mitigation of wetland, stream and deepwater impacts will be addressed in the GFCC.

The proposal by RFI Energy, Inc. (555 Philadelphia Street, Indiana, PA 15701) to enter into a Government Financed Reclamation Construction Contract was re-

ceived by the Knox District Office on August 6, 2003, with permit application nos. 16-03-04 and NPDES Permit PA0242438.

WATER QUALITY CERTIFICATIONS

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

Except as otherwise noted, on September 3, 2003, the Department of Environmental Protection (Department), under section 401(a) of the Federal Clean Water Act (act) (33 U.S.C.A. § 1341(a)), certifies that the operation herein described will comply with the applicable provisions of sections 301, 302, 303, 306 and 307 of the act and that the operation will not violate applicable Federal and State water quality standards, provided the following requirements are met:

1. The project shall be operated in a run-of-river mode from April 1 through June 20 each year, with impoundment levels held constant at 1,092.5 feet above MSL +/- 0.5 foot.

2. Project impoundment levels shall be maintained from June 21 through March 31 in a manner as to protect Statewide water uses.

3. The project shall maintain a minimum conservation release of the lesser of project inflow or 158 cfs from June 21 through October 31.

4. The project shall provide conservation releases from November 1 through March 31 by passing 500 cfs for no less than two separate 4-hour blocks each day.

5. The project shall release a minimum of 600 cfs for the express purpose of recreational drift boating in the lower Clarion River on at least three Saturdays during the period from June 21 through October 31.

6. REMA shall develop and submit to the Department a monitoring plan providing for the monitoring of dissolved oxygen, water temperature, fish and benthic macroinvertebrates in the project vicinity.

7. REMA shall pursue a petition for redesignation of the reach of the Clarion River from the head of the Project impoundment to its confluence with the Allegheny River from CWF to WWF for aquatic life protection.

8. Certain other requirements and provisions as detailed in the Certification document dated August 29, 2003.

Final or proposed action on certain other certification requests for projects which require both a Water Obstruction and Encroachment permit and either a U. S. Army Corps of Engineers individual permit or a Nationwide permit 14, 18 or 26 will be published with Actions of Applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27).

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 may 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 to 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.

Regional Office: Regional Manager, Water Management Program, Northwest Region, 230 Chestnut Street, Meadville, PA 16335.

Certification Request Initiated by **Reliant Energy Mid-Atlantic Power Holdings, LLC (REMA)**, 1001 Broad Street, P. O. Box 1050, Johnstown, PA 15907-1050.

Date of Initial *Pennsylvania Bulletin* Notice: 33 Pa.B. 3640 (July 26, 2003)

Project Description: On September 3, 2002, the Department issued a Clean Water Act Section 401 Certification (Certification) for the operation of the Piney Hydroelectric Project near the Borough of Clarion in **Clarion County**. This action was published at 32 Pa.B. 4777 (September 28, 2002). On October 9, 2002, REMA appealed this action to the Environmental Hearing Board (EHB Docket No. 2002-242-R). Subsequent to the appeal, the Department and REMA entered into discussions in an effort to settle this matter. These discussions have resulted in changes to the Certification as highlighted in this notice. This Certification supercedes the previously issued Certification.

Location: Near the Borough of Clarion in Piney Township, Clarion County, ACOE Pittsburgh District (Clarion, PA Quadrangle N: 12.125 inches; W: 8.125 inches).

Final Action on Request: August 29, 2003

SPECIAL NOTICES

Certification to Perform Radon-Related Activities in this Commonwealth

In the month of August 2003, the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, ((800) 23RADON).

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Airtech Radon Services, Inc.	251 Fox Meadow Drive Wexford, PA 15090	Mitigation
Richard Armstrong	1268 Laurelwood Road Pottstown, PA 19465	Testing
Diane Clerkin	3461 St. Vincent Street Philadelphia, PA 19149	Testing
Richard Delaney, Jr.	275 Pioneer Road Franklin, PA 16323	Testing
Rene DeWitt	269 Burch Drive Moon Township, PA 15108	Testing
Joseph Flounlacker	370 Dohner Drive Lancaster, PA 17602	Mitigation
Joseph Hancaviz	406 Cherry Hill Road Nazareth, PA 18064	Testing
Anthony LaMastra A. B. E. Radiation Measurements Laboratory	1005 Old 22 Lenhartsville, PA 19534	Testing and Laboratory
Robert Lloyd	1678 Walnut Bottom Road Newville, PA 17241	Testing
Lawrence Nies	11021 May Road Wattsburg, PA 16442	Testing
Rachelle Painter	780 Pierson Run Road Pittsburgh, PA 15239	Testing
Lynne Russell	6 Woodledge Village Hawley, PA 18428	Testing
David Scott	417 Pikeland Avenue Spring City, PA 19475	Testing
Martin Smith U. S. Inspect, Inc.	3650 Concorde Parkway Suite 100 Chantilly, VA 20151	Laboratory
Three Rivers Inspection & Engineering, Inc.	1153 Stowe Avenue McKees Rocks, PA 15136	Testing
Michael Tyrell	720 Sourwood Lane Collegeville, PA 19426	Testing
Deborah Urenovitch	75 South Hunter Highway Drums, PA 18222	Testing

Requests for Certification under section 401 of the Federal Water Pollution Control Act

The following requests have been made to the Department of Environmental Protection (Department) for certification under section 401(a) of the 1972 amendments to the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). There is reasonable assurance that the construction herein described will not violate applicable Federal and State water quality standards.

Prior to final approval of the proposed certification, consideration will be given to any comments/suggestions/objections which are submitted in writing within 30 days of the date of this notice. Comments should be submitted to the Department at the address indicated before the requests for certification. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments/objections are addressed and a concise statement of comments/objections/suggestions in sufficient detail to inform the Department of the exact basis of the proposal and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given comments if deemed necessary to resolve conflicts. Individuals will be notified in writing of the time and place of a scheduled hearing or conference concerning the certification request to which the protest relates. Maps, drawings and other data pertinent to the certification request are available for inspection and review at the address indicated before the request for certification between 8 a.m. and 4 p.m., each working day.

Southeast Regional Office, Regional Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428-2233, (610) 832-6130.

Certification Request Initiated By: Weston Solutions, Inc.
1400 Weston Way
P. O. Box 2653
West Chester, PA 19380

Project Description/Location: This activity involves the discharge of supernatant from the USACE Fort Mifflin Confined Disposal Facility (CDF) in the Delaware Estuary—Zone 4. The supernatant will be generated through the disposal of approximately 17,000 cubic yards of sediment dredged from a proposed maintenance dredging project at the DRPA Philadelphia Cruise Terminal. Hydraulic dredging will be used to remove the sediment, which will be transported by pipeline to the Fort Mifflin CDF.

Re 30 (RN03) 240-17

BUREAU OF DEEP MINE SAFETY

Approval of Request for Variance

The Department of Environmental Protection, Bureau of Deep Mine Safety (Bureau) has approved Mears Enterprises, Inc.'s request for a variance from the requirements of section 242(c) of the Pennsylvania Bituminous Coal Mine Act (act) at the Dora No. 8 Mine. This notification contains a summary of this request and the basis for the Department's approval. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the Bureau website at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the Request: Mears Enterprises, Inc. requested a variance from section 242(c) of the act to allow for the common ventilation of belt conveyor entry with other entries at the Dora No. 8 Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements set forth in the act.

The basis for the Bureau's approval is summarized as follows:

1. The Logi-Tec LTPA98 Point Carbon Monoxide (CO) Monitoring System will provide advance warning of a developing mine fire originating in the conveyor belt entry. When maintained and operating correctly, this system provides warnings much earlier than the point type heat sensors. This system will supplement the belt conveyor automatic fire-warning device.

2. The operator will maintain a separate isolated intake escapeway that is at a higher air pressure than the belt and common entries.

3. The plan provides for the common entries to serve as an alternate intake escapeway. There will be a total of three separate, isolated escape routes. Open crosscuts between the common entry travelways and the belt conveyor entry increase the likelihood that personnel traveling in the common entries will be able to hear or smell potentially hazardous conditions and quickly correct them.

4. Common entries would provide easier access to the belt entry for maintenance thus reducing the risk of material handling injuries.

This approval is limited to a variance from the requirements in section 242(c) of the act requiring that the belt entry is isolated from other entries. All other terms and requirements of section 242(c) of the act shall remain in effect. Continued authorization for operation under the approval is contingent upon compliance with the measures described in the plan and the following conditions:

1. All mine employees shall be task trained in the Logi-Tec LTPA98 Point CO monitoring system alert and alarm response procedures. These procedures shall also be included in the 8-hour annual retraining.

2. As part of the requirements of section 228 of the act, all belt entries, common entries and unfenced roadways shall be preshifted in their entirety.

3. A preshift date board shall be placed at each CO sensor location.

4. Designated areas shall be established at strategic locations along the belt entry and common entry to determine whether the air is traveling in the proper course and normal volume. This air reading shall be taken by a scientific means (anemometer, chemical smoke tube, velometer) during the preshift exam and recorded in the official record book.

5. An additional CO monitor shall be installed in-by the Main B belt drive.

6. Belt air velocities shall be maintained equal to or greater than 50 fpm in the panel-room belt entry. Construction of ventilation devices in the common entries may be required to ensure the by-products of a fire (CO) reach the CO monitor in a timely manner.

[Pa.B. Doc. No. 03-1796. Filed for public inspection September 12, 2003, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website (www.dep.state.pa.us) at the Public Participation Center page. The "Current Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. 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 2003.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling 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.

Draft Technical Guidance

DEP ID: 362-2208-002. Title: Technical Decision Making and the Use of Conventional Technology, Alternate Technology, Experimental Technology, and Best Technical Guidance in Onlot Sewage System Repair Situations. Description: The purpose of this guidance is to establish a recommended decision process for use by Department staff, municipal officials and sewage enforcement officers when resolving repair of malfunctioning individual and community onlot sewage systems. This guidance will assist regional staff in the Act 537 program, municipal officials responsible for implementing sewage programs within their municipalities and SEOs responsible for permitting decisions within their service areas to provide better service when resolving onlot sewage system repair situations. Comment Period Ends: October 28, 2003. Contact: James Novinger, (717) 783-3795, jnovinger@state.pa.us.

Draft Technical Guidance—Substantive Revision

DEP ID: 391-2000-007. Title: Technical Reference Guide (WQM) 7.0 for Windows Wasteload Allocation Program for Dissolved Oxygen and Ammonia Nitrogen Version 1.0. Description: This document is an updated version to the existing document and model that performs the same function. The Department uses computer model WQM 7.0 to determine NPDES discharge effluent limitations for Carbonaceous BOD, Ammonia Nitrogen and Dissolved Oxygen for single and multiple point source discharge scenarios. This guidance provides a consistent basis for establishing effluent limitations. Comment Period Ends: October 12, 2003. Contact: Tom Starosta, (717) 787-4317, tstarosta@state.pa.us.

DEP ID: 391-2000-011. Title: Technical Reference Document PENTOXSD for Windows PA Single Discharge

Wasteload Allocation Program for Toxics. Description: The previous version of this model was DOS based and has become obsolete. The purpose of this technical reference guide is to describe how applicable regulatory requirements and technical methods are incorporated into PENTOXSD. PENTOXSD is the Commonwealth's Single Discharge Wasteload Allocation Computer Program for Toxic Substances. The guide explains how these requirements and methods are applied to available data to determine recommended effluent limitations. It describes the mathematical relationships, default equations and values and wasteload allocation procedures used in PENTOXSD. Comment Period Ends: October 12, 2003. Contact: Tom Starosta, (717) 787-4317, tstarosta@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 03-1797. Filed for public inspection September 12, 2003, 9:00 a.m.]

Cleanup Standards Scientific Advisory Board Meeting Cancellation

The Cleanup Standards Scientific Advisory Board meeting scheduled for Wednesday, September 17, 2003, has been cancelled. The next meeting is scheduled for Wednesday, December 10, 2003, at 10 a.m. in the First Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning this meeting should be directed to Marilyn Wooding, (717) 783-7509, mwooding@state.pa.us. The agenda and meeting materials for this meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at <http://www.dep.state.pa.us>.

Persons with a disability who require accommodations to attend the meeting should contact the Department at (717) 783-7509 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 03-1798. Filed for public inspection September 12, 2003, 9:00 a.m.]

Oil and Gas Technical Advisory Board Meeting Cancellation

The Oil and Gas Technical Advisory Board meeting scheduled for October 9, 2003, at 10 a.m. in the Tenth Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, has been cancelled. For information, contact James Erb, (717) 772-2199, jerb@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 03-1799. Filed for public inspection September 12, 2003, 9:00 a.m.]

Pennsylvania Bituminous Mine Safety Advisory Committee Meeting Cancellation

The October 8, 2003, meeting of the Pennsylvania Bituminous Mine Safety Advisory Committee has been cancelled. All future meetings are postponed and will be held at the discretion of the chairperson. For information, contact Allison Gaida, (724) 439-7289, agaida@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 03-1800. Filed for public inspection September 12, 2003, 9:00 a.m.]

DEPARTMENT OF HEALTH

Availability of Draft Preventive Health and Health Services Block Grant Application for Federal Fiscal Year 2004; Revised Notice

The Department of Health (Department) is making copies available of the draft Preventive Health and Health Services Block Grant Application for FFY 2004 under 42 U.S.C.A. § 300w-4. This application is the Commonwealth's draft request to the United States Department of Health and Human Services (DHHS) for block grant funding to address the Healthy People 2010 Health Status Objectives.

The block grant application (the Commonwealth's funding request to the DHHS) describing proposed services, program goals and objectives and activities will be available on or after August 15, 2003, and can be obtained by calling the Bureau of Chronic Diseases and Injury Prevention, (717) 787-6214. Persons with a disability who require an alternative format of the application (for example, large print, audio tape Braille) should contact the Bureau of Chronic Diseases and Injury Prevention, (717) 787-6214, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

A public hearing will be conducted by the Department for the purpose of receiving testimony on the application in accordance with 42 U.S.C.A. § 300w-4. Comments and suggestions from the public should relate to the priorities and program plans included in the application.

The hearing will be held from 10 a.m. until 12 p.m. September 17, 2003, in Conference Room 1000, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA. Persons wishing to testify are requested to preregister by contacting the Bureau of Chronic Diseases and Injury Prevention, (717) 787-6214. Registration will be accepted on the day of the hearing. Persons will be allotted a maximum of 15 minutes to testify. Testifiers should provide the Department with two copies of their testimony at the time of the hearing.

Written comments will be accepted and should be sent to the Bureau of Chronic Diseases and Injury Prevention, Room 1000, Health and Welfare Building, P. O. Box 90, Harrisburg, PA 17108, and should be received by 4 p.m. on September 18, 2003.

Persons with a disability who wish to comment in an alternative format (for example, large print, audio tape or Braille) should contact the Bureau of Chronic Diseases and Injury Prevention, (717) 787-6214, for speech and/or

hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 03-1801. Filed for public inspection September 12, 2003, 9:00 a.m.]

Health Research Advisory Committee Public Hearings and Meetings

The Health Research Advisory Committee (Committee) of the Department of Health (Department) will hold two public hearings followed by public meetings on November 5 and 17, 2003. The first public hearing and meeting will be held on November 5, 2003, at the Department of Health, Bureau of Laboratories, 110 Pickering Way, Lionville, PA 19353. Lionville is located south of the Pennsylvania Turnpike, Exit 23 (Downingtown) off Route 100 south towards West Chester.

The second public hearing and meeting will be held on November 17, 2003, at the Department of Health, Pittsburgh State Office Building, Sixth Floor Conference Room A, Room 605, 300 Liberty Avenue, Pittsburgh, PA 15222.

The primary purpose of the public hearings is to obtain suggestions for health research priorities under the Tobacco Settlement/Act 77, Commonwealth Universal Research Enhancement Program for State fiscal year 2004-05.

The public hearings will be held from 9:30 a.m. to 12 p.m. Comments must be submitted in writing by 2:30 p.m. on October 15, 2003, to David Hooper, Department of Health, Bureau of Health Statistics and Research, Health Research Program, 555 Walnut Street, 6th Floor, Harrisburg, PA 17101-1914, dhooper@state.pa.us. Written comments must be limited to no more than two typewritten pages. Persons wishing to present written statements orally at one of the public hearings must contact David Hooper, (717) 783-2548, by 2:30 p.m. on October 15, 2003, to make a reservation for testifying. Oral testimony will be limited to 3 minutes at one of the public hearings. Persons will be scheduled on a first come, first served basis, as time permits.

These meetings are open to the public. No reservations are required to attend the public meetings, but persons testifying must submit their testimonies in advance in accordance with the previous paragraph.

After the public hearings, a meeting of the Committee will be held from 1 p.m. to 3:30 p.m. The purpose of the meeting is to discuss the research priorities for State fiscal year 2004-05.

Current (2003-04) State fiscal year priorities for both formula funded and nonformula funded health research are posted on the Department's website (<http://www.health.state.pa.us>) under the Tobacco Settlement/Act 77, Commonwealth Universal Research Enhancement Program.

For additional information, contact Patricia W. Potrzebowski, Director, or Robin C. Cohick, Administrative Officer, Bureau of Health Statistics and Research, 555 Walnut Street, 6th Floor, Harrisburg, PA 17101-1914, (717) 783-2548.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape

or Braille) should contact Patricia W. Potrzebowski or Robin Cohick, Bureau of Health Statistics and Research, 555 Walnut Street, 6th Floor, Harrisburg, PA 17101-1914, (717) 783-2548, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

These hearings and meetings are subject to cancellation without notice.

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

[Pa.B. Doc. No. 03-1802. Filed for public inspection September 12, 2003, 9:00 a.m.]

Infant Hearing Screening Advisory Committee Meeting

The Infant Hearing Screening Advisory Committee, established under the Infant Hearing Education, Assessment, Reporting and Referral Act (11 P. S. §§ 876-1—876-9), will hold a public meeting on Thursday, October 30, 2003 from 1 to 4 p.m. in Conference Room 812, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA.

The Department of Health reserves the right to cancel this meeting without prior notice.

For additional information or persons with a disability who wish to attend the meeting and require auxiliary aid, service or other accommodation to do so, contact Karl Hoffman, Program Administrator, Hearing Program, Division of Newborn Disease Prevention and Identification, (717) 783-8143, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 03-1803. Filed for public inspection September 12, 2003, 9:00 a.m.]

Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program)

I. 2003-2004 WIC Food List

Under 28 Pa. Code § 1103.5(a) (relating to minimum inventory), the WIC Program publishes notice of the 2003-2004 WIC Food List which contains the required types of foods, and if applicable, names of the allowable brands of foods. Effective October 1, 2003, the 2003-2004 WIC Food List authorizes the following as allowable foods for the purpose of the WIC Program.

Cheese

Regular, reduced fat, low fat or fat free, low cholesterol, low sodium. If from the dairy case, the cheese must be marked with weight, type and cost. Minimum package size 8 ounces.

American (Pasteurized Process)	Cheddar
Cheddarella	Cojack
Colby (Longhorn)	Monterey Jack
Mozzarella	Muenster
Provolone	Swiss

Not Allowed: Individually wrapped, imported, deli service, cheese foods, imitation cheese, cheese products or spreads, string cheese, cheese with added ingredients.

Milk

Fluid (pasteurized; half gallons or gallons). Any fat level allowed; acidophilus allowed. Lactose reduced or lactose free if specified on the WIC check. Evaporated (12 ounce cans) if specified on the WIC check. Dry (packages) if specified on the WIC check.

Not Allowed: Flavored milk, buttermilk, goat's milk, milk with added calcium or protein.

Eggs

Any size raw shell eggs.

Juice

Single Strength (46 ounce container, 100% pure juice):

Orange	any brand
Apple	Seneca, Lucky Leaf or Musselman's
Pineapple	Dole, Great Value, Liberty Gold or any brand stamped "100% Hawaiian" on top
100% Grape, regular or white	Welch's, Seneca

V8 (all tomato flavors except spicy hot)	Campbell's
--	------------

Juicy Juice (any flavor)	Libby
--------------------------	-------

Frozen Concentrated (11.5 to 12 ounce container, 100% pure juice):

Apple	Seneca, Shurfine, Weis, Old Orchard, Foodland, Food Club, Finast
-------	--

Orange	any brand
Pineapple Orange	Dole
Pineapple-Orange-Banana	Dole
100% Grape	Seneca, Welch's with yellow pull tab top

White Grape Juice Blends	Welch's with yellow pull tab top
--------------------------	----------------------------------

Shelf Stable Concentrated (11.5 to 12 ounce container, 100% pure juice):

Juicy Juice any flavor	Welch's any flavor with yellow trim
------------------------	-------------------------------------

Not Allowed: Juices with added sugar, alcohol or carbonation.

Dry Beans and Peas

Any kind in 1-pound package

Not Allowed: Beans with seasonings

Cereal

Adult/Child Cereals:

Minimum package size 8 ounces

General Mills:

Cheerios (regular, multigrain)
Chex (wheat, corn, rice, multigrain)
Kix (regular only)
Total Corn Flakes
Wheaties (regular flavor)

Kellogg Co.:

Complete Bran Flakes (oat, wheat)
Corn Flakes
Mini Wheats (strawberry, raisin)

Product 19
Special K
Crispix

Little Crow Foods:
Co Co Wheats

Malto Meal:
Puffed wheat
Puffed rice
Toasted Oats
Crispy rice

Nabisco:
Cream of Wheat (Instant original, 1 minute, 2 1/2 minutes, 10 minutes)

Post:
Banana Nut Crunch
Honey Bunches of Oats (Honey Roasted and with Almonds)

Quaker Co.:
Instant Grits (all flavors)
Instant Quaker Oatmeal (regular flavor individual packets)
King Vitamin
Life (regular flavor)

Store Brand Cereal:
Crisp(y) Rice, Corn Flakes, Toasted Oats/Tasteos (Food Club, Weis Quality, Pathmark, Best Yet, Finast, Food Lion, ShopRite, ShurFine, Acme, Giant, Giant Eagle, Great Value, IGA, Krasdale)

Not Allowed: Individual serving boxes.

Peanut Butter

15 to 18-ounce container

Not Allowed: Reduced fat peanut butter; peanut butter mixed with jelly, marshmallow or chocolate.

Infant Formula

Contract Brand

Milk Based: Similac *Soy Based:* Isomil Advance
Advance w/Iron w/Iron

Other brands and types of formula must be specified on the WIC check.

Infant Juice

Gerber 4 ounce container.

Not Allowed: Organic varieties or juice with yogurt.

Infant Cereal

Gerber in 8 or 16-ounce box.

Not Allowed: Organic varieties, variety pack, cereal with fruit, formula or yogurt.

Tuna and Carrots

These foods are only for breast-feeding women whose babies do not get formula from WIC.

Tuna

(Any brand, chunk light, packed in water, 6 to 6 1/2-ounce cans)

Fresh Carrots

(Whole, unpeeled in 1 or 2-pound cello pack)

Canned Carrots

(Any brand sliced, 14 to 20-ounce can)

II. Contract Brand of Formula

Under 28 Pa. Code § 1103.5(c), the WIC Program publishes notice of the name of the contract brand of infant formula. The WIC Program has entered into a contract with Ross Laboratories to be the primary provider of infant formula for the WIC Program. The contract brand of infant formula is Ross Products' Similac Advance with Iron and Isomil Advance with Iron. Other brands and types of formula must be specified on the WIC check to be authorized for purchase with a WIC check. The information contained herein is effective October 1, 2003.

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

[Pa.B. Doc. No. 03-1804. Filed for public inspection September 12, 2003, 9:00 a.m.]

Tobacco Use Prevention and Cessation Advisory Committee Public Meeting

The Tobacco Use Prevention and Cessation Advisory Committee of the Department of Health will hold a public meeting on September 18, 2003, from 10 a.m. to 2 p.m. in Room E-100, Labor and Industry Building, Forster and Seventh Streets, Harrisburg, PA. The purpose of the meeting is to discuss the tobacco use prevention and cessation priorities for State fiscal year 2003-04.

This meeting is open to the public. No reservations are required to attend the public meeting.

For additional information, contact Judy Ochs, Director, or Brenda Reichert, Administrative Assistant, Division of Tobacco Prevention and Control, 1006 Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA 17120, (717) 783-6600.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact Judy Ochs or Brenda Reichert at (717) 783-6600, V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

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

[Pa.B. Doc. No. 03-1805. Filed for public inspection September 12, 2003, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors or their firms or any firms, corporations or partnerships in which these contractors or their firm have an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>	<i>Title</i>	<i>Category</i>
Buildings, Inc. (Fed. ER I.D. No. 23-2359870) and Steven Strange, individually, Elaine Strange, individually, Ruth Elaine Strange, individually and Wayne F. Strange, (Fed. ER I.D. No. 25-1347077)	R. D. 1, Box 226A Covington, PA 16917	8/29/03	Jewelry	(14)
			Luggage, Handbags, Carrying Bags, Wallets, and the like	(15)
			Medicine, Drugs and Medical Supplies; Prosthetic and Therapeutic Devices	(16)
			Miscellaneous	(17)
			Optical Goods	(18)
			Pets	(19)
			Religious Articles	(20)
			Restaurant Equipment and Supplies	(21)
			Shoes and Shoe Accessories	(22)
			Sporting Equipment, Clothing, Supplies and Recreational Equipment	(23)
			Tobacco Products	(24)
			Utilities and Fuel	(25)
			Tires	(26)
			Motor Vehicle, Leases and Rental (PTA Tax)	(26)
			Vehicle Rental Tax (VRT)	(27)

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 03-1806. Filed for public inspection September 12, 2003. 9:00 a.m.]

DEPARTMENT OF REVENUE

Taxable and Exempt Property

The Department of Revenue (Department) gives notice, in accordance with 61 Pa. Code §§ 52.1 and 58.1 (relating to purchases of medicines, medical supplies, medical equipment and prosthetic or therapeutic devices; and publication of the list of taxable and exempt tangible personal property), of additions, deletions and revisions to the list of taxable and exempt property under the sales and use tax provisions of the TRC published at 30 Pa.B. 2841 (June 3, 2000). Under 61 Pa. Code §§ 52.1 and 58.1, this list is required to be published by notice at least once every 3 years. In addition, the Department will publish a notice quarterly of any additions, deletions or revisions to the list.

Copies of the Retailers' Information Booklet may be obtained by calling the 24-hour answering service numbers for forms ordering: (800) 362-2050 and TT only (800) 447-3020.

Index to Categories

<i>Title</i>	<i>Category</i>
Books and Stationery	(1)
Business Supplies and Equipment	(2)
Clothing and Accessories	(3)
Cosmetics and Toilet Goods	(4)
Farming Supplies and Equipment	(5)
Flowers, Seeds, Fertilizers, and the like	(6)
Food and Beverages Sold From a Caterer or Establishment Serving Ready-to-Eat Food	(7)
Food and Beverages Sold From Other than a Caterer or Establishment Selling Ready-to-Eat Food	(8)
Hair Goods and Notions	(9)
Hobby Supplies, Toys, Games, Radios, Recorders, and the like	(10)
Home Sewing, Millinery and Craft Supplies	(11)
Household Goods and Supplies	(12)
A. Soaps and Detergents	
B. Cleaning and Polishing Preparations	
C. Paper Goods	
D. Wrapping Supplies	
Infant Supplies	(13)

Listing of Taxable and Exempt Property

T—Taxable
NT—Nontaxable

(1) Books and Stationery

Tax is imposed on books, stationery and stationery supplies, including Bibles and religious publications sold by religious groups.

- T—Bibles
- T—Comic books
- T—Crossword, game books
- T—Dictionaries
- T—Greeting Cards
- T—Instruction books for needle—craft, embroidery, knitting, and the like
- NT—Mail order catalogues
- NT—Newspapers of general circulation qualified to carry a legal advertisement
- T—Periodicals and magazines not purchased by subscription
- NT—Periodicals and magazines purchased by subscription
- T—School supplies, except when sold directly to a school district or nonprofit educational institution
- NT—Textbooks, when sold by a school or an authorized book store

(2) Business Supplies and Equipment

Generally, sales of business supplies and equipment used in construction, repair, and the like, of real estate are taxable.

- T—Amusement and record playing devices
- T—Building materials, supplies and equipment used in construction, repair, and the like, of real estate
- T—Business forms such as invoices, order books, and the like
- T—Cash register receipt paper
- T—Computer software, canned
- NT—Direct mail advertising materials, including calendars, matchbooks, and the like
- T—Display cases and merchandising equipment
- NT—Dry ice, when sold for internal packaging with the sale of property to others
- T—Fans
- T—Signs, circulars, show cards and posters

T—Vending machines and equipment
 NT—Wrapping supplies used in connection with the sale of products

(3) *Clothing and Accessories*

Generally, clothing is nontaxable except the following: (1) formal day or evening apparel; (2) articles made of real, imitation or synthetic fur, where the fur is more than three times the value of the next most valuable component material; and (3) sporting goods and clothing normally worn or used when engaged in sports (see Category 23).

T—Accessories and ornamental wear
 NT—Aprons
 NT—Belts and suspenders
 NT—Boots
 T—Bridal apparel and accessories
 T—Corsages and boutonnieres
 T—Costumes—Halloween, Christmas, and the like
 NT—Dress shields
 T—Formal clothing, including mother of the bride and flower girl dresses.
 T—Fur, articles made of fur on hide or pelt or any material imitative of fur and articles of which fur, real, imitation or synthetic, is the component material of chief value; and fur trimmed articles, if the value of fur is more than three times the value of the next most valuable component material. Felt, wool or fabric is not taxable unless it resembles fur on the hide.
 NT—Garters and garter belts
 NT—Girdles
 T—Gloves, baseball, golf, racquet, and the like
 NT—Gloves, cloth, leather, kid
 T—Gloves, sheepskin, fur, rubber
 NT—Gym suits
 T—Handkerchiefs
 NT—Headwear and millinery, all types
 NT—Hosiery, pantyhose and peds
 NT—Leotards and tights
 NT—Leather wearing apparel
 NT—Lingerie
 NT—Neckwear, ties
 NT—Nightgowns
 T—Prom dresses
 NT—Rainwear
 NT—Receiving blankets
 NT—Repairing of wearing apparel
 T—Safety clothing—(See Category 17)
 NT—Scarves, for headwear and neckwear
 NT—Scout uniforms and camp clothes
 T—Sheepskin coats
 NT—Stockings, including support hose
 NT—Suspenders
 T—Tuxedos
 T—Umbrellas
 NT—Underclothing
 NT—Work clothes, work uniforms
 NT—Yard goods (to make clothing)

(4) *Cosmetics and Toilet Goods*

T—After shave creams, lotions, powders
 T—Antiperspirants
 T—Aromatherapy products (candles, oils, washes, and the like)
 T—Atomizers containing perfume and other liquids
 T—Bath milks, oils, powders, salts, tablets, crystals, and the like
 T—Bath and shower gels and body shampoos

T—Bleach creams and lotions
 T—Blush, rouges
 T—Body lotion and creams
 T—Breath fresheners and breath sprays
 T—Bubble bath preparations
 T—Cocoa butter, if advertised or labeled for toilet purposes
 T—Colognes
 T—Compacts containing blush or powder, compact refills
 T—Cosmetics
 T—Creams, protective (having cosmetic claims or use as skin creams, antiperspirants)
 T—Creams, cleansing, beauty or cold
 T—Cuticle softeners and removers
 T—Deodorants (even though having a medicinal or curative value, if advertised or labeled for use as a body deodorant)
 T—Deodorants (for use in closets, bureau drawers, and the like, for imparting fragrance to clothing)
 NT—Deodorants, colostomy
 T—Dusting powders
 T—Essences and extracts, perfume
 T—Eyebrow pencils
 T—Eyelash mascara and eyelash and brow dyes
 T—Eye shadows, eyeliner
 T—Face lotions, facial oils, face creams
 T—Face packs
 T—Face powders, in loose or cake and liquid form
 T—Floral essences
 T—Foundation makeup
 T—Freckle removers, vanishing creams
 T—Hair conditioners and rinses
 T—Hairdressings, lotions, tonics and pomades (regardless of whether they are colored or scented)
 T—Hair dyes, colorings, tints, rinses and bleaches
 T—Hair gels and mousse
 T—Hair oils
 T—Hair removers
 NT—Hair restorative medications
 T—Hairsprays
 T—Hair straighteners
 T—Hand lotions and creams
 T—Lip balm and ointments
 T—Lipsticks, lipstick refills, liquid lip color, lip liner and lip gloss
 T—Lotions, cleansing and beauty
 T—Manicure preparations and kits
 T—Mask preparations
 T—Massage creams
 T—Makeup remover
 T—Mouthwashes
 T—Mustache wax
 T—Nail bleaches
 T—Nail polish removers
 T—Nail polishes, nail lacquers, nail enamel
 T—Perfumes and perfume ingredient kits
 T—Perfume novelties, containing perfume
 T—Permanent waving creams, lotions, neutralizer and kits
 T—Powder bases (liquid, cream and pressed)
 T—Sachets containing powder or aroma producing materials
 T—Scalp lotions, which are used or intended for use as a treatment for dry or oily hair
 T—Shampoos
 T—Shaving preparations, creams, lotions, powders, including medicated preparations

- T—Skin balms, bleaches, creams, fresheners, lotions, oils tonics or whiteners
- T—Sun allergy cream
- T—Sunburn preventives—suntan creams, lotions, oils, sunblock, and the like
- NT—Sunburn treatment, lotions or creams
- T—Talcum powder
- T—Toothbrush, electric
- NT—Toothbrush, toothpaste, tooth cleaners, dental floss and replacement brushes for electric toothbrush
- T—Water Piks
- T—Wave set, paste, powder or lotion
- T—Wrinkle removing and concealing preparations

(5) *Farming Supplies and Equipment*

The tax is not imposed upon the sale of property to a farmer to be used or consumed directly in the business of producing agricultural products. Home gardening is not considered farming. See REV-1729, Farming Information, for additional information.

- NT—Artificial breeding equipment and supplies
- T—Building supplies and materials used to build and repair barns, sheds, coops, and the like
- NT—Cleaners and disinfectants used in cleaning milking equipment and to sterilize milk cans to prevent spoilage. (Property used for general farm cleaning and maintenance is taxable)
- NT—Equipment used to extract a product from productive animals or from the soil, such as harvesters, combines, binders, forage blowers, milking equipment, egg collecting equipment, corn shuckers, threshers, manure handling equipment
- NT—Equipment such as barn shovels, ensilage forks, wheelbarrows and feed carts
- NT—Feed and feed additives for productive animals
- NT—Fencing, portable when used directly for farm use
- T—Fencing, including gates, which become a permanent part of realty
- NT—Fertilizer and chemical additives to be added to soil
- T—Fire prevention and safety equipment
- NT—Fuel for use in heating poultry brooder and greenhouses
- NT—Fumigation services upon agricultural commodities or containers used for agricultural commodities
- T—Greenhouses and mushroom houses (if permanently installed to the real estate)
- NT—Grooming materials, equipment and supplies when necessary for the health of productive animals
- NT—Harnesses used to control productive animals on the farm
- NT—Ice
- NT—Livestock equipment to dispense chemicals, medicines and feed additives
- NT—Livestock feeding equipment such as tubs, buckets, cans, and the like, feed scoops and portable watering devices
- T—Maintenance facilities including tools, machinery and equipment to maintain machinery, equipment or building property, such as chain hoists, tire spreaders, drills, sanders, lumber, nails, wrenches, brooms, welding equipment, paint brushes and sprayers
- NT—Milk strainers and strainer discs and towels (dispensers to store and dispense the discs are taxable)
- T—Motor vehicles, if required to be licensed by the Department of Transportation
- NT—Pest control services for agricultural purposes

- NT—Property which becomes an ingredient or constituent of a farm product or is consumed by productive animals or plant growth, such as seeds, fertilizer, chemical additives, and the like, and property such as seeders, planters, plows, harrows, cultivators, sprayers and similar equipment used to till soil, plant, seed and care for productive plants.
- NT—Property used to handle, store or preserve farm products or productive animals on farm premises such as chemicals, grooming equipment (dehorners, debeakers, hoof trimmers, calf weaners, and the like)
- T—Property used to transport or convey the farm product after the final farming operation
- T—Refrigeration or cooling equipment used to store farm products
- NT—Replacement parts such as tires, motors, belts, cutting edges, air filters, gears and similar replacement parts installed on exempt equipment. Motor fuels, lubricants, compressed air, distilled water, abrasives and similar supplies when used in operating exempt machinery are not taxable. Tools and equipment to apply parts and supplies are taxable.
- NT—Seeds
- NT—Silos
- T—Water heater for cleaning dairy equipment and supplies
- NT—Water pump for farm use
- NT—Wrapping supplies and containers which are nonreturnable to deliver self-produced farm products.

(6) *Flowers, Seeds, Fertilizers, and the like*

The tax is imposed upon the sale of property which is purchased by persons not engaged in the business of farming.

- T—Fertilizer, sprays, insecticides
- T—Gardening supplies
- T—Seeds and bulbs
- T—Vegetable plants, flowers and trees
- NT—Vegetable seeds, vegetable plants and fruit trees purchased with food stamps

(7) *Food and Beverages Sold From a Caterer or Establishment Serving Ready-to-Eat Food*

Generally, tax is imposed on food and beverages for consumption on or off the premises, on a take-out or to-go basis or delivered to the purchaser or consumer, when purchased from a caterer or an eating establishment from which ready-to-eat foods and beverages are sold, such as a restaurant, cafe, lunch counter, private or social club, tavern, dining car, hotel, night club, fast food operation, pizzeria, fair, carnival, lunch cart, ice cream stand, snack bar, lunch truck, cafeteria, employee cafeteria, theatre, stadium, arena, amusement park, juice stand, carryout shop, coffee shop, popcorn stand and other establishments, whether mobile or immobile.

- NT—Alcohol, malt or brewed beverages and wines. Tax is paid at time of purchase from a Liquor Control Board store or licensed malt beverage distributor.
- NT—Candy and gum
- T—All food and beverages, in any quantity, including both food and beverages prepared on the premises and prepackaged food and beverages.
- T—Food supplements and substitutes
- NT—Ice
- T—Nonalcoholic beverages

(8) *Food and Beverages Sold from Other than a Caterer or Establishment Selling Ready-to-Eat Food*

- NT— Bitters, grenadine and noncarbonated cocktail mixes
- NT— Candy and gum
- NT— Deli items such as meats and cheeses, potato salad, macaroni salad, and the like
- NT— Food, fruit drinks, soft drinks and sandwiches purchased with food stamps
- NT— Food supplements in any form
- NT— Fruit drinks, noncarbonated or reconstituted, containing at least 25% natural fruit juice
 - T— Fruit drinks, noncarbonated or reconstituted, containing less than 25% natural fruit juice
- NT— Ice
 - T— Nonalcoholic beverages
 - T— Soft drinks, bottled and nonbottled (including soft drink mixes and powder, liquid or tablet form)
- NT— Tea, all forms including liquid and powdered tea
- NT— Sweeteners, artificial
- NT— Water, including nonflavored mineral water
 - T— Water, flavored mineral

A vending machine, delicatessen, grocery store, supermarket, farmers market, bakery, donut shop, pastry shop or convenience store selling the following items, whether sold for consumption on or off the premises or on a take-out or to-go basis or delivered is considered to be an eating establishment with respect to the sale of the following items:

- T— Brewed coffee
- T— Hot beverages
- T— Hot food items
- T— Hot soup
- T— Hot pizza
- T— Ice cream, yogurt and other ice based products when hand dipped or hand served
- T— Meals—not including prepackaged frozen meals
- T— Salad bars, self-service
- T— Sandwiches
- T— Soft drinks

(9) *Hair Goods and Notions*

Generally, hair goods are taxable unless the item qualifies as clothing.

- T— Hair goods and notions, such as barrettes, hair pins, hair nets, curlers, clips, hair bow holders, combs, brushes, chignons, bandeaux
- T— Shower caps
- T— Wigs and toupees (the service of cleaning, styling, and the like, also is taxable)

(10) *Hobby Supplies, Toys, Games, Radios, Recorders, and the like*

- T— Baseball, football cards, and the like
- T— Bicycles and parts
- T— Boats and equipment
- T— Computer games and equipment
- T— Games
- T— Hobby supplies
- T— Musical instruments and sheet music
- T— Photographic and projection equipment and supplies
- T— Photographic services, film developing, printing, processing, mounting, coloring, and the like
- T— Pocket knives
- T— Radios, TV sets, receiving equipment
- T— Sound players, recorders, components and accessories, records, compact discs
- T— Tape recorders and tapes

- T— Toys
- T— Video cassettes, recorders and cameras

(11) *Home Sewing, Millinery and Craft Supplies*

Goods and items which are to become a component part of clothing are not taxable. Goods and items which become a component of articles other than clothing, such as formal wear and crafts, are taxable. Equipment and supplies used in sewing are taxable. Clothing is defined as articles designed for everyday wear.

- T— Artificial flowers
- NT— Buckles for clothing
 - T— Buckles for articles other than clothing
- NT— Buttons for clothing
 - T— Buttons for articles other than clothing
- T— Dress forms
- NT— Dress patterns
- NT— Fabrics for clothing
 - T— Fabrics for articles other than clothing
- NT— Dye, clothing fabric
- NT— Elastics for clothing
 - T— Elastics for articles other than clothing
- T— Embroidery hoops
- NT— Hooks and eyes for clothing
 - T— Hooks and eyes for articles other than clothing
- NT— Knitting yarn for clothing
 - T— Knitting yarn for articles other than clothing
- NT— Laces, ribbons, edgings, trimmings for clothing
 - T— Laces, ribbons, edgings, trimmings for articles other than clothing
- T— Needlecraft instruction books
- T— Needles
- T— Rug yarns
- T— Scissors
- T— Sewing kits
- NT— Shoulder pads
 - T— Tape measures
- T— Thimbles
- NT— Thread for clothing
 - T— Thread for articles other than clothing
- NT— Yard goods for clothing
 - T— Yard goods for articles other than clothing
- T— Yarn holders
- NT— Zippers for clothing
 - T— Zippers for articles other than clothing

(12) *Household Goods and Supplies*

- T— Air fresheners
- T— Ant traps
- T— Basin stoppers
- T— Batteries
- T— Bedding
- T— Books
- T— Boot caddy
- T— Brooms
- T— Buckets
- T— Candles
- T— Charcoal
- T— Cloth dish towels
- T— Cloth hand and bath towels
- T— Cloth laundry bags
- T— Clothesline
- T— Clothespins
- T— Coat hangers
- T— Cookware, pots and pans
- T— Cutlery
- T— Decorations
- T— Dinnerware
- T— Dishpans
- T— Dispensers

T—Door mat
 T—Drinking glasses
 T—Easter egg color/paint
 T—Extension cords
 T—Filters, disposable air
 T—Fire extinguishers
 T—Fly swatters
 T—Fly tapes
 T—Furnishings, appliances, fittings, ornaments, furniture, equipment and accessories. Furnishings including bedding, rugs, lamps, hardware, electrical goods, mirrors, pillows, scarves for furniture, bookends, clocks, glassware, crockery, silverware, flatware and other household wares.
 T—Fuses
 T—Glue
 T—Greeting cards
 T—Grill utensils, scrapers
 T—Grill replacement parts
 T—Hardware and tools
 T—Household linens, blankets
 T—Insecticide sprays
 T—Ironing board and covers
 T—Jars for canning and jar lids
 T—Light bulbs
 T—Lubricating oils
 T—Matches
 T—Metal and plastic cooking utensils and flatware
 T—Mops
 T—Moth balls
 T—Moth flakes
 T—Mouse traps
 T—Needles
 T—Notebooks
 T—Oilcloth
 T—Paints, brushes and painting equipment
 T—Paint removers
 T—Plants, vegetable and flower (see Category 6)
 T—Playing cards
 T—Polishing cloths
 T—Refrigerator deodorants
 T—Rubber gloves
 T—Rug shampoo applicators
 T—Salt, water softeners
 T—Sandpaper
 T—Scrub brushes
 T—Seeds, vegetable and flower (see Category 6)
 T—Shoe brushes
 T—Sponges
 T—Squeegee scraper
 T—Stationery
 T—Static control spray, sheets
 T—Thermometers
 T—Thimbles
 T—Tie racks
 T—Toothpicks
 T—Turpentine and paint thinner
 T—Vacuum bottles
 T—Vacuum cleaner bags, disposable
 T—Vacuum cleaner parts
 T—Ventilating fans and equipment
 T—Water filters, replacement
 T—Wax applicators
 T—Wax paraffin

A. Soaps and Detergents

T—Bleaches
 T—Bluing
 T—Borax
 T—Cleaner, septic tank, hand, oven, toilet bowl or tile

T—Cleansers
 T—Detergents
 T—Drain opener
 T—Dry cleaning kits
 T—Pre-soaks
 T—Rug shampoo
 T—Soaps, scented and unscented
 T—Softeners (fabric)
 T—Spot removers
 T—Starch
 T—Whiteners

B. Cleaning and Polishing Preparations

T—Car cleaners and waxes
 T—Glass cleaner
 T—Polishes, floor, furniture, silver and similar items
 T—Removers, rust or wax
 T—Scouring pads
 T—Steel wool

C. Paper Goods

T—Cups, paper, plastic or styrene
 NT— Disposable diapers and incontinence products
 T—Drop cloths, paper and plastic
 T—Facial tissue
 T—Filters, coffee
 T—Napkins
 T—Place mats
 T—Plates, paper, plastic or styrofoam
 NT— Sanitary napkins, tampons or similar items used for feminine hygiene
 T—Shelf paper, liners
 T—Straws
 T—Tablecloths
 NT— Toilet tissue
 T—Towels
 NT— Wet-wipes

D. Wrapping Supplies

T—Aluminum foil
 T—Food bags
 T—Plastic wraps
 T—Tape, masking, scotch, plastic, freezer, duct
 T—Trash bags, paper and plastic
 T—Twine
 T—Wax paper
 T—Wrapping paper, including gift wrapping, ribbons, and the like

(13) Infant Supplies

T—Accessories, nursing bottles, nipples, teething beads, teethingers
 NT— Bibs
 T—Car seats, infant
 T—Crib blankets
 T—Diaper bags
 NT— Diaper pins
 NT— Diapers, cloth and disposable
 NT— Diaper Service
 T—Liners, (nursing bottles)
 T—Receiving blankets for infants
 NT— Rubber pants

(14) Jewelry

T—Earring backs
 T—Jewelry, although a religious symbol is incorporated
 T—Ornaments and pins for hats and dresses

(15) Luggage, Handbags, Carrying Bags, Wallets, and the like

T—Bags, carrying, athletic, book, and the like
 T—Handbags, pocketbooks and purses

T—Knitting bags
 T—Leather goods, except clothing
 T—Luggage, briefcases
 T—Wallets and billfolds

(16) *Medicine, Drugs and Medical Supplies; Prosthetic and Therapeutic Devices*

The tax is not imposed on prescription or nonprescription medicines and drugs or medical supplies, crutches and wheelchairs for the use of people with disabilities, artificial limbs, artificial eyes and artificial hearing devices, when designed to be worn on the person of the purchaser or user, false teeth and materials used by a dentist in dental treatment, eyeglasses, when especially designed or prescribed by an ophthalmologist, oculist or optometrist for the personal use of the owner or purchaser and artificial braces and supports designed solely for the use of people with disabilities or any other therapeutic, prosthetic or artificial device designed for the use of a particular individual to correct or alleviate a physical incapacity, including, but not limited to, hospital beds, iron lungs and kidney machines.

T—Acne cleaners and acne pads
 NT—Acne treatments, lotions, creams
 T—Adhesive removers
 NT—Adhesives used for medical treatment
 T—Air cleaners and electrostatic machines
 NT—Alcohol, rubbing
 NT—Analgesics
 NT—Antacids
 NT—Antiseptics, for external use only
 NT—Applicators (see “Cotton applicators”)
 NT—Arch supports
 NT—Arm slings
 NT—Artificial eyes
 NT—Artificial limbs
 NT—Aspirin
 T—Autoclave
 NT—Automobile accessories, when noted by the Department of Transportation upon the motor vehicle operator’s license of the purchaser that such accessories are necessary and when charges for accessories are stated separately by the vendor on the sales invoice.
 NT—Automobile wheelchair lifts
 T—Baby powder
 NT—Bandages, dressings, gauze and cotton
 T—Bath tub and bathroom safety devices
 T—Batteries, unless purchased from a medical supply house
 T—Bed boards
 NT—Bed drain bags
 NT—Bed pans
 NT—Bed trapeze bars
 NT—Benzoin
 T—Bidet toilet seats
 T—Blankets
 T—Blood agar plates
 NT—Blood glucose monitors used to treat diabetes (therapeutic devices)
 NT—Blood pack units
 T—Blood pressure testing apparatus
 NT—Bone pins
 NT—Braces and supports worn on the body to correct or alleviate a physical incapacity
 NT—Braille teaching texts
 T—Breast pumps
 NT—Breathing units, intermittent positive pressure
 NT—Burn ointment and lotion
 NT—Calamine lotion

NT—Canes
 NT—Cardiac emergency kit
 NT—Cardiac pacemakers and electrodes
 NT—Castor oil
 NT—Catheters and accessories
 T—Chemical agents and related supplies for analysis of patients’ specimens
 NT—Cod liver oil
 NT—Colostomy appliances
 NT—Colostomy deodorants
 NT—Commodes, chair bedside
 NT—Commode seats, elevated for use by incapacitated persons
 NT—Contact lenses and wetting solutions
 T—Contact lenses cleaning solutions
 NT—Corn pads and plasters for the removal of corns
 NT—Cotton applicators, cotton rolls, cotton balls and cotton swabs
 NT—Cough and cold items, cough drops, cough syrups
 NT—Crutches
 NT—Crutch pads
 NT—Defibrillators
 T—Dehumidifiers
 NT—Dental floss
 NT—Dental materials used in dental treatment, including X-ray film, cotton, impression and materials
 T—Dentist chair
 NT—Dentist drills, disposable
 NT—Dentist materials which are transferred to the patient, including dentures, fillings, crowns, inlays, bridges and lingual or palatal bars
 T—Dentist replacement burs, drills, reusable
 NT—Denture products, including denture cleaners and adhesives
 T—Deodorants, personal and room
 T—Diagnostic equipment
 T—Diagnostic glassware and diagnostic testing materials
 NT—Dialysis machines
 NT—Diathermy machines
 NT—Dietary supplements and substitutes, in any form
 NT—Diet pills
 T—Disinfectants
 NT—Drapes, paper
 T—Ear plugs
 T—EKG mounts and EKG paper
 NT—Elastic bandages and braces
 T—Electrocardiocorder
 NT—Emesis basins or pans
 NT—Epsom salts
 T—Esophageal dilator
 T—Eucalyptus oil
 NT—Examining table paper
 T—Exercise equipment, including exercise bikes and treadmill exercisers
 NT—Eye ointment
 NT—Eye pads
 NT—Eye washes
 NT—Eyeglasses, prescription
 NT—False teeth
 NT—First aid kits
 NT—Fluidic breathing assistor
 NT—Food substitutes
 NT—Foot pads, insoles, all types
 NT—Foot products for treatment of infections
 NT—Gauze
 NT—Gloves, surgical, disposable
 NT—Glycerine
 NT—Gowns, medical
 NT—Hearing aids and batteries

- T—Heaters, portable, room
- NT—Heating pads
- NT—Hospital beds, having side rails, electric and non-electric with attachments
- NT—Hot water bottles
 - T—Humidifiers
- NT—Hygienic needs, douche powder, vaginal preparations
- NT—Hydrogen peroxide
- NT—Ice bags
- NT—Ileostomy bags
- NT—Incontinence products, including incontinence pants
- NT—Infusion pumps
- NT—Inhalation therapy equipment and equipment used to provide emergency breathing assistance
- NT—Insulin
 - T—Intravenous stand
- NT—IUD devices
 - T—Laboratory testing and analysis equipment and supplies
- NT—Lactose intolerance medication
- NT—Lamps, ultraviolet and infrared
- NT—Laxatives and cathartics
- NT—Lifters, patient
- NT—Lubricating jelly
- NT—Lymphedema pumps
 - T—Mattresses, air
- NT—Mattresses, alternating positive pressure
- NT—Mattresses and covers for hospital beds
 - T—Medical alert cards
 - T—Medical alert systems
- NT—Medicine cups, disposable
- NT—Mercurochrome
 - T—Microscopes
- NT—Milk of magnesia
 - T—Mouthwashes
- NT—Muscle stimulator, electronic for physical therapy
- NT—Nasal cannula
 - T—Nasal speculum
 - T—Needle holder
- NT—Needles, disposable
 - T—Needles and syringes, reusable
- NT—Orthodontic brackets
 - T—Orthodontic trays
- NT—Orthopedic splints
 - T—Overbed tables
- NT—Oxygen and oxygen equipment, when used for medical treatment
- NT—Pads, moist heat pad, alternating positive pressure pad, flotation pad, lambs wool pad
- NT—Paraffin bath units, standard or portable
 - T—Percussors
- NT—Pet medicines
- NT—Petroleum jelly
- NT—Physical therapy equipment, when designed exclusively for use in correcting or alleviating a physical incapacity
 - T—Plaque remover
 - T—Pore cleaners, medicated, pore strips
- NT—Postural drainage chairs
- NT—Postural support chairs
- NT—Premoistened wipes
- NT—Prophylactics
- NT—Prostheses (mammary, malar, chin, urinary, incontinence, and the like)
 - T—Pumice powder
- NT—Pump, diaphragm, pressure vacuum
 - T—Razor blades
- NT—Rectal preparations
 - T—Safety grab bars
- NT—Sanitary napkins, tampons and similar items
 - T—Sanitizer, air
 - T—Sauna baths
 - T—Scissors
 - T—Shaving products
 - T—Sheets, cloth
- NT—Sheets, disposable
- NT—Shoe insoles, orthopedically designed
- NT—Sitz bath
- NT—Smoking deterrents, gum and patch
 - T—Soaps
- NT—Specimen containers, disposable
 - T—Sphygmomanometer
 - T—Sphygmostat
- NT—Stair gliders for persons having a physical disability
 - T—Stethoscope
- NT—Styptic pencils
 - T—Suction machines and pumps
- NT—Sunburn treatment lotions or creams
 - T—Sunglasses (unless prescription)
 - T—Suntan lotion, sunblock
- NT—Suppositories
 - T—Surgical instruments
- NT—Surgical instruments and supplies, single use disposable
- NT—Sutures
- NT—Syringes, disposable
 - T—Syringes, reusable
- T—Tables, bedside
- T—Tables, examining
- T—Talcum powder
- T—Telecaption equipment
- NT—Test strips used in treatment of diabetes
 - T—Testing kits, pregnancy, UTI
 - T—Thermometer, medical
- NT—Thermometer covers, disposable
- NT—Tongue depressor, disposable
- NT—Toothache drops
- NT—Toothbrushes
- NT—Toothpaste
- NT—Tourniquets
- NT—Trachea tubes
- NT—Traction units, including bed stand, anklet, extension, pelvic or cervical units, head holder, fracture unit with trapeze bar set, weights, weight bags, pelvic lacing belt and over door traction equipment
- NT—Tubing, intravenous
- NT—Urine drain bag
 - T—Vacutainers
- NT—Vaginal diaphragms
 - T—Vapona strips
 - T—Vaporizers
- NT—Vitamins
- NT—Walking bars and walkers
- NT—Wheelchairs and batteries
 - T—Whirlpool baths and whirlpool pumps
 - T—X-ray equipment and machines
 - T—X-ray film and chemicals not used by dentists

(17) *Miscellaneous*

- T—Antiques
- T—Bullion (gold, silver)
- NT—Caskets, burial vaults, markers, cremation urns and tombstones for human graves, including foundations
- T—Coin banks and coin holders
- T—Coins and paper money, which are not legal tender in the United States, are taxable on full purchase price
- T—Coins and paper money, which are legal tender in the United States, are taxable on amount in excess of face value

- T—Dry ice, except when sold as an internal packaging material to retailer, manufacturer or processor
- NT—Safety equipment and devices designed and worn by production personnel employed in manufacturing, processing, mining, public utility, farming and dairying. Examples: asbestos suits, gloves, aprons, boots, masks, helmets, goggles and similar items
- T—Equipment and devices worn by nonproduction personnel
- T—Fencing materials
- NT—Flags of the United States and the Commonwealth. Bunting and others are taxable.
- T—Flags kits, that include poles or brackets
- T—Fuel for motor vehicles, except when subject to Liquid Fuel or Fuel Use Tax
- T—Lunch kits, vacuum bottles and replacement parts
- T—Motor vehicle repair services (including labor), accessories, parts, supplies, lubricants and equipment
- T—Party favors
- NT—Pony rides
- T—Religious articles
- T—Scout supplies and training manuals, except when sold to a scout troop
- T—Souvenirs
- T—Stamps, uncancelled United States stamps are taxable on amount in excess of face value
- T—Stamps, cancelled United States stamps and all foreign stamps are taxable on the full purchase price
- T—Trading stamp redemption for taxable property
- NT—Coupon books sold to individual consumers

(18) *Optical Goods*

- NT—Contact lenses and wetting solutions
- T—Contact lenses cleaning solutions
- NT—Eyeglasses, prescription
- T—Magnifying glasses
- T—Opera glasses and field glasses
- T—Sunglasses (prescription sunglasses are exempt)

(19) *Pets*

- NT—Boarding, sitting or walking
- T—Clippers and clipper lubricants
- T—Equipment (collars, leashes, and the like)
- NT—Flea collars, flea powder, flea and tick soap and tick sprays
- T—Food, including food supplements and prescription food
- T—Grooming
- NT—Medicines and medical supplies
- T—Pet caskets and urns
- NT—Pet cremation and burial services
- T—Sale or rental of pets
- T—Shampoo
- NT—Veterinarian services
- T—Vitamins

(20) *Religious Articles*

Bibles, religious publications and religious articles are subject to tax unless purchased by organizations qualifying as institutions of purely public charities which hold an exemption number prefixed by the number 75 and government entities.

- T—Bibles (printed, audio or electronic data)
- T—Candles used in religious worship
- T—Holy water bottles
- T—Clergy vestments and choir and altar server clothing
- T—Nativity scenes
- T—Religious statues, medals and symbols used in

- religious worship
- T—Religious publications sold by religious groups
- T—Rosaries
- T—Wines used in religious services

(21) *Restaurant Equipment and Supplies*

Equipment, implements and similar property for use in the preparation and service of food is taxable.

- T—Carbonator for soda fountain operation
- NT—Carbon dioxide for soda fountain
- T—Equipment used to prepare and serve food and beverages
- T—Ice making equipment
- T—Napkins, wooden or plastic spoons, forks, straws and similar articles for use in restaurants, vending machines and other eating places
- T—Vending machines and equipment
- NT—Wrapping supplies, paper or plastic plates, cups and similar articles for the delivery of food, used by restaurants or in vending machines

(22) *Shoes and Shoe Accessories*

Generally shoes designed for everyday wear are exempt. However, shoes designed for formal wear or sporting activities are taxable.

- T—Bathing (swimming) shoes
- NT—Overshoes
- NT—Safety shoes
- T—Shoe brushes, applicators and shoe trees
- T—Shoe clips
- NT—Shoe dye
- NT—Shoe laces
- NT—Shoe polish
- NT—Shoe repairs
- T—Shoes for baseball, bowling, football, golf, soccer, hockey, dance, and the like
- T—Shoes for formal wear, such as metallic cloth, brocade, satin or silver leather, primarily for formal wear.
- NT—Slippers
- NT—Shoe soles and heels for shoe repair
- NT—Shower clogs
- NT—Sneakers, jogging, tennis and aerobic shoes

(23) *Sporting Equipment, Clothing, Supplies and Recreational Equipment*

Tax is imposed on sporting and recreational equipment, clothing and supplies which are designed to be worn and are normally worn only when engaged in sports.

- T—Accessories such as ammunition belts, hip waders and fly vests
- NT—Baseball caps and tee shirts
- T—Bathing caps
- T—Bathing suits
- T—Beach coats
- T—Bicycles, parts, accessories and supplies
- T—Boats, pleasure boats and equipment and parts
- NT—Bowling shirts
- T—Equipment and supplies for baseball, football, hockey, basketball and other sports
- T—Exercise equipment
- T—Guns and ammunition
- NT—Gym suits, outfits
- T—Helmets
- NT—Hunting coats, pants and coveralls
- T—Hunting wear, reflecting orange
- NT—Jogging outfits, running shoes
- T—Mats, floor
- T—Protective equipment, knee pads, elbow pads, fore-

- arm pads, and the like
- T—Sleeping bags
- NT—Sneakers, jogging, tennis and aerobic shoes, and the like
- NT—Snowmobile suits
- T—Uniforms, baseball, football, soccer, basketball, hockey, and the like
- NT—Warm-up suits, cloth sweat suits
- T—Weights
- T—Skates, ice, roller, in-line

(24) *Tobacco Products*

- T—Chewing tobacco, snuff
- T—Cigarettes
- T—Smoking accessories
- T—Tobacco, cigars

(25) *Utilities and Fuel*

- NT—Coal
- NT—Coin-operated telephone charges
- T—Firelogs, processed
- NT—Firewood, kindling and wood pellets for residential use
- NT—Fuel oil, gas, steam or electricity purchased for residential use
- T—Fuel oil, gas, steam or electricity purchased for commercial use
- T—Interstate and intrastate telephone services for residential or commercial use
- NT—Basic telephone service and subscriber line charges for residential use
- T—Basic telephone service and subscriber line charges for commercial use
- T—Utilities for office or business within home

(26) *Tires and Motor Vehicle Leases and Rentals Subject to Public Transportation Assistance Fund Taxes and Fees (PTA) (61 Pa. Code § 47.19)*

The following items are subject to a PTA fund taxes or fees as follows. The tax or fee is in addition to sales or use tax which may be due. However, the sales, use, PTA taxes or PTA fees shall not be included within the tax base when imposing taxes or fees.

<i>Item</i>	<i>PTA Tax/Fee</i>	<i>Exemption</i>
Tires, new tires for highway use (used tires and tires for off highway use are not subject to the fee.)	\$1 fee upon the sale of each new tire.	Exempt only if purchased by a government entity.
Rentals of motor vehicles (the term rental shall mean the transfer of the possession of a motor vehicle for a period of less than 30 days.)	\$2 fee upon each rental day.	Exempt, if lessee qualifies for sales tax exemption.
Leases of motor vehicles (the term lease shall mean the transfer of possession of a motor vehicle for a period of 30 or more days.)	3% tax upon the total lease payment including down payment and accelerated lease payments.	Exempt, if lessee qualifies for sales tax exemption.

(27) *Vehicle Rental Tax (VRT) (61 Pa. Code § 47.20)*

Rental companies that have available for rental 5 or more motor vehicles designed to carry 15 or less passengers or a truck, trailer or semitrailer used in the transportation of property, other than commercial freight that is rented without a driver, are responsible for collecting an additional 2% tax. This tax is imposed on the purchase price, as calculated for sales tax purposes, of each rental contract for a period of 29 consecutive days or less. The VRT is separate from and in addition to, applicable State or local sales tax or the \$2 daily PTA fees.

Rental companies may claim a refund up to the amount of tax remitted for licensing and titling fees paid to the Commonwealth during a previous calendar year.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 03-1807. Filed for public inspection September 12, 2003, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Wheatland Tube Company—Division of John Maneely Company v. DEP; EHB Doc. No. 2003-221-L

Wheatland Tube Company—Division of John Maneely Company has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in the City of Sharon, Mercer County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER
Chairperson

[Pa.B. Doc. No. 03-1808. Filed for public inspection September 12, 2003, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Invitation to Bid

The Health Care Cost Containment Council (Council), an independent State agency that collects, analyzes and

disseminates health care cost and quality-related information, seeks to obtain services of a licensed physician to assist them in their clinical and technical efforts to promote quality improvement activities in the health care delivery system. Interested parties are requested to contact the Council office by writing the Health Care Cost Containment Council, Suite 400, 225 Market Street, Harrisburg, PA 17101, Cherie Elias, (717) 232-6787, celias@phc4.org, for copies of the bid specifications. Bids are due to the Council office by 5 p.m. on October 14, 2003, and will be opened at a public meeting of the Executive Committee of the Council on the date indicated in the specifications.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 03-1809. Filed for public inspection September 12, 2003, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, August 28, 2003, and announced the following:

Regulation Deemed Approved under section 5(g) of the Regulatory Review Act—Effective August 27, 2003

Environmental Quality Board #7-379: Stream Redesignation; East Branch Cordorus Creek (amends 25 Pa. Code Chapter 93)

Action Taken—Regulation Approved

Environmental Quality Board #7-377: Stream Redesignations; Oysterville Creek, et al. (amends 25 Pa. Code Chapter 93)

Approval Order

Public Meeting held
August 28, 2003

Commissioners Voting: John R. McGinley, Jr., Esq., Chairperson; Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq., dissenting; Arthur Coccodrilli; Murray Ufberg, Esq.

Environmental Quality Board—Stream Redesignations; Oysterville Creek, et al.; Regulation No. 7-377

On April 23, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (EQB). This rulemaking amends 25 Pa. Code Chapter 93. The proposed regulation was published in the May 4, 2002, *Pennsylvania Bulletin* with a 45-day public comment period. During the public comment period, the EQB received a request to conduct a public hearing on the proposed redesignations of Oysterville Creek and West Branch Perkiomen Creek. As a result of this request, the EQB scheduled a public meeting and hearing August 7, 2002. In addition, the public comment period for those streams was extended to August 21, 2002. The final-form regulation was submitted to the Commission on July 24, 2003.

This rulemaking redesignates six separate streams located in Bedford, Berks, Delaware and York Counties.

We have determined this regulation is consistent with the statutory authority of the EQB (35 P. S. § 691.5 et seq.) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 03-1810. Filed for public inspection September 12, 2003, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Merger

An application has been received requesting approval of the merger of Builders Direct Insurance Company, a stock casualty insurance company organized under the laws of the Commonwealth, with and into Eastern Atlantic Insurance Company, a stock casualty insurance company organized under the laws of the Commonwealth. The initial filing was received on August 28, 2003, and was made under the GAA Amendments Act of 1990 (15 P. S. §§ 21205—21207). Persons wishing to comment on the grounds of public or private interest in this merger are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Written statements must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, cbybee@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1811. Filed for public inspection September 12, 2003, 9:00 a.m.]

Blue Cross of Northeastern Pennsylvania; Non-group Basic; Rate Filing No. 750-BC NG Base—1/1/04

On August 28, 2003, Blue Cross of Northeastern Pennsylvania submitted a filing requesting the Insurance Department's (Department) approval to increase the current monthly rates by 6.25% for the Blue Cross Nongroup Basic Conversion and Direct Enrollment Rated Program. The projected average number of contracts per month during the January 1, 2004—December 31, 2004, period is approximately 5,900. The proposed increase will generate additional revenue of \$824,542. An effective date of January 1, 2004, is requested.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1812. Filed for public inspection September 12, 2003, 9:00 a.m.]

Blue Cross of Northeastern Pennsylvania; Non-group Special Care; Rate Filing No. 751-BC-SP—1/1/04

On August 28, 2003, Blue Cross of Northeastern Pennsylvania submitted a filing requesting the Insurance Department's (Department) approval to increase the current monthly rates by 6.14% for the Blue Cross Nongroup Special Care Program. The projected average number of contracts per month during the January 1, 2004—December 31, 2004, period is approximately 3,273. The proposed increase will generate additional revenue of \$149,463. An effective date of January 1, 2004, is requested.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1813. Filed for public inspection September 12, 2003, 9:00 a.m.]

Erie Insurance Exchange; Homeowners Insurance Rate Revision

On August 21, 2003, the Insurance Department (Department) received from Erie Insurance Exchange a filing for a proposed rate level change for homeowners insurance.

The company requests an overall 9.4% increase amounting to \$22.493 million annually, to be effective January 1, 2004.

Unless formal administrative action is taken prior to October 20, 2003, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square,

Harrisburg, PA 17120, xlu@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1814. Filed for public inspection September 12, 2003, 9:00 a.m.]

HealthGuard; Premium Rate Increase; Group Business; Rate Filing

On August 28, 2003, HealthGuard submitted a base rate filing for the medical and pharmacy plans requesting a rate increase of 26.4% for Base HMO, 25% for POS and 12%—13% for prescription drug products. This filing will affect 63,600 members in the medical plans and 48,400 in the prescription drug plans. The annualized additional revenue from the proposed rate increase is approximately \$38.5 million. The proposed effective date of this increase is October 1, 2003.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1815. Filed for public inspection September 12, 2003, 9:00 a.m.]

Highmark, Inc. d/b/a Highmark Blue Shield; Security65 Hospital and Medical/Surgical Plan E (Western Region); Rate Filing

On August 29, 2003, by filing no. 1-S65E-03-HBCBS, Highmark Inc. d/b/a Highmark Blue Shield submitted to the Insurance Department (Department) for its review and approval increased rates for its Security65 Hospital and Medical/Surgical Plan E for the western region of this Commonwealth. The proposed increase is 7.8%. An effective date of January 1, 2004, has been requested. Approximately 1,645 contracts will be affected. The increased rates will generate additional annual income of approximately \$193,000.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1816. Filed for public inspection September 12, 2003, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Keith D. Young; file no. 03-188-06764; Erie Insurance Company; doc. no. P03-08-030; October 7, 2003, 10:30 a.m.

Appeal of Shirley Ann Reap and Richard C. Warabak; file no. 03-182-07831; Erie Insurance Exchange; doc. no. P03-08-028; October 8, 2003, 1 p.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Ernst Ford; file no. 03-280-03712; American Independent Insurance Company; doc. no. PH03-08-045; November 20, 2003, 12:30 p.m.

Appeal of Curtissa Mack; file no. 03-280-03562; American Independent Insurance Company; doc. no. PH03-08-026; November 20, 2003, 1:30 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid,

service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1817. Filed for public inspection September 12, 2003, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Michael A. and Mary Jo Mullenax; file no. 03-188-06792; Nationwide Mutual Fire Insurance; doc. no. P03-08-029; October 2, 2003, 1:30 p.m.

The following hearing will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Daniel and Marilyn Corradetti; file no. 08-181-06242; Farmers New Century Insurance; doc. no. PH03-08-046; November 20, 2003, 10:30 a.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1818. Filed for public inspection September 12, 2003, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board lease will expire:

Westmoreland County, Wine & Spirits Shoppe #6517, Westmoreland Mall, 970 E. Pittsburgh Street, Greensburg, PA 15601-3519.

Lease Expiration Date: January 31, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 10,000 net useable square feet of new or existing retail commercial space within a shopping center environment along Route 30, East of Greensburg.

Proposals due: October 3, 2003, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 03-1819. Filed for public inspection September 12, 2003, 9:00 a.m.]

MILK MARKETING BOARD

Hearing Postponement; Milk Marketing Area No. 2

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the public hearing for Milk Marketing Area No. 2 scheduled for September 15, 2003, has been postponed. When a new hearing date has been determined, a new hearing notice will be issued.

Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

LYNDA J. BOWMAN,
Secretary

[Pa.B. Doc. No. 03-1820. Filed for public inspection September 12, 2003, 9:00 a.m.]

Hearing Postponement; Milk Marketing Area No. 3

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the public hearing for Milk Marketing Area No. 3 scheduled for September 15, 2003, has been postponed. When a new hearing date has been determined, a new hearing notice will be issued.

Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

LYNDA J. BOWMAN,
Secretary

[Pa.B. Doc. No. 03-1821. Filed for public inspection September 12, 2003, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 with a copy served on the applicant, on or before October 6, 2003. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between the hours of 8 a.m. to 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-00120075. Stanley C. Orlin t/d/b/a PA Transport Service (1550 Hellerman Street, City and County of Philadelphia, PA 19149)—persons, in paratransit service, from points in the City and County of Philadelphia, to all State and Federal correctional institutions in Pennsylvania, and return.

A-00120079. Jay W. Plank (696 East Millport, Lititz, Lancaster County, PA 17543-9240)—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the Counties of Lancaster, Berks, Chester, Lebanon and Dauphin, and from points in said counties, to points in Pennsylvania, and return.

A-00120092. Dale E. Kreider (34 Dennis Drive, New Providence, Lancaster County, PA 17560)—persons in paratransit service, between points in Lancaster County, and from points in said county, to points in Pennsylvania, and return, limited to the transportation of persons whose personal convictions prevent them from owing or operating motor vehicles.

A-00120074. Lee Edward Williams t/d/b/a Williams Taxi (70 Mt. Rock Road, Lot No. 108, Shippensburg, Franklin County, PA 17257)—persons upon call or demand in the Borough of Shippensburg, in the Counties of Franklin and Cumberland, the Borough of Orrstown, Franklin County, the Township of Southampton, in Cumberland County and the Township of Southampton, in Franklin County.

A-00120098. Met-Trans, Inc. (3501 Vista Street, Bottom Floor, City and County of Philadelphia, PA 19136), a corporation of the Commonwealth—persons, in paratransit service, between points in the counties of the City and County of Philadelphia, and the Counties of Delaware and Bucks, and from points in said territory, 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 *persons* by *transfer* of rights as described under each application.

A-00120088. All Luxury Limousine, Private Car, Bus Transportation, Inc. (1339 Fidelity Drive, Pittsburgh, Allegheny County, PA 15236), a corporation of the State of Nevada—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the Counties of Armstrong, Indiana and Westmoreland, and from points in said counties and the County of Allegheny, to points in Pennsylvania, and return; which is to be a transfer of all the rights authorized under the certificate issued at A-00117375, Folder 2, to Snow White Dove Limousine, Inc., subject to the same limitations and conditions. *Attorney:* David M. O'Boyle, 1450 Two Chatham Center, Pittsburgh, PA 15219.

A-00120088, Folder 2. All Luxury Limousine, Private Car, Bus Transportation, Inc. (1339 Fidelity Drive, Pittsburgh, Allegheny County, PA 15236), a corporation of the State of Nevada—(1) persons, in limousine service, between points in Pennsylvania; and (2) persons in limousine service, between points in the County of Allegheny; which is to be a transfer of all the rights authorized under the certificate issued at A-00117375, Folder 1 and Folder 1, Am-A, to Snow White Dove Limousine, Inc., subject to the same limitations and conditions. *Attorney:* David M. O'Boyle, 1450 Two Chatham Center, Pittsburgh, PA 15219.

Application of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.

A-00117072, Folder 3. Corry Cab Company t/d/b/a Corry Cab Company (127 Park Street, Corry, Erie County, PA 16407), a corporation of the Commonwealth—persons in paratransit service, between points in the Counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Elk, Clarion and Jefferson, and from points in said counties, to points in Pennsylvania, and return.

Application of the following for approval of the right to begin to operate as a broker for the transportation of persons as described under the application.

A-00120078. Kline Tours, Inc. (123 Baumgardner Drive, Greencastle, Franklin County, PA 17225), corporation of the Commonwealth—brokerage license—to arrange for the transportation of persons, between points in Pennsylvania. *Attorney:* Clinton T. Barkdoll, 9 East Main Street, Waynesboro, PA 17268.

Application of the following for additional right 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-00119623, Folder 2. Woolfie & Son Enterprise, Inc. (P. O. Box 124, Saylorsburg, Monroe County, PA 18353), a corporation of the Commonwealth—household goods in use, between points in the County of Monroe, and from points in said county, to points in Pennsylvania, and vice versa.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1822. Filed for public inspection September 12, 2003, 9:00 a.m.]

Telecommunications

A-310513F7008. CTSI, LLC and Sprint Spectrum, L. P. Joint petition of CTSI, LLC and Sprint Spectrum, L. P. for approval of a negotiated interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

CTSI, LLC and Sprint Spectrum, L. P., by its counsel, filed on August 15, 2003, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a negotiated interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the CTSI, LLC and Sprint Spectrum, L. P. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1823. Filed for public inspection September 12, 2003, 9:00 a.m.]

Telecommunications

A-311260F7001. Verizon North Inc. and Norvergence Inc. Joint petition of Verizon North Inc. and Norvergence Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Norvergence Inc., by its counsel, filed on August 22, 2003, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and Norvergence Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1824. Filed for public inspection September 12, 2003, 9:00 a.m.]

Telecommunications

A-310752F7000. Verizon Pennsylvania Inc. and MCI metro Access Transmission Services, LLC. Joint petition of Verizon Pennsylvania Inc. and MCI metro Access Transmission Services, LLC for approval of amendment no. 2. to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and MCImetro Access Transmission Services, LLC, by its counsel, filed on August 21, 2003, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 2 to an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and MCImetro Access Transmission Services, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1825. Filed for public inspection September 12, 2003, 9:00 a.m.]

Telecommunications

A-311260F7000. Verizon Pennsylvania Inc. and Norvergence, Inc. Joint petition of Verizon Pennsylvania Inc. and Norvergence, Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Norvergence, Inc., by its counsel, filed on August 22, 2003, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Norvergence, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1826. Filed for public inspection September 12, 2003, 9:00 a.m.]

Telecommunications

A-311275F7000. Verizon Pennsylvania Inc. and Southwestern Bell Mobile Systems, LLC d/b/a Cingular Wireless. Joint petition of Verizon Pennsylvania

Inc. and Southwestern Bell Mobile Systems, LLC d/b/a Cingular Wireless for approval of amendment no. 1 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Southwestern Bell Mobile Systems, LLC d/b/a Cingular Wireless, by its counsel, filed on August 13, 2003, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 1 to an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Southwestern Bell Mobile Systems, LLC d/b/a Cingular Wireless joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1827. Filed for public inspection September 12, 2003, 9:00 a.m.]

2004 Schedule of Filing Dates for Recovery of Purchased Gas Costs; Doc. No. L-840102

Under 52 Pa. Code § 53.64(a) (relating to filing requirements for natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million), the Pennsylvania Public Utility Commission annually publishes a schedule of filing dates for jurisdictional gas utilities subject to the procedure of 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments) for the recovery of purchased gas costs.

The 2004 schedule of filing dates is as follows:

February 1, 2004: National Fuel Gas Distribution Corporation—Pennsylvania Division; T. W. Phillips Gas and Oil Company

March 1, 2004: Philadelphia Gas Works

April 1, 2004: Columbia Gas of Pennsylvania, Inc.; Peoples Natural Gas Company; Equitable Gas Company

June 1, 2004: P. G. Energy, Inc.; PECO—Gas Division; UGI Corporation; PFG Gas, Inc.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1828. Filed for public inspection September 12, 2003, 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.

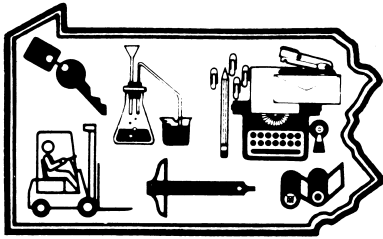
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

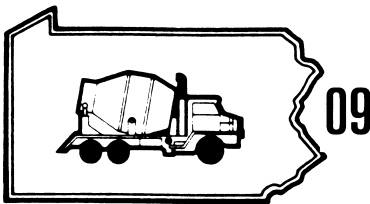


Commodities

GRN 24000 826 Two (2) Minimum Capacity 40-Lb. Commercial Washer Extractors, 208-240V; and Two (2) 50-Lb. Minimum Capacity Commercial Electric Dryers, 208-240V/3PH.

Department: Corrections
Location: SCI Greene, 169 Progress Drive, Waynesburg, PA 15370
Duration: Tentative procurement of products within 90 days.
Contact: Laura Mohr, Purchasing Agent, (724) 852-5534

SERVICES



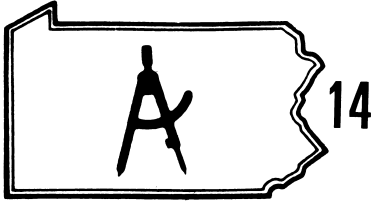
Construction & Construction Maintenance

025036 This contract will provide manpower, equipment and incidental guiderail material for installation of approximately 32,000 linear feet of strong post guiderail and approximately 2,000 linear feet of weak post guiderail, at various locations within McKean County. A mandatory pre-bid meeting will be held to review guiderail locations. All bidders must be prequalified to bid on this project. Pa. Prevailing Wage Act does apply.

Department: Transportation
Location: Various locations in McKean County
Duration: One Year
Contact: Warren Buchanan, (814) 465-7754

42-026234 This contract will provide manpower, equipment, and incidental guiderail material for installation of approximately 38,000 linear feet of strong post guiderail and approximately 3,000 linear feet of weak post guiderail. All guiderail material will be supplied by the Department except for the bolts, nuts, washers, rotating brackets, connection plates, anchor bolts, concrete for the end treatments, and end anchorages. It will be the Contractor's responsibility to pick up and deliver the material to the various worksites. The Department shall be responsible for removal of all existing guiderail and for any grading of shoulder stabilization, prior to the placement of the guiderail by the Contractor. A MANDATORY pre-bid meeting (one day) will be held to include review of guiderail locations and site(s) where the guiderail will be stored will be determined. All requests for bid packages must be received by FAX at (814) 274-9764 ATTN: Karen C. Espenshade, Purchasing Agent, or by PHONE at (814) 274-9181 Ext. 3008. ***All bidders must be prequalified to bid on this project. The Pennsylvania Prevailing Wage Act does apply.

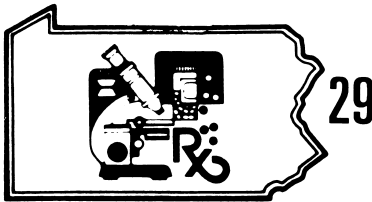
Department: Transportation
Location: Various locations throughout Potter County.
Duration: This is a one-year contract.
Contact: James Close, Acting County Maintenance Manager, (814) 274-9181



Engineering Services

PennDOT-ECMS The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at www.dot2.state.pa.us.

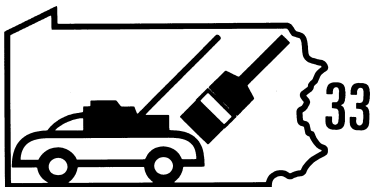
Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us



Medical Services

0803 The Pennsylvania Health Care Cost Containment Council, an independent state agency that collects, analyzes and disseminates health care cost and quality-related information, seeks to obtain services of a licensed physician to assist them in their clinical and technical efforts to promote quality improvement activities in the health care delivery system. Interested parties are requested to contact the Council Office by writing the Health Care Cost Containment Council, Suite 400, 225 Market Street, Harrisburg, PA 17101, or by calling or e-mailing Cherie Elias at (717) 232-6787 or celias@phc4.org for copies of the bid specifications. Bids are due to the Council Office no later than 5 p.m. on October 14, 2003, and will be opened at a public bid meeting of the Executive Committee of the Council on the date indicated in the specifications.

Department: PA Health Care Cost Containment Council
Location: Suite 400, 225 Market Street, Harrisburg, PA 17101
Duration: 1 year with renewal options
Contact: Cherie Elias, (717) 232-6787



Property Maintenance

FM 8690 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Altoona Liquor Control Enforcement. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

Department: State Police
Location: Altoona LCE Office, 930 Route 22 East, Duncansville, PA 16635
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8691 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Erie Liquor Control Enforcement. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

Department: State Police
Location: Erie LCE Office, 8349 Perry Highway, Erie, PA 16509
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

CL-587, Renovation of Gemmell Student Center Clarion University is soliciting bids for renovations to the snack bar and other interior areas at Gemmell Student Center. This project consists of four separate prime contracts. General, HVAC, Plumbing, and Electrical Construction. The project includes selective demolition, followed by renovation of the existing snack bar, coffee house, adjacent offices, and corridor space within the Gemmell Student Center. The work involves site work, structural steel, interior construction and finishes, kitchen equipment installation, heating, ventilation and air conditioning system renovation and upgrades, plumbing system renovation and upgrades, and electrical service renovation and upgrades. Pre-bid Meeting: 10 a.m., September 16, 2003. Bids Due: 2:00 p.m., September 30, 2003. Plans Cost: \$145.00 for complete set of plans and specifications, payable to STV Architects. Plans and specifications may be reviewed without charge at the Builders Exchanges—list available from architect. Contact for Plans and Specifications procurement: STV Architects, 205 West Welsh Drive, Douglassville, PA 19518; Attn: Virginia Stoudt; (610) 385-8325, rothensm@stvinc.com.

Department: State System of Higher Education
Location: Clarion University, Clarion, PA
Duration: 210 Days from Notice to Proceed
Contact: Judy McAninch, Contract Specialist, (814) 393-2240

FM 8689 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas on an "ON CALL" basis as required at the PA State Police, Department Headquarters, Harrisburg, PA 17110. The awarded vendor will provide backup and/or additional snow removal equipment and manpower as needed. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

Department: State Police
Location: Department Headquarters, 1800 Elmerton Avenue, Harrisburg, PA 17110
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8692 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Philadelphia Liquor Control Enforcement. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

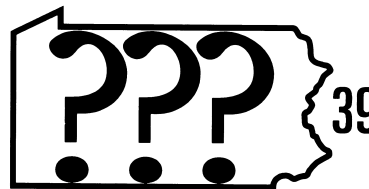
Department: State Police
Location: Philadelphia LCE Office, 6901 Woodland Avenue, Philadelphia, PA 19142
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8693 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Wilkes-Barre Liquor Control Enforcement. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

Department: State Police
Location: Wilkes-Barre LCE Office, 1095 Hanover Street, Wilkes-Barre, PA 18706
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8695 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Hazleton Aviation Patrol Unit. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

Department: State Police
Location: Hazleton Aviation Patrol Unit, Hazleton Municipal Airport, Hazleton, PA 18201
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951



Miscellaneous

RFP 20030814 The PLCB has a requirement for a vendor to receive shipments of alcohol beverage products and supplies via truck and rail, and to store these products in a vendor provided warehouse facility. Vendor will process and deliver orders for merchandise and supplies to the PLCB store locations. The fragile nature of the glass and the liquid contents and the high value associated with the product require a secured, stable temperate environment, as well as responsible material handling.

Department: Liquor Control Board
Location: PLCB Central Distribution Area
Duration: 5 to 10 Years
Contact: Nelson A. McCormick II, (717) 787-9851

[Pa.B. Doc. No. 03-1829. Filed for public inspection September 12, 2003, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
|--|---|

DONALD T. CUNNINGHAM, Jr.
Secretary

