



Volume 34 (2004)

Pennsylvania Bulletin
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October 30, 2004 (Pages 5877-6006)

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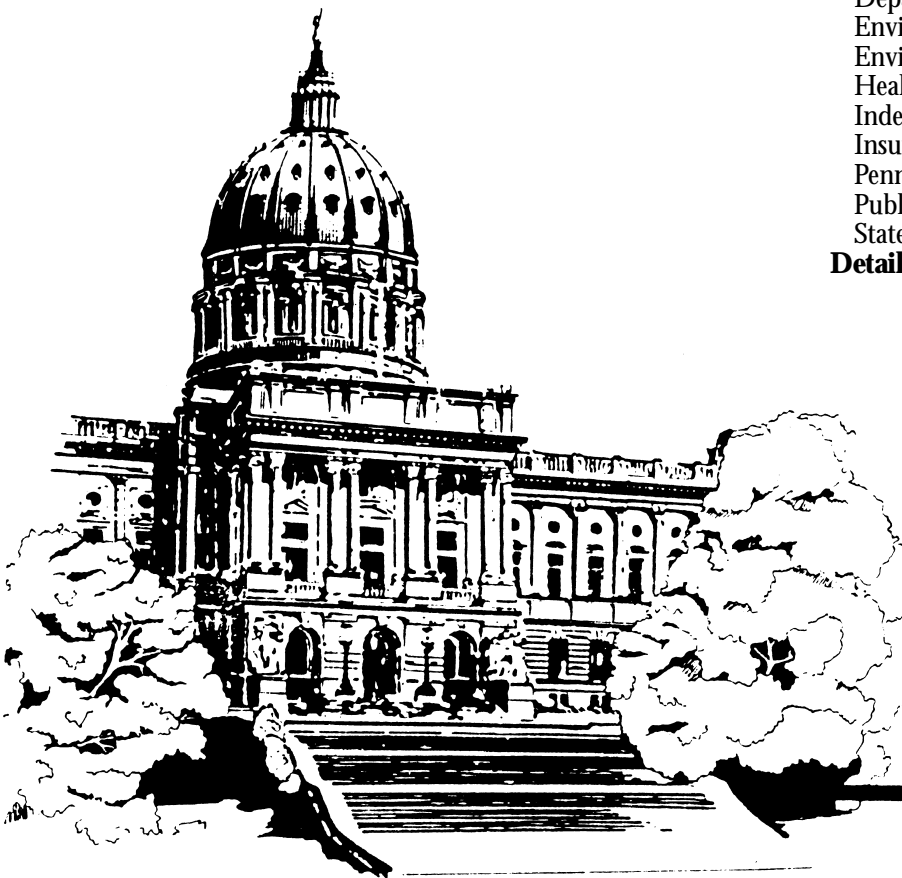
PENNSYLVANIA BULLETIN

Volume 34
Saturday, October 30, 2004 • Harrisburg, Pa.
Number 44
Pages 5877—6006

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The Courts
Department of Aging
Department of Banking
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Department of General Services
Department of Health
Department of Transportation
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Environmental Quality Board
Health Care Cost Containment Council
Independent Regulatory Review Commission
Insurance Department
Pennsylvania Public Utility Commission
Public School Employees' Retirement Board
State Employees' Retirement Board

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(Master Transmittal Sheet):**

No. 359, October 2004

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BULLETIN

(ISSN 0162-2137)

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(717) 766-0211 ext. 2340

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published weekly by Fry Communications, Inc. for the

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Attn: *Pennsylvania Bulletin*

800 W. Church Rd.

Mechanicsburg, PA 17055-3198

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ISBN 0-8182-0004-9

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2004.

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THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION [204 PA. CODE CH. 29]

Promulgation of Financial Regulations Pursuant to 42 Pa.C.S. § 3502(a); No. 263 Judicial Adminis- tration; Doc. No. 1

Order

Per Curiam:

And now, this 14th day of October, 2004 it is *Ordered* pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate the following Financial Regulations. The fees outlined in the Financial Regulations are effective as of January 1, 2005.

To the extent that notice of proposed rule-making may be required by Pa.R.J.A. No. 103, the immediate promulgation of the regulations is hereby found to be in the interests of efficient administration.

This Order is to be processed in accordance with Pa.R.J.A. No. 103(b) and is effective immediately.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART II. GENERAL ADMINISTRATION

CHAPTER 29. MISCELLANEOUS PROVISIONS

Subchapter K. COSTS, FINES AND FEES

The Pennsylvania Supreme Court, pursuant to Art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized the Court Administrator of Pennsylvania to promulgate regulations relating to the accounting methods to be utilized in connection with the collection of fees and costs charged and collected by prothonotaries, and clerks of courts of all courts of common pleas, or by any officials designated to perform the functions thereof, as well as by the minor judiciary, including district justices, Philadelphia Municipal Court, Philadelphia Traffic Court and Pittsburgh Magistrates Court.

Under authority of said Administrative Order and pursuant to the authority vested in the governing authority under Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), the following regulations are adopted to implement Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE

PART IV. FINANCIAL MATTERS

CHAPTER 35. BUDGET And FINANCE

Subchapter A. GENERAL PRINCIPLES

42 Pa.C.S. § 1725.1. Costs.

(a) *Civil cases.*—In calendar year 2005, the costs to be charged by district justices in every civil case, except as otherwise provided in this section, shall be as follows:

(1) Actions involving \$500 or less	\$40.50
(2) Actions involving more than \$500 but not more than \$2,000	\$53.50
(3) Actions involving more than \$2,000 but not more than \$4,000	\$67.00
(4) Actions involving more than \$4,000 but not more than \$8,000	\$100.50
(5) Landlord-tenant actions involving less than \$2,000	\$60.50
(6) Landlord-tenant actions involving more than \$2,000 but not more than \$4,000	\$74.00
(7) Landlord-tenant actions involving more than \$4,000 but not more than \$8,000	\$100.50
(8) Order of execution	\$30.50
(9) Objection to levy	\$13.50
(10) Reinstatement of complaint	\$7.00
(11) Entering Transcript on Appeal or Certiorari	\$3.50

Said costs shall not include, however, the cost of postage and registered mail which shall be borne by the plaintiff.

(a.1) *Custody cases.*—In calendar year 2005, the cost (in addition to the cost provided by general rule) to be charged by the court of common pleas shall be as follows:

(1) Custody cases, except as provided in section 1725(c)(2)(v)	\$6.00
----------------------------------------------------------------------	--------

(b) *Criminal cases.*—In calendar year 2005, the costs to be charged by the minor judiciary or by the court of common pleas where appropriate in every criminal case, except as otherwise provided in this section, shall be as follows:

(1) Summary conviction, except motor vehicle cases	\$38.50
(2) Summary conviction, motor vehicle cases, other than paragraph (3)	\$30.50
(3) Summary conviction, motor vehicle cases, hearing demanded	\$36.50
(4) Misdemeanor	\$43.50
(5) Felony	\$50.50

Such costs shall not include, however, the cost of postage and registered mail which shall be paid by the defendant upon conviction.

(c) *Unclassified costs or charges.*—In calendar year 2005, the costs to be charged by the minor judiciary in the following instances not readily classifiable shall be as follows:

(1) Entering transcript of judgment from another member of the minor judiciary	\$7.00
(2) Marrying each couple, making record thereof, and certificate to the parties	\$33.50
(3) Granting emergency relief pursuant to 23 Pa.C.S. Ch. 61 (relating to protection from abuse)	\$13.50
(4) Issuing a search warrant (except as provided in subsection (d))	\$13.50

(5) Any other issuance not otherwise provided in this subsection \$13.50
42 Pa.C.S. § 3571. In calendar year 2005, Commonwealth portion of fines, etc.

* * * * *

(2) Amounts payable to the Commonwealth:
 (i) Summary conviction, except motor vehicle cases \$13.50
 (ii) Summary conviction, motor vehicle cases other than subparagraph (iii) \$13.56
 (iii) Summary conviction, motor vehicle cases, hearing demanded \$13.56
 (iv) Misdemeanor \$17.40
 (v) Felony \$26.93
 (vi) Assumpsit or trespass involving:
 (A) \$500 or less \$16.87
 (B) More than \$500 but not more than \$2,000 \$26.76
 (C) More than \$2,000 but not more than \$4,000 \$40.26
 (D) More than \$4,000 but not more than \$8,000 \$67.00
 (vii) Landlord-tenant proceeding involving:
 (A) \$2,000 or less \$26.90
 (B) More than \$2,000 but not more than \$4,000 \$33.65
 (C) More than \$4,000 but not more than \$8,000 \$46.90
 (viii) Objection to levy \$6.75
 (ix) Order of execution \$20.34
 (x) Issuing a search warrant (except as provided in section 1725.1(d)(relating to costs)) \$9.45
 (xi) Order of possession \$15.00
 (xii) Custody cases (except as provided in section 1725(c)(2)(v)) \$4.80

[Pa.B. Doc. No. 04-1947. Filed for public inspection October 29, 2004, 9:00 a.m.]

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
[204 PA. CODE CH. 211]

Promulgation of Consumer Price Index Pursuant to 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4); No. 262 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And now, this 14th day of October, 2004, it is *Ordered* pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to obtain and publish in the *Pennsylvania Bulletin* the percentage increase in the Consumer Price Index for calendar year 2003 as required by Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended).

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART VII. ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

CHAPTER 211. CONSUMER PRICE INDEX

§ 211.1. Consumer Price Index.

Pursuant to Article V, Section 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, the Supreme Court has authorized the Court Administrator of Pennsylvania to obtain and publish in the *Pennsylvania Bulletin* on or before November 30 the percentage increase in the Consumer Price Index for calendar year 2003 as required by Act 113 of 2001, 42 Pa.C.S. §§ 1725.1(f) and 3571(c)(4) (as amended). See, No. 262 Judicial Administrative Docket No. 1.

The Court Administrator of Pennsylvania reports that the percentage increase in the Consumer Price Index, All Urban Consumers, U. S. City Average, for calendar year 2003 was 1.9% percent. (See, U. S. Department of Labor, Bureau of Labor Statistics, Series CUUROOOSAO, March 16, 2004.)

[Pa.B. Doc. No. 04-1948. Filed for public inspection October 29, 2004, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE
[210 PA. CODE CH. 21]

Order Amending Pa.R.A.P. No. 2111; No. 159; Appellate Procedural Rules; Doc. No. 1

Order

Per Curiam

And Now, this 15th day of October, 2004, upon the recommendation of the Appellate Court Procedural Rules Committee, this recommendation having been submitted without publication in the interest of justice, pursuant to Pa.R.J.A. 103(a)(3);

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pa.R.A.P. 2111, and Explanatory Comment thereto, are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective 60 days thereafter.

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 2111. Brief of the Appellant.

(a) *General rule.* The brief of the appellant, except as otherwise prescribed by these rules, shall consist of the following matters, separately and distinctly entitled and in the following order:

* * * * *

(2) [Statement of both the scope of review and the standard of review.] Order or other determination in question.

(3) [Order or other determination in question.] Statement of both the scope of review and the standard of review.

* * * * *

Explanatory Comment—2004

The 2004 amendment simply reorders subdivision (a)(2) and (a)(3) in order to maintain consistency with Rule 2115, which requires that the text of the order or determination from which an appeal has been taken shall be set forth immediately following the statement of jurisdiction.

[Pa.B. Doc. No. 04-1949. Filed for public inspection October 29, 2004, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 200, 1000, 1500 AND 3000] Amendment of Rules 208.2(a), 239.2(e), 239.3(d), 1001(a), 1018, 1026, 1533, 3022(b)(2) and 3049.1(3) and Rescission of Rule 1521; No. 420 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 15th day of October, 2004, the Pennsylvania Rules of Civil Procedure are amended as follows:

I. Rules 208.2(a), 239.2(e) Note, and 239.3(d) are amended to read as follows.

II. Rule 1026 is amended to read as follows.

III. Rule 1001(a) is amended, a Note is added to Rule 1018, the Note to Rule 1533 is amended and Rule 1521 is rescinded to read as follows.

IV. The Notes to Rule 3022(b)(2) and 3049.1(3) are amended to read as follows.

Whereas prior distribution and publication of these rules and amendments would otherwise be required, it has been determined that the proposed amendments are of a perfunctory or typographical nature.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 208.2. Motion. Form. Content.

(a) A motion shall

* * * * *

[(4)] (3) * * *

[(5)] (4) * * *

[(6)] (5) * * *

* * * * *

Rule 239.2. Petitions. Rule to Show Cause. Local Rules 206.1(a) and 206.4(c).

* * * * *

Official Note: Local Rule 206.4(c) shall not modify the provisions of [Rules.] Rules 206.1 through 206.2 governing the contents of a petition or answer, Rule 206.3 governing verification, or Rule 206.7 governing the procedure after issuance of a rule to show cause.

Local Rule 206.4(c) shall not alter the form of the order of court required by Rule 206.5(d), which sets forth the dates by which an answer shall be filed and depositions shall be completed, and the date of the final argument. Pursuant to the Note to Rule 206.5(d), the form of the order may be modified to provide for an evidentiary hearing on disputed [issue] issues of fact, the use of forms of discovery other than depositions, the filing of briefs, and disposition without oral argument.

Rule 239.3. Motions. Local Rules 208.2(c), 208.2(d), 208.2(e), 208.3(a) and 208.3(b).

* * * * *

(d) Every court shall promulgate a local rule, numbered Local Rule 208.3(a), which [describe] describes the court's motion procedure under Rule 208.3(a). Local Rule 208.3(a)

* * * * *

CHAPTER 1000. ACTIONS

Subchapter A. CIVIL ACTION

GENERAL

Rule 1001. Definition. Scope.

(a) As used in this chapter and in Rules 1506 [, 1521,] and 1531 through 1535, "action" means a civil action brought in or appealed to any court which is subject to these rules.

* * * * *

PLEADINGS

Rule 1018. Caption.

Every pleading shall contain a caption setting forth the name of the court, the number of the action and the name of the pleading. The caption of a complaint shall set forth the form of the action and the names of all the parties, but in other pleadings it is sufficient to state the name of the first party on each side in the complaint with an appropriate indication of other parties.

Official Note: Civil Actions and proceedings shall be captioned "Court of Common Pleas of _____ County—Civil Action" or other appropriate form of action.

Rule 1026. Time for Filing. Notice to Plead.

(a) Except as provided by Rule [1042.5] 1042.4 or by subdivision (b) of this rule, every pleading subsequent to the complaint shall be filed within twenty days after service of the preceding pleading, but no pleading need be filed unless the preceding pleading contains a notice to defend or is endorsed with a notice to plead.

Official Note:

* * * * *

Rule [1042.5] 1042.4 governs actions in which a professional liability claim is asserted.

* * * * *

CHAPTER 1500. EQUITABLE RELIEF

Subchapter A. RULES

Rule 1521. [Indexing of Decree. Lien and Revival of Decree for Payment of Money] (Rescinded).

Official Note: See Rule 3021(a)(2) for the entry in the judgment index of final or interlocutory orders for equitable relief.

See Rules 3022 and 3023 governing liens of judgments and verdicts for the payment of money, including the duration and effect of the liens.

See Rule 3025 et seq. governing revival of judgment liens.

Rule 1533. Special Relief. Receivers.

* * * * *

(e) Except in the case of a public utility, [a] an order authorizing a receiver to operate a business shall be limited to a fixed period, which may be extended from time to time upon cause shown after notice to all parties in interest.

* * * * *

CHAPTER 3000. JUDGMENTS

Subchapter A. TRANSFER OF JUDGMENTS TO OTHER COUNTIES

Rule 3022. Verdict or Order. Lien. Duration.

* * * * *

(b)(1) Except as provided by paragraph (2), the lien of a verdict or order for a specific sum of money shall have the priority prescribed by Section 8141 of the Judicial Code from the time the verdict or order is entered in the judgment index.

(2) Paragraph (1) shall not affect the priority of the lien of a verdict or order for a specific sum of money created prior to the effective date of this rule.

Official Note: The effective date of this rule was [_____] July 1, 2004.

* * * * *

Subchapter C. FORMS

Rule 3049.1. Abolition of Practice and Procedure Under Repealed Statutes.

The practice and procedure provided in the following Acts of Assembly which have been repealed by the Judiciary Act Repealer Act (JARA), Act of April 28, 1978, No. 53, are hereby abolished and shall not continue as part of the common law of the Commonwealth:

* * * * *

(3) Sections 2 through 7 inclusive of the Act of July 3, 1947, P. L. 1234, No. 504, known as the Judgment Lien Law, 12 P. S. §§ 878 through 883.

Official Note: The Judgment Lien Law was repealed by Section 2(a) of JARA, 42 [Pa.C.S.] P. S. § 20002(a) [(1257)]. The repealed sections concerned the property subject to lien and duration of lien (§ 2), the manner of

reviving lien and duration of revived lien (§ 3), scire facias as lien (§ 4), revival of lien against person in armed forces (§ 5), service of scire facias[;] and judgment on return of nihil habet (§ 6), and property subject to execution, lien of execution and execution after five years (§ 7).

[Pa.B. Doc. No. 04-1950. Filed for public inspection October 29, 2004, 9:00 a.m.]

PART I. GENERAL

[231 PA. CODE CHS. 200 AND 2950]

Technical Amendment of Rules 239(f), 2957(b) and 2958.2(a); No. 421 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 15th day of October, 2004, Pennsylvania Rules of Civil Procedure 239(f), 2957(b) and 2958.2(a) are amended to read as follows.

Whereas prior distribution and publication of these amendments would otherwise be required, it has been determined that the amendments are of a perfunctory nature and that immediate promulgation is required in the interests of justice and efficient administration.

This order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 239. Local Rules.

* * * * *

(f) No civil action or proceeding shall be dismissed for failure to comply with a local rule [other than one promulgated under Rule of Judicial Administration 1901].

[*Official Note:* Rule of Judicial Administration 1901 directs each court of common pleas to provide by local rule for the termination of matters which have been inactive for an unreasonable period of time.]

CHAPTER 2950. CONFESSION OF JUDGMENT FOR MONEY

Rule 2957. Praecept for Writ of Execution. Amount. Items Claimed. Certification.

* * * * *

(b) The praecipe for the writ of execution shall contain the words "Confessed Judgment" immediately below the title of the praecipe and a certification that

* * * * *

(2) the prothonotary is authorized to issue the [praecipe] writ of execution because

* * * * *

(ii) notice will be served pursuant to Rule 2958.2 because the property to be levied upon consists solely of real property or real property and personal property to be

sold with the real property pursuant to Section [9501(d)] 9604(a) of the Uniform Commercial Code, or

* * * * *

Rule 2958.2. Notice of Execution Served with Notice of Sale of Real Property.

(a) Written notice substantially in the form prescribed by Rule 2965 shall be served upon the defendant at least thirty days prior to the sheriff's sale if the property to be levied upon consists solely of

* * * * *

(2) real property and personal property to be sold with the real property pursuant to Section [9501(d)] 9604(a) of the Uniform Commercial Code.

Official Note: Section [9501(d)] 9604(a) of the Uniform Commercial Code, 13 Pa.C.S. § [9501(d)] 9604(a), relates to the rights of a secured party when the agreement covers real and personal property.

* * * * *

[Pa.B. Doc. No. 04-1951. Filed for public inspection October 29, 2004, 9:00 a.m.]

**PART II. ORPHANS' COURT RULES
[231 PA. CODE PART II]**

Order Amending Pa.O.C.R. 2.3 and Adopting Pa.O.C.R. 3.7; No. 344 Supreme Court Doc. No. 1

Order

Per Curiam:

And Now, this 18th day of October, 2004, upon the recommendation of the Orphans' Court Procedural Rules Committee, the proposal having been published for comment before adoption,

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Orphans' Court Procedure 2.3 is amended, and Pennsylvania Rule of Orphans' Court Procedure 3.7 is adopted, in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART II. ORPHANS' COURT RULES

RULE 2: CONSTRUCTION AND APPLICATION OF RULES

Rule 2.3 Definitions.

The following words when used in these rules, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this rule:

* * * * *

"Electronic Filing" means the electronic transmission via the internet of legal papers to the Clerk of the Orphans' Court Division.

"Fiduciary" includes executors, administrators, guardians, **agents acting under a power of attorney** and trustees, whether domiciliary or ancillary, individual or corporate, subject to the jurisdiction of the Orphans' Court Division.

"Filing party" means a party or an attorney acting on behalf of a party who files a legal paper by means of electronic filing.

"Legal paper" means a petition, pleading, or other document.

* * * * *

RULE 3: PLEADING AND PRACTICE

Rule 3.7 Electronic Filing and Service of Legal Papers.

(a) *Authorization for Electronic Filing.*

(1) A local Orphans' Court may permit or require electronic filing of legal papers. Any Court which implements electronic filing shall establish procedures governing such filing by local rule which shall be consistent with the procedures set forth herein.

Explanatory Note: Those jurisdictions which require e-filing must also provide the necessary technical assistance to those parties who lack the capability to electronically file legal papers.

(2) This rule does not mandate the implementation of electronic filing by a local Orphans' Court.

(b) *Electronic Filing of Legal Paper.*

(1) A filing party may file a legal paper with the Clerk by means of electronic filing.

(2) Legal papers and exhibits shall be filed in portable document format (.pdf).

(3) Exhibits to a legal paper shall be converted to portable document format (.pdf) by scanning or other method.

(4) Any party may require the filing party to file the original or a hard copy of a legal paper or exhibit by filing a notice to file with the Clerk and serving a copy of the notice upon the filing party. The filing party shall file the specified document with the Clerk within fourteen (14) days after service of the notice. Upon disposition of the matter before the Court, an original document may be returned to the party who filed it, or retained by the Court, as the Court may determine.

(c) *Signature, Verification and Retention of Legal Paper.*

(1) The original legal paper shall be properly signed, and where required, verified.

(2) The electronic filing of a legal paper constitutes a certification by the filing party that the original document was signed, and where applicable, verified.

(3) Unless retained by the Court, the filing party shall maintain the original of all documents so certified, together with any exhibits filed, for five (5) years after the later of:

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

(d) *Website and Filing Date.*

(1) The Court shall designate a website for the electronic filing of legal papers. A user name and password shall be issued to authorized users.

(2) The Court shall provide electronic filing access at all times. The time and date of the filing shall be that registered by the Court's computer system.

(3) The Court shall provide, through its website, an acknowledgement that the filing has been processed. Such acknowledgement shall include the date and time of filing in a form which can be printed for retention by the filing party.

(e) *Delay in Filing.* A filing party shall be responsible for any delay, disruption, or interruption of electronic transmission, and for the legibility of the document electronically filed, except for delays caused by the failure of the Court's website. The filing party may petition the Court to resolve any dispute concerning an alleged failure of the Court's website.

(f) *Fees.*

(1) A filing party shall pay the fee for electronically filing a legal paper as provided by the Court.

(2) The Court may assess an additional automation fee for each legal paper electronically filed which shall be used for the development, implementation, maintenance, and training in the use of the Orphans' Court electronic filing system, and other related uses.

(g) *Local Procedures.* The Court may develop further administrative procedures, as needed, to implement this rule and to provide for security of the electronic filing system, as required by changing technology.

(h) *Service of Legal Papers by Parties.*

(1) Service of original process shall not be permitted by electronic means, unless agreed to by the respondent.

(2) Service of subsequent legal papers may be effected by electronic transmission if the parties agree, or if an electronic mail address appears on an entry of appearance, or other legal paper previously filed with the Court in the action. Electronic service is complete when the legal paper is sent to the recipient's electronic mail address, or when the recipient is notified by electronic mail that a legal paper affecting the recipient has been filed and is available for review on the Court's website.

(i) *Notices.* The Clerk and the Court may serve all notices via electronic means.

Explanatory Note: This Rule is designed as a general enabling mechanism by which local judicial districts can, if they so choose, implement electronic filing. Implementation procedures not inconsistent with this Rule will be determined by local rules of court.

Nothing in this Rule is intended to change the procedural requirements of Orphans' Court practice, as embodied in the statutes and rules of court. Rather this Rule is intended to facilitate the delivery of legal papers to the Court and the parties, as well as to reduce record management burdens in the office of the Clerk. The terms "electronic filing," "filing party," and "legal paper" are defined in Rule 2.3.

The Court may, from time to time, modify the approved electronic filing system to take into consideration the costs and security of the system, and the maintenance of electronic data and images.

Existing procedures regarding record retention for paper documents by the Clerk shall apply to electronically filed documents. A local Orphans' Court which permits electronic filing may require filing and maintenance of paper documents or exhibits; it may also accept paper documents, convert such documents to electronic format, and destroy the paper documents. (See *Record Retention & Disposition Schedule with Guidelines*, adopted by the

Supreme Court of Pennsylvania by Order, dated November 28, 2001, as part of the amendment to Pa.R.J.A. No. 507).

[Pa.B. Doc. No. 04-1952. Filed for public inspection October 29, 2004, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1]

Order Amending Rule 105; No. 313 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the October 15, 2004 changes to Rule of Criminal Procedure 105 (Local Rules). The first amendment deletes the last phrase of paragraph (A) further clarifying the scope of the application of Rule 105. The second amendment is to paragraph (C)(3) and updates the rule requirements concerning the Legislative Reference Bureau's requirements for the submission of proposed local rules to the *Pennsylvania Bulletin* for publication. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 15th day of October, 2004, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice because it is perfunctory in nature, and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 105 is amended as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2005.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 105. Local Rules.

(A) For the purpose of this rule, the term "local rule" shall include every rule, regulation, directive, policy, custom, usage, form or order of general application, however labeled or promulgated, which is adopted or enforced by a court of common pleas to govern criminal practice and procedure [, which requires a party or party's attorney to do or refrain from doing something] .

(B)(1) Local rules shall not be inconsistent with any general rule of the Supreme Court or any Act of Assembly.

(2) Local rules shall be given numbers that are keyed to the number of the general rules to which the local rules correspond.

(C) A local rule shall not become effective and enforceable until the adopting court has fully complied with all the following requirements:

- (1) A local rule shall be in writing.
- (2) Seven certified copies of the local rule shall be filed by the court promulgating the rule with the Administrative Office of Pennsylvania Courts.
- (3) Two certified copies of the local rules **and a computer diskette that complies with the requirements of 1 Pa. Code § 13.11(b)** shall be distributed by the court promulgating the rule to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
- (4) One certified copy of the local rule shall be filed by the court promulgating the rule with the Criminal Procedural Rules Committee.
- (5) The local rules shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of court. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.
- (6) A local rule promulgated before the effective date of this rule shall be filed on or before that effective date with the prothonotary or clerk of court and shall be kept by the prothonotary or clerk for inspection, copying, and furnishing as provided in paragraph (C)(5).
- (D) A local rule shall become effective not less than 30 days after the date of publication of the rule in the *Pennsylvania Bulletin*.
- (E) No case shall be dismissed nor request for relief granted or denied because of failure to comply with a local rule. In any case of noncompliance with a local rule, the court shall alert the party to the specific provision at issue and provide a reasonable time for the attorney to comply with the local rule.
- (F) The Criminal Procedural Rules Committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule and may suspend that local rule pending action by the Court on that recommendation.

Comment

The policy of the Supreme Court as declared in the Order promulgating this rule is "to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of criminal procedure normally preempts the subject covered." In accordance with the Court's policy, it is intended that local rules should not repeat general rules or statutory provisions verbatim or substantially verbatim nor should local rules make it difficult for attorneys to practice law in several counties.

The caption or other words used as a label or designation shall not determine whether something is or establishes a local rule; if the definition in paragraph (A) of this rule is satisfied the matter is a local rule regardless of what it may be called. The provisions of this rule are also intended to apply to any amendments to a "local rule." Nothing in this rule is intended to apply to case-specific orders.

To simplify the use of local rules, local criminal rules are required to be given numbers that are keyed to the number of the general criminal rules to which the local rules correspond. This requirement is not intended to apply to local rules that govern the general business of the court and which do not correspond to a general criminal rule.

Paragraph (C) was amended in 2000 to emphasize that the adopting authority must comply with all the provisions of paragraph (C) before any local rule, or any amendments to local rules, will be effective and enforceable.

Paragraph (C)(3) requires the local rule to be published in the *Pennsylvania Bulletin* to be effective. Pursuant to 1 Pa. Code § 13.11(b), any documents that are submitted for publication must be accompanied by a diskette formatted in MS-DOS, ASCII, Microsoft Word, or WordPerfect. The diskette must be labeled with the court's name and address and the local rule's computer file name.

Paragraph (C)(5) requires that a separate consolidated set of local rules be maintained in the prothonotary's or clerk's office.

The Administrative Office of the Pennsylvania Courts maintains a webpage containing the texts of local rules. That webpage is located at:

<http://www.courts.state.pa.us/judicial-council/local-rules/index.htm>

Although under paragraph (D) a local rule shall not be effective until at least 30 days after the date of publication in the *Pennsylvania Bulletin*, when a situation arises that requires immediate action, the local court may act by specific orders governing particular cases in the interim before an applicable local rule becomes effective.

The purpose of paragraph (E) is to prevent the dismissal of cases, or the grant or denial of requested relief, because a party has failed to comply with a local rule. In addition, paragraph (E) requires that the party be alerted to the local rule, and be given a reasonable amount of time to comply with the local rule.

After the court has alerted the party to the local rule pursuant to paragraph (E), the court may impose a sanction for subsequent noncompliance either on counsel or the defendant if proceeding pro se, but may not dismiss the case, or grant or deny relief because of non-compliance.

Official Note: Rule 6 adopted January 28, 1983, effective July 1, 1983; amended May 19, 1987, effective July 1, 1987; renumbered Rule 105 and amended March 1, 2000, effective April 1, 2001; amended October 24, 2000, effective January 1, 2001; **Comment revised June 8, 2001, effective immediately; amended October 15, 2004, effective January 1, 2005.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the October 15, 2004 amendment to paragraph (A), and to paragraph (C)(3) concerning the Legislative Reference Bureau publication requirements, published with the Court's Order at 34 Pa.B. 5893 (October 30, 2004).

FINAL REPORT¹

Pa.R.Crim.P. 105 Amendments

Local Rule Procedures

On October 15, 2004, effective January 1, 2005, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule of Criminal Procedure 105 (Local Rules). The first amendment deletes the last phrase of paragraph (A) further clarifying the scope

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

of the application of Rule 105. The second amendment is to paragraph (C)(3) and updates the rule requirements concerning the Legislative Reference Bureau's requirements for the submission of proposed local rules to the *Pennsylvania Bulletin* for publication.

I. PARAGRAPH (A) CHANGES

As part of our continuing efforts to assist the Common Pleas Criminal Court Case Management System (CPCMS) staff, the Committee has been addressing issues that are arising with the compilation of all local rules for availability through CPCMS. During one of the meetings between the Committee's Staff and Staff from the Administrative Offices of Pennsylvania Courts (AOPC), the Committee learned that, notwithstanding the 2000 changes to Rule 105 that were intended to strengthen the definition of local rule and clarify its application to most locally enacted procedures that govern criminal practice and procedure,² some judicial districts continue to enact local procedures that are in conflict with the Criminal Rules or without complying with Rule 105. When the AOPC Staff questioned some of these judicial districts about their non-compliance, several indicated that the local rules in question did not "require a party or party's attorney to do or refrain from doing something," and therefore were not "local rules" within the definition of Rule 105(A).

Because the intent and purpose of Rule 105 always has been to apply to all local procedures that affect criminal practice and procedure, not only as to parties and parties' attorneys, but also as to the court system as a whole in each judicial district, the Committee reviewed the history of the development of Rule 105, formerly Rule 6. The provision in question was added at the request of Professor John Cannon, Staff Attorney to the Local Rules Subcommittee of the Supreme Court's Judicial Council, when the Criminal Rules Committee developed the 2000 amendments to Rule 105. Time and experience now have shown that the language is mischievous, and, far from being helpful in bringing judicial districts into compliance with Rule 105, the language is being used as support for not complying. In view of our findings, and to aid the Committee's ongoing efforts to have Rule 105 followed by all judicial districts, as well as the AOPC's efforts to capture all local rules on the CPCMS, the language has been deleted from paragraph (A).

PARAGRAPH (C)(3)

The paragraph (C)(3) amendment, which was developed at the request of the AOPC, conforms the Rule 105(C)(3) requirements for submitting local rules to the *Pennsylvania*

² See Committee's Final Report explaining these 2000 changes at 30 Pa.B. 5742 (November 11, 2000)

nia Bulletin with the diskette requirements set forth in 1 Pa. Code § 13.11(b) by incorporating the diskette requirement into paragraph (C)(3), and adding to the Rule 105 Comment a summary of the Pa. Code requirements.

[Pa.B. Doc. No. 04-1953. Filed for public inspection October 29, 2004, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Paul W. Dare having been disbarred by consent from the practice of law in the State of New Jersey, the Supreme Court of Pennsylvania issued an Order dated October 15, 2004 disbaring Paul W. Dare from the practice of law in this Commonwealth, effective November 14, 2004. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 04-1954. Filed for public inspection October 29, 2004, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Alexander B. Dranov having been suspended from the practice of law in the State of New Jersey for a period of six months, the Supreme Court of Pennsylvania issued an Order dated October 15, 2004 suspending Alexander B. Dranov from the practice of law in this Commonwealth for a period of six months, effective November 14, 2004. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
*Executive Director and Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 04-1955. Filed for public inspection October 29, 2004, 9:00 a.m.]

PROPOSED RULEMAKING

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CHS. 1, 3 AND 5]

[L-00020156]

Practice and Procedure Before the Commission

The Pennsylvania Public Utility Commission, on May 7, 2004, adopted a proposed rulemaking order revising and updating the Commission's rules of practice and procedure.

Executive Summary

Periodically, the Commission reevaluates its procedural rules in order to ensure that they effectuate and reflect the Commission's current policies and the current state of the law. On September 12, 2002, the Commission issued an Advance Notice of Proposed Rulemaking to solicit comments from interested persons regarding possible changes and development of the Commission's procedural rules. The Commission received nine sets of comments and additionally incorporated the views of individual Commission Bureaus in evaluating possible changes.

The proposed regulations accomplish a number of Commission objectives. First, the rules are prepared to accommodate electronic filing once such a system becomes available. Second, the rules in many cases are reorganized in order to be more reader friendly and easier to navigate. Third, the Commission made a number of small calibrations to the rules, such as shortening or lengthening time periods for filing various documents and changing terminology to be more in step with the Pennsylvania Rules of Civil Procedure and modern practice. Fourth, the Commission made several changes in order to afford it greater flexibility, such as the proposed changes to section 3.501, wherein the Commission proposes that the substantive requirements for an application be iterated in forms as opposed to the regulation. Taken together, the changes proposed by the Commission should provide for more efficient practice and procedure before the Commission.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 15, 2004, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections 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 Commission, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Meeting held
May 7, 2004

Commissioners Present: Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli; Wendell F. Holland

Proposed Rulemaking for the Revision of Chapters 1, 3 and 5 of Title 52 of the Pennsylvania Code Pertaining to Practice and Procedure Before the Commission; Doc. No. L-00020156

Proposed Rulemaking Order

By the Commission:

On September 12, 2002, the Commission adopted an Advance Notice of Proposed Rulemaking Order announcing our intention to revise the Commission's rules of practice and procedure, 52 Pa. Code Chapters 1, 3 and 5. We noted that the rules were last revised in 1996, and that since then the Commission's jurisdiction and responsibilities have changed significantly. We stated our intention to solicit input regarding proposed revisions and our commitment to carefully consider the views of all interested persons prior to taking any formal action.

Publication in the *Pennsylvania Bulletin* on September 28, 2002 established a sixty-day comment period, and we thank the following for their thoughtful and constructive comments: Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company, combined comments; Superior Water Company; Verizon Pennsylvania and Verizon North Inc., combined comments; Office of Consumer Advocate; the law office of Kirkpatrick & Lockhart, LLP; the law office of Craig A. Doll; Department of Environmental Protection; PUC's Office of Administrative Law Judge; Office of Small Business Advocate; and the PUC's Bureau of Transportation and Safety.

A core committee of Law Bureau and Office of Administrative Law Judge employees reviewed these comments, as well as our own recommendations, and prepared an initial draft of proposed changes. These were presented to a committee formed from the Commission's Bureaus, which suggested additional revisions. With the input and aid of the commentators and Commission staff, a recommendation was developed and is before us for review.

Accordingly, we are publishing the changes as marked in Annex A as a proposed rulemaking, and we once again ask the utility industry and the public utility bar to submit further detailed comments on the specific provisions that we propose.

The following is a description of the substantive changes we propose to make. Sections which are included in Annex A but not discussed here have only ministerial changes proposed to them. Specific changes appear in Annex A, where deletions are bracketed and additions are underlined. We thank those commentators who recommended routine ministerial corrections, but in the interest of brevity we will not address each comment in the discussion below.

Note that the term "participant" is replaced with the term "party" throughout the rules. Ensuring that those who wish to appear before the Commission become parties to the proceeding eliminates the uncertainty associated with the term "participant," which does not firmly establish the status of a person. Each section when this is the only change is noted in the explanations below. Similarly, the word "Prothonotary" is changed to "Secretary" wherever it appears to reflect that the Commission

no longer has a Prothonotary and that the duties previously assigned to that office now belong to the Secretary.

Chapter 1. Rules of Administrative Practice and Procedure
Subchapter A. General Provisions

Important changes to this chapter include correcting the Commission's address in Sections 1.3, 1.4 and 1.7, as well as updating the definitions in Section 1.8. These include adding definitions for "individual," meant to permit distinction between the legal term "person" and a human being, and "mediation," which has become an important process at the Commission, and "verification," which is used throughout the rules but has not been defined. As noted above, the term "participant" is removed.

The Commission notes that OCA recommends adding a new section to define each type of order which the Commission issues, such as final order, tentative order, emergency order, and interlocutory order. Since the status of any Commission order is already defined by the state courts, such a regulation is not necessary and could, in fact, be rendered inaccurate should there be any change in case law prior to the next revision of these rules. Therefore, we decline to add the suggested section.

Subchapter B. Time

§ 1.11 Date of filing

The rule is changed to establish when a filing occurs if the Commission permits filing by electronic means. The requirement specifies that the document must: (1) enter the information processing system, (2) be designated by the Commission for the purpose of receiving documentary filings, (3) be in a form which the Commission is capable of retrieving, and (4) be in a form readable by the system. The revision does not permit electronic filing but it does specify how electronic filing will be achieved if the Commission permits it in the future.

An OCA recommendation to add a subsection informing the recipient of a Commission final order that an appeal may be taken within thirty days to the Commonwealth Court is declined since the appeal period is governed by the rules of the Commonwealth Court, not by Commission rules.

Verizon comments that Section 1.12 should be amended to provide that "in no event shall the inclusion of a Saturday, Sunday or legal holiday, or any combination thereof, within the time period required for any responsive pleading, serve to shorten the time required for such responsive pleading to less than five business days." The Commission has not incorporated this recommendation since the present rules permit the use of the mailbox rule, thus adding three days, and the categories of responsive pleadings affected by this short response time are those which cannot be delayed further.

Subchapter C. Representation before the Commission

The Commission received comments regarding this subchapter from Verizon, OSBA, and OALJ. With the exception of OALJ, the commenters suggest that there are some circumstances when it would make sense to permit representation of others by someone other than an attorney licensed in the Commonwealth. As Verizon points out, many cases involve pro se complainants, simple factual issues and no legal issues, therefore not justifying the time, skill or expense of an attorney. OSBA notes the requirement that a business be represented by an attorney can leave a small business unable to pursue an adversarial proceeding with a public utility because of

the cost. OSBA gives a reasoned, intelligent and persuasive argument in favor of permitting representation by someone other than an attorney in certain circumstances.

However, since the practice of law in Pennsylvania is regulated by the Pennsylvania Supreme Court, which has promulgated its own rules, it appears that the PUC lacks authority to promulgate any rule which is not consistent with the Supreme Court rules. Therefore, the proposed rules will not authorize the practice of law by any entity not already so authorized by the Supreme Court.

At the same time, we have attempted to rewrite these sections to make it clear that we are adhering to the rules of the Pennsylvania Supreme Court and to present the sections in a simpler, easier to read format.

The substance of this subchapter is that: (1) individuals, including sole proprietorships, may represent themselves, (2) in adversarial proceedings, any entity other than an individual must be represented by an attorney, (3) in nonadversarial proceedings, entities may be represented as permitted by the rules of corporations in Pennsylvania, and (4) in informal proceedings brought under Chapters 56 and 64 only, representation may be by other than a licensed attorney.

Throughout, the information required to be provided by an attorney includes his or her Supreme Court identification number.

The Commission recognizes that electronic filing and service will be practical in the future. Although the rules do not now grant permission, the proposed revisions will allow electronic service by the Commission for documents when the person agrees to it and provides an e-mail address.

Subchapter D. Documentary Filings

This subchapter has been rewritten to set forth the requirements for the form of a documentary filing in a formal case in an easy to read fashion. The format for electronically submitted documents is included.

§ 1.36. Verification

A detailed comment submitted by Daniel P. Delaney, Esquire, of Kirkpatrick and Lockhart, points out that verifications or affidavits are to be provided either by a party or an authorized officer of the party if a corporation or association, and that this requirement may cause hardship. Mr. Delaney points out that "utility or corporate employee[s] involved in Commission proceedings are usually managers or mid-level employees who would not also be officers" but they would have the actual knowledge necessary to attest to the facts included in a pleading. Accordingly, we are revising the requirement to read that the facts in a document be personally verified by a party or authorized officer or other authorized employee of the party if a corporation or association.

§ 1.38. Rejection of Filings

We are adding this section in order to enunciate the Commission's existing practice of rejecting non-conforming filings and filings by persons who fail to comply with their regulatory obligations.

Subchapter E. Fees

Phrasing has been revised to permit additional methods of payment in the future, such as credit cards, when the Commission is prepared to accept such methods.

Subsections (b), (c) and (d) of § 1.43 are removed from the schedule of fees to reflect that the Commission no longer performs testing. The remainder of the fees are not being changed.

OCA comments that the listed prices may still be too high for some people. We are sympathetic to the plight of those who cannot afford to pay, but there are other considerations here as well. It is important to keep in mind that parties to an action are served with documents in the case and pay no fee for them. Therefore, it is only non-parties who would be affected by our fee schedule.

The fee schedule is based on what is reasonable when considering the Commission's actual cost for services provided. The Commission must bear the cost of searching for and locating a file or document, taking the time and pay scale of the Secretary's Bureau employees into consideration, as well as paper and overhead. The Public Utility Code requires the Commission to establish a reasonable cost for copies and certification of documents and files. 66 Pa.C.S. § 317. This is meant to defray the cost of the service. If there were no fees, then the cost of photocopying and certification of records would have to be paid another way. The Commission's only other source of income is by assessment to certificated public utilities, which would have to be increased to pay the difference. Increased assessments would result in increased rates to ratepayers. The Legislature has made it clear, through its promulgation of Section 317 of the Public Utility Code, that it believes that the cost of the service should be paid by those receiving the service, not by the utilities. Therefore, we decline to create a sliding scale at this time.

Subchapter F. Service of Documents

With the advent of electronic service, it is necessary to amend subsection (a)(4) to Section 1.56, Date of Service, to provide that a faxed document be transmitted prior to 4:30 p.m. local time to thwart any attempt to send documents after offices have closed for the night. Subsection (a)(5) is added to provide for electronic service in the future when agreed to by the parties.

Subchapter G. Matters Before Other Tribunals

§ 1.61. Notice and filing of copies of pleadings before other tribunals

Subsection (c) is removed as identical to (d). Language is added to address the category of "licensee." In addition, language is added to require that a licensee or utility whose parent company has declared bankruptcy inform us as well. Language in new (c) gives the Commission the ability to monitor bankruptcy proceedings without the responsibility of acting to approve the bankruptcy plans of certificated utilities.

No substantive changes are made to the remainder of Chapter 1.

Chapter 3. Special Provisions

All references to the office of Executive Assistant, and its mention, have been removed since it no longer exists at the Commission.

The emergency order sections have been reorganized to have those referring to ex parte emergency orders located together, and those sections referring to interim emergency orders located together. Language has been adjusted to provide parallel standards for both sections. The contents of section 3.5 have been relocated to section 3.3, resulting in the elimination of section 3.5. Section 3.9 has been relocated to section 3.6a for consistency.

Subchapter B. Informal Complaints

This subheading is changed to read "Informal Complaints and Investigations" to better reflect the content of the section it describes. Subsections have been created

and labeled for ease of reference. Subsection (b) of section 3.112 provides guidance to Commission staff regarding appropriate action upon receipt of an informal complaint.

Subchapter D. Crossing Proceedings

§ 3.361. Crossing complaints.

Subsection (a) is revised to require that the owner of the railroad right-of-way, which may be different from the public utility operating over it, be made a party to a Commission proceeding.

§ 3.363. Claims for property damages from crossings.

Subsection (a)(2) has been modified to reflect that the forms are no longer listed in the regulations but are available from the Secretary.

Subchapter E. Motor Transportation Proceedings

This subchapter will be dealt with in a separate rulemaking proceeding. The Commission does not propose any changes at this time.

Subchapter G. Water or Wastewater Utility Proceedings

§ 3.501. Certificate of public convenience as a water supplier or wastewater collection, treatment or disposal provider

The Pennsylvania Department of Environmental Protection has asked that we include additional requirements in the application, including a county comprehensive plan, municipal comprehensive plan and zoning designations. These issues will be addressed, however the changes will be reflected in forms available from the Secretary rather than in the regulation itself. In the forms to be made available under this section, we will require an applicant to provide a letter wherein it certifies that it is in compliance with the above requirements, instead of having the Commission make that determination.

Additionally, clarifying language has been added to what is now subsection (d). The language was added in order to indicate that the utility shall notify existing customers of a filing by publication once a week for two weeks, as opposed to every day for two weeks.

Finally, Superior Water Company indicated that applications filed under this section should be served on any water or wastewater utility, municipal corporation or authority with a service area within one mile of the proposed new or affected service area. The Commission concurs with Superior's comments; however, because applications made under this section are frequently voluminous, the Commission shall require only that the applicant provide notice. Such nearby utilities will be able to obtain a complete copy of application from the applicant upon request. Utilities abutting the service area affected by the application will continue to receive the complete application without the need for a separate request.

§ 3.502. Protests to applications for certificate of public convenience as a water supplier or wastewater collection, treatment and disposal provider.

In subsection (a), a change has been made to indicate an attorney for a protestant must now supply his or her Pennsylvania attorney identification number.

Subchapter H. Forms

§ 3.551. Official forms

This section is replaced with a sentence stating that forms for applications, petitions, complaints and other matters are available on the Commission's website or from the Secretary.

*Subchapter I. Registration of Securities**§ 3.601. General*

The listing of necessary information has been replaced with a notice that a form is available from the Commission.

§ 3.602. Abbreviated securities certificate

Subsection (b) regarding the form has additional requirements.

*Chapter 5. Formal Proceedings**Subchapter A. Pleadings and Other Preliminary Matters*

New matter, reply to new matter, and motions have been added to the list of pleadings in section 5.1 to accurately reflect practice.

Contents of applications.

Section 5.12 is revised to lay out the requirements for inclusion in an application more clearly. A provision is added to prompt the inclusion of e-mail addresses where available. The Commission notes that OCA's request to require that service be made on OCA is not addressed because new applications are posted on the Commission's web site. OCA can review them on-line, thus avoiding another step for applicants to follow when filing with the Commission. Also, pursuant to section 5.14(b), the Secretary is authorized to direct service of applications upon the OCA and other interested persons in appropriate circumstances.

Applications requiring notice.

Section 5.14 is revised to eliminate the listing of those applications which require notice since this factor is subject to change and is not updated as often as the actual requirement changes. The section now sets forth the specific requirements of notice applicable to all applications which require notice. Protests are referred to another section.

Formal complaints.

Section 5.22 is revised to specify the requirements of a formal complaint both when the complainant is represented by an attorney and when complainant has no formal representation. An attorney is required to list his or her attorney identification number. Revised language seeks to elicit more detailed and easier to read complaints to facilitate Commission responses.

Section 5.24 is revised to provide for those circumstances in which a complainant does not wish to proceed but neither is the complainant satisfied. With the new language, a complaint can be closed after complainant acknowledges that he or she does not wish to pursue it.

A new section is being proposed at 5.32 to recognize that a complaint may be filed against a proposed rate filing but that a reasonable time limit should be placed on accepting those which will be considered within the context of the rate proceeding.

Petitions

No substantive changes are made to section 5.42. However, it is broken down for ease of reference.

Protests

Section 5.53 is revised to provide a consistent default filing time for filing protests, and Section 5.54 is deleted as redundant.

*Answers**§ 5.61. Answers to complaints, petitions and motions.*

Sections 5.61, 5.102 and 5.103 are revised to be consistent in providing the twenty day response time. Section 5.66 is also revised to confirm that an answer to a petition to intervene must be filed within 20 days of service.

Intervention

In response to comments indicating that there is some frustration with being faced with an unknown intervenor, a new subsection (b) is added to Section 5.73 to require that petitions to intervene filed on behalf of more than one person list those persons and entities comprising the represented group. Our revision to Section 5.74 sets a default deadline for filing a petition to intervene in order to have a clear limit on the time for intervention and the subsections are set up to notify the ALJ of the appropriate standard to use in considering a request for intervention.

Consolidation

No changes are recommended for the only section under this heading.

Amendment and Withdrawal of Pleadings

Sections starting here are revised to reflect the civil rules of procedure where possible and appropriate.

Motions

This rulemaking proposes to change the term "preliminary motion" to "preliminary objection," to utilize the name recognized by practitioners elsewhere. In addition, section 5.101 is revised to accomplish a number of tasks. Subsection (c) refers back to § 5.91, which is revised to provide that an amended pleading filed in response to a motion for a more specific pleading shall result in the motion being deemed to be moot. An addition to subsection (d) requires that a preliminary motion contain a notice to plead. Amended subsection (e) emphasizes that the preliminary objections be decided within 30 days of filing or termination of mediation. Subsection (f) specifies what will happen after a ruling is issued.

Settlement and Stipulations

The format in Section 5.231 is changed to reflect the better regulatory style of limiting a subsection to one topic. In addition, new subsection (d) provides that a proposal to settle a discovery dispute is not admissible against a counsel or party, in response to the concern raised by FirstEnergy in its comments.

The title to section 5.232 is changed to "Settlement petitions" and all mention of stipulations is removed. The section is revised to require filing with the Secretary. Subsection (b) requires identification of the parties which agreed to the settlement or which didn't respond to the attempts to secure agreement. Subsection (d) provides for review by the presiding officer, who is charged with determining and taking appropriate action. Our thanks to FirstEnergy for their detailed comments and proposed language in this section.

The remaining revisions are largely ministerial with very few substantive changes.

Accordingly, under 66 Pa.C.S. §§ 501, 504—506, 1301 and 1501, and the Commonwealth Documents Law, 45 P. S. §§ 1201 et seq., and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5, the Commission proposes adoption of the proposed regulations for revisions of the rules pertaining to practice and procedure

before the Commission, as noted and set forth in Annex A; *Therefore,*

It Is Ordered that:

1. This docket be continued to consider proposed regulations set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to legality.

3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit this order and Annex A for review and comment by the designated standing committees of both houses of the General Assembly, and for review and comment by the Independent Regulatory Review Commission.

5. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. Interested persons may submit written comments, an original and 15 copies to James J. McNulty, Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 and shall have 60 days from the date this order is published to submit comments.

6. The contact person for this rulemaking is W. Blair Hopkin, Law Bureau, (717) 783-6152. Alternate formats of this document are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, Law Bureau, (717) 772-4597.

7. A copy of this order shall be served upon all persons who submitted comments in this rulemaking proceeding.

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-236. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 1. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

Subchapter A. GENERAL PROVISIONS

§ 1.2. Liberal construction.

* * * * *

(c) The Commission or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a [**participant**] party.

* * * * *

§ 1.3. Information and special instructions.

(a) Information as to procedures under this subpart, and instructions supplementing this subpart in special instances, will be furnished upon application to:

By first-class mail:

[**Prothonotary**] **Secretary**
Pennsylvania Public Utility Commission
Post Office Box 3265
[**North Office Building**]
Harrisburg, Pennsylvania [**17120-3265**] **17105-3265**

In person or by mail other than first-class:

Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120

* * * * *

§ 1.4. Filing generally.

(a) Submittals, pleadings and other documents filed with the Commission should be addressed as follows:

By first-class mail:

[**Prothonotary**] **Secretary**
Pennsylvania Public Utility Commission
Post Office Box 3265
[**North Office Building**]
Harrisburg, Pennsylvania 171015-3265

In person or by mail other than first-class:

Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120

* * * * *

§ 1.7. Sessions of the Commission.

Public meetings of the Commission ordinarily will be held in its offices in the [**North Office**] **Commonwealth Keystone** Building, Harrisburg. Schedules for public meetings can be obtained from the Commission Secretary **or viewed on the Commission website.**

§ 1.8. Definitions.

(a) Subject to additional definitions contained in subsequent sections which are applicable to specific chapters or subchapters, the following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Formal record—The pleadings and submittals in a matter or proceeding, a notice or Commission order initiating the matter or proceeding, and if a hearing is held, the following: the designation of the presiding officer, transcript of hearing, exhibits received in evidence, [**exhibits offered but not received in evidence,**] offers of proof, motions, stipulations, subpoenas, proofs of service, references to the Commission and determinations made by the Commission thereon, certifications to the Commission, and anything else upon which action of the presiding officer or the Commission may be based.

Friendly cross-examination—Cross-examination of a witness by a [**participant**] party who does not disagree with the witness' position on an issue.

Individual—A natural person.

* * * * *

[**Intervenors**] *Intervenor*—[**Persons**] A person intervening or petitioning to intervene as provided by §§ 5.71—5.76 (relating to intervention)[, **when admitted as a participant to a proceeding**].

Mediation—An informal, nonadjudicative Commission process through which a neutral third

party (the mediator) assists the parties in reaching a mutually acceptable resolution.

* * * * *

[Participant—A party, Office of Trial Staff prosecutor, Law Bureau staff counsel or another person admitted by the Commission to limited participation in a proceeding. Except as otherwise provided in specific provisions of this part, participants have the same rights granted to parties by this part.]

Party—A person who appears in a proceeding before the Commission who has a direct interest in the subject matter of the proceeding.

(i) Active parties [to a general rate case] are those who intend to fully participate in the litigation of a case, which may include presenting witnesses, cross-examining witnesses from the other parties, making motions, conducting discovery, filing briefs, participating in settlement negotiations, and the like. Active parties [to a general rate case] are not required to serve any documents on inactive parties. [The Commission will serve inactive parties with copies of all orders and recommended decisions issued in the case.]

(ii) Inactive parties [to a general rate case] are those who do not intend to be active parties. Inactive parties have the right to testify at a [hearing, including a] public input hearing[, but]. Inactive parties do not have the right to present other witnesses, cross-examine witnesses from other parties, make motions, conduct discovery, file briefs or participate in settlement negotiations. The Commission will serve inactive parties with copies of all orders and decisions issued in the case.

Person—Except as otherwise provided in this subpart or in the act, the term includes individuals, corporations, partnerships [and], associations, joint ventures, other business organizations, trusts, trustees, legal representatives, receivers, agencies, municipalities or other political subdivisions.

* * * * *

Pleading—An application, complaint, petition, answer, motion, preliminary objection, protest, reply, order to show cause, new matter and reply to new matter or other similar document filed in a proceeding.

* * * * *

[Prothonotary—The Commission officer with whom pleadings and other documents are filed and by whom official records are kept.]

* * * * *

Secretary—The Secretary of the Commission, who is the Commission officer with whom pleadings and other documents are filed and by whom official records are kept.

* * * * *

Submittal—An application, amendment, exhibit or similar document filed in an ex parte or other [nonadversary] nonadversarial proceeding.

* * * * *

Verification—When used in reference to a written statement of fact by the signer, means supported by

oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

* * * * *

Subchapter B. TIME

§ 1.11. Date of filing.

(a) Whenever a pleading, submittal[,] or other document is required or permitted to be filed under this title or by statute, it will be deemed to be filed on one of the following dates:

(1) On the date actually received in the office of the [Prothonotary] Secretary.

(2) On the date deposited with an overnight express [package] delivery service as shown on the express delivery receipt attached to or included within the envelope containing the document.

(3) On the date [deposited in the United States mail as shown by the United States Postal Service stamp on the envelope or] noted on a United States Postal Service Form 3817 certificate of mailing. A mailing envelope stamped by an in-house postage meter is insufficient proof of the date of mailing.

(4) On the date that it enters an information processing system designated by the Commission for the purpose of receiving documentary filings and from which the Commission is able to retrieve the electronic record and is in a form capable of being processed by that system, if prior to 4:30 p.m. local time. On the following date, if after 4:30 p.m. local time.

(b) Failure to include a legible delivery receipt with [the] a document submitted in accordance with the methods specified in subsection (a)(2) may result in an untimely filing.

(c) A document transmitted by [telecopier] telefacsimile to the Commission will not be accepted for filing within the meaning of this section.

* * * * *

§ 1.15. Extensions of time and continuances.

(a) Extensions of time shall be governed by the following:

* * * * *

(2) [Request's] Requests for the extension of time in which to file briefs shall be filed at least 5 days before the time fixed for filing the briefs unless the presiding officer, for good cause shown, allows a shorter time.

(b) Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specified time by this title or by order of the Commission or the presiding officer, shall be by motion in writing, timely filed with the Commission, stating the facts on which the application rests, except that during the course of a proceeding, the requests may be made by oral motion in the hearing before the Commission or the presiding officer. Only for good cause shown[,] will requests for continuance be considered. The requests for a continuance should be submitted at least 5 days prior to the hearing date.

* * * * *

Subchapter C. REPRESENTATION BEFORE THE COMMISSION

§ 1.21. Appearance [in person].

* * * * *

(b) [In adversarial proceedings, partnerships, corporations, trusts, associations, agencies, political subdivisions and government entities] Except as provided in subsection (a), persons in adversarial proceedings shall be represented [only under] in accordance with § 1.22 (relating to appearance by attorneys and legal intern). For purposes of this section, any request for a general rate increase under section 1307(f) or 1308(d) of the act (relating to sliding scale of rates; adjustments; and voluntary changes in rates) shall be considered to be an adversarial proceeding.

(c) In nonadversarial proceedings, [a member of a partnership may represent the partnership, a bona fide officer of a corporation, trust or association may represent the corporation, trust or association, and an officer or employe of another agency, a political subdivision or governmental entity may represent the agency or political subdivision in presenting a submittal to the Commission subject to this chapter and Chapter 5 (relating to formal proceedings).] persons may be represented in the following manner:

- (1) A partner may represent the partnership.
- (2) A bona fide officer of a corporation, trust or association may represent the corporation, trust or association.
- (3) An officer or employee of an agency, political subdivision or government entity may represent the agency, political subdivision or government entity.

(d) In informal proceedings brought under Chapters 56 and 64 (relating to standards and billing practices for residential utility service; and standards and billing practices for residential telephone service), parties may be represented by one of the following:

- (1) [Paralegals] A paralegal working under the direct supervision of an attorney admitted to the Pennsylvania Bar.
- (2) [Another] An appropriate individual.

* * * * *

§ 1.22. Appearance by attorney or certified legal intern.

(a) [Individuals, partnerships, associations, corporations or governmental entities may be represented in a proceeding by an] An attorney at law admitted to practice before the Supreme Court of Pennsylvania shall represent persons in Commission proceedings.

(b) An attorney not licensed in [a jurisdiction which does not accord like privileges to members of the bar of] this Commonwealth may appear before the Commission [with the permission of the presiding officer or the Commission consistent with Pa.B.A.R. No. 301 (relating to admission pro hac vice)] in accordance with the Pennsylvania Bar Admission Rules.

(c) [Law students] A law student meeting the requirements of [PA] Pa.B.A.R. No. 321 (relating to requirements for formal participation in legal matters by law students) may appear in a Commission proceeding consistent with Pa.B.A.R. No. 322 (relating to authorized activities of certified legal interns).

* * * * *

§ 1.23. Other representation prohibited at hearings.

(a) [Participants, individuals, partnerships, associations, corporations or governmental entities] Persons may not be represented at a hearing before the Commission or a presiding officer except [:

- (1) As] as stated in § 1.21 or § 1.22 (relating to appearance in person; and appearance by attorney or certified legal intern).
- [(2) As otherwise permitted by the Commission in a specific case.]

* * * * *

§ 1.24. Notice of appearance or withdrawal.

(a) *Individuals.* An individual appearing without legal representation before the Commission or a presiding officer shall file with the [Prothonotary] Secretary an address for service of a notice or other written communication. A change in address which occurs during the course of the proceeding shall be reported to the [Prothonotary] Secretary promptly.

(b) *Attorneys.*

(1) *Appearance by initial pleading.* An attorney [whose name and address appear] who signs an initial pleading in a representative capacity [on an initial pleading filed with the Prothonotary or a presiding officer] shall be considered to have entered an appearance in that proceeding.

(2) *Appearance in all other instances.* An attorney [who enters the matter at a later stage of the proceeding] shall file with the [Prothonotary] Secretary a [writtennotice] written notice of [the] appearance[, which shall state his].

(i) *Content of notice.* Initial pleadings, entries of appearance and notices of withdrawal shall include:

- (A) The attorney's name, mailing address and [telephone number and the] electronic mailing address, if applicable.
- (B) Pennsylvania attorney identification number or, if not licensed in this Commonwealth, identification of the jurisdictions in which the attorney is licensed to practice law.
- (C) Telephone number and telefacsimile number, if applicable.
- (D) The name and address of the person [on whose behalf he appears] represented.

(ii) *Filing.*

(A) *Appearance.* The notice [shall] of appearance must be served on the [participants in] parties to the proceeding, and a certificate of service shall be filed with the Secretary.

(B) **Change in address.** A change in address which occurs during the course of the proceeding [shall] must be reported to the [Prothonotary] Secretary promptly.

[(c) A person appearing or practicing before the Commission in a representative capacity may be required to file a power of attorney with the Commission showing his authority to act in that capacity.

(d)] (3) **Withdrawal.** An attorney [who wishes to] may withdraw an appearance [shall file with the Prothonotary] by filing a written notice of withdrawal with the Secretary. The notice shall be served on the [participants] parties and the presiding officer, if one has been designated.

[(e)] (c) **Supersession.** Subsections (a)—[(d)] (e) supersede 1 Pa. Code § 31.24 (relating to notice of appearance).

§ 1.25. **Form of notice of appearance.**

(Editor's Note: For purposes of this section, brackets contained within the form are contained in the existing format of the form, and are not indicative of language to be deleted, with one exception. The term "participant" is being replaced with the term "party.")

(a) The form of notice of appearance is as follows:

COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA PUBLIC UTILITY
COMMISSION

In the Matter of:

[File, Docket or other identifying No.:]

NOTICE OF APPEARANCE

Please enter my appearance in the above-designated matter on behalf of _____ .

I am authorized to accept service on behalf of said [participant] party in this matter.

[CHECK ONE]

[] On the basis of this notice, I request a copy of each document hereafter issued by the Commission in this matter.

[] I request that a copy of each document hereafter issued by the Commission in this matter be transmitted electronically to the electronic mail address listed below in instances where service by electronic means is permitted.

[] I am already receiving or have access to a copy of each document issued by the Commission in this matter (alone, or in a consolidated proceeding) and do not on the basis of this notice require an additional copy.

Signature

Name (Printed)

P. O. address

City, state and zip code

Telephone Number (including area code)

Attorney I.D. No.

Electronic Mail Address

* * * * *

Subchapter D. DOCUMENTARY FILINGS

§ 1.31. [Form of] Requirements for documentary filings [generally].

(a) **Form.** [Applications, petitions, complaints, answers or similar documents shall] Pleadings must be divided into numbered paragraphs.

(b) **Attachments.** Copies of [contracts, agreements, certificates, permits or other writings referred to] documents relied upon in the [application or petition, shall] pleadings must be attached as exhibits. Copies of writings or orders already of record with the Commission need not be attached to the [application or petition] pleading if reference by docket number is made to the proceeding in which they were filed in accordance with § 1.33 (referring to incorporation by reference).

(c) **Identifying information.** [Pleadings, submissions or other documents] Documents filed with the Commission in a proceeding [shall] must clearly [show] contain the following information:

(1) The docket number or similar identifying symbols, if any [, and].

(2) The title or caption of the proceeding before the Commission.

(3) [They shall also show, in the title of a particular pleading, submittal or other document filed,] Within the title, the name of the person on whose behalf the filing is made. If more than one person is involved, only a single name [only need be included in the title] is necessary.

(d) **Supersession.** Subsections (a)—(c) supersede 1 Pa. Code § 33.1 (relating to title).

§ 1.32. **Form of documents.**

* * * * *

(d) **Electronically submitted documents.** Margins, spacing and type size of electronically submitted documents must be in accordance with the requirements in subsections (a) and (b).

[(d)] (e) * * *

§ 1.33. **Incorporation by reference.**

(a) [Except as otherwise provided in subsection (b), documents] Documents on file with the Commission may be incorporated by reference into a [subsequently filed] subsequent pleading, submittal or other document. A document may be so incorporated only by reference to the specific document and to the prior filing and docket number at which it was [physically] filed.

(b) [No document which has been] Documents on file with the Commission [for a period of more than 20 years] may not be incorporated by reference in a current document unless the person filing the current document first [makes inquiry to the Prothonotary office and] ascertains that the earlier document continues to be readily available in the active records of the Commission.

§ 1.35. Execution.

(a) Signature. [Except as may be otherwise ordered or requested by the Commission, the original copy of a] A pleading, submittal or other document [shall] must be signed in ink by the party in interest, or by [his] the party's attorney, as required by subsection (b), and show the office and post office address of the party or attorney. [Other]

(1) An original hard copy must be signed, and other copies filed shall conform thereto unless otherwise ordered by the Commission.

(2) If the Commission permits a document to be submitted in electronic form, the document may be signed electronically using a method preapproved by the Commission.

(b) [Subscription] Signatory.

(1) A pleading, submittal or other document filed with the Commission [shall] must be [subscribed] signed by one of the following:

* * * * *

(2) A document filed by a corporation, trust, association or other organized group, may be required to be supplemented by appropriate evidence of the authority of the officer or attorney [subscribing] signing the documents.

(c) Effect.

(1) The signature of the [person subscribing] individual signing a document filed with the Commission constitutes a certificate by the individual that:

(i) The [person] individual has read the document being [subscribed] signed and filed, and knows the contents thereof.

(ii) The document has been [subscribed] signed and executed in the capacity specified upon the document with full power and authority to do so, if executed in a representative capacity.

(iii) The document is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, to the best of the [person's] individual's knowledge, information and belief formed after reasonable inquiry.

* * * * *

(2) If a document is signed in violation of this subsection, the presiding officer or the Commission, upon motion or upon its own initiative, may impose upon the [person] individual who signed it, a represented party, or both, an appropriate sanction, which may include striking the document, dismissal of the proceeding or the imposition of civil penalties under section 3301 of the act (relating to civil penalties for violations).

(d) Supersession. Subsections (a)—(c) [are identical to] supersede 1 Pa. Code § 33.11 (relating to execution).

§ 1.36. Verification.

(a) Applications, petitions, formal complaints, motions and answers thereto containing an averment of fact not appearing of record in the action or containing a denial of fact [shall] must be personally verified by a party thereto or by an authorized officer or other authorized employee of the party if a corporation or association. Verification means a signed written statement of fact supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). [If] When verification is [required] permitted, notarization is not necessary.

* * * * *

(c) When an affidavit is used, it must be notarized and the form should comply substantially with the following:

AFFIDAVIT

I, _____ (Affiant) being duly sworn (affirmed) according to law, depose and say that (I am authorized to make this affidavit on behalf of _____ corporation, being the holder of the office of _____ with that corporation, and that) the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and (I or corporation) expect to be able to prove the same at any hearing hereof.

(Signature of affiant)

Sworn and subscribed before me this _____ day of _____, [19] 2 ____.

(Signature of official administering oath)

(My Commission Expires)

* * * * *

§ 1.37. Number of copies.

(a) General rule. [An] When a pleading, submittal or document other than correspondence is submitted in hard copy, an original and three copies of [pleadings, submittals or documents other than correspondence shall] each, including the cover letter, must be furnished to the Commission at the time of filing[, except as may be otherwise required by statute or ordered or requested by the Commission, and except as required by §§ 5.409, 5.502 and 5.533 (relating to copies and form of documentary evidence; filing and service of briefs; and procedure to except to initial, tentative and recommended decisions)].

(b) Exceptions.

(1) [In the case of applications and petitions] When the document is an application or petition, one [of the copies filed with the Commission] copy may be filed without exhibits.

[(c) In the case of complaints]

(2) When the document is a complaint or [petitions, when] petition and more than one respondent is

named, an additional copy of the complaint or petition [shall] must be filed for each additional respondent.

(3) When the document is subject to a statutory requirement or is otherwise ordered or requested by the Commission, a different number of copies may be designated.

(4) When the document is subject to the requirements of § 5.409, § 5.502 or § 5.533 (relating to copies and form of documentary evidence; filing and service of briefs; and procedure to except to initial, tentative and recommended decisions), the filing shall conform to the requirements set forth in the applicable section.

(c) *Electronic filing.* When permitted by the Commission or the Office of Administrative Law Judge, a single copy of a document may be submitted electronically to the Secretary's Bureau for filing.

* * * * *

§ 1.38. Rejection of filings.

The Commission may reject a filing if it does not comply with any applicable statute, regulation or order, or if the filing utility is otherwise delinquent in its regulatory obligations.

Subchapter E. FEES

§ 1.42. Mode of payment of fees.

(a) Fees [shall] must be paid by money order or check made payable to the Commonwealth of Pennsylvania or by any method currently acceptable to the Commission. The Secretary's Bureau should be contacted prior to submitting payment in a form other than money order or check. Cash is sent at the risk of the sender.

* * * * *

§ 1.43. Schedule of fees payable to the Commission.

* * * * *

[(b) *Fees for testing.* The fees fixed by section 317 of the act (relating to fees for services rendered by commission) to be charged and collected from public utilities for the testing of their instruments of precision and measuring apparatus are as follows:

<i>Description</i>	<i>(in dollars)</i>
Testing each watt-hour meter	\$16
Testing each indicating instrument	10
Testing each transformer	10
Testing each standard cell	5
Testing each standard resistance	10
Testing each potentiometer	50
Testing each gas meter prover	35
Testing each calorimeter tested at the gas company's plant	35
Testing each calorimeter tested at the Commission laboratory	10
Each water meter testing apparatus tested at the company's plant	15
Each water meter tested at the Commission laboratory	3

(c) *Condensation and steam flow meters.*

(1) The schedule of fees for testing condensation and steam flow meters is as follows:

(i) For condensation meters having an outlet not exceeding 2 inches—\$5.

(ii) For condensation meters having an outlet in excess of 2 inches—\$10.

(iii) For steam flow meters—\$25.

(2) Upon receipt of complete specifications, the Commission will determine the fees for testing those meters located so that the cost is out of proportion to the fee specified or those not included in the classification in this subsection

(d) *Water meters.*

(1) The schedule of fees for testing meters is as follows:

(i) For each water meter having an outlet not exceeding 1 inch—\$5.

(ii) For other water meters having an outlet not exceeding 2 inches—\$10.

(2) Rates for testing other meters, including those which are located so that the cost is out of proportion to the fee specified, will be furnished by the Commission upon the receipt of complete specifications.

(e) [(b) *Supersession.* [Subsections] Subsection (a) [—(d) supersede] supersedes 1 Pa. Code §§ 33.21(b) and 33.23 (relating to filing fees; and copy fees).

Subchapter F. SERVICE OF DOCUMENTS

§ 1.51. Instructions for service and notice.

Upon [receipt of] receiving an application or initial petition, the [Prothonotary] Secretary will instruct the applicant or petitioner concerning the required service and public notice.

§ 1.53. Service by the Commission.

(a) [Except when service by another method is specifically required by the Commission,] *Applicability.* This section applies to service of an order, notice or other document originating with the Commission [, including forms of Commission action and similar process,] and other documents designated by the Commission, [shall be served by the Commission] except when the Commission specifically requires a different form of service.

(b) *Forms of service.*

(1) *First class mail.* Service may be made mailing a copy thereof to the person to be served, addressed to the person designated in the initial pleading, submittal or notice of appearance at the person's principal office or place of business.

(2) *Personal.* [When service is not accomplished by mail, it] Service may be [effected] made personally by anyone authorized by the Commission.

(3) *Electronic.* Service may be made electronically, when the recipient has specifically authorized electronic service in the matter.

[(b)] (c) *Registered or certified mail.* Service of a petition under § 3.391 (relating to arbitration of claims for billing and collecting services), and service of a complaint under section 702 of the act (relating to service of complaint on parties) [shall] must be by registered or certified mail, return receipt requested.

[(c)] (d) Change of address. It is the duty of a **[participant] party** to apprise the Commission promptly of changes to the **[participant] party's** current address.

[(d)] (e) Alternative service. If the Commission is unable to serve a **[participant] party** by mail at the **[participant's] party's** last known address, the Commission may **[serve the participant] make service** by publication in a newspaper of general circulation in the same area as the **[participant's] party's** last known address. In the alternative, service may also be accomplished by publication in the *Pennsylvania Bulletin* or by service on the Secretary of the Commonwealth, if appropriate.

[(e)] (f) Supersession. [Subsection] Subsections (a)–(e) [supersedes] supersede 1 Pa. Code § 33.31 (relating to service by the agency).

§ 1.54. Service by a [participant] party.

(a) Pleadings, submittals, briefs and other documents, filed in proceedings pending before the Commission **[shall] must** be served upon **[participants] parties** in the proceeding and **upon** the presiding officer, if one has been assigned.

(b) Service may be **[in person, by available delivery service, by mail or as otherwise directed by the Commission. Service may also be by telecopier to those parties who have agreed to accept service in that manner.]** made by one of the following methods:

(1) **First class mail.** Service may be made by mailing the requisite number of copies to each party as provided in § 1.59 (relating to number of copies to be served), properly addressed with postage prepaid.

(2) **Personal.** Service may be made personally.

(3) **Electronic.** Service may be made electronically, to those parties who have agreed to accept service in that manner. Documents served electronically need not be followed by service of a hard copy if the parties have so agreed.

(4) **Telefacsimile.** Service may be made by telefacsimile to those parties who have agreed to accept service in that manner. Documents served by telefacsimile need not be followed by service of a hard copy if the parties have so agreed.

(c) **[Service by mail shall be made by delivering the requisite number of copies to each participant as provided in § 1.59 (relating to number of copies to be served), properly addressed with postage prepaid, and first class mail shall be utilized. Service by telecopier shall be followed by service of a hard copy either by mail, by available delivery service or in person.]**

(d) **In a proceeding in which only some of the participants participate actively, the active participants, with the authorization of the presiding officer, may serve documents upon the other active participants and to inactive participants which state of record on the record or request in writing that they wish to be served.**

[(e)] Subsections (a) [–(c)] and (b) supersede 1 Pa. Code § 33.32 (relating to service by a **[participant] party**).

§ 1.55. Service on attorneys.

(a) **[In a proceeding where an attorney has filed a pleading or submittal on behalf of a client or has entered an appearance under § 1.24(b) (relating to notice of appearance or withdrawal), a notice or other written communication required to be served upon or furnished to the client shall be served upon or furnished to the attorney—or one attorney if the client is represented by more than one attorney—] When an attorney enters an appearance under § 1.24 (relating to notices of appearances or withdrawals), service must be directed to the attorney in the same manner as prescribed for his client.**

(b) When a **[participant has appeared] party is** represented by an attorney, service upon the attorney shall be deemed service upon the **[participant and separate] party.** Separate service on the **[participant] party** may be omitted.

* * * * *

§ 1.56. Date of service.

(a) The date of service shall be the day when the document served meets one of the following conditions:

* * * * *

(4) The document is transmitted by **[telecopier] telefacsimile** as provided in § 1.54 (relating to service by a **[participant] party**) **prior to 4:30 p.m. local time.**

(5) **The document enters an information processing system designated by the recipient for the purpose of receiving service and from which the recipient is able to retrieve the served document in a form capable of being processed by the recipient's system prior to 4:30 p.m. local time.**

(b) Unless otherwise prescribed by the Commission or presiding officer, whenever a **[participant] party** is required or permitted to do an act within a prescribed period after service of a document upon the **[participant] party** and the document is served by **first-class mail by the United States Postal Service**, 3 days shall be added to the prescribed period.

* * * * *

§ 1.58. Form of certificate of service.

(a) The form of certificate of service shall be as follows:

I hereby certify that I have this day served a true copy of the foregoing document upon the **[participants] parties**, listed below, in accordance with the requirements of § 1.54 (relating to service by a **[participant] party**).

(List names and addresses of **[participants] parties** served.)

Dated this _____ day of _____, **[19] 2** _____.

(Signature)

Counsel for

* * * * *

§ 1.59. Number of copies to be served.

* * * * *

(b) The following number of copies of documents shall be served on other [participants] parties in a proceeding:

- (1) Briefs:
 - (i) Service of hard copies—two copies.
 - (ii) Service by electronic means, when permitted—one copy.
 - (iii) Service by telefacsimile, when permitted—one copy.

* * * * *

Subchapter G. MATTERS BEFORE OTHER TRIBUNALS

§ 1.61. Notice and filing of copies of pleadings before other tribunals.

* * * * *

(b) [A public utility subject to the jurisdiction of the Commission which files a petition under Chapter 7, 9, 11 or 13 of the United States Bankruptcy Code (11 U.S.C.A. §§ 701—766, 901—946, 1101—1174 and 1301—1330), its supplements and amendments, or against which the petition is filed, shall, within 10 days of the filing thereof or notification of the filing, file a copy of the petition with the Commission and with the Office of Consumer Advocate, 1425 Strawberry Square, Harrisburg, Pennsylvania 17120 and with the Office of Small Business Advocate, Suite 1102 Commerce Building, 300 North Second Street, Harrisburg, Pennsylvania 17101.] Upon filing of a petition for bankruptcy under the United States Bankruptcy Code (11 U.S.C.A. §§ 701—766, 901—946, 1101—1174 and 1301—1330) by a jurisdictional utility or licensee or by a parent, affiliate, or direct or indirect subsidiary of a utility or licensee, the utility or licensee shall file a copy of the petition with the Commission, the Office of Consumer Advocate and the Office of Small Business Advocate.

(c) [A public utility which is subject to the regulatory jurisdiction of the Commission, or the public utility trustee in bankruptcy, shall file a petition for Commission approval of a reorganization plan as to the public interest therein and the fairness thereof, accompanied by a copy of the plan within 10 days after the debtor has filed the plan, its supplements and amendments, or has received notice that the plan has been filed with the court.

(d) A [public] jurisdictional utility [which] that is subject to the regulatory jurisdiction of the Commission, or its trustee in bankruptcy, shall file a [petition for Commission approval of a] copy of the reorganization plan [as to the public interest therein and the fairness thereof, accompanied by a copy of the plan] for itself or for its bankrupt parent, subsidiary or affiliate for Commission review within 10 days after the debtor has filed the plan, its supplements and amendments, or has received notice that the plan has been filed with the court.

[(1) The petition shall contain a concise statement of the relevant facts and set forth the grounds upon which Commission approval should be granted.

(2) If the reorganization plan contemplates the issuance of new securities or a change in the terms and conditions of securities already outstanding, the record shall be developed to show the same information which the Commission requires in securities certificates.

(3)] (d) If the reorganization plan submitted under subsection (c) contemplates the abandonment of service, the [petition shall] submittal must include an application under [section 1102(a)(2)] Chapter 11 of the act (relating to [enumeration of acts requiring certificate] certificates of public convenience). If a licensee's reorganization plan includes the abandonment of the license, the submittal shall include the appropriate pleading under Chapters 22 and 28 of the act (relating to natural gas competition; and restructuring of electric utility industry).

[(4) The Commission will make a finding and certify its approval or disapproval of the plan to the bankruptcy court in which the petition is filed.]

Subchapter H. PUBLIC ACCESS TO COMMISSION RECORDS

§ 1.71. Statement of objectives.

The [Commission intends to establish a] Commission's records maintenance system [which allows] is intended to provide for the greatest degree of public access to Commission documents that is consistent with the exercise of the functions of the Commission under the act and other applicable laws. [A] The Commission's system is [hereby created] designed to meet that objective and to give public notice of which classes of documents are available for inspection. The system provides a predictable standard, which nevertheless permits the Commission to take cognizance of the circumstances of individual requests for documents which may militate in favor of or against disclosure.

§ 1.72. [Formal] Content and review of formal case files.

* * * * *

§ 1.73. Fiscal records.

(a) Except as provided in subsection (b), an account, voucher or contract dealing with the receipt or disbursement of funds by the Commission or its acquisition, use or disposal of services or supplies, materials, equipment or other property shall be available during normal Commission business hours upon request made to the Commission fiscal office. Fiscal records are retained in accordance with time periods set by applicable statutory, regulatory and administrative requirements.

* * * * *

§ 1.76. Tariffs, minutes of [the] public [meeting] meetings and annual reports.

Tariffs, minutes of [the] public [meeting] meetings and annual reports [shall] must be available for public inspection and copying upon request to the Office of the Secretary during normal Commission business hours.

Subchapter I. AMENDMENTS [TO] OR WITHDRAWALS OF SUBMITTALS

§ 1.81. Amendments.

(a) An amendment to a submittal or pleading may be tendered for filing at any time and [shall] will be deemed filed [as of the date of tender] in accordance with § 1.11 (relating to date of filing) unless the Commission otherwise orders.

* * * * *

§ 1.82. Withdrawal or termination.

(a) A party, which desires to terminate an uncontested matter or proceeding before final decision by the Commission or otherwise desires to withdraw a submittal or pleading, shall file a petition for leave to withdraw the appropriate document. If no [participant] party objects to the petition within 10 days of service, the matter may be stricken by the Commission or by the presiding officer. If upon review the presiding officer or the Commission determines that the public interest requires continuation of the proceedings, the petition [shall] will be denied and the staff may be directed to participate.

* * * * *

Subchapter J. DOCKET

§ 1.86. Docket.

(a) The [Prothonotary] Secretary will maintain a docket of all proceedings, and each proceeding as initiated shall be assigned an appropriate designation. The docket shall be available for inspection and copying by the public during the Commission's office hours.

* * * * *

CHAPTER 3. SPECIAL PROVISIONS

Subchapter A. SPECIAL COMMISSION ACTIONS

EMERGENCY RELIEF

§ 3.1. Definitions.

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

* * * * *

Emergency order—An ex parte order issued by a single Commissioner, the Commission, the Commission's Director of Operations [or Executive Assistant], or the Commission's Secretary in response to an emergency.

* * * * *

EX PARTE EMERGENCY ORDERS

§ 3.2. [Issuance] Petitions for issuance of emergency [order] orders.

[(a)] To the extent practicable, a petition for emergency [relief shall] order must be:

(1) In the form of a petition as set forth in § 5.41 (relating to petitions generally) and shall be served on the persons directly affected by the application.

(2) [Supported] A petition for emergency order shall be supported by [an affidavit verifying] a verified statement of facts which [establish] establishes the existence of an emergency[.], including facts to support the following:

(i) The petitioner's right to relief is clear.

(ii) The need for relief is immediate.

(iii) The injury would be irreparable if relief is not granted.

(iv) The relief requested is not injurious to the public interest.

[(3) Served on the persons directly affected by the application.

(b) When there is an actual or declared emergency, the Chairman, a Commissioner, the Commission's Director of Operations and the Executive Assistant and the Commission's Secretary have the authority to issue an emergency order.

(c) An emergency order shall be served as expeditiously as practicable upon the persons directly affected by the order.

(d) Notice of denial of a petition for emergency order by less than the full Commission shall be served by the Secretary with copies to Commissioners.]

§ 3.3. [Form] Disposition of ex parte emergency [order] orders.

(a) Authority. The Chairperson, a Commissioner, the Commission's Director of Operations and the Commission's Secretary have the authority to issue an emergency order.

(b) Form. An emergency order shall be issued in writing and shall be filed with the [Prothonotary] Secretary with copies to Commissioners, and the Director of Operations.

(c) Ratification. An emergency order or the denial of a petition for emergency order issued by a single Commissioner or the Director of Operations or the Commission's Secretary will be ratified, modified or rescinded by the Commission at the next scheduled public meeting after issuance of the order.

(d) Service. An emergency order or the denial of a petition for emergency order will be served by the Secretary as expeditiously as practicable upon the persons directly affected by the decision with copies to the Commissioners and the Director of Operations.

§ 3.4. [Hearing on] Hearings following issuance of emergency [order] orders.

(a) [Upon petition by a] A person against whom an emergency order is issued[,] may file a petition for an expedited hearing [before a presiding officer will be conducted within 10 days] to determine whether [or not] the emergency order will remain in effect. The petition must conform to the form and service requirements in §§ 5.41—5.44 (relating to petitions generally).

(b) The petition for expedited hearing shall be [served upon the Commission with] filed with the Secretary and a copy [to] served upon the Chief Administrative Law Judge. [The presiding officer will take into account the irreparable harm, if any, which staying or continuing the emergency order would cause the public interest or the person directly affected.]

(c) **The hearing will be held before a presiding officer within 10 days of receipt of the petition by the Secretary.**

[(b)] (d) If the emergency order is issued by a single Commissioner or the Director of Operations **[or the Executive Assistant,]** or by the Commission's Secretary, then the presiding officer will have the authority to stay the effect of the order until the next scheduled public meeting.

(e) The decision of the presiding officer will constitute a **[recom-mended] recommended** decision to be acted upon by the Commission at its next scheduled public meeting.

§ 3.5. **[Ratification of emergency order] (Reserved).**

[(a) An emergency order issued by a single Commissioner or the Director of Operations or the Executive Assistant or the Commission's Secretary will be ratified, modified or rescinded by the Commission at the next scheduled public meeting after issuance of the order.

(b) When a petition for emergency order has been denied by less than the full Commission, the denial will be deemed ratified by the Commission if the Commission does not act to the contrary during the first public meeting after the Secretary served the notice of its denial.]

INTERIM EMERGENCY RELIEF

§ 3.6. **Petitions for interim emergency orders.**

(a) A party may submit a petition for an interim emergency order during the course of a proceeding. The petition must be filed with the Secretary and served contemporaneously on the Chief Administrative Law Judge and on the parties.

(b) To the extent practicable, a petition for an interim emergency order shall be in the form of a petition as set forth in § 5.41 (relating to petitions generally). A petition for an interim emergency order **[may be submitted by a participant during the pendency of a proceeding and, to the extent practicable, shall]** must be supported by **[an affidavit verifying]** a verified statement of facts which **[establish]** establishes the existence of the need for interim emergency relief[.], including facts to support the following:

- (1) The petitioner's right to relief is clear.
- (2) The need for relief is immediate.
- (3) The injury would be irreparable if relief is not granted.
- (4) The relief requested is not injurious to the public interest.

[(b) An allegation contained]

(c) Allegations set forth in the petition shall be deemed to have been denied by the opposing parties, and an answer is not required. **[If a participant desires,]** A party may file an answer in the form set forth in § 5.61 (relating to answers to complaints, petitions and motions) **[may be filed]** no later than 5 days after **[receipt]** service of a copy of the petition.

[(c) No other]

(d) Other pleadings, memoranda or briefs related to a petition for interim emergency **[orders]** order are not permitted unless specifically requested by the presiding officer.

[(d) A copy of the petition shall be served on the Chief Administrative Law Judge at the same time the petition is filed with the Prothonotary and served on the participants.]

§ 3.6a. **Hearing on petitions for interim emergency orders.**

An interim emergency order may not be issued until the presiding officer holds a hearing on the merits of the petition. The hearing must be held within 10 days of the filing of the petition.

§ 3.7. **Issuance of interim emergency orders.**

[(a) A presiding officer may issue an interim emergency order upon finding that the following exist:

- (1) The petitioner's right to relief is clear.
- (2) The need for relief is immediate.
- (3) The injury would be irreparable if relief is not granted.
- (4) The relief requested is not injurious to the public interest.

(b) An order granting or denying interim emergency relief will be issued within 15 days of receipt of the petition.

(c) An interim emergency order or an order denying interim emergency relief shall be served as expeditiously as practicable on the participants.]

(a) A presiding officer will issue an order granting or denying interim emergency relief within 15 days of the filing of the petition.

(b) An order granting a petition for interim emergency relief will set forth the findings required by § 3.6(b) (relating to hearing on petitions for interim emergency orders).

(c) An interim emergency order or an order denying interim emergency relief will be served as expeditiously as practicable on the parties.

§ 3.8. **Form of interim emergency orders.**

[An order granting or denying interim emergency relief shall:

(1) Contain a brief description of the evidence presented in support of or in opposition to the petition and shall specify how that evidence meets or fails to meet the criteria in § 3.7 (relating to the issuance of interim emergency orders).

(2) If relief is granted, determine whether or not a bond—in form satisfactory to the Chief Administrative Law Judge—shall be posted by the petitioner.

(3) If a bond is required, determine the amount of the bond.]

(a) An order following a hearing on a petition for interim emergency relief must include:

- (1) A brief description of the evidence presented.
- (2) A grant or denial of the petition.

(b) An order following a hearing on a petition for interim emergency relief may require a bond to be filed in a form satisfactory to the Secretary and must specify the amount of the bond.

§ 3.9. [Hearings on petitions for interim emergency orders] (Reserved).

[No interim emergency order may be issued until the presiding officer holds a hearing on the merits of the petition. The hearing shall be held within 10 days of the receipt of the petition.]

§ 3.10. Commission review of interim emergency orders.

* * * * *

(b) When the presiding officer rules upon the petition for an interim emergency order, the presiding officer shall also certify the question of the [granting] grant or denial of relief to the Commission as a material question in the form set forth in § 5.305 (relating to interlocutory review of a material question submitted by a presiding officer). Thereafter, the [participants] parties and the Commission shall follow the procedures in § 5.305, if applicable.

**Subchapter B. INFORMAL PROCEEDINGS
GENERALLY**

**INFORMAL COMPLAINTS AND INVESTIGATIONS
APPLICATIONS**

INFORMAL COMPLAINTS

§ 3.111. Form and content of informal complaints.

* * * * *

(b) Informal complaints [in rate cases should be filed with] shall be submitted to the [Prothonotary. Other informal complaints must be filed with the] Secretary for referral to the appropriate bureau, addressed to the following: Pennsylvania Public Utility Commission, [Bureau of Consumer Services,] Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.

* * * * *

§ 3.112. Action on informal complaints.

(a) [Upon receipt of] *Filing*. The Secretary will place a copy of an informal complaint related to a docketed matter[, a copy of the informal complaint will be placed] in the official document folder.

(b) *Commission staff review*.

(1) [Except] Commission staff will review the informal complaint to determine whether the subject matter is within the Commission's jurisdiction, except as set forth in Chapters 56 and 64 (relating to standards and billing practices for residential utility service; and standards and billing practices for residential telephone service)[, the Commission staff will review the material submitted, and if the matter complained of appears to lie within the jurisdiction of the Commission, perform additional investigation necessary or proper to corroborate].

(2) Commission staff will evaluate the allegations of the complaint, and, if warranted, institute an informal investigation.

(3) [Upon completion of the review and investigation, the] Commission staff may institute formal action with respect to the subject matter of the informal complaint.

[(b)] (c) *Commission staff action*. Upon the completion of the Commission's investigation of an informal complaint, the Commission staff will notify the informal complainant of the results of its review and investigation [and of the staff recommendation, if any, to the Commission]. The [filing] submission or [a] withdrawal of an informal complaint is without prejudice to the right of the complainant to file and prosecute a formal complaint.

[(c)] (d) *Caveat*. The [filing] submission of an informal complaint does not entitle complainant to a formal hearing before the Commission.

[(d)] (e) *Supersession*. [Subsection] Subsections (a)—(d) [supersedes] supersede 1 Pa. Code §§ 35.6 and 35.7 (relating to correspondence handling of informal complaints; and discontinuance of informal complaints without prejudice).

§ 3.113. Resolution of informal investigations.

(a) The Commission staff may conduct informal investigations in appropriate circumstances regarding the condition and management of a public utility or other person [or corporation] subject to its jurisdiction. The informal investigations are typically undertaken to gather data or to substantiate allegations of potential violations of the act and may be conducted with or without hearing.

(b) [The Legislature has found that secrecy in public affairs undermines the faith of the public in government and the public's effectiveness in fulfilling its role in a democratic society. The Sunshine Act (65 P. S. §§ 271—286) therefore requires that] Under 65 Pa.C.S. Chapter 7 (relating to Sunshine Act), the Commission's official actions [take place at a public meeting, subject to certain limited exceptions.] resolving informal complaints will be as follows:

[(c) To reconcile the Commission's authority to undertake informal investigations with or without hearing and the Legislature's findings regarding the adverse consequences of secrecy in public affairs, the Commission will proceed as follows when a quorum of its members meet to discuss termination of an informal investigation:]

* * * * *

(3) When the utility, or other person [or corporation] subject to [its] the Commission's jurisdiction, has committed to undertake action [in order] to address or remedy a violation or potential violation of the act or to resolve another perceived deficiency at the utility, in the form of a settlement with the Commission staff or other resolution of the matter, the Commission's [adoption] consideration of the settlement or approval of the utility's action will [be considered] occur at public meeting. Except for staff reports [which advise the Commission as to the action it should take] and other documents covered by a specific legal privilege, documents relied upon by the Commission in reaching its determination shall be made part of the

public record. The Commission's decision to adopt the settlement or to approve the utility's action will be in the form of a tentative decision that recites the relevant facts and the Commission's conclusions, and provides other potentially affected persons with the opportunity to submit exceptions thereon or to take other action provided for under law.

Subchapter D. CROSSING PROCEEDINGS

§ 3.361. Crossing complaints.

(a) Whenever a complaint is made under section 2702 of the act (relating to construction, relocation, suspension and abolition of crossings) that a crossing is dangerous or inadequate and requires reconstruction, relocation, alteration or abolition, public utilities, **owners of the railroad right-of-way** and municipal corporations concerned and, if applicable, the Department of Transportation of this Commonwealth, will be made parties respondent.

* * * * *

§ 3.363. Claims for property damages from crossings.

(a) Claims for property damage for property taken, injured or destroyed shall conform with all the following requirements:

* * * * *

(2) Follow, in general as to form and content, the [**Form F set forth in § 3.551 (relating to official forms)] form available from the Secretary.**

* * * * *

Subchapter G. WATER OR WASTEWATER UTILITY PROCEEDINGS

§ 3.501. Certificate of public convenience as a water **supplier** or wastewater collection, treatment [**and**] or disposal **provider** [**supplier**].

[(a) **Applicant.** An applicant for a certificate of public convenience as a public water or wastewater collection, treatment and disposal supplier shall provide a copy of the business plan required by the Department of Environmental Protection (DEP) at 25 Pa. Code § 109.503(a)(3) (relating to public water system construction permits). The following information, or documents, if not included in the business plan, shall be included in the application, using the current forms and schedules specified by the Commission's Bureau of Fixed Utility Services:

(1) **Plant in service.**

(i) Proposed utilities shall provide:

(A) A full description of the proposed waterworks or wastewater collection, treatment and disposal facilities and the manner, including the timing, in which the proposed service area and utility will be constructed.

(B) A breakdown of the cost of construction, by major plant category, including the sources of funds used to construct the facilities.

(ii) Utilities that have been providing service shall provide:

(A) The original cost, by year and major plant category, of used and useful plant in service and related accrued depreciation calculations.

(B) A breakdown of the sources of funds used to finance the construction of the facilities.

(2) **Map of service area.** A map or plan of suitable scale highlighting the boundaries of the proposed service area, including:

(i) A courses and distances or metes and bounds description.

(ii) The location or route of the proposed waterworks or wastewater collection, treatment and disposal facilities.

(iii) The approximate time schedule for installation of the various component facilities.

(iv) The elevations of major facilities and service areas.

(v) The DEP permitted productive or treatment capacity of sources or treatment facility and the pipe sizes and material used for construction for all transmission and distribution or collection facilities.

(3) **Customers.**

(i) Proposed utilities shall provide an estimate of the number of customer connections by class in the first, fifth and tenth years, and completed development anticipated, as well as estimated water usage or gallons of wastewater treated in each of the above years.

(ii) Utilities that have been providing service shall submit the actual number of customers by class and related consumption or gallons treated in the current calendar year and future number of connections anticipated for the next 10 years.

(iii) Each utility shall demonstrate its ability to provide adequate water supply, treatment, storage and distribution or adequate wastewater collection, treatment and disposal capacity to meet present and future customer demands.

(4) **Rates.**

(i) Proposed utilities shall provide a list of proposed rates (classified rate schedule).

(ii) Utilities which have been providing service shall provide an initial tariff which reflects rates and terms of service that conform to the Commission's regulations and the act. The utility shall notify the existing customers of the filing of the application and the rates filed.

(5) **Cost of service.**

(i) Proposed utilities shall provide a 1, 5 and 10-year estimate of operating revenues, operation and maintenance expenses, annual depreciation and taxes. If operating income reflects a loss, proposed utilities shall provide a detailed explanation of the source of funds to be used to subsidize the estimated losses in support of future viability.

(ii) Utilities that have been providing service shall file the two most recent Federal income tax returns (corporation) or related Schedule C forms (partnership or individual). If tax returns reflect an operating loss, utilities shall describe in detail how the operating losses are subsidized, supported by an analysis of the future viability of the utility.

(6) Proof of compliance with applicable design, construction and operation standards of the DEP, formerly the Department of Environmental Resources (DER), or of the County Health Department, or both, including:

(i) Copies of Public Water Supply/Water Quality Management or National Pollution Discharge Elimination System (NPDES) permits if applicable.

(ii) Valid certified operators' certificates.

(iii) Utilities that have been providing service shall submit a 5-year compliance history with DER/DEP with an explanation of each violation.

(iv) A DER/DEP 5-year compliance history of other utilities owned or operated, or both, by the applicant, including affiliates, and their officers and parent corporations with regard to the provision of utility service.

(7) If applicable, a copy of documents, excluding, if desired, documents duplicated in paragraphs (1)—(6), showing compliance with the requirements of the Delaware River Basin Commission, or other documents filed with the Delaware River Basin Commission, the Susquehanna River Basin Commission, the Ohio River Basin Commission or the Great Lakes Commission relating to the proposed provision of service.

(8) The identity of public utilities, municipalities, municipal authorities, cooperatives and associations which provide public water supply service or wastewater collection, treatment and disposal service within each municipality, or a municipality directly adjacent to the municipalities, in which the applicant seeks to provide service situated within 1 mile of applicant's proposed facilities.

(9) Demonstrate compliance with the DEP regulations at 25 Pa. Code § 109.503(a)(3) or section 5 of the Pennsylvania Sewage Facilities Act requirements (35 P. S. § 750.5), whichever is applicable; or whether the applicant has contacted each public water supplier or wastewater collection, treatment and disposal supplier in paragraph (8), and one of the following applies:

(i) Whether a supplier is willing and able to serve the area which applicant seeks to serve either directly or through the bulk sale of water to applicant, or treatment of waste water to applicant.

(ii) If one or more such supplier is willing to serve the area (either directly or through the bulk sale of water to applicant), the applicant should demonstrate that, when considering both the cost of service and the quality of service, the ultimate consumer would be better served by the applicant than by the other water suppliers.

(10) A verification that the water sources and customers are metered in accordance with § 65.7 (relating to metered service). If unmetered water service is currently provided, the applicant shall provide a metering plan on forms provided by the Commission.

(b) *Filing.* The applicant shall file with the Commission the original and three copies of the application. An application which fails to include the information and documents outlined in subsection (a), as further specified in the current forms and schedules for water and wastewater collection, treatment and disposal companies developed by the Bureau of Fixed Utility Services, is subject to rejection by the Commission. The original and three copies shall contain exhibits. An affidavit of service showing the identity of those served under subsection

(d) shall accompany the original and the copies of the application filed with the Commission.]

(a) *Applicability.* This section applies to utilities, including de facto utilities, that seek a certificate of public convenience as a new water supplier, wastewater collection treatment or disposal provider.

(b) *Application requirements.* Applications under this section must conform to §§ 1.31 and 1.32 (relating to requirements for documentary filings; and form of documents), and include a mode of payment as prescribed by § 1.42 (relating to mode of payment of fees) and in the amount delineated in § 1.43 (relating to schedule of fees payable to the Commission). The Commission may reject an application which fails to conform to this subsection or which fails to include the required information and documents, as further specified in the forms in subsection (c). An affidavit of service showing the identity of those served under subsection (d) must accompany the original and the copies of the application filed with the Commission.

(c) *Application forms and filing.* Application forms are available from the Secretary and include the following:

(1) Application for a certificate of public convenience as a water supplier or wastewater collection, treatment or disposal provider.

(2) Application by a certificated public utility for approval to begin to offer and supply service to an additional territory.

(3) Application for a certificate of public convenience to abandon service.

(4) Application for Commission approval to transfer all tangible or intangible assets used or useful in the public service.

[(c)] (d) *Notice.* The application will be docketed by the Secretary of the Commission and thereafter forwarded for publication in the *Pennsylvania Bulletin*. The applicant shall also publish the notice of application as supplied by the Secretary, **once a week** for 2 consecutive weeks in one newspaper of general circulation located in the territory covered by the application and shall submit proof of publication to the Commission.

[(d)] (e) *Copies.*

(1) At the time of filing, the applicant shall [**cause**] serve a complete copy of the application with exhibits [**to be served**] by registered or certified mail, return receipt requested, upon:

[(1)] (i) Each city, borough, town, township, county and each related planning office which is included, in whole or in part, in the proposed service area.

[(2)] (ii) A water or wastewater utility, municipal corporation or authority which provides water or wastewater collection, treatment [**and**] or disposal service to the public and whose service area abuts the service area proposed in the application.

(2) The applicant shall provide notice of filing of the application to a water or wastewater utility, municipal corporation or authority which provides water or wastewater collection, treatment or disposal service to the public and whose service area is within 1 mile of the service area proposed in the

application. Upon request, the applicant shall provide a complete copy of the application and exhibits to these persons.

* * * * *

§ 3.502. Protests to applications for certificate of public convenience as a water supplier or wastewater collection, treatment [and] or disposal [supplier] provider.

(a) *Protests generally.* A person objecting to the application shall file with the [Prothonotary] Secretary and serve upon the applicant or applicant's attorney, if any, a written protest which [shall] must contain the following:

* * * * *

(3) The name, business address, **Pennsylvania attorney identification number** and telephone number of the protestant's attorney or other representative.

* * * * *

(b) *Participation in proceeding.* Upon the filing of a timely protest **in appropriate and legally sufficient form**, the protestant will be allowed to participate in the proceeding as a party intervenor.

* * * * *

Subchapter H. FORMS

§ 3.551. Official forms.

[The following is a list of forms which can be obtained from the Office of the Secretary of the Commission:

(1) Application by a proposed public utility for approval to begin to offer, render, furnish or supply service.

(2) Application for Commission finding and determination of propriety of proposed service by an electric public utility.

(3) Application for temporary authority to transport persons or household goods in use by motor vehicles.

(4) Application for approval of transfer and exercise of common or contract carrier rights for the transportation of passengers or household goods in use.

(5) Application for approval of installation, removal or substitution of warning device of a public crossing under section 2701 of the act (relating to railroad connections with sidetracks and laterals).

(6) Petition for damages for property taken, injured or destroyed in a railroad crossing proceeding under section 2704 of the act (relating to compensation for damages occasioned by construction, relocation or abolition of crossings).

(7) Application for approval of construction, alteration or relocation or abolition of any crossing at grade or above or below grade under section 2702 of the act (relating to construction, relocation, suspension and abolition of crossings).

(8) Application for brokerage license.

(9) Statement and map for preemption of territory by electric cooperative association.

(10) Proof of publication of notice of hearing.

(11) Securities certificate.

(12) Abbreviated securities certificate.

(13) Nonpublic utility registration form.

(14) Formal complaint form.

(15) Application for electricity or electric generation supplier license.

(16) Application for natural gas supplier license.] Forms for applications, petitions, complaints and other matters are available on the Commission's website or from the Secretary of the Commission, Post Office Box 3265 Harrisburg, Pennsylvania 17105-3265; (717) 772-7777.

Subchapter I. REGISTRATION OF SECURITIES

§ 3.601. General.

* * * * *

(b) *Format.* A securities certificate shall be [typewritten or printed on paper 8 1/2 inches wide by 11 inches long and shall be submitted in triplicate] in a form consistent with §§ 1.31 and 1.32 (relating to requirements for documentary filings; and form of documents), accompanied by [a money order, certified check or bank cashier's check made payable to the Commonwealth of Pennsylvania] payment in the amount provided in § 1.43 (relating to schedule of fees payable to the Commission) and in a payment mode provided for in § 1.31.

(c) *Form.* The securities certificate shall [be consistent with] provide information required by the form available from the Commission [and shall include the following information] or shown on its Web site as well as additional information required by the Commission. [:

(1) The name and address of the public utility filing the securities certificate.

(2) The name address of the public utility's attorney.

(3) A brief corporate history of the public utility, a general description of the territory in which it actually furnishes service to the public, and of the kind of service rendered therein.

(4) Whether the public utility is controlled by a corporation, and, if so:

(i) The name of the controlling corporation.

(ii) The form and manner of control.

(iii) The extent of control.

(iv) Whether control is direct or indirect.

(v) The names of intermediaries through which control, if indirect, is held. When control is in a holding company organization, there shall be shown the chain of ownership or control to the main parent company.

(5) The following information regarding the securities which the public utility proposes to issue or assume:

(i) The exact title of security.

(ii) The aggregate par value, or if no par value then the number of shares, or the principal amount to be issued or assumed.

(iii) In the case of stock certificates, as applicable: the par value, dividend rate and payment

dates, redemption value, liquidation value, voting powers, preferences as to assets and dividends, cumulative and participating dividend provisions, callability and conversion provision.

(iv) In the case of evidences of indebtedness, as applicable: nominal date of issue, date of maturity, interest rate and payment dates, extent to which taxes on securities are assumed by the issuer, callability and conversion provisions, maintenance, depreciation and sinking or other fund provision, name and address of trustee and whether affiliated with the public utility.

(6) The method by which the public utility proposes to dispose of the securities, giving pertinent details as to date and manner of sale, exchange or other disposition. If sale, include minimum net price to the public utility, maximum commission or fee to be paid to investment bankers, brokers or others, and whether securities are to be sold on an underwriting or take-down basis. State whether or not those negotiating or arranging the sale are in any way affiliated with the utility. If a private sale, state whether the purchasers are in any way affiliated with the utility. Show in tabular form an estimate in reasonable detail of the expenses to be incurred in issuing the securities, including, by groups, legal fees, fees and documentary taxes to governmental authorities, printing expenses, underwriting or brokerage commission, duplicate interest and other expenses.

(7) The purpose for which the public utility proposes to issue or assume the securities.

(i) If the purpose is the acquisition of all or part of the assets of a going concern, state:

(A) The name and address of vendor, docket number of Commission approval of the acquisition.

(B) A brief description of property, and whether all or part of a completed system.

(C) The full consideration to be paid, including any indebtedness to be assumed by the utility.

(D) The manner of determining consideration.

(E) The manner in which acquisition is to be recorded on the public utility's books.

(F) The original cost of physical property to be acquired, stated according to plant accounts prescribed by the classification of accounts applicable to the public utility.

(G) The depreciation applicable thereto as recorded on the books of the vendor.

(H) The manner of determining the original cost and depreciation.

(i) An income statement for the latest available 12 months applicable to the operation of the property being acquired.

(ii) If the purpose is the purchase or construction of new facilities, or the betterment of existing facilities, give:

(A) A brief description of such new facilities or betterments.

(B) A list of plant accounts prescribed by the classification of accounts applicable to the utility to

be charged with the new facilities or betterments, showing opposite each account the estimated cost to be charged.

(C) A list of the accounts and the amounts to be credited thereto for the retirements of any property resulting from the purchase or construction of new facilities or betterments.

(D) The manner of determining amounts at which retired property is to be credited.

(E) The date when it is expected that such purchase or construction or betterment will be completed.

(iii) If the purpose is to obtain working capital, explain any unusual condition which exists, or will exist, in the public utility's current assets or current liabilities, stating:

(A) The approximate cost of average materials and supplies inventory which the public utility expects to carry.

(B) The average time elapsing between the date when the public utility furnishes or begins a period of furnishing service to customers and the date when collection is made from customers for such service.

(C) The minimum bank balance requirements.

(D) A statement, by accounts, of the operating expenses for the latest available 12 months.

(iv) If the purpose is to refund obligations, describe obligations in detail.

(A) Explain purpose for which obligations were issued, or refer to number of securities certificate, securities application or certificate of notification in which the purpose appears.

(B) State the date of last disposition of obligation, the amount disposed of and the price received.

(C) State whether refunding is to meet maturity, or to effect saving in interest or other annual charges; if to effect saving, state date when, and price at which obligations are to be called, and submit statement showing saving to be effected as a result of refunding.

(D) State disposition to be made of any discount or expense remaining unamortized on the obligations to be refunded and of any premium included in the call price.

(E) State whether any unamortized debt discount and expense was originally incurred in connection with securities not now outstanding, and if so, give amount applicable to each issue.

(v) If the purpose is reimbursement for moneys already expended, state the purpose for which the moneys were expended in as complete detail as if the securities now being issued were for that purpose as required by this subsection and by subsections (a), (b) and (d).

(A) List the names and principal amounts of any securities already issued against the expenditures.

(B) State the dates upon or between which the expenditures were made.

(8) State whether a registration statement, application or declaration has been filed or will be filed with the Securities and Exchange Commission in

respect to the securities herein proposed to be issued or assumed. If so, state:

- (i) The date filed.
- (ii) The nature of application or declaration.
- (iii) The closing date before the Securities and Exchange Commission.
- (9) The public utility shall attach to each securities certificate:
 - (i) A balance sheet of the public utility set up by ledger accounts and not by groupings dated within at least 3 months of the date of securities certificate, including any transactions which have occurred between the date of the balance sheet and the date of filing the securities certificate and an explanation of any major contingent liabilities faced by the public utility.
 - (ii) An income account of the public utility set up by general ledger accounts, not by groupings, showing in detail the other credits and charges made to surplus during the year, for the 12-month period ending by the date of the balance sheet.
 - (iii) A statement with respect to the plant accounts appearing on the balance sheet showing the following:
 - (A) A summary by the detailed plant accounts prescribed in the system of accounts applicable to the public utility.
 - (B) The portion of the plant account balance representing increments in plant book values resulting from the acquisition of property through purchase, merger and consolidation or reorganization.
 - (C) The portion of the plant account balance representing increases in plant book values resulting from the recording of appraised values by the public utility unless the public utility has filed with the Commission an original cost study.
 - (iv) A statement of securities of other corporations owned by the public utility, including:
 - (A) The name of the issuer.
 - (B) The exact title of the security.
 - (C) The amount owned.
 - (D) The date acquired.
 - (E) The price paid.
 - (F) The book value.
 - (G) The market value.
 - (H) The cost to the affiliate, if acquired from an affiliate.
 - (v) A statement showing the status of the funded debt of the public utility outstanding at the date of the balance sheet, plus particulars of any important changes in the funded debt outstanding which have taken place since that date. The statement shall be in the form available from the Commission.
 - (vi) A statement showing the status of outstanding capital stock of the public utility as of the date of the balance sheet, including any important changes in the capital stock outstanding which have taken place since the date of the balance sheet according to the form available from the Commission.

(vii) A copy of the registration statement filed by the public utility with the Securities and Exchange Commission under the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa) with respect to the proposed issuance or assumption of securities.

(viii) Copies of applications and declarations filed by the public utility with the Securities and Exchange Commission with respect to the proposed issuance or assumption of securities, under the Public Utility Holding Company Act of 1935 (15 U.S.C.A. §§ 79-79 z-6).

(ix) A copy of the resolution of the board of directors of the public utility authorizing the proposed issuance or assumption of securities.

(x) A copy of the stock certificate or other security proposed to be issued or assumed. Bonds or other evidences of indebtedness secured by mortgage, collateral trust agreement or other underlying instrument. This exhibit shall be a copy of the underlying instrument, rather than of the evidence of indebtedness itself.

(xi) A statement showing, in journal entry form, all charges and credits to be made on the books of account of the public utility as a result of the proposed issuance or assumption of securities.

(xii) An affidavit in form prescribed by §§ 1.35 and 1.36 (relating to execution; and verification).]

§ 3.602. Abbreviated securities certificate.

* * * * *

(b) *Form.* At the election of the issuing public utility, a securities certificate relating to an issuance of securities within the scope of this rule may consist of two copies of a letter addressed to the [**Prothonotary consistent with the form available from the Commission.**] Secretary and setting forth the following information:

- (1) The name and address of the public utility.
- (2) The title or capacity of the representative of the public utility executing the letter.
- (3) The designation of the securities to be issued or assumed and the approximate number of shares, principal amount, or other units proposed to be issued or assumed.
- (4) A statement setting forth the specific subsections that qualifies the issuance of the abbreviated procedure together with the underlying calculations, where applicable.
- (5) A verification or affidavit conforming to § 1.36 (relating to verifications and affidavits) in compliance with section 1902 of the act.

(c) *Filing and registration.* An abbreviated securities certificate under this section, together with the filing fee specified in § 1.43 (relating to schedule of fees payable to the Commission), shall be filed with the [**Prothonotary**] Secretary. [**If, at the end of 10 days after the filing of a securities certificate under this section, no order of rejection has been entered, the**]

(1) The certificate shall be deemed, in fact and in law, to have been registered [; provided that the Prothonotary may, by notice to the public utility served before] if no order of rejection has been entered after 10 days from the filing of a securities certificate.

(2) Prior to the expiration of the 10-day period, the Secretary may extend the 10-day consideration period to not more than a total of 30 days upon notification of the public utility served. Further extension to the period shall be by the order of the Commission.

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CHAPTER 5. FORMAL PROCEEDINGS
Subchapter A. PLEADINGS AND OTHER PRELIMINARY MATTERS
GENERAL PROVISIONS

§ 5.1. Pleadings allowed.

(a) The pleadings in an action before the Commission [shall] include the following:

* * * * *

(2) Formal complaint [and], answer, new matter and reply to new matter.

* * * * *

(5) Preliminary [motions] objections.

(6) Motions.

(b) A pleading except a preliminary [motion] objection may be subject to a preliminary [motion] objection as set forth in § 5.101 (relating to preliminary [motion] objections).

APPLICATIONS

§ 5.12. Contents of applications.

(a) [If] Applications shall conform to this section unless a form or other specific requirements are [not] provided [for] in Chapter 3 (relating to special provisions)[, applications shall conform to this section]. Applications shall [be]:

(1) Be in writing[,].

(2) [shall state] State clearly and concisely the authorization or permission sought[,].

(3) [shall cite] Cite by appropriate reference the statutory provisions, regulations or other authority under which the Commission authorization or permission is sought[, and shall].

(4) [set] Set forth, in the order indicated, the following—unless otherwise provided by this chapter or in Chapter 3 for the specific type of application involved:

[(1)] (i) The exact legal name of the applicant[, and, if the applicant is a corporation, trust, association or other entity, the].

(ii) The jurisdiction under the statutes of which the applicant was created or organized and the location of the principal place of business of the applicant, when the applicant is a corporation, trust, association or other entity.

[(2)] (iii) The name, title [and], post office address, telephone number and electronic mail address, if available, of the person to whom correspondence or [communications] communication in regard to the application [are] is to be addressed. The Commission will serve, [where] when required, notices, orders and other papers upon the person named, and service shall be deemed to be service upon the applicant.

* * * * *

§ 5.13. Applications for construction or alteration of crossings.

* * * * *

(b) Plans submitted for the construction, relocation, alteration, protection or abolition of a crossing complained against shall be accompanied by the names and post office addresses of the record owners of all property necessary to be acquired in the execution thereof, and shall, when directed by the Commission, be supplemented by a description by metes and bounds of all property necessary to be acquired.

§ 5.14. Applications requiring notice.

(a) [An application] Notice of applications to the Commission for authority under [sections 1101, 1102, 2503 and 2505 of] the act [or as otherwise provided by the act, is subject to one or more of the following notice requirements as directed by the Secretary under § 1.51 (relating to instructions for service and notice):] must be published in the Pennsylvania Bulletin.

(b) The Secretary may require additional publication or notification in one or more of the following ways:

(1) Publication in [the Pennsylvania Bulletin].

(2) Publication in [a newspaper of general circulation serving the geographical territory affected by the application.

[(3)] (2) * * *

[(4)] (3) Another form of actual or constructive notification [as may be required by the Secretary], including service of the application on interested persons.

[(b) Except as set forth in §§ 3.361—3.363, 3.381, 3.501(f), as relating to the 60 day protest period, and §§ 57.71, 57.72 and 57.74—57.77 or as otherwise provided by the Secretary, application to the Commission for the following types of authority shall be published in the Pennsylvania Bulletin and, as directed by the Secretary, in a newspaper of general circulation serving the geographical territory affected by the application and shall be subject to a 15 day protest period.

(1) To initiate fixed utility service to the public, including the following:

(i) Electric.

(ii) Gas.

(iii) Telephone.

(iv) Water.

(v) Wastewater.

(vi) Pipeline.

(vii) Radio-telephone common carrier service.

(2) To initiate, in a different nature or to a different territory than is currently authorized, fixed utility service to the public, including the following:

(i) Electric.

(ii) Gas.

- (iii) Telephone.
- (iv) Water.
- (v) Wastewater.
- (vi) Pipeline.
- (vii) Radio-telephone common carrier service.

(3) To abandon, in whole or in part, fixed utility service to the public, including to the following:

- (i) Electric.
- (ii) Gas.
- (iii) Telephone.
- (iv) Water.
- (v) Wastewater.
- (vi) Pipeline.
- (vii) Radio-telephone common carrier service.

(4) To initiate rail utility service to the public.

(5) To initiate, in a different nature or to a different territory than is currently authorized, rail utility service to the public.

(6) To abandon, in whole or in part, rail utility service to the public.

(7) To acquire or transfer tangible or intangible utility property through sale, merger, consolidation, lease or transfer of stock.

(8) To acquire 5% or more of the voting stock of another corporation.

(9) To secure exemption under section 619 of the Pennsylvania Municipalities Planning Code (53 P. S. § 10619).

(10) To construct, alter or abandon, in whole or in part, or to change the status of a rail utility agency station or team track.]

(c) Deadlines for filing protests to applications are governed by § 5.53 (relating to time of filing for protests).

FORMAL COMPLAINTS

§ 5.22. [Contents] Content of formal complaint.

(a) A formal complaint shall set forth the following:

(1) The name [and], mailing address, telephone number, telefacsimile number, and electronic mailing address, if applicable, of the complainant [and].

(2) If complainant is represented by an attorney, the name, mailing address, telephone number, telefacsimile number and attorney identification number of the attorney [of the complainant].

[(2)] (3) The name [and], mailing address and certificate or license number of the respondent complained against, if known, and the nature and character of its business.

[(3)] (4) * * *

[(4) The act or thing done or omitted to be done or about to be done or omitted to be done by the respondent in violation, or claimed violation, of a statute which the Commission has jurisdiction to administer, or of a regulation or order of the Commission.]

(5) A clear and concise statement of the act or omission being complained of.

[(5)] (6) A clear and concise statement of the relief sought.

(7) Except as provided in § 5.21(b) (relating to formal complaints generally), a copy of a writing, or the material part thereof, must be attached when a claim is based upon a writing. If the writing or a copy is not accessible, the complaint must set forth that the writing is not accessible and the reason, and set forth the substance of the writing.

* * * * *

(c) A complaint brought by a public utility or other person [or corporation subject to the act against a regulation or order of the Commission, which the complainant is or has been required to observe or carry into effect,] licensed by the Commission regarding the act, a regulation or order of the Commission shall be substantially in the form prescribed by subsection (a) [and]. The complaint must reference [shall be made to the particular] the regulation[,] or order [or part thereof complained against] and shall quote the pertinent portions thereof.

* * * * *

§ 5.24. Satisfaction of formal complaints.

(a) If the respondent satisfies a formal complaint either before or after a hearing, [a statement to that effect signed by] the complainant shall [be filed] file with the Commission [setting] a statement to that effect. The statement shall set forth that the complaint [has been setting] is satisfied and that the complaint [is withdrawn] docket should be marked closed. [Except as requested by the parties, the] The presiding officer [will] is not [be] required to render a decision upon the satisfaction of a complaint unless the parties request one for good cause.

(b) In lieu of the statement [set forth in] required by subsection (a), the respondent may certify to the Commission that it has satisfied the complaint and one of the following:

(1) [that] That the complainant has acknowledged satisfaction to the respondent.

(2) That the complainant has acknowledged to the respondent that the complainant no longer wishes to pursue the complaint.

(c) In [such] the case of certification of satisfaction under subsection (b), the respondent shall serve a copy of its certification upon the complainant. Unless the complainant objects to the certification within 10 days of its filing, the complaint docket shall be [withdrawn] marked closed.

[(c)] (d) Subsections (a) [and (b)]—(c) supersede 1 Pa. Code § 35.41 (relating to satisfaction of complaints).

§ 5.31. Staff-initiated complaints.

(a) A Commission bureau may commence a proceeding [under] pursuant to statutory or [other] regulatory authority [against a person] or pursuant to delegation by the Commission by filing a complaint [setting forth the grounds for the action]. The

complaint [will] shall contain a statement of the particular matter about which the bureau is complaining or inquiring, and the complaint will require that the respondent named [respond in writing as provided in] file a written answer in the form required by § 5.61 (relating to answers to complaints, petitions and motions).

* * * * *

§ 5.32. Rate complaints.

(a) Prior to suspension. A person may file a complaint against a general rate increase within the meaning of section 1308(d) of the act (relating to voluntary changes in rates) within the time period specified in the notice provided to customers of the tariff filing.

(b) After suspension. A person may file a complaint within 45 days of the suspension date of a proposed general rate increase within the meaning of section 1308(d) of the act. A complaint filed after the 45 day suspension has expired will be accepted for good cause shown.

PETITIONS

§ 5.41. Petitions generally.

* * * * *

(c) Copies shall also be served in compliance with Commission direction.

(d) Subsection (a) supersedes 1 Pa. Code § 35.17 (relating to petitions generally).

§ 5.42. Petitions for declaratory orders.

(a) Petitions for the issuance of a declaratory order to terminate a controversy or remove uncertainty shall [state]:

(1) State clearly and concisely the controversy or uncertainty which is the subject of the petition[, shall cite].

(2) Cite the statutory provision or other authority involved [and shall include].

(3) Include a complete statement of the facts and grounds prompting the petition[, together with].

(4) Include a full disclosure of the interest of the petitioner.

(b) [A] The petitioner shall serve a copy of the petition [shall be served] on the Office of Consumer Advocate, Office of Trial Staff, Office of Small Business Advocate [and], all persons directly affected and on other parties whom petitioner believes will be affected by the petition. [The service] Service shall be evidenced with a certificate of service filed with the petition.

* * * * *

§ 5.44. Petitions for appeal from actions of the staff.

(a) [Unless otherwise provided in this part, actions] Actions taken by [a subordinate officer] staff, other than a [hearing] presiding officer, under authority delegated by the Commission [may be appealed to the Commission by filing a petition within 10], will be deemed to be the final action of the Commission unless appealed to the Commission

within 20 days after service of notice of the action, unless a different time period is specified in this chapter or in the act.

(b) An action taken by staff under delegated authority must note the parties' right to appeal the action under this section.

(c) [Subsection] Subsections (a) and (b) [supersedes] supersede 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

PROTESTS

§ 5.51. Protest to an application.

(a) A person objecting to the approval of an application [under consideration by the] filed with the Commission may file a protest to the application.

* * * * *

§ 5.52. Content of a protest to an application.

(a) Form. A protest to an application shall [on its face set] must:

(1) Set out clearly and concisely the facts from which the alleged interest or right of the protestant can be determined[,].

(2) State the grounds of the protest [and].

(3) Set forth the facts establishing the protestant's standing to protest.

(b) Motor carrier. [A person objecting to the approval of an application shall file with the Prothonotary and serve upon the applicant and applicant's attorney, if any, a written protest to the application which shall] Protests in motor carrier cases must conform with [the requirements of] § 3.381(c)(1) (relating to applications for transportation of property and persons).

(c) Filing and service. A protest shall be filed with the Secretary and served upon the applicant or the applicant's attorney, if any.

§ 5.53. Time of filing.

A protest shall be filed within the time specified in [§ 3.381(d) or § 3.502(d) (relating to applications for transportation of property and persons; and protests to applications for certificate of public convenience as a water supplier or wastewater collection, treatment and disposal supplier)] the published notice of the application. If no protest time is specified, the protest must be filed within 60 days of the date of publication of the notice.

§ 5.54. [Failure to file a protest to an application] (Reserved).

[If no protest is filed with the Commission on or before the date specified in the Pennsylvania Bulletin, the Commission may, in its discretion, take action specified in § 3.381(e) (relating to applications for transportation of property and persons).]

ANSWERS

§ 5.61. Answers to complaints, petitions [and], motions and preliminary objections.

(a) Time for filing. Unless a different time is prescribed by statute, by the Commission, or by the presiding officer:

(1) Answers to complaints, petitions and motions shall be filed with the Commission within 20 days after the date of service, unless a different time is prescribed by statute or by the Commission.

(2) **Answers to preliminary objections shall be filed in accordance with § 5.101 (relating to preliminary objections).**

(b) **General form.** The answer shall be in writing and [shall be]:

(1) **Be set forth in paragraphs numbered to correspond with the [complaint] pleading being answered, if possible.**

(2) **[Answers shall advise] Advise** the parties and the Commission as to the nature of the defense.

(3) **[They shall admit] Admit** or deny specifically all material allegations of the pleading answered[, and state].

(4) **State** concisely the facts and matters of law upon which they rely.

(5) **Include a copy of a document, or the material part of a document when relied upon in the answer. If the writing or a copy is not accessible, the answer must set forth that the document is not accessible and the reason, and set forth the substance of the document.**

(c) **Failure to file an answer.** [Except for complaints which are docketed with Commission-instituted rate proceedings, a] A respondent failing to file an answer within the applicable period shall be deemed in default, and relevant facts stated in the complaint or petition may be deemed admitted. **This subsection does not apply to complaints docketed pursuant to Commission-instituted rate proceedings.**

(d) **Rate proceedings.** For complaints which are docketed with Commission-instituted rate proceedings, an answer may be filed within the time specified in § 5.32 (relating to rate proceedings). However, no answer is required, except as may be directed by the Commission or the presiding officer.

(e) **Supersession.** Subsections (a)—(d) supersede 1 Pa. Code § 35.35 (relating to answers to complaints and petitions).

§ 5.62. Answers seeking affirmative relief or raising new matter.

(a) **Answers seeking affirmative relief.** In its answer, a respondent may seek relief against other parties in a proceeding [by reason of the presence of] if common questions of law or fact are present. **The answer shall conform to this chapter for answers generally and shall set forth [in its answer the]:**

(1) **The facts constituting the grounds of complaint[, the].**

(2) **The provisions of the statutes, rules, regulations or orders relied upon[, the].**

(3) **The injury complained of [and of the].**

(4) **The relief sought. [The answer shall conform to the requirements of this chapter for answers generally.]**

(b) **Answers raising new matter.** An affirmative defense shall be pleaded in an answer or other responsive pleading under the heading of "New Matter." A party may set forth as new matter another material fact which is not merely a denial of the averments of the preceding pleading.

[(c) A reply to new matter shall be filed within 20 days of the date of service of the answer or other pleading raising the new matter. Failure to file a timely reply to new matter shall be deemed in default, and relevant facts stated in the new matter may be deemed admitted].

§ 5.63. Replies to answers seeking affirmative relief or new matter.

(a) Unless otherwise ordered by the Commission, replies to answers seeking affirmative relief [shall] or to **new matter must** be filed with the Commission and served within 20 days after date of service of the answer, but not later than 5 days prior to the date set for the commencement of the hearing.

(b) **Failure to file a timely reply to new matter will be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted.**

(c) **[Subsection] Subsections (a) and (b) [is identical to] supersede 1 Pa. Code § 35.39** (relating to replies to respondents seeking affirmative relief).

§ 5.65. Answers to amendments of pleadings.

(a) **[A participant may file] Except as provided under § 5.101 (referring to preliminary objections), an answer to an amendment, modification or supplement to an application, complaint, petition or other pleading set forth under § 5.91 (referring to amendments of pleadings generally)[. If made, answers shall] must** be filed with the Commission within 20 days after the date of service of the amendment, modification or supplement, unless for cause the Commission or presiding officer with or without motion [shall prescribe] **prescribes** a different time.

(b) Subsection (a) [is identical to] **supersedes 1 Pa. Code § 35.40** (relating to answers to amendments of pleadings).

§ 5.66. Answers to petitions to intervene.

(a) A [participant] party may file an answer to a petition to intervene **within 20 days of service**, and in default thereof, may be deemed to have waived objection to the granting of the petition. Answers shall be served upon all other [participants] parties.

* * * * *

INTERVENTION

§ 5.73. Form and content of petitions to intervene.

(a) Petitions to intervene shall set out clearly and concisely the **following**:

(1) **The facts from which [the nature of] the alleged intervention right or interest of the petitioner can be determined[, the].**

(2) **The grounds of the proposed intervention[, and the].**

(3) **The petitioner's position [of the petitioner] regarding the issues** in the proceeding [, so as fully

and completely to advise the participants and the Commission as to the specific issues of fact or law to be raised or controverted] .

(b) **Petitions to intervene filed on behalf of more than one person must list those persons and entities comprising the represented group.**

(c) [Subsection] Subsections (a) and (b) [supersedes] supersede 1 Pa. Code § 35.29 (relating to form and contents of petitions to intervene).

§ 5.74. Filing of petitions to intervene.

(a) Petitions to intervene and [notice] notices of intervention may be filed following the filing of an application, petition, complaint or other document seeking Commission action [, but no] .

(b) **Petitions to intervene and notices of intervention shall be filed:**

(1) **No later than the date fixed for the filing of [petitions to intervene] responsive pleadings in an order or notice with respect to the proceedings [or, except for good cause shown,] .**

(2) **No later than the date fixed for filing protests as published in the *Pennsylvania Bulletin*, except for good cause shown.**

(3) **In accordance with § 5.53 (relating to time of filing of protests) if no deadline is set in an order or notice with respect to the proceedings.**

(c) Intervention will not be permitted once an evidentiary hearing has concluded absent extraordinary circumstances.

[(b)] (d) The Commission or presiding officer may, [Where] when the circumstances warrant, permit the waiver of the requirements of § 5.409 (relating to copies and form of documentary evidence) with respect to copies of exhibits for the intervenor.

[(c)] (e) Subsections (a) [and (b)]—(d) supersede 1 Pa. Code § 35.30 (relating to filing of petitions to intervene).

§ 5.75. Notice, service and action on petitions to intervene.

(a) *Notice and service.* Petitions to intervene, when tendered to the Commission for filing, shall show service thereof upon all [participants] parties to the proceeding in conformity with § 1.54 (relating to service by a [participant] party).

* * * * *

(c) *Rights upon grant of petition.* Admission as an intervenor will not be construed as recognition by the Commission that the intervenor has a direct interest in the proceeding or might be aggrieved by an order of the Commission in the proceeding. **Intervenor**s are granted no rights which survive discontinuance of a case by the moving party.

(d) *Actions on petitions filed after a hearing has commenced.* [No petitions] Petitions to intervene may be filed or will be acted upon during a hearing unless permitted by the Commission or presiding officer after opportunity for all parties to object.

[(c)] (e) *Supersession.* Subsections (a) [and (b)]—(d) supersede 1 Pa. Code § 35.31 (relating to notice and action on petitions to intervene).

AMENDMENT AND WITHDRAWAL OF PLEADINGS

§ 5.91. Amendments of pleadings generally.

(a) *Generally.* A modification of or supplement to an application, complaint, petition [,] or other pleading shall be deemed as an amendment to the pleading, and shall comply with the requirements of this subchapter relating to the pleading amended insofar as appropriate.

(b) *Amendments in response to preliminary objections.* A party may file an amended pleading as of course within 20 days after service of a copy of a preliminary objection filed under § 5.101 (referring to preliminary objections). **If a party has filed an amended pleading as of course, the preliminary objections to the original pleading will be deemed moot.**

[(b)] (c) *Limitation.* Except as otherwise provided in this subchapter, no amendment to a pleading may be filed within 5 days preceding the commencement of or during a hearing unless directed or permitted by the Commission or the presiding officer after opportunity for all parties to be heard thereon.

[(c)] (d) *Exception in rate cases.* This section does not apply to an increase in the aggregate amount of a general rate increase request.

[(d)] (e) Subsections (a)—[(c)] (d) supersede 1 Pa. Code § 35.48 (relating to amendments of pleadings generally).

§ 5.92. Amendments to conform to the evidence.

(a) *Amendment by consent.* When [,] the parties introduce issues at a hearing [, issues] not raised by the pleadings [are introduced] whether by express or implied consent of the [participants, they] parties, the issues shall be treated in all respects as if they had been raised in the pleadings.

(b) *Amendments by motion.* Amendments of the pleadings as may be necessary to cause them to conform to the evidence and to raise new issues may be made upon motion of a [participant] party at any time during the hearing as set forth in § 5.102 (relating to motions for summary judgment and judgment on the pleadings).

(c) *Amendment following objection.* If evidence upon new issues is objected to on the ground that it is not within the issues raised by the pleadings, the Commission or the presiding officer may allow the pleadings to be amended and the evidence to be received, when it appears that the presentation of the merits of the proceedings will be served thereby without prejudicing the public interest or the rights of a [participant] party.

(d) *Continuance following objection.* [When, in the discretion of the Commission or the presiding officer, a continuance is necessary in order to enable the objecting participant to meet the new issues and evidence, a] A continuance may be granted by the Commission or the presiding officer under § 1.15 (relating to extensions of time and continuances) when necessary to allow the objecting party to meet new issues and evidence.

[(b)] (e) *Notice of amendment.* If an amendment adopted under [subsection (a)] this section has the effect of broadening the issues in the proceeding, notice of the amendment shall be given in the same manner as

notice was given at the commencement of the proceeding and to the same persons who received the notice.

[(c)] (f) Supersession. Subsections (a) **[and (b) are identical to]—(e) supersede** 1 Pa. Code § 35.49 (relating to amendments to conform to the evidence).

§ 5.93. Directed amendments.

(a) The Commission may at any time, or during a hearing, presiding officers may on their own motion or the motion of a **[participant] party**, direct **[participants] parties** to state their case by way of amendment more fully or in more detail. The amendment shall be reduced to writing and filed within the time fixed by the Commission or the presiding officer.

* * * * *

§ 5.94. Withdrawal of pleadings in a contested proceeding.

(a) Except as provided in subsection (b), a **[participant] party** desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Commission and serve it upon **[participants] the other parties**. The petition shall set forth the reasons for the withdrawal. A **[participant] party** may object to the petition within 10 days of service. After considering the petition, an objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted.

(b) A protest to an application may be withdrawn by filing a **[letter] notice of withdrawal** directed to the Commission or the presiding officer. The **[letter] notice** shall state that the protest is withdrawn and provide the reasons for the withdrawal.

* * * * *

MOTIONS

§ 5.101. Preliminary [motion] objections.

(a) **[A preliminary motion is] Preliminary objections** are available to **[participants] parties** and may be filed in response to a pleading except motions and prior preliminary objections. **[The preliminary motion] Preliminary objections** shall state specifically the grounds relied upon, the standing of the party and shall be limited to the following grounds:

(1) **[A motion questioning the] Lack of Commission jurisdiction [of the Commission] over the subject matter of the proceeding or the person of a party, or improper service of the pleading initiating the proceeding.**

(2) **[A motion to strike a pleading that is insufficient as to form] Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.**

(3) **[A motion to dismiss a pleading that is insufficient as to substance, that does not indicate on its face the standing of the party to participate in the proceeding or that fails to join an indispensable party] Insufficient specificity in a pleading.**

(4) **[A motion for a more specific pleading] Legal insufficiency of a pleading (demurrer).**

(5) Lack of capacity to sue, nonjoinder of a necessary party or misjoinder of a cause of action.

(6) Pendency of a prior proceeding or agreement for alternative dispute resolution.

(b) **[Except when a motion for a more specific pleading is filed, a preliminary motion shall be filed along with an answer] Preliminary objections must be filed together** within the time period prescribed by § 5.61 (relating to answers to complaints, petitions **[and]**, motions and preliminary objections). **[All preliminary motions shall be raised at the same time.] Two or more preliminary objections may be raised in one pleading.**

(c) **[If a motion for more specific pleading is filed, no answer may be filed until further directed by the presiding officer or the Commission. A motion for more specific pleading shall be filed within the time period prescribed by § 5.61.] A party may file an amended pleading as of course within 20 days following service of preliminary objections. When an amended pleading is filed as of course, the preliminary objections shall be deemed to be moot in accordance with § 5.91 (relating to amendments of pleadings generally). Objections to an amended pleading shall be made by filing new preliminary objections.**

(d) An answer to a preliminary **[motion] objection** may be filed within 10 days of date of service. A **preliminary motion must contain a notice to plead which states that an answer to the objection shall be filed within 10 days of the date of service of the objections.**

(e) A preliminary **[motion] objection** shall be decided **[by the presiding officer or the Commission]** within 30 days of the **[filing of the motion] assignment of the preliminary objection or within 30 days of the termination of mediation.**

(f) **The party filing preliminary objections has no duty to file an answer or other responsive pleading prior to a ruling on the preliminary objections.**

(1) If a preliminary **[motion to strike] objection** is granted, the **[participant] party** who submitted the stricken pleading has the right to file an amended pleading within 10 days of service of the order.

(2) **If a preliminary objection is overruled, the objecting party shall have the right to plead over within 20 days after notice of the order or within such other time as the presiding officer or the Commission fix.**

* * * * *

§ 5.102. Motions for summary judgment and judgment on the pleadings.

(a) **[Motion for judgment on the pleadings] Generally.** After the pleadings are closed, but within a time so that the hearing is not delayed, a **[participant] party** may move for judgment on the pleadings or summary judgment. A motion must contain a notice which states that an answer or other responsive pleading shall be filed within 20 days of service of the motion.

(b) **Answers.** An answer to a motion for judgment on the pleadings or summary judgment, including an

opposing affidavit or verification to a motion for summary judgment, may be filed within 20 days of the date of service of the motion. The answer may be supplemented by pleadings and depositions, answers to interrogatories or further affidavits or verifications and admissions.

[(b)] (c) Motion for summary judgment. [After the pleadings are closed, but within a time so that the hearing is not delayed, a participant may move for] A motion for summary judgment must be based on the pleadings and depositions, answers to interrogatories, admissions and supporting affidavits. Documents not already filed with the Commission shall be filed with the motion.

[(1) An answer, including an opposing affidavit to a motion for summary judgment, may be filed within 20 days of the date of service of the motion.

[(2) The answer may be supplemented by pleadings and depositions, answers to interrogatories or further affidavits and admissions.

[(c)] (d) Decisions on motions.

(1) Standard for grant or denial on all counts. The presiding officer will grant or deny a motion for judgment on the pleadings or a motion for summary judgment, as appropriate. The judgment sought will be rendered if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving **[participant] party** is entitled to a judgment as a matter of law. **[If a motion is granted, the presiding officer will do so in the form of an initial or recommended decision which shall be subject to exceptions. As in the case of other initial or recommended decisions, the procedures regarding exceptions to the Commission apply. If the motion is denied, the presiding officer will do so in the form of a written order.]**

(2) Standard for grant or denial in part. The presiding officer may grant a partial summary judgment if the pleadings, depositions, answers to interrogatories and admissions, together with affidavits, if any, show that there is no genuine issue as to a material fact and that the moving **[participant] party** is entitled to a judgment as a matter of law on one or more but not all outstanding issues. **[The presiding officer will grant or deny the motion in the form of an order, or initial or recommended decision.]**

(3) Form of decision. The presiding officer will grant, in whole or in part, the motion in the form of an initial or recommended decision which shall be subject to exceptions as set forth in § 5.533 (relating to exceptions). Denial of a motion will be in the form of a written order.

§ 5.103. Motions.

* * * * *

(b) Presentation of motions. A motion may be made in writing at any time, and a motion made during a hearing may be stated orally upon the record, or the presiding officer may require that an oral motion be reduced to writing and filed separately. **Written motions shall contain a notice which states that a responsive pleading shall be filed within 20 days of the date of service of the motion.**

(c) Response to motions. A **[participant] party** has **[10] 20** days from the date of service within which to answer or object to a motion, unless the period of time is otherwise fixed by the Commission or the presiding officer.

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Subchapter B. HEARINGS

GENERAL

§ 5.201. Notice of proceeding; hearing; waiver of hearing.

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(b) If the appropriate pleading is not filed within the set period of time, or **[where] when** the **[participants] parties** have waived hearings, the Commission may dispose of the matter without a hearing upon the basis of the pleadings or submittals and the studies and recommendations of the staff.

* * * * *

§ 5.202. Scheduling of hearing.

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(b) Proceedings pending on the calendar will be heard so far as practicable, in their order of assignment to the calendar at the times and places fixed by the Commission or presiding officer, giving regard to the convenience and necessity of the **[participants] parties** and their attorneys.

(c) The Commission or the presiding officer in the exercise of discretion, for cause, may advance or postpone **[proceeding] proceedings** on the hearing calendar with notice to the **[participants] parties**.

* * * * *

§ 5.203. Hearing in rate proceedings.

* * * * *

(b) [Ordinarily, hearings in rate proceedings will be scheduled with regard to the convenience of the parties, attorneys and witnesses, as well as that of the presiding officer and the Commission staff. In scheduling hearings, however, the] The presiding officer will be guided by the requirement of section 315 of the act (relating to burden of proof) that rate cases are to be given preference over all other proceedings, and are to be decided as speedily as possible.

(c) The presiding officer may continue a scheduled hearing upon his own motion or upon the request of a party for good cause shown. Mere convenience or other engagements of counsel **[shall] will** not ordinarily constitute grounds for continuance.

[(c)] (d) Subsections (a) **[and (b)]—(c)** supersede 1 Pa. Code §§ 35.121 and 35.123 (relating to initiation of hearings; and conduct of hearings).

NOTICE OF HEARING

§ 5.212. Notice of nonrulemaking proceedings.

(a) The presiding officer, the Office of Administrative Law Judge or the Commission is authorized to schedule prehearing conferences and hearings. **[Participants] Parties** shall be given reasonable notice of the time and place of the prehearing conference or hearing. In fixing the time and place of conferences and hearings, regard will be given to the convenience and necessity of the

[participants] parties or their attorneys so far as time and the proper execution of the functions of the Commission permit.

* * * * *

PREHEARING AND OTHER CONFERENCES

§ 5.221. Conferences to adjust, settle or expedite proceedings.

(a) [In order to] To provide opportunity for the submission and consideration of facts, arguments, offers [or] of settlement or proposals of adjustment, for settlement of a proceeding, or the issues therein, or consideration of means by which the conduct of the hearing may be facilitated and the disposition of the proceeding expedited, conferences between the [participants] parties may be held at any time prior to or during hearings as time, the nature of the proceeding, and the public interest permit.

* * * * *

§ 5.222. Initiation of prehearing conferences in nonrate proceedings.

(a) [In order to] To make possible a more effective use of hearing time in formal proceedings, other than rate proceedings which are governed by § 5.224 (relating to prehearing conference in rate proceedings), to otherwise expedite the orderly conduct and disposition of the proceedings and to serve the ends of justice and the public interest, it is the policy of the Commission to arrange for conferences between [participants] parties to the proceedings prior to the commencement of hearings.

(b) The Commission, or the presiding officer, with or without motion, and after consideration of the probability of beneficial results to be derived therefrom, may direct that a prehearing conference be held, and direct the [participants] parties to the proceeding to appear there to consider the matters enumerated in subsection (c). Notice of the time and place of the conference shall be given to all [participants] parties to the proceeding. Upon agreement of all the parties, the conferences may be conducted telephonically.

(c) The following matters shall be considered at prehearing conference:

* * * * *

(3) Arrangements for the submission of direct testimony of witnesses in writing in advance of hearing to the extent practicable, and for the submission in advance of hearing or written requests for information which a [participant] party contemplates asking another [participant] party to present at hearing.

(4) Other matters that may aid in expediting the orderly conduct and disposition of the proceeding and the furtherance of justice, including, [but not limited to,] the following:

* * * * *

(v) A proposed plan and schedule of discovery which may include specific limitations on the number of written interrogatories and requests for admissions a [participant] party may propound on another [participant] party.

(d) [Participants] Parties and counsel will be expected to attend the conference fully prepared for a useful discussion of all problems involved in the proceeding, both

procedural and substantive, and fully authorized to make commitments with respect thereto. The preparation should include, among other things, advance study of all relevant materials, and advance informal communication between the [participants] parties, including requests for additional data and information, to the extent it appears feasible and desirable. Failure of a [participant] party to attend the conference, after being served with notice of the time and place thereof, without good cause shown, shall constitute a waiver of all objections to the agreements reached, and an order or ruling with respect thereto.

* * * * *

§ 5.223. Authority of presiding officer at conferences.

(a) The presiding officer at a conference may dispose of procedural matters which he is authorized to rule upon during the course of the proceeding. [Where] When it appears that the proceeding would be substantially expedited by distribution of proposed exhibits and written prepared testimony reasonably in advance of the hearing session, the presiding officer, at his discretion, and with regard for the convenience and necessity of the [participants] parties, may direct advance distribution by a prescribed date. The rulings of the presiding officer made at the conference shall control the subsequent course of the hearing, unless modified for good cause shown.

(b) The presiding officer will have authority to participate in the discussions, to arrange for recording stipulations or agreements reached at conference, to fix the date of initial hearing and the date for additional hearings which may be required to dispose of the proceeding, and otherwise to assist the [participants] parties to reach agreement that will expedite the proceeding and serve the ends of justice.

* * * * *

§ 5.224. Prehearing conference in rate proceedings.

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(b) The first prehearing conference shall be held as soon as practicable after the entry of the order of investigation. The [participants] parties shall come to the first prehearing conference prepared to discuss the following:

(1) A proposed plan and schedule of discovery, which may include specific limitations on the number of written interrogatories and requests for admissions a [participant] party may propound on another [participant] party.

* * * * *

(c) At the first prehearing conference, [participants] parties may submit a written statement addressing the issues in subsection (b).

(d) Following the first prehearing conference, the presiding officer will enter an order establishing a tentative set of hearing dates, establishing a plan and schedule for discovery, [identifying the active participants for purposes of service of documents,] determining whether a public input hearing will be held, if that decision has not already been made, and addressing other matters deemed necessary.

(e) The second prehearing conference should be scheduled not fewer than 10 days prior to the first scheduled evidentiary hearings to do the following:

(3) Incorporate stipulations in the record.

(f) Combined with the second prehearing conference should be a settlement conference for the purpose of discussing settlement of the case or stipulation of certain issues, or both. In addition to the authority conferred by §§ 5.223(b), 5.232 and 5.233 (relating to authority of presiding officer at conferences; [stipulations and] settlement petitions; and refusal to make admissions or [stipulate] stipulations), if all parties agree, the presiding officer or a mediator may participate in the settlement discussions. A different judge or mediator will be assigned to participate in settlement discussions upon the request of a party. [Participants] Parties, except the filing utility, shall file and serve on all other [participants] parties, on or before the date of the conference, a statement of position which identifies the issues as they appear. Also included shall be a listing of the names and addresses of the witnesses each [participant] party intends to call and their proposed area of testimony.

(g) The presiding officer, or the Commission will have the authority to amend the requirements of this section either sua sponte or upon motion of a [participant] party when justice so requires.

[SETTLEMENT AND STIPULATIONS] SETTLEMENTS

§ 5.231. Offers of settlement.

(b) Nothing contained in this chapter or Chapter 1 or 3 (relating to rules of administrative practice and procedure; and special provisions) precludes a [participant] party in a proceeding from submitting, at any time, offers of settlement or proposals of adjustment, or from requesting conferences for that purpose.

(c) [Participants] Parties may request that the presiding officer participate in the settlement conferences or that an additional presiding officer or mediator be designated to participate in the settlement conferences.

(d) Proposals of settlement, of adjustment, or of procedure to be followed, and proposed stipulations not agreed to by every [participant] party, including proposals intended to resolve discovery disputes, will not be admissible in evidence against a counsel or [participant] party claiming the privilege.

[(b) Subsection] (e) Subsections (a)—(d) [supersedes] supercede 1 Pa. Code § 35.115 (relating to offers of settlement).

§ 5.232. [Stipulations and settlement] Settlement petitions.

(a) Generally. [When the participants to a proceeding other than a general rate increase seek to settle the proceeding, but do not seek to have the underlying pleadings withdrawn, a stipulation or settlement petition shall be presented to the presiding officer, if one has been assigned. Otherwise, the stipulation or settlement] A settlement petition shall be filed with the [Prothonotary] Secretary in ac-

cordance with § 5.41 (relating to petitions generally). [If the petition is presented to the presiding officer, the Prothonotary shall also be served with three copies.]

(b) Representation of other parties' agreement. A settlement agreement shall specifically identify the other [participants] parties supporting the settlement, opposing or taking no position on the settlement, if known, and the other parties that were provided or denied an opportunity to enter into the settlement.

(c) Service. A copy of each [stipulation or] settlement petition shall be served upon each [participant] party to the proceeding, and each [participant] party shall have the opportunity to comment on the proposed settlement unless otherwise ordered by the presiding officer.

(d) Review. The [stipulation or] settlement petition will be reviewed by the presiding officer, if one has been assigned, and otherwise will be reviewed by the Commission.

(1) The presiding officer will determine if the settlement is in the public interest.

(2) The presiding officer will hold a hearing if a timely objection is filed and the hearing is necessary in the public interest.

(3) If the presiding officer rules on the petition, the ruling will be made in the form of an initial or recommended decision, subject to § 5.537 (relating to rate case settlements), if approved, or in the form of an order, if disapproved.

(e) Waiver of exceptions. [Upon] The exception period may be waived upon agreement of the parties [to waive the exception period, the presiding officer may present the recommended decision or initial decision directly to the Commission for review].

(f) Disposition of exceptions. If timely exceptions are filed, they will be considered in a ruling made on the settlement petition.

§ 5.233. Refusal to make admissions or [stipulate] stipulations.

(a) Generally. A party may move for sanctions under subsection (b) when the following conditions are satisfied:

(1) [If a] A party [attending] refuses to admit or stipulate to the genuineness of documents or the truth of matters of fact during a conference convened under this chapter and Chapter 1 or 3 (relating to rules of administrative practice and procedure; and special provisions) [refuses to admit or stipulate the genuineness of documents or the truth of matters of fact and if the participant].

(2) The party requesting the admissions or stipulations thereafter proves the genuineness of the document or the truth of a matter of fact [, he].

(b) Sanctions. The requesting party may apply to the presiding officer for an order requiring the other party to pay [him] the reasonable expenses incurred in making the proof, including reasonable attorney's fees. [Unless] The presiding officer will grant an order for sanctions unless the presiding officer finds that

there were good reasons for the refusal to admit or stipulate or that the admissions or stipulations sought were of no substantial importance[, the order will be made] .

(c) **Appeal.** An interlocutory appeal may be taken to the Commission immediately from the order made by a presiding officer **under Subchapter C (relating to interlocutory review).**

(d) **Compliance.** If a party refuses to comply with the order after it becomes final, the [agency] **Commission or presiding officer** may strike all or part of the pleadings of the party or limit or deny further participation by the party.

[(b) Subsection] (e) **Subsections (a)—(d) [is identical to]** supersede 1 Pa. Code § 35.116 (relating to refusal to make admissions or stipulate).

§ 5.234. **Presentation and effect of stipulations.**

(a) [**Independently of the orders or rulings issued as provided by §§ 5.221—5.224 (relating to prehearing and other conferences) the participants] Parties** may stipulate [as] to relevant matters of fact or the authenticity of relevant documents. The stipulations may be received in evidence at a hearing, and when so received shall be binding on the [**participants] parties** with respect to the matters therein stipulated.

(b) **The parties may make stipulations independently of orders or rulings issued under §§ 5.221—5.224 (relating to prehearing and other conferences).**

[(b)] (c) * * *

[(c)] (d) [**Subsection] Subsections (a) and (b) [is identical to]** supersede 1 Pa. Code § 35.155 (relating to presentation and effect of stipulations). Subsection [(b)] (c) supplements 1 Pa. Code § 35.155.

§ 5.235. **Restrictive amendments to applications for motor carrier of passenger and household goods in use authority.**

(a) [**The participants] Parties** to motor carrier applications for passenger and household goods in use authority may stipulate as to restrictions or modifications to proposed motor carrier rights. Stipulations in the form of restrictive amendments or modifications [**shall be]:**

- (1) **Be** in writing[,].
- (2) **Explain why the stipulation is in the public interest.**
- (3) **Be** signed by each [**participant] party** to the stipulation[, and a copy].
- (4) **Be** submitted to the Secretary for insertion into the document folder.

* * * * *

HEARINGS

§ 5.241. [**Appearances] Attendance.**

(a) The presiding officer before whom the hearing is held shall enter upon the record all [**appearances, with a notation on whose behalf each appearance is made] parties in attendance.**

* * * * *

§ 5.242. **Order of procedure.**

(a) In a proceeding, the [**complainant, petitioner or other participant] party** having the burden of proof, shall open and close unless otherwise directed by the presiding officer. In a hearing on investigations and in proceedings which have been consolidated for hearing, the presiding officer may direct who shall open and close.

(b) Intervenors shall follow the [**participants] party** on whose behalf the intervention is made. If the intervention is not in support of an original [**participant] party**, the presiding officer will designate at what stage the intervenor will be heard.

(c) In proceedings where the evidence is peculiarly within the knowledge or control of another [**participant] party**, the order of presentation set forth in subsections (a) and (b) may be varied by the presiding officer.

(d) The presiding officer may direct the order of [**participants] parties** for purposes of cross-examination, subject to [**the requirements of] § 5.243(f)** (relating to presentation by [**participants] parties**).

* * * * *

§ 5.243. **Presentation by [participants] parties.**

(a) A [**participant, subject to the limitations in §§ 5.75 and 5.76 (relating to notice, service and action on petitions to intervene; and limitation of participation in hearings),] party** has the right of presentation of evidence, cross-examination, objection, motion and argument **subject to the limitations in §§ 5.75 and 5.76 (relating to notice, service and action on petitions to intervene; and limitation of participation in hearings).** The taking of evidence and subsequent proceedings shall proceed with reasonable diligence and with the least practicable delay.

* * * * *

(c) The presiding officer may require or allow a factual statement of the scope of a pleading or the position of a [**participant] party** in the proceeding. Facts admitted on **the record** by a [**participant] party** or by testimony, exhibits or in writing, need not be further proved.

* * * * *

(e) [**No participant] A party** will not be permitted to introduce evidence during a rebuttal phase which [**is]:**

- (1) **Is** repetitive[, which should].
- (2) **Should** have been included in the [**participant's] party's** case-in-chief [**or which substantially]**.

(3) **Substantially** varies from the [**participant's] party's** case-in-chief [**unless the evidence is introduced in support of a proposed full or partial settlement between or among any of the participants]**.

(f) If a [**participant] party** conducts friendly cross-examination of a witness, the presiding officer may permit the other [**participants] parties** a second opportunity to cross-examine after friendly cross-

examination is completed. The recross-examination shall be limited to the issues on which there was friendly cross-examination.

* * * * *

§ 5.245. Failure to appear, proceed or maintain order in proceedings.

(a) After being notified, a [participant] party who fails to be represented at a scheduled conference or hearing in a proceeding shall [be]:

(1) Be deemed to have waived the opportunity to participate in the conference or hearing[, and shall not].

(2) Not be permitted thereafter to reopen the disposition of a matter accomplished at the conference or hearing[, or].

(3) Not be permitted to recall [for further examination of] witnesses who were excused[, unless] for further examination.

(b) Subsection (a)(1)–(3) does not apply if the presiding officer determines that the failure to be represented was unavoidable and that the interests of the other [participants] parties and of the public would not be prejudiced by permitting the reopening or further examination. Counsel shall be expected to go forward with the examination of witnesses at the hearing under § 5.242 (relating to order of procedure), or as has been otherwise stipulated or has been directed by the presiding officer.

[(b) If the actions of a participant in a proceeding are determined by] (c) If the Commission or the presiding officer finds, after notice and opportunity for hearing, [to be obstructive to] that the actions of a party in a proceeding obstruct the orderly conduct of the proceeding and are inimical to the public interest, the Commission or the presiding officer may take appropriate action, including [but not limited to, where appropriate,] dismissal of the complaint, application, or petition, if the action is that of complainant, applicant[,] or petitioner.

TRANSCRIPT

§ 5.251. Recording of proceedings.

(a) If required by law, hearings will be stenographically reported by the Commission’s official reporter.

(b) Notwithstanding the review provisions of § 5.252 (relating to review of testimony), the hearing transcript [of the report] will be a part of the record and the sole official transcript of the proceeding.

(c) The transcripts will include a verbatim report of the hearings and nothing will be omitted therefrom except as is directed by the presiding officer. [After the closing of the record, there will not be received in evidence or considered as part of the record a document except as provided in § 5.404 (relating to additional evidence) or changes] Changes in the transcript must be made as provided in § 5.253 (relating to transcript corrections).

[(b) Subsection] (d) Subsections (a)–(c) [is identical to] supersede 1 Pa. Code § 35.131 (relating to recording of proceedings).

§ 5.252. Review of testimony.

* * * * *

(c) Upon request for review, the Office of Administrative Law Judge [shall] will schedule a time and place for the review which shall be open to all [participants of record] parties. The court reporting firm shall submit the tapes and equipment necessary for the review and shall arrange for the court reporter responsible for transcribing the tapes to be present at the review.

* * * * *

§ 5.253. Transcript corrections.

(a) A correction in the official transcript may be made only to make it [conform to] accurately reflect the evidence presented at the hearing and to speak the truth.

(b) Proposed corrections of a transcript may be submitted by either of the following means:

(1) By written stipulation by the [participants] parties of record who were present when the transcription was taken.

(2) Upon written request of one or more [participants] parties of record present when the transcription was taken.

* * * * *

(e) Proposed corrections and objections or other comments [shall] must be served upon the [participants] parties of record present when the original transcription was taken.

* * * * *

Subchapter C. INTERLOCUTORY REVIEW

§ 5.302. Petition for interlocutory Commission review and answer to a material question.

(a) During the course of a proceeding, a [participant] party may file a timely petition directed to the Commission requesting review and answer to a material question which has arisen or is likely to arise. The petition [shall] must be in writing with copies served on all [participants] parties and the presiding officer and shall [shall] state, in not more than three pages, the question to be answered and the compelling reasons why interlocutory review will prevent substantial prejudice or expedite the conduct of the proceeding.

(b) Within 7 days of service of the petition, each [participant] party may submit a brief directed to the Commission supporting or opposing the petition and addressing the merits of the question for which an answer is requested and whether a stay of proceedings is required to protect the substantial rights of a [participant] party. The brief may not exceed 15 pages.

(c) The [participant petitioning for Commission review and answer] petitioning party shall also provide with the brief rulings on its question and extracts from the record as will assist the Commission in reaching a decision.

* * * * *

§ 5.303. Commission action on petition for interlocutory review and answer.

(a) Within 30 days of receipt of the petition, the Commission will, without permitting oral argument, do one of the following:

(1) Continue, revoke or grant a stay of proceedings if necessary to protect the substantial rights of the [participants] parties.

* * * * *

§ 5.304. Interlocutory review of discovery matters.

(a) *General.* [Unless otherwise ordered by the Commission in exceptional situations, rulings] Rulings of presiding officers on discovery are not subject to interlocutory review [absent certification] unless one or more of the following apply:

(1) Interlocutory review is ordered by the Commission.

(2) Interlocutory review is certified by the presiding officer [that].

(3) The ruling has as its subject matter the deposing of a Commissioner or Commission employee.

(b) *Standard for certification.* A presiding officer may certify that a discovery ruling is appropriate for interlocutory review when the ruling involves an important question of law or policy that should be resolved immediately by the Commission [, except that an order of a presiding officer regarding the deposing of a Commissioner or Commission employee will be subject to interlocutory appeal to the Commission as provided in §§ 5.301–5.303 (relating to interlocutory review generally; petition for interlocutory Commission review and answer to a material question; and Commission action on petition for review and answer)].

[(1)] (c) *Petition for certification.* [Participants desiring] A petition for interlocutory review of a presiding officer's ruling on discovery [shall,] must:

(1) Be filed within 3 days of the ruling [, petition the presiding officer to certify the question to the Commission. The request shall be].

(2) Be in writing [with copies served on all participants and shall state, in not more than three pages,].

(3) State the question to be certified and the reasons why interlocutory review will prevent substantial prejudice or expedite the conduct of the proceedings.

(4) Be no more than 3 pages in length.

(5) Be filed with the Secretary and served on all parties and the presiding officer.

[(2)] (d) *Responsive brief.* [Within] A party may file a responsive brief within 7 days of a request for certification, [each participant may submit a brief to the presiding officer supporting or opposing] which:

(1) Either supports or opposes certification [and, in addition, addressing].

(2) Addresses the merits of the question for which certification is requested [and].

(3) Addresses whether a stay of proceedings is required to protect the substantial rights of a [participant] party.

(4) [The brief may] May not exceed 15 pages.

[(3)] (e) *Presiding officer's decision.* The presiding officer will [, within 3 days of the deadline for filing briefs,] announce the decision in writing or orally on the record [, with] within 3 days of the deadline for filing responsive briefs. The presiding officer's announcement will include the reasons why certification has been granted or denied and whether a stay of proceedings has been granted.

[(4)] (1) If the presiding officer denies the request for certification, [then] no further action is required of the presiding officer.

[(5)] (2) If the presiding officer's decision is to grant the request for certification, [and unless the moving participant has withdrawn the request for certification,] the presiding officer will [, within 4 days of the announcement of the decision, deliver to the Commission and] serve to each Commissioner the certified question [,] within 4 days of the announcement of the decision. The presiding officer will include the reasons justifying certification, rulings on the certified question [,] and extracts from the record that will assist the Commission in reaching a decision.

[(b)] (f) *Brief to the Commission following certification.* [Each participant may, on or before the date the presiding officer is required to file the certification,] Parties may submit a brief [, not to exceed 15 pages, directed] to the Commission [addressing] and no other briefs are permitted unless directed by the Commission. A brief must:

(1) Address the issue of certification [, and].

(2) Address the merits of the certified question [, and].

(3) Address the stay of proceedings, when appropriate.

(4) Not exceed 15 pages. No additional briefs are permitted unless directed by the Commission.

[(c)] (g) *Scheduling of certified question.* Upon the expiration of the time provided for filing briefs, the Secretary will schedule the certified question for consideration at the next meeting of the Commission.

[(d)] (h) *Action by the Commission.* Within 30 days of receipt of the certified question by the Secretary, the Commission will, without permitting oral argument, do one of the following:

* * * * *

[(e)] (i) *Failure to act.* Failure of the Commission to act on a certified question within 30 days of its receipt will be deemed to be an affirmation of the decision of the presiding officer.

[(f)] (j) *Effect on proceedings.* An interlocutory appeal from the ruling of the presiding officer on discovery will not result in a stay of the proceedings except upon a finding by the presiding officer or the Commission that extraordinary circumstances exist, or to protect the substantial rights of the [participants] parties.

§ 5.305. Interlocutory review of a material question submitted by a presiding officer.

* * * * *

(b) A copy of the question certified and the accompanying information shall be [sent to] served on the [participants] parties at the same time it is submitted to the Commission.

(c) Within 7 days of service of the certification, each [participant] party may submit a brief directed to the Commission addressing the merits of the question for which an answer is requested and whether a stay of proceedings is required to protect the substantial rights of a [participant] party. The brief may not exceed 15 pages.

* * * * *

§ 5.306. [Notification by telephone] Expedited notification.

A presiding officer may order notification of [participants] parties by telephone, telefacsimile or other electronic means when time periods are short and delivery by mail may not prove adequate. [A telephone notification] Notification by means other than by mail will be confirmed by the presiding officer by service in writing.

Subchapter D. DISCOVERY
GENERAL

§ 5.321. Scope.

* * * * *

(c) Scope. Subject to this subchapter, a [participant] party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of another party [or participant], including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of a discoverable matter. It is not ground for objection that the information sought will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(d) Exceptions. This subchapter [will] does not apply to discovery sought of Commissioners or Commission staff serving in an advisory or adjudicatory capacity.

(e) Commission staff. This subchapter [shall apply] applies equally to Commission staff serving in a prosecutory or party capacity in proceedings before the Commission, with no exceptions other than as specifically set forth in this chapter.

(f) Purpose and methods. A [participant] party may obtain discovery for the purpose of preparation of pleadings, or for preparation or trial of a case, or for use at a proceeding initiated by petition or motion, or for any combination of these purposes, by one or more of the following methods:

* * * * *

(2) Written interrogatories to a [participant] party.

* * * * *

§ 5.322. Informal agreement regarding discovery or deposition procedure.

The [participants] parties may by agreement provide that depositions may be taken before a person, at

any time or place, upon any notice, and in any manner, and when so taken may be used like other depositions. The [participants] parties may modify the procedures provided by this chapter for methods of discovery and, notwithstanding any provisions of this subchapter, [participants] parties are encouraged to exchange information on an informal basis.

§ 5.323. [Trial] Hearing preparation material.

(a) Generally. Subject to this subchapter, a [participant] party may obtain discovery of any matter discoverable under § 5.321(b) (relating to scope) even though prepared in anticipation of litigation or hearing by or for another [participant] party or by or for that other [participant's] party's representative, including his attorney, consultant, surety, indemnitor, insurer or agent. The discovery may not include disclosure of the mental impressions of a [participant's] party's attorney or his conclusions, opinions, memoranda, notes, summaries, legal research or legal theories. With respect to the representative of a [participant] party other than the [participant's] party's attorney, discovery may not include disclosure of his mental impressions, conclusions or opinions respecting the value or merit of a claim or defense or respecting strategy, tactics or preliminary or draft versions of written testimony or exhibits, whether or not final versions of the testimony or exhibits are offered into evidence.

(b) Statements. Upon written request, a [participant] party is entitled to immediate receipt of a photostatic copy or like reproduction of a statement concerning the action or its subject matter previously made by that [participant] party, another [participant] party or a witness. If the statement is not provided, the [participant] party may move for an order from the presiding officer. For purposes of this subsection, a statement previously made is one of the following:

* * * * *

§ 5.324. Discovery of expert testimony.

(a) Discovery of facts known and opinions held by an expert, otherwise discoverable under § 5.321 (relating to scope), including that acquired or developed in anticipation of litigation or for hearing, may be obtained as follows:

(1) A [participant] party may through interrogatories require both of the following:

(i) The other [participant] party to identify each person whom the [participant] party expects to call as an expert witness at hearing and to state the subject matter on which the expert is expected to testify.

(ii) The other [participant] party to have each expert [identified by the participant] so identified state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. The [participant] party answering the interrogatories may file as the answer a report of the expert, have the interrogatories answered by the expert or provide written direct testimony of the expert. The answer, separate report or testimony shall be signed by the expert and shall be deemed to be provided under oath in accordance with section 333(d) of the act (relating to prehearing procedures).

(2) If the [participant] party against whom discovery is sought, under paragraph (1)(ii), responds by the filing of written direct testimony, the response shall be considered timely, regardless of § 5.342 (relating to answers or objections to written interrogatories by a [participant] party), if the written direct testimony is served on all [participants] parties at least 10 days prior to the date on which the expert is scheduled to testify or in accordance with the schedule for the submission of written testimony established by the presiding officer. However, the [participant] party shall still comply with paragraph (1)(i) within the time otherwise applicable.

* * * * *

(b) [If the identity of an] An expert witness whose identity is not disclosed in compliance with subsection (a)(1)[, the witness] will not be permitted to testify on behalf of the defaulting [participant] party at hearing. If the failure to disclose the identity of the witness is the result of extenuating circumstances beyond the control of the defaulting [participant] party, the presiding officer may grant a continuance or other appropriate relief.

* * * * *

(d) The answering [participant] party may supplement answers only to the extent that facts, or opinions based on those facts, can reasonably be shown to have changed after preparation of the answer or [where] when additional facts or information have become known to the answering [participant] party or where the interest of justice otherwise requires.

* * * * *

TIMING AND SUPPLEMENTAL RESPONSES

§ 5.331. Sequence and timing of discovery.

(a) A [participant or a person who has formally applied] party to the Commission [for participant status] proceeding may conduct discovery.

(b) A [participant] party shall [endeavor to] initiate discovery as early in the proceedings as reasonably possible. In a proceeding, the right to discovery commences when a complaint, protest or other adverse pleading is filed or when the Commission institutes an investigation or on the record proceeding, whichever is earlier.

(c) Commission staff may initiate discovery at an earlier time. Commission staff discovery prior to formal Commission action to initiate a proceeding shall be designated as "Staff data requests" and shall be answered fully and completely by the utility within the time periods specified at § 5.342(d) (relating to answers or objections to written interrogatories by a [participant] party). Unless a presiding officer has been designated, objections and motions to compel shall be ruled upon by the Chief Administrative Law Judge.

(d) In a rate proceeding, initial discovery directed to data or information supplied by the public utility at the time of the initiation of the proceeding shall be submitted to the utility within 10 working days following the first prehearing conference. [Discovery directed to other matters shall be available until the close of evidentiary hearings. In other proceedings, the] The presiding officer, upon his own motion or motion of

a [participant] party, may establish reasonable limitations upon the timing of discovery.

(e) Unless the presiding officer upon motion, for the convenience of [participants] parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence and the fact that a [participant] party is conducting [a] discovery will not operate to delay another [participant's] party's discovery.

§ 5.332. Supplementing responses.

A [participant] party or an expert witness who has responded to a request for discovery with a response that was complete when made is under a duty to supplement a response to include information thereafter acquired, as follows:

(1) A [participant] party is under a continuing duty to supplement responses with respect to a question directly addressed to the identity and location of persons having knowledge of discoverable matters and the identity of each person expected to be called as an expert witness at hearing, the subject matter on which the expert is expected to testify and the substance of the testimony as provided in § 5.324(a)(1) (relating to discovery of expert testimony).

(2) A [participant] party or an expert witness is under a continuing duty to amend a prior response upon discovering that the response is incorrect or incomplete.

(3) A duty to supplement responses may be imposed by order of the presiding officer, agreement of the [participants] parties, or at a time prior to hearing through new requests to supplement prior responses.

TYPES OF DISCOVERY

§ 5.341. Written interrogatories to a party.

(a) Subject to the limitations provided by § 5.361 (relating to limitation of scope of discovery and deposition), a [participant] party may serve upon another [participant] party written interrogatories to be answered by the [participant] party served or, if the [participant] party served is a public or private corporation, similar entity or a partnership or association, by an officer or agent, who shall furnish the information as is available to the [participant] party.

(b) The party propounding interrogatories shall serve a copy on the parties and shall file a certificate of service with the Secretary. Interrogatories may not be filed with the Commission. [A copy of interrogatories shall be served on the active participants.]

(c) Interrogatories may relate to matters which can be inquired into under §§ 5.321, 5.323 and 5.324 (relating to scope; [trial] hearing preparation material; and discovery of expert testimony) and may include requests that the answering party provide copies of documents without making a separate request for the production of documents under § 5.349 (relating to requests for documents, entry for inspection and other purposes).

* * * * *

(e) A [participant] party should use a logical and sequential numbering system for interrogatories.

§ 5.342. Answers or objections to written interrogatories by a [participant] party.

(a) **Form.** [An answer] Answers to [an interrogatory shall be] interrogatories must:

- (1) Be in writing [and the answer shall identify].
- (2) Identify the name and position of the individual who provided the answer.
- (3) [An answer shall be] Be submitted as an answer and may not be submitted as an exhibit or in another form.
- (4) [Each interrogatory shall be answered] Answer each interrogatory fully and completely unless an objection is made.
- (5) [The answer shall first restate] Restate the interrogatory which is being answered or be inserted in the spaces provided in the interrogatories.

(6) Be verified in accordance with § 1.36 (relating to verification).

(b) **Use.** An answer may be used by a [participant] party for an appropriate purpose, if admissible under the applicable rules of evidence. An answer may not be offered into evidence by the [participant] party who provided it, except through the sworn oral testimony of the person who provided the answer.

(c) **Objections.** [If objected to, the reasons for the objection to an interrogatory shall be stated in lieu of an answer.] An objection shall be prepared, filed and served in the same manner provided for an answer, except that an objection shall be contained in a document separate from an answer as required by the time provisions of subsection (d). An objection shall [restate]:

- (1) Restate the interrogatory or part thereof deemed objectionable and the specific ground for the objection.
- (2) [The objection shall include] Include a description of the facts and circumstances purporting to justify the objection.
- (3) [The objection shall be] Be signed by the attorney making it.
- (4) [An interrogatory otherwise proper is not objectionable solely because] Not be valid if based solely on the claim that an answer will involve an opinion or contention that is related to a fact or the application of law to fact.

(5) [The statement of an objection does not] Not excuse the answering [participant] party from answering the remaining interrogatories or subparts of interrogatories to which no objection is stated.

(d) **Service of answer and objections.** The answering [participant] party shall serve [interrogatories] objections and answers within 15 days for rate proceedings, and 20 days after service of the interrogatories for other cases. Time periods may be modified by the presiding officer, on motion or by agreement of the [participants] parties.

(1) An objection shall be served within 10 days for rate proceedings, and 30 days of service of the interrogatories in other cases, except as agreed by the [participants] parties or as ordered by the presiding officer.

(2) [Within the time periods prescribed in this subsection, the] The answering or objecting [participant] party shall serve copies of the answer and the objection, if any, on the active [participants] parties.

(3) [If there is an objection, then the] The objecting [participant] party shall file copies of the objection with the [Prothonotary] Secretary, along with a certificate of service, which [shall identify] identifies specifically the interrogatories to which an answer and objection have been provided. [A copy of the objection shall also be served upon the presiding officer.]

[(2)] (4) The [participant] party against whom the interrogatories are directed shall remain under a duty to meet the time requirements for answering or objecting to the interrogatories or subpart of interrogatories for which the time period for response has not been modified specifically.

(e) **Motion to compel.** [The participant] Within 10 days of service of an objection to interrogatories, the party submitting the interrogatories may move that the presiding officer dismiss an objection and [direct] compel that the interrogatory be answered. If a motion to dismiss an objection to interrogatories is not filed within 10 days of service of the objection, the objected to interrogatory will be deemed withdrawn.

(1) The [participant] party against whom the motion to compel is directed may file an answer within 5 days of service of the motion or, in the alternative, respond orally at the hearing if a timely hearing has been scheduled within the same 5-day period.

(2) The presiding officer shall rule on the motion as soon as practicable [; however, the]. The motion should be decided within 15 days of its presentation, unless the motion presents complex or novel issues. If it does have complex or novel issues, the presiding officer shall, upon notice to the [participants] parties, rule in no more than 20 days of its presentation.

§ 5.343. Procedures in deposition by oral examination.

(a) A [participant] party desiring to take the deposition of a person upon oral examination, other than under § 5.322 (relating to informal agreement regarding discovery or deposition procedure), shall give 20 days notice in writing to the active [participant] party and to the presiding officer. A [participant, or witness within the control of a participant,] party noticed to be deposed is required to appear without subpoena. A [nonparticipant] person who is not a party is not required to appear unless subpoenaed.

* * * * *

(d) If the person to be examined is a [participant] party, the notice may include a request made in compliance with § 5.349 (relating to requests for documents, entry for inspection and other purposes) for the production of documents and tangible things at the taking of the deposition. If the person to be examined is not a [participant] party, and is to be served with a subpoena duces tecum to provide designated materials, the notice shall specify the materials to be produced.

(e) A [**participant**] **party** may in his notice and in a subpoena, if issued, name as the deponent a public or private corporation, a partnership or association or a governmental agency. In that event, the organization named shall file within 10 days of service a designation of one or more officers, directors or managing agents, or other persons who consent to testify on its behalf, and may set forth, for the persons designated, the matters on which he will testify. A subpoena shall advise a [**nonparticipant**] **nonparty** organization of its duty to make a designation. The person designated shall testify as to matters known or reasonably available to the organization. This subsection does not preclude taking a deposition by other procedures authorized in this chapter.

(f) An objection to the notice of deposition may be filed within 10 days of service of the notice. A copy of the objection shall be served upon the presiding officer and the active [**participants**] **parties**. A notice of deposition which is served upon a [**nonparticipant**] **nonparty** shall state that the [**nonparticipant**] **nonparty** may file objections within 10 days of service and identify the persons—names and addresses—to whom the objections shall be sent.

* * * * *

§ 5.344. Approval by presiding officer.

* * * * *

(c) If a [**participant**] **party** provides notice scheduling the taking of a deposition prior to an expiration of 20 days after initiation of the proceedings, the [**participant**] **party** shall set forth the facts requiring the expedited discovery, and the presiding officer shall consider whether expedited discovery is warranted.

* * * * *

§ 5.345. Procedure on depositions by written questions.

(a) A [**participant**] **party** taking a deposition by written questions shall serve the questions upon the deponent and serve a copy upon each other [**participant**] **party** or his attorney of record. Within 30 days thereafter the [**participant**] **party** served and other [**participants**] **parties** may serve cross questions upon the deposing [**participant**] **party** and upon each other [**participant**] **party** or [**his**] the attorney of record. Reply questions [**shall**] **must** be similarly served by a [**participant**] **party** within 10 days of the service of cross questions.

* * * * *

(c) Objections to the form of questions are waived unless filed and served upon the [**participant**] **party** propounding them within the time allowed for serving the succeeding cross or other questions or within 10 days after service of the last questions. Other objections may be made at the hearing except as otherwise provided by §§ 5.346—5.348 (relating to persons before whom depositions may be taken; taking of depositions—objections; and transcript of deposition, objections and filing).

* * * * *

(e) After the service of questions and prior to the taking of the testimony of the deponent, the presiding officer, on motion promptly made by a [**participant**] **party** or a deponent, may make an order in accordance

with § 5.362 (relating to protective orders) or an order that the deposition may not be taken except upon oral examination.

§ 5.347. Taking of depositions—objections.

* * * * *

(b) Objections to the competency of a witness or to the competency, relevancy or materiality of the testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground for the objection is one which was known to the objecting [**participant**] **party** and which might have been obviated or removed if made at that time.

(c) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of oral questions or answers, in the oath or affirmation or in the conduct of [**participants**] **parties** and errors which might have been obviated, removed or cured if objections had been promptly made, are waived unless reasonable objection is made at the taking of the deposition.

(d) Errors and irregularities in the notice for taking a deposition are waived unless written objection is served upon the [**participant**] **party** giving the notice under § 5.344 (relating to approval by presiding officer).

* * * * *

§ 5.348. Transcript of deposition, objections and filing.

* * * * *

(e) In lieu of participating in the oral examination, [**participants**] **parties** served with notice of taking a deposition may transmit written questions to the person taking the deposition, who shall propound them to the witness and record the answers verbatim.

(f) Upon payment of reasonable charges, the person before whom the deposition was taken shall furnish a copy thereof to [**participants**] **parties** or to the deponent.

* * * * *

§ 5.349. Requests for documents, entry for inspection and other purposes.

(a) A [**participant**] **party** may serve on another [**participant**] **party** a request for either of the following:

(1) To produce and permit the [**participant**] **party** making the request, or someone acting on the [**participant's**] **party's** behalf, to inspect and copy designated documents—including writings, drawings, graphs, charts, photographs, computer records and other compilations of data from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonable usable form—or to inspect a copy, test or sample tangible things which constitute or contain matters within the scope of §§ 5.321(b), 5.323 and 5.324 (relating to scope; [**trial**] **hearing** preparation material; and discovery of expert testimony) and which are in the possession, custody or control of the [**participant**] **party** upon whom the request is served.

(2) To permit entry upon designated land or other property in the possession or control of the [**participant**] **party** upon whom the request is served for the purpose of inspecting and measuring, surveying, photo-

graphing, testing or sampling the property or a designated object or operation thereon, within the scope of §§ 5.321(b), 5.323 and 5.324.

(b) As an alternative to permission to inspect and copy, and if requested by the [participant] party seeking discovery, the [participant] party against whom discovery is sought shall reproduce the designated documents at the requesting [participant's] party's expense. Regulated utilities shall provide copies of requested materials to Commission staff, which shall include the Office of Trial Staff, the Office of Consumer Advocate and the Office of Small Business Advocate at no charge.

* * * * *

(d) The [participant] party upon whom the request is served shall serve a written response within 15 days for rate proceedings, and 20 days after service of the request for all other cases. Time periods may be modified by the presiding officer[, on motion,] or by agreement of the [participants] parties. The response shall be verified and state that inspection and related activities will be permitted as requested. If the request is objected to, the objection shall be made in the manner described in § 5.342 (relating to answers or objections to written interrogatories by a [participant] party). A [participant] party may request another [participant] party to produce or inspect documents as part of interrogatories filed under § 5.341 (relating to written interrogatories to a party). The [participant] party submitting the request may move for an order under § 5.342(e) with respect to an objection or to other failure to respond to the request or any part thereof, or failure to permit inspection as requested.

(e) This section does not apply to official files of the Commission, or materials which are the product of or within the control of Commission advisory or adjudicatory staff, but shall apply only to materials within the control of staff as may be participating in the action as a [participant] party. Access to official files of the Commission shall be as prescribed in §§ 1.71—1.77 (relating to public access to Commission records).

§ 5.350. Request for admissions.

(a) *General.* A [participant] party may serve upon another [participant] party a written request for the admission of the truth of any matters, within the scope of §§ 5.321—5.324 (relating to general), set forth in the request, that relate to statements or opinions of fact or of the application of law to fact, including the genuineness, authenticity, correctness, execution, signing, delivery, mailing or receipt of a document described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or available for inspection and copying.

(b) *Form.* Each matter of which an admission is requested shall be separately set forth.

(c) *Failure to admit.* The matter is admitted unless, within 20 days after service of the request, the [participant] party to whom the request is directed answers or makes an objection to the matter, signed by the [participant] party or by his attorney.

(d) *Response.* [If objection is made, the reasons shall be stated.]

(1) *Answer.* The answer shall admit or deny the matter or set forth in detail the reasons why the answering [participant] party cannot truthfully do so.

(2) *Denial.* A denial shall fairly meet the substance of the requested admission, and when good faith requires that a [participant] party qualify [his] an answer or deny only a part of the matter of which an admission is requested, [he] the party shall specify so much of it as is true and qualify or deny the remainder. An answering [participant] party may not give lack of information or knowledge as a reason for failure to admit or deny unless [he] the party states he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

(3) *Objection.* Objections shall be supported by reasons. A [participant] party who considers that a matter of which an admission has been requested presents a genuine issue for hearing may not, on that ground alone, object to the request.

[(c)] (e) *Motion to determine sufficiency of response.* The [participant] party who has requested the admission may move to determine the sufficiency of the answer or objection. Unless the presiding officer determines that an objection is justified, [he] the presiding officer will order that an answer be served. If the presiding officer determines that an answer does not comply with the requirements of this section, [he] the presiding officer may order either that the matter is admitted or may determine that final disposition of the request be made at a prehearing conference or at a designated time prior to hearing.

[(d)] (f) *Effect of admission.* A matter admitted under this section is conclusively established unless the presiding officer on motion permits withdrawal or amendment of the admission. An admission by a [participant] party under this section is for the purpose of the pending action only and is not an admission by him for another purpose. An admission may not be used against a [participant] party in another proceeding.

§ 5.351. On the record data requests.

(a) [During the course of a rate proceeding a participant] A party may request that a witness provide information or documents at a later time as part of the witness' response to a question posed during cross-examination in the course of a rate proceeding.

(1) *Oral request.* [The] A request [may be] made orally [or in writing so long as the written request is presented at the time the witness appears for cross-examination. An oral request] may be confirmed in writing by the [participant] party making the request.

(2) *Written request.* A written request shall be presented at the time the witness appears for cross-examination.

(b) The procedures for written interrogatories in § 5.342 (relating to answers or objections to written interrogatories by a [participant] party) [is applicable] applies to on the record data requests except [that answers]:

(1) Answers shall be supplied as soon as possible [after the request but in any event no]. The

response period may not extend later than 10 days after the request is made [, unless the].

(2) The presiding officer [modifies] may modify the time period for good cause shown.

(c) Objections to a request shall be made at the time that the request is made. Limitations established in §§ 5.321, 5.322, 5.323 and 5.331(b) [are applicable] apply to on the record data requests.

LIMITATIONS

§ 5.361. Limitation of scope of discovery and deposition.

(a) [No discovery] Discovery or deposition is not permitted which:

* * * * *

(2) Would cause unreasonable annoyance, embarrassment, oppression, burden or expense to the deponent, a person or [participant] party.

* * * * *

(4) Would require the making of an unreasonable investigation by the deponent, a [participant] party or witness.

(b) In rate proceedings, discovery is not limited under subsection (a) solely because the discovery request requires the compilation of data or information which the answering [participant] party does not maintain in the format requested, in the normal course of business, or because the discovery request requires that the answering [participant] party make a special study or analysis, if the study or analysis cannot reasonably be conducted by the [participant] party making the request.

(c) If the information requested has been previously provided, the answering [participant] party shall specify the location of the information.

§ 5.362. Protective orders.

(a) Upon motion by a [participant] party or by the person from whom discovery or deposition is sought, and for good cause shown, the presiding officer may make an order which justice requires to protect a [participant] party or person from unreasonable annoyance, embarrassment, oppression, burden or expense, including one or more of the following:

* * * * *

(6) That the [participants] parties simultaneously [shall] file specified documents or information enclosed in sealed envelopes to be opened as directed by the presiding officer.

* * * * *

(b) If the motion for a protective order is denied in whole or in part, the presiding officer may order that a [participant] party or person provide or permit discovery.

(c) During the taking of a deposition on motion of a [participant] party or of the deponent, the presiding officer or other [Administrative Law Judge] administrative law judge may order the officer conducting the examination to cease from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in subsection (a). Upon demand of the objecting [participant] party or deponent, the taking

of the deposition shall be suspended for the time necessary to make a motion for an order and to obtain the presiding officer's ruling.

§ 5.364. Use of depositions at hearing.

(a) At hearing, part or all of a deposition, so far as admissible under 42 Pa.C.S. § 6101—6112 (relating to rules of evidence), may be used against a [participant] party who was present or represented at the taking of the deposition or who had notice thereof if required, in accordance with one of the following provisions:

(1) A deposition may be used by a [participant] party for the purpose of contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a [participant] party or of anyone who at the time of taking the deposition was an officer, director or managing agent of a [participant] party or a person designated under §§ 5.343(e) or 5.345(a)(2) (relating to procedures in deposition by oral examination; and procedure on depositions by written questions) to testify on behalf of a public or private corporation, partnership, association or governmental agency which is a [participant] party, may be used by an adverse [participant] party for any purpose.

(3) The deposition of a witness [, whether or not a participant,] may be used by a [participant] party for a purpose if the presiding officer finds one of the following:

* * * * *

(ii) That the witness is outside this Commonwealth, unless it appears that the absence of the witness was procured by the [participant] party offering the deposition.

* * * * *

(iv) That the [participant] party offering the deposition has been unable to procure the attendance of the witness by subpoena.

* * * * *

(4) If only part of a deposition is offered in evidence by a [participant] party, another [participant] party may require him to introduce all of it which is relevant to the part introduced, and a [participant] party may introduce other parts.

* * * * *

(c) A [participant] party may not be deemed to make a person his own witness for any purpose by taking his deposition. The introduction in evidence of the deposition or a part thereof for a purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition [, but this]. This does not apply to the use by an adverse [participant] party of a deposition as described in subsection (a)(2). At the hearing, a [participant] party may rebut relevant evidence contained in a deposition whether introduced by him or by another [participant] party.

SANCTIONS

§ 5.371. Sanctions—general.

(a) The Commission or the presiding officer may, on motion, make an appropriate order if one of the following occurs:

(1) A [participant] party fails to appear, answer, file sufficient answers, file objections, make a designation or otherwise respond to discovery requests, as required under this subchapter.

(2) A [participant] party deponent or an officer or managing agent of a [participant] party refuses to obey or induces another to refuse to obey an order of a presiding officer respecting discovery, or induces another not to appear.

* * * * *

(c) The presiding officer shall rule on the motion as soon as practicable[; however, the] The motion should be decided within [15] 20 days of its presentation[, unless the motion presents complex or novel issues. If it does have complex or novel issues, the presiding officer shall, upon notice to the participants, rule in no more than 20 days of its presentation].

(d) A failure to act described in subsection (a) may not be excused on the ground that the discovery sought is objectionable unless the [participant] party failing to act has filed an appropriate objection or has applied for a protective order.

* * * * *

§ 5.372. Sanctions—types.

(a) The presiding officer, when acting under § 5.371 (relating to sanctions—general), may make one of the following:

* * * * *

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting [him] the party from introducing in evidence designated documents, things or testimony.

(3) An order striking out pleadings or parts thereof, staying further proceedings until the order is obeyed, or entering a judgment against the disobedient [participant] party or [party] individual advising the disobedience.

* * * * *

(b) In addition to the sanctions described in subsection (a), in rate proceedings, when a [participant] party fails to answer discovery requests on the date due, the presiding officer may issue an order that the hearing schedule be modified, that the deadline for the filing of other [participants'] parties' written testimony be extended, or that provides other relief that will allow the other [participants] parties a sufficient and reasonable opportunity to prepare their cases.

(c) A witness whose identity has not been revealed as provided in this chapter will not be permitted to testify on behalf of the defaulting party at hearing on the action. If the failure to disclose the identity of the witness is the result of extenuating circumstances beyond the control of the defaulting [participant] party, the presiding officer may grant a continuance or other appropriate relief.

§ 5.373. Subpoenas.

(a) If issuance of a subpoena is required by operation of this chapter, or because a [participant] party or witness has not otherwise appeared, issuance of the subpoena shall be in accordance with § 5.421 (relating to subpoenas).

* * * * *

Subchapter E. EVIDENCE AND WITNESSES
EVIDENCE

§ 5.401. Admissibility of evidence.

(a) Relevant and material evidence is admissible subject to objections on other grounds[, but there shall be excluded evidence that].

(b) Evidence shall be excluded if:

(1) It is repetitious or cumulative[, or evidence that is not of the kind which would affect reasonable and fair-minded persons in the conduct of their daily affairs].

(2) Its probative value is outweighed by:

(i) The danger of unfair prejudice.

(ii) Confusion of the issues.

(iii) By considerations of undue delay or waste of time.

[(b) Subsection] (c) Subsections (a) and (b) [supercedes] supersede 1 Pa. Code § 35.161 (relating to form and admissibility of evidence).

§ 5.402. Admission of evidence.

(a) A [participant] party shall move the admission of evidence into the record upon presentation of the sponsoring witness, and after opportunity for other [participants] parties to examine the [qualifications of the] witness.

(b) [In order for] For an exhibit to be received into evidence, it [shall] must be marked for identification and moved into evidence. [If a motion to move an exhibit into evidence is made after the close of the record, it shall be in writing and be subject to the same objections which could have been made at the hearing.]

* * * * *

§ 5.404. Additional evidence.

(a) At any stage of the hearing or thereafter, the Commission or the presiding officer may call for further admissible evidence upon an issue and require that the evidence be presented by the [participants] parties concerned, either at the hearing or at the adjournment thereof.

* * * * *

§ 5.405. Effect of pleadings.

(a) [Applications, complaints, orders to show cause, answers and similar formal documents upon which hearings are fixed] Pleadings listed in § 5.1 (relating to pleadings allowed) shall, without further action, be considered as part of the record as pleadings.

* * * * *

(c) A fact admitted by a [participant] party in an answer, filed under oath, to a numbered allegation in a pleading may be considered as evidence of the fact without the pleading and answer being offered and received into evidence.

* * * * *

§ 5.406. Public documents.

* * * * *

(b) Upon the request of a [participant] party and at the direction of the presiding officer or the Commission, a party who incorporates by reference a pleading shall provide a copy of the pleading to the [participant] party requesting one.

* * * * *

§ 5.407. Records of other proceedings.

(a) When a portion of the record in another proceeding before the Commission is offered in evidence and shown to be relevant and material to the instant proceeding, a true copy of the record shall be presented in the form of an exhibit, together with additional copies as provided in § 5.409 (relating to copies and form of documentary evidence), unless both of the following occur:

(1) The [participant] party offering the record agrees to supply, within a period of time specified by the Commission or the presiding officer, the copies at his own expense, if any, when so required.

* * * * *

§ 5.408. Official and judicial notice of fact.

(a) Official notice or judicial notice of facts may be taken by the Commission or the presiding officer.

(b) When the decision of the Commission or the presiding officer rests on official notice or judicial notice of a material fact not appearing in the evidence in the record, [upon] the parties will be so notified.

(c) Upon notification that facts are about to be or have been noticed, a party adversely affected shall have the opportunity upon timely request to show that the facts are not properly noticed or that alternative facts should be noticed.

(d) The Commission or the presiding officer in its discretion will determine whether written presentations suffice, or whether oral argument, oral evidence or cross-examination is appropriate in the circumstances.

(e) The Commission or presiding officer may also give official notice as the term is defined in section 331(g) of the act (relating to powers of commission and administrative law judges).

[(b) Subsection] (f) Subsections (a)—(e) [is identical to] supersede 1 Pa. Code § 35.173 (relating to official notice of facts).

§ 5.409. Copies and form of documentary evidence.

(a) Except as otherwise provided in this chapter, Chapters 1 and 3 (relating to rules of administrative practice and procedure; and special provisions), when exhibits of a documentary character are offered in evidence, copies shall be furnished to the presiding officer and to the [participants] parties present at the hearing, unless the presiding officer otherwise directs. Two copies of each exhibit of documentary character shall be furnished for the use of the Commission unless otherwise directed by the presiding officer.

* * * * *

WITNESSES

§ 5.412. Written testimony.

(a) *General.* Use of written testimony in Commission proceedings is encouraged, especially in connection with

the testimony of expert witnesses. Written direct testimony is required of expert witnesses testifying in rate cases.

(b) *Use.* [Whenever in the circumstances of a particular case it is deemed necessary or desirable, the] The presiding officer may direct that expert testimony to be given upon direct examination [shall] be [reduced to the form of] submitted as prepared written testimony. A reasonable period of time will be allowed [for the preparation of] to prepare written testimony.

(c) *Rules regarding use.* Written testimony is subject to the same rules of admissibility and cross-examination of the sponsoring witness as if it were presented orally in the usual manner.

(d) *Cross-examination.* [Except in a rate proceeding, cross] Cross-examination of the witness presenting written testimony shall proceed at the hearing at which testimony is authenticated if [, not less than 20 days prior to the hearing,] service of the written testimony is made upon each [participant] party of record at least 20 days prior to the hearing, unless the presiding officer for good cause otherwise directs. [Unless the Commission by rule or order establishes otherwise, in] In a rate proceeding, the presiding officer or the Commission will establish the schedule for the filing and authentication of written testimony, and for cross-examination by other [participants] parties.

(e) *Form.* Written testimony shall normally be prepared in question and answer form, include a statement of the qualifications of the witness and be accompanied by exhibits to which it relates. A [participant] party offering prepared written testimony shall insert line numbers in the left-hand margin on each page. A [participant] party should also use a logical and sequential numbering system to identify the written testimony of individual witnesses.

(f) *Service.* Written testimony shall be served upon the presiding officer and [active participants] parties in the proceeding in accordance with the schedule established by this chapter. At the same time the testimony is served, a certificate of service for the testimony shall be filed with the [Prothonotary] Secretary.

(g) *Copies.* At the hearing at which the testimony is authenticated, counsel for the witness shall provide two copies of the testimony to the court reporter.

(h) *Supersession.* Subsections (a)—(g) supersede 1 Pa. Code §§ 35.138, 35.150 and 35.166 (relating to expert witnesses; scope and conduct of examination; and prepared expert testimony).

SUBPOENAS AND PROTECTIVE ORDERS

§ 5.421. Subpoenas.

(a) *Issuance.*

(1) A subpoena [for the attendance of witnesses or for the production of documentary evidence, unless directed] may be issued by the Commission upon its own motion [,].

(2) Other than under paragraph (1), a subpoena will issue only upon application in writing to the presiding officer, except that during a hearing in a proceeding,

the application may be made orally on the record before the presiding officer, who will determine the necessity of issuing the subpoena.

(b) **Form.** The written application [shall]:

(1) **Shall** specify as nearly as possible the general relevance, materiality and scope of the testimony or documentary evidence sought, including, as to documentary evidence, specification as nearly as possible of the documents desired [and].

(2) **Shall list** the facts to be proved by the documents in sufficient detail to indicate the necessity of the documents.

(3) **Shall contain a notice that an answer or objection thereto shall be filed with the Commission and presiding officer within 10 days of service of the application.**

(4) **Shall include a certificate of service.**

(5) [The] **May have the** proposed subpoena [may be] attached to the application.

[(b) **Notice**] (c) **Service.** An application for a subpoena [shall] **must** be filed with the Commission and copies served by the petitioner upon [the affected participant, the]:

(1) **The person to be subpoenaed.**

(2) **The** presiding officer[, active participants of record, and if the subpoena is directed to a Commission employe, to the].

(3) **Active parties.**

(4) **The Commission's Law Bureau, if the subpoena is directed to a Commission employee. [The application shall contain a notice that an answer or objection thereto shall be filed with the Commission and presiding officer within 10 days of service of the application. When the person for whom a subpoena is sought is not a participant to the case, a copy of the subpoena application shall be served on the person]**

(5) **The person for whom the subpoena is sought when the person is not a party to the case.** When the person for whom a subpoena is sought is not a party to the case, the application shall identify the person—names and addresses—including the Secretary and presiding officer, to whom the answer or objection shall be sent.

[(c)] (d) **Service and return.**

* * * * *

(2) **Service by mail.** Service of a subpoena upon a [participant] party may also be accomplished by mail under §§ 1.54 and 1.55 (relating to service by a [participant] party; and service on attorneys), or by a form of mail requiring a return receipt, postage prepaid, restricted delivery. Service is complete upon delivery of the mail to the [participant] party or the persons referred to in Pa.R.C.P. No. 402(a)(2) (relating to manner of service acceptance of service).

[(d)] (e) **Fees of witnesses.** A witness subpoenaed by the Commission shall be paid the same fees and mileage as are paid for the like services in the courts of common pleas. A witness subpoenaed by a [participant] party

shall be paid the same fees by the [participant] party. The Commission, before issuing a subpoena as provided in this section may require a deposit of an amount adequate to cover the fees and mileage involved.

[(e)] (f) **Supersession.** Subsections (a)—[(d)] (e) supersede 1 Pa. Code § 35.142 (relating to subpoenas).

§ 5.423. Orders to limit availability of proprietary information.

(a) **General rule.** A protective order to limit the disclosure of a trade secret or other confidential information on the public record shall be issued only when a [participant] party demonstrates that the potential harm to the [participant] party of providing the information would be substantial and that the harm to the [participant] party if the information is disclosed without restriction outweighs the public's interest in free and open access to the administrative hearing process. A protective order to protect trade secrets or other confidential information shall apply the least restrictive means of limitation which will provide the necessary protections from disclosure. In considering whether a protective order to limit the availability of proprietary information should issue, the Commission or the presiding officer should consider, along with other relevant factors, the following:

* * * * *

(3) The worth or value of the information to the [participant] party and to the [participant's] party's competitors.

* * * * *

(b) **Restrictions.**

(1) A protective order to restrict disclosure of proprietary information may require that a [participant] party receive, use or disclose proprietary information only for the purposes of preparing or presenting evidence, cross-examination or argument in the proceeding, or may restrict its inclusion in the public record.

* * * * *

(3) A public reference to proprietary information by the Commission or by a [participant] party afforded access thereto shall be to the title or exhibit reference in sufficient detail to permit persons with access to the proprietary information to fully understand the reference and not more. The proprietary information shall remain a part of the record, to the extent admitted, for purposes of administrative or judicial review.

(4) Prior to the issuance of a protective order, a [participant] party may not refuse to provide information which the [participant] party reasonably believes to be proprietary to a [participant] party who agrees to treat the information as if it were covered by a protective order until the presiding officer or the Commission issues the order or determines that issuance of the order would not be appropriate. The [participant] party claiming the privilege shall file a petition for protective order under subsection (a) within 14 days of the date the request for information was received.

(5) A [participant] party receiving proprietary information under this section retains the right, either before or after receipt of the information, to challenge the legitimacy of the claim that the information is proprietary, and to challenge the admissibility of the propri-

etary information [and to object to the production of proprietary information on a proper ground].

(c) Access to representatives of [participants] parties. Proprietary information provided to a [participant] party under this section shall be released to the counsel and eligible outside experts of the receiving [participant] party unless the [participant] party who is releasing the information demonstrates that the experts or counsel previously [has] violated the terms of a recent protective order issued by the Commission. To be eligible to receive proprietary information, the expert, subject to the following exception, may not be an officer, director, stockholder, partner, owner or [employe] employee of a competitor of the producing [participant] party. An expert will not be ineligible on account of being a stockholder, partner or owner of a competitor or affiliate unless the ownership interest is valued at more than \$10,000 or constitutes a more than 1% interest, or both. No other persons may have access to the proprietary information except as authorized by order of the Commission or of the presiding officer.

(d) Special restrictions. A protective order which totally prohibits the disclosure of a trade secret or other confidential information, limits the disclosure to particular [participants] parties or representatives of [participants] parties—except as permitted by subsection (c)—or which provides for more restrictive rules than those permitted in subsections (b) and (c) [shall] will be issued only in extraordinary circumstances and only when the [participant] party from whom the information is sought demonstrates that a greater restriction is necessary to avoid severe and extreme prejudice.

(e) Return of proprietary information. A [participant] party providing proprietary information under this section may request that the [participants] parties receiving the information return the information and the copies thereof to the [participant] party at the conclusion of the proceeding, including appeals taken.

CLOSE OF THE RECORD

§ 5.431. Close of the record.

(a) In a contested proceeding before a presiding officer, the record shall be closed at the conclusion of the hearings unless otherwise directed by presiding officer or the Commission.

(b) [Once the record is closed, no additional] Additional evidence may not be introduced or relied upon by a [participant] party unless allowed for good cause shown by the Commission or presiding officer upon motion of a [participant] party under § 5.402(b) (relating to admission of evidence) and § 5.571 (relating to reopening prior to a final decision), consistent with § 5.253 (relating to transcript corrections) or upon motion of the presiding officer or Commission as provided under § 5.71 (relating to initiation of intervention).

[(b) Subsection] (c) Subsections (a)—(b) [supercedes] supersede 1 Pa. Code §§ 35.231 and 35.232 (relating to reopening on application of party; and reopening by presiding officer).

Subchapter F. PRESIDING OFFICERS

§ 5.481. Designation of presiding [officers] officer.

* * * * *

§ 5.482. Disqualification of a presiding officer.

(a) A [participant] party may file a motion for disqualification of a presiding officer which shall be accompanied by affidavits alleging personal bias or other disqualification.

* * * * *

(c) A motion for disqualification shall be served on the presiding officer and the [participants] parties to the proceeding.

* * * * *

§ 5.483. Authority of presiding [officers] officer.

* * * * *

§ 5.484. Restrictions on duties and activities.

* * * * *

(b) Save to the extent required for the disposition of ex parte matters not prohibited by the act, no presiding officer will consult a person or [participant] party on a fact in issue unless upon notice and opportunity for all [participants] parties to participate.

* * * * *

§ 5.485. Manner of conduct of hearings.

(a) [It is the duty of the] The presiding officer [to] shall conduct a fair and impartial hearing and [to] maintain order. [Disregard by participants or counsel of rulings of the presiding officer on matters of order and procedure will be noted on the record, and where he deems it necessary, will be made the subject of a special written report to the Commission. In the event that participants or counsel should be guilty of disrespectful, disorderly or contumacious language or conduct in connection with a hearing, the presiding officer immediately may submit to the Commission his report thereon, together with his recommendations, and in his discretion suspend the hearing.]

(b) The presiding officer shall note on the record a party's disregard of a ruling. When necessary, the presiding officer may submit a report to the Commission recommending suspension and disbarment of the offending person as provided by § 1.27 (referring to suspension and disbarment).

(c) [Subsection] Subsections (a) and (b) [is identical to] supersede 1 Pa. Code § 35.189 (relating to manner of conduct of hearings).

§ 5.486. Unavailability of presiding officer.

(a) If a presiding officer becomes unavailable, the chief administrative law judge may either designate another qualified officer to prepare the initial or recommended decision or cause the record to be certified to the Commission for decision.

* * * * *

Subchapter G. BRIEFS

§ 5.501. Content and form of briefs.

(a) Briefs shall contain the following:

* * * * *

(2) [Where evidence is relied upon by the participant filing the brief, he shall make reference]

Reference to the pages of the record or exhibits where the evidence **relied upon by the filing party** appears.

* * * * *

§ 5.502. Filing and service of briefs.

(a) *Number of copies.* An original and nine copies of a brief shall be filed with the Commission under § 1.4 (relating to filing generally).

(b) *Types of briefs in nonrate proceedings.* [**Except for rate proceedings or as provided by agreement or by direction of the presiding officer, the first or initial brief shall be filed by the participants upon whom rests the burden of proof and the other participants may then respond. If briefs are filed simultaneously, reply briefs may be filed. No additional briefs will be accepted.**]

(1) *Initial brief.* An initial brief shall be filed by the party with the burden of proof except as provided by agreement or by direction of the presiding officer.

(2) *Response brief.* A party may file a response brief to the initial brief.

(c) *Types of briefs in rate proceedings.*

(1) *Main brief.* A main brief may be filed by a party except as provided by agreement or by direction of the presiding officer.

(2) *Reply brief.* A party may file a reply brief to a main brief regardless of whether the party filed a main brief.

(d) *Deadlines.* [**An initial brief, responding Main briefs, responsive briefs and reply [brief shall] briefs must be filed and served within the time fixed by the presiding officer. If no specific times are fixed, [initial] main briefs shall be filed and served within 30 days after the date of service of notice of the filing of the transcript and [responding] responsive briefs or reply briefs shall be filed within 50 days after date of service of the notice of the filing of the transcript.**]

[(c)] (e) Briefs not filed and served on or before the dates fixed therefore will not be accepted, except by special permission of the Commission or the presiding officer as permitted under § 1.15 (relating to extensions of time and continuances).

[(d)] (f) Subsections (a)—[(c)] (e) supersede 1 Pa. Code §§ 35.191 and 35.193 (relating to proceedings in which briefs are to be filed; and filing and service of briefs).

Subchapter H. EXCEPTIONS, APPEALS AND ORAL ARGUMENT

§ 5.532. Oral argument before presiding officer.

(a) When, in the opinion of the presiding officer, time permits and the nature of the proceedings, the complexity or importance of the issues of fact or law involved, and the public interest warrant, the presiding officer may, either on the presiding officer's own motion or at the request of a [participant] party, allow and fix a time for the presentation of oral argument, imposing limits on the argument that are deemed appropriate.

* * * * *

§ 5.533. Procedure to except to initial, tentative and recommended decisions.

(a) In a proceeding, exceptions may be filed by a [participant] party and served within 20 days after

the initial, tentative or recommended decision is issued unless some other exception period is provided. [**No exceptions**] **Exceptions may not be filed with respect to an interlocutory decision.**

* * * * *

(c) The exceptions shall be concise. The exceptions and supporting [**reason shall**] **reasons shall** be limited to 40 pages in length. Statements of reasons supporting [**the exception**] shall **exceptions shall**, insofar as practicable, incorporate by reference and citation, relevant portions of the record and passages in previously filed briefs. [**No**] **A separate brief in support of or in reply to exceptions [shall] may not be filed with the [Prothonotary] Secretary under § 1.4 (relating to filing generally).**

(d) An original and nine copies of the exceptions shall be filed with the [**Prothonotary**] **Secretary** under § 1.4.

* * * * *

§ 5.535. Replies.

(a) A [**participant**] **party** has the right to file a reply to an exception in proceedings before the Commission. Unless otherwise directed by the presiding officer or Commission, a reply shall be filed within 10 days of the date that an exception is due and be limited to 25 pages in length and in paragraph form. A reply shall must be concise and incorporate by reference relevant passages in previously filed briefs.

* * * * *

(c) [**Subsection**] **Subsections (a) and (b) [supercedes] supersede** 1 Pa. Code § 35.211 (relating to procedure to except to proposed report).

Subchapter I. REOPENING, RECONSIDERATION AND REHEARING

§ 5.571. Reopening prior to a final decision.

(a) **After the record closes, documents will not be received in evidence or considered as part of the record or changes made in the transcript, except as provided in §§ 5.404 and 5.253 (relating to additional evidence; and transcript corrections).**

(b) At any time after the record is closed but before a final decision is issued, a [**participant**] **party** may file a petition to reopen the proceeding for the purpose of taking additional evidence.

[(b)] (c) * * *

[(c)] (d) Within 10 days following the service of the petition, another [**participant**] **party** may file an answer thereto.

[(d) **The presiding officer, before issuance of the presiding officer's decision or certification of the record to the Commission, otherwise the Commission, upon notice to the participants,**] (e) **The record may [reopen the] be reopened upon notification to the parties in a proceeding for the reception of further evidence if there is reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of the proceeding.**

(1) The presiding officer may reopen the record if the presiding officer has not issued a decision or has not certified the record to the Commission.

(2) The Commission may reopen the record after the presiding officer has issued a decision or certified the record to the Commission.

[(e)] (f) Subsections (a)—**[(d)] (e)** supersede 1 Pa. Code §§ 35.231—35.233 (relating to reopening of record).

§ 5.572. Petitions for relief **[following a final decision]**.

* * * * *

(b) A copy of every petition covered by subsection (a) shall be served upon each **[participant] party** to the proceeding.

* * * * *

Subchapter J. REPORTS OF COMPLIANCE

§ 5.591. Reports of compliance.

(a) **[When a]** A person subject to the jurisdiction of the Commission **who** is required to do or perform an act by a Commission order, permit or license provision **[, there]** shall **[be filed]** file with the **[Prothonotary within 30 days following the date when the requirement becomes effective,]** Secretary a notice **[,]** stating that the requirement has or has not been met or complied with.

(b) **The notice shall be filed within 30 days following the date when the requirement becomes effective**, unless the Commission, by regulation, by order or by making specific provision **[therefor] thereof** in a license or permit, provides otherwise for compliance or proof of compliance. **The notice must be accompanied by a verification in accordance with § 1.36 (relating to verification and affidavit).**

[(b) Subsection] (c) Subsections (a)—(b) [is identical to] supersede 1 Pa. Code § 35.251 (relating to reports of compliance).

§ 5.592. Compliance with orders prescribing rates.

(a) When the Commission makes a final decision concerning a rate filing **[, as defined in sections 1307 and 1308 of the act (relating to sliding scale of rates; adjustments; and voluntary changes in rates)]** and permits or requires the adoption of rates other than the rates originally filed, the public utility affected shall file, within 20 days of entry of the final order, a tariff revision consistent with the Commission's decision together with a proof of revenues and supporting calculations. The utility shall simultaneously serve copies of the tariff revision,

along with the proof of revenues and supporting calculations, on the **[active participants] parties** in the proceeding.

(b) Unless otherwise specified in the order, the tariff revision shall be effective upon statutory notice to the Commission and to the public and, whether made effective on statutory notice or under authority granted in the order, shall bear under the effective date on the title page the following notation:

“Filed in compliance with the order of Pennsylvania Public Utility Commission, entered _____, **[19] 2** _____ at _____.”

(c) Exceptions to a tariff revision under this section may be filed by a **[participant] party** to the proceeding within 10 days of the date of service of the compliance filing, and shall be strictly limited in scope to the factual issue of alleged deviation from requirements of the Commission order. The utility making the compliance filing may respond to exceptions within 5 days. No further pleadings will be permitted.

* * * * *

Subchapter K. APPEALS TO COURT

§ 5.631. Notice of taking appeal.

When an appeal is taken from an order of the Commission to the Commonwealth Court, the appellant shall immediately give notice of the appeal to all **[participants] parties** to the Commission proceeding as provided by § 1.54 (relating to service by a **[participant] party**).

§ 5.632. Preparation and certification of records.

[No] A record will **not** be certified as complete until copies of exhibits or other papers have been furnished **[where] when** necessary to complete the Commission file. Copies will be requested by the Commission.

§ 5.633. Certification of interlocutory orders.

(a) When the Commission has made an order which is not a final order, a **[participant] party** may by motion request that the Commission find, and include the findings in the order by amendment, that the order involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal to Commonwealth Court from the order may materially advance the ultimate termination of the matter. The motion shall be filed within 10 days after service of the order, and is procedurally governed by § 5.103(a)—(c) (relating to hearing motions). Unless the Commission acts within 30 days after the filing of the motion, the motion **[shall] will** be deemed denied.

* * * * *

[Pa.B. Doc. No. 04-1956. Filed for public inspection October 29, 2004, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGING

Redesignation of Area Agency on Aging for Columbia and Montour Counties; Notice of Intent and Public Hearings

The Secretary of the Department of Aging (Department), under authority in the act of June 20, 1978 (P. L. 477, No. 70) (71 P. S. §§ 581-1—581-12), in conformity with the Older Americans Act of 1965 (42 U.S.C.A. §§ 3001—3058ee) and in accordance with the provisions in 6 Pa. Code Chapter 30 (relating to designation and redesignation of area agencies on aging), intends to redesignate an Area Agency of Aging for Planning and Service Area (PSA) Number 15 which has the same boundaries as Columbia and Montour Counties.

On September 13, 2003, the Department received a formal request from the Boards of Commissioners of Columbia and Montour Counties to redesignate the Area Agency on Aging from its county auspice to a nonprofit organization for their PSA. Before the Department can take any official action on this request from the Commissioners, the Department seeks additional information from all concerned parties. This notice of intent to redesignate the Area Agency of Aging is issued to set in motion a process which provides for a review of the requested action by all concerned parties, including the general public residing in the PSA.

The Department is required under 45 CFR 1321 (relating to grants to state and community programs on aging) implementing the Older Americans Act and by the provisions in 6 Pa. Code Chapter 30 to hold public hearings on this proposed action. Accordingly, the Department will hold public hearings in Columbia and Montour Counties to provide interested parties an opportunity to present testimony regarding the following issues:

- (1) The effectiveness of services for older persons currently being provided under the administration of the Area Agency of Aging.
- (2) The basis for naming a new nonprofit agency to administer those services.

(3) The qualifications and capabilities of a specific agency to develop and carry out an effective area plan for older persons in the PSA.

(4) The potential positive and negative effects of redesignation on service agency personnel, service consumers and service costs and quality.

Public hearings will be held as follows:

Columbia County

Wednesday, December 1, 2004
 9 a.m. to 11 a.m.
 Bloomsburg Senior Center
 Social Hall of St. Luke's Church
 21 St. Luke's Way
 Bloomsburg, PA

Montour County

Wednesday, December 1, 2004
 1 p.m. to 3 p.m.
 Danville Senior Center
 Armory Building
 500 W. Mahoning St.
 Danville, PA

Persons who wish to present oral testimony regarding these issues should contact Kathi Lynn, Director, Columbia and Montour County Area Agency of Aging, 702 Sawmill Road, Suite 201, Bloomsburg, PA 17815, (570) 784-9272, fax (570) 784-3678, klynn@CMAAA15.org.

The Department will also accept written testimony on these issues until December 17, 2004, from any interested parties who are unable to attend the public hearings or present testimony. Written testimony should be mailed to Dennis Hopkins, Director, Bureau of Program Integrity, Department of Aging, 555 Walnut St., 5th Floor, Harrisburg, PA 17101-1919.

NORA DOWN EISENHOWER,
Secretary

[Pa.B. Doc. No. 04-1957. Filed for public inspection October 29, 2004, 9:00 a.m.]

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 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 October 12, 2004.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
10-7-04	Parkvale Financial Corporation, Monroeville, PA, to acquire Advance Financial Bancorp, Wellsburg, WV	Monroeville, PA	Filed

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-1-04	First Columbia Bank & Trust Company Bloomsburg Columbia County Purchase of liabilities of two branch offices of First Susquehanna Bank & Trust, Sunbury Located at: 209 East Twelfth Street Berwick Columbia County Weis Market 725 Columbia Boulevard Bloomsburg Columbia County	Bloomsburg	Effective
	<i>Note:</i> This transaction does not involve the sale of any real estate. The previous branches were closed by First Susquehanna Bank & Trust, Sunbury.		
10-6-04	Farmers First Bank, Lititz, First Susquehanna Bank & Trust, Sunbury, and WNB Bank, Williamsport Surviving Institution— Farmers First Bank, Lititz, with a change in corporate title to Susquehanna Bank PA	Lititz	Filed
10-7-04	Parkvale Savings Bank, Monroeville, PA, and Advance Financial Savings Bank, Wellsburg, WV Surviving Institution— Parkvale Savings Bank, Monroeville, PA	Monroeville	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-21-04	First Financial Bank Downingtown Chester County	16 East Market Street West Chester Chester County	Opened
10-4-04	PeoplesBank, a Codorus Valley Company York York County	The Brogue Center 2514 Delta Road Brogue Chanceford Township York County	Opened
10-5-04	Community Banks Millersburg Dauphin County	1415 Ritner Highway Carlisle Cumberland County	Approved
10-5-04	Republic First Bank Philadelphia Philadelphia County	436-438 East Baltimore Avenue Media Delaware County	Filed
10-7-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Coopers Plaza Route 73 Voorhees Camden County, NJ	Filed
10-7-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	The Shoppes at Elmwood 791 East Route 70 Marlton Burlington County, NJ	Filed
10-7-04	NOVA Savings Bank Philadelphia Philadelphia County	448 East Baltimore Pike Media Delaware County	Filed
10-12-04	Pocono Community Bank Stroudsburg Monroe County	Route 611 Swiftwater Monroe County	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-12-04	Ambler Savings Bank Ambler Montgomery County	438 West Ridge Pike Limerick Montgomery County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-1-04	First Susquehanna Bank & Trust Sunbury Northumberland County	Weis Market 209 East Twelfth Street Berwick Columbia County	Effective
10-1-04	First Susquehanna Bank & Trust Sunbury Northumberland County	725 Columbia Boulevard Bloomsburg Columbia County	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>
10-7-04	Erie Community Credit Union, Erie, and Zurn Community Federal Credit Union, Erie Surviving Institution— Erie Community Credit Union, Erie	Erie	Approved

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-1958. Filed for public inspection October 29, 2004, 9:00 a.m.]

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 October 19, 2004.

BANKING INSTITUTIONS**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-13-04	Commercial Bank of Pennsylvania, Latrobe, and Highview Trust Company, Greensburg Surviving Institution—Commercial Bank of Pennsylvania, Latrobe	Latrobe	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-15-04	PeoplesBank, a Codorus Valley Company York York County	150 East Main Street New Freedom York County	Filed

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-27-04	First Commonwealth Bank Indiana Indiana County	<i>To:</i> 2040 North Center Avenue Somerset Somerset County <i>From:</i> 1514 North Center Avenue Somerset Somerset County	Effective

NOTICES

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-8-04	Firsttrust Savings Bank Conshohocken Montgomery County	125 East Swedesford Road Exton Chester County	Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-1959. Filed for public inspection October 29, 2004, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of November 2004

The Department of Banking (Department), under the authority in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of November 2004 is 7%.

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

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.51 to which was added 2.50 percentage points for a total of 7.01 that by law is rounded off to the nearest quarter at 7%.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-1960. Filed for public inspection October 29, 2004, 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

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES 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>
PA0063908 Minor Industrial Waste	Ace-Robbins, Inc. 325 SR 6 East Tunkhannock, PA 18657	Wyoming County Tunkhannock Borough	Unnamed tributary to Tunkhannock Creek 4F	Y

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>
PA0086924 Industrial Waste	FCI USA Inc.— Huntingdon 829 Old Trail Road Etters, PA 17319-9351	Huntingdon County Shirley Township	Juniata River 12-C	Y

Northcentral Region: Environmental Cleanup 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>
PA0114332 IW	DII Industries LLC 10200 Bellaire Blvd.—1NE25F Houston, TX 77072-5206	Tioga County Delmar Township	Unnamed tributary to Baldwin Run 09A	Y
PA0112615 IW	Viking Energy of Northumberland 909 Cannery Road Northumberland, PA 17857	Northumberland County Point Township	Unnamed tributary to West Branch Susquehanna River 10D	Y

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

<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>
PA0221449	Municipal Authority of Buffalo Township 707 South Pike Road Sarver, PA 16055	Buffalo Township Butler County	Buffalo Creek 18-F	Y
PA0043834	Mercer County Regional Council of Governments Chestnut Run Swimming Beach 2495 Highland Road Hermitage, PA 16148	South Pymatuning Township Mercer County	Shenango River 20-A	Y
PA0102822	Rolling Valley Estates 369 Eagle Mill Road Butler, PA 16001	Connoquenessing Township Butler County	UNT to Little Connoquenessing Creek 20-C	Y

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

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

PA0243990, Industrial Waste, **Porter Instrument Company, Inc.**, 245 Township Line Road, Hatfield, PA 19440-0907. This proposed facility is in Franconia Township, **Montgomery County**.

Description of Proposed Activity: This project involves pumping of contaminated groundwater and treatment prior to discharge to unnamed tributary to Skippack Creek.

The receiving stream, Skippack Creek, is in the State Water Plan watershed 3E—Perkiomen and classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Suburban Water Company is on the Perkiomen Creek, approximately 12 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.01 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
1,1-Dichloroethylene			0.0012	0.0024	0.007
Tetrachloroethylene			0.00043	0.00086	0.005
1,1,1-Trichloroethane			0.0031	0.0062	0.2
Trichloroethylene			0.00021	0.00042	0.005
1,1-Dichloroethane			0.00015	0.0003	0.027

In addition to the effluent limits, the permit contains the following major special conditions: discharge must not cause nuisance or health hazard; and cleaning and/or backwash water is not authorized by this permit.

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

PA0087441, Industrial Waste, SIC Code 2048, 2077, 2875, **Moyer Packing Company**, P. O. Box 64395, Souderton, PA 18964-0395. This facility is in Washington Township, **Dauphin County**.

Description of activity: Renewal of an NPDES permit for an existing discharge of treated industrial waste.

The receiving stream, Wiconisco Creek, is in Watershed 6-C and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is the United Water Company on the Susquehanna River, approximately 50 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.060 MGD are:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH			from 6.0 to 9.0 inclusive		
Dissolved Oxygen			minimum of 5.0 at all times		
Total Residual Chlorine			0.5		1.6
Total Suspended Solids	36	72	Monitor and Report	Monitor and Report	
CBOD ₅	36	72	72	144	180
Oil and Grease			15	30	30

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
NH ₃ -N (5-1 to 10-31)	12.5		25	50	62
(11-1 to 4-30)	28		Monitor and Report 134	Monitor and Report 194	140
Total Nitrogen		Monitor and Report		Monitor and Report	335
Total Phosphorus					
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average			
(10-1 to 4-30)		400/100 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.

PA0026646, Sewage, **Antietam Valley Municipal Authority**, 502 Butter Lane, Reading, PA 19606-1604. This facility is in St. Lawrence Borough, **Berks County**.

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

The receiving stream, Antietam Creek, is in Watershed 3-C and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Pottstown Water Supply is on the Schuylkill River, approximately 15 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 1.225 MGD are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	2.5		5.0
(11-1 to 4-30)	7.5		15
Total Residual Chlorine	0.36		1.19
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)		4,100/100 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 not in effect.

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

PA0090328, Industrial Waste, SIC, 2011, **Green Valley Packing, Inc.**, P. O. Box 202, Claysville, PA 15323. This application is for renewal of an NPDES permit to discharge treated process water from the Green Valley Packing Company in Buffalo Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, unnamed tributary to Buffalo Creek, classified as a HQ-WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is at the Ohio state border below the discharge point.

Outfall 001: existing discharge, design flow of 0.009 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	Monitor and Report				
BOD ₅	0.75	1.5	10	20	
TSS	0.75	1.5	10	20	
Fecal Coliform (5-1 to 9-30)	200/100 ml (as a geometric mean)				
(10-1 to 4-30)	400/100 ml (as a geometric mean)				
Ammonia-Nitrogen (5-1 to 10-31)			1.5	3.0	
(11-1 to 4-30)			4.5	9.0	
TRC			1.4		3.3

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Oil and Grease	0.88	1.76	10	20	
Mercury			0.00005	0.0001	
Aluminum			2.0	4.0	
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

PA0204811, Sewage and Industrial Waste, SIC Codes 3089 and 3079, **Custom Window Extrusions, Inc.**, 1 Contact Place, Delmont, PA 15626-1402. This application is for renewal of an NPDES permit to discharge treated sewage and untreated industrial wastes and stormwater runoff from Custom Window Extrusions in Salem Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as tributary to Beaver Run, which are classified as a HQ-CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply intake from this facility is the Westmoreland Municipal Water Authority, approximately 3 to 4 miles from the discharge point.

Outfall 101: existing discharge, design flow of 0.0021 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
CBOD ₅			10	20	
Suspended Solids			30	60	
Amonia Nitrogen (5-1 to 10-31)			3.0	6.0	
(11-1 to 4-30)			9.0	18.0	
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean				
(10-1 to 4-30)	2,000/100 ml as a geometric mean				
Total Residual Chlorine			1.4	3.3	
Dissolved Oxygen			not less than 3 mg/l		
pH	not less than 6.0 nor greater than 9.0				

Outfall 201: existing discharge, design flow of 0.003 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
BOD ₅			Monitor and Report		
TSS			Monitor and Report		
Iron (Total)			Monitor and Report		
Manganese (Total)			Monitor and Report		
pH	between 6.0 and 9.0 at all times				

Outfalls 301 and 401: existing discharge, consists of stormwater run off only.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Oil and Grease			Monitor and Report		

Outfall 001: existing discharge, consists of 101, 201, 301 and 401—Flow N/A.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
BOD ₅				20	
TSS				60	
NH ₃ -N (5-1 to 10-31)				6	
(11-1 to 4-30)				18	
Dissolved Oxygen			minimum of 7.0		
Iron (Total)				3.0	
Manganese (Total)				2.0	

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
pH	between 6.0 and 9.0 at all times				

The EPA waiver is in effect.

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

PA0026771 Amendment No. 1, Sewage, Meadville Area Sewage Authority, 984 Water Street, Meadville, PA 16335. This proposed facility is in the City of Meadville, **Crawford County**.

Description of Proposed Activity: Renewal of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company is on the Allegheny River, approximately 60 miles below point of discharge.

The receiving stream, the French Creek, is in watershed 16-D and classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 7.3 MGD.

Parameters	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX				
CBOD ₅	1,522	2,435	25	40	50
Total Suspended Solids	1,826	2,739	30	45	60
NH ₃ -N (5-1 to 10-31)	578		9.5		19
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)			200/100 ml as a geometric average 73,000/100 ml as a geometric average		
Copper	1.5	2.4	0.025	0.04	0.05
Phosphorus (4-1 to 10-31)	122		2.0		
Dissolved Oxygen			minimum of 3 mg/l at all times		
pH			6.0 to 9.0 standard units at all times		

The EPA waiver not is in effect.

PA0026771 Amendment No. 1, Sewage, Meadville Area Sewage Authority, 984 Water Street, Meadville, PA 16335. This proposed facility is in the City of Meadville, **Crawford County**.

Description of Proposed Activity: Amendment of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company is on the Allegheny River, approximately 60 miles below point of discharge.

The receiving stream, the French Creek, is in watershed 16-D and classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 007 are based on a design flow of N/A MGD.

This outfall shall be composed entirely of nonpolluting stormwater runoff in accordance with the Best Management Practices outlined in the permit's special condition.

The EPA waiver not is in effect.

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

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

WQM Permit No. 1504413, Sewerage, East Fallowfield Township, 2264 Strasburg Road, East Fallowfield, PA 19320. This proposed facility is in East Fallowfield Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a wastewater pump station serving 77 single family residential lots and 81 townhouse units.

WQM Permit No. 4604415, Sewerage, Lower Moreland Township Municipal Authority, 640 Red Lion Road, Huntingdon Valley, PA 19006-6234. This proposed facility is in Lower Moreland Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a pumping station serving 107 EDUs and discharging into the Lower Moreland Township sanitary sewer collection system.

WQM Permit No. 4604416, Sewerage, **Lower Moreland, Township Municipal Authority**, 640 Red Lion Road, Huntingdon Valley, PA 19006-6234. This proposed facility is in Lower Moreland Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a pumping station serving 20 EDUs and discharging into the Lower Moreland Township sanitary sewer collection system.

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

WQM Permit No. 5404201, Industrial Waste, **Keystone Potato Products, LLC**, P. O. Box 27, Hegins, PA 17938-0027. This proposed facility is in Frailey Township, **Schuylkill County**.

Description of Proposed Action/Activity: This project involves the construction of a .145 MGD industrial waste treatment plant to treat processed wastewater from a potato dehydration plant. The wastewater will be discharged to an unnamed tributary of Middle Creek.

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

WQM Permit No. 5071404, Amendment 04-1, Sewerage, **Department of Conservation and Natural Resources, Bureau of State Parks**, Rachel Carson State Office Building, Bureau of Facility Design and Construction, P. O. Box 8451, Harrisburg, PA 17105-8451. This proposed facility is in Juniata Township, **Perry County**.

Description of Proposed Action/Activity: Modifications and upgrades to the wastewater treatment plant at Little Buffalo State Park, 1579 State Park Road, Newport, PA 17074-9428.

WQM Permit No. 3604414, Sewerage, **Northwestern Lancaster County Authority**, 97 North Penryn Road, Manheim, PA 17545. This proposed facility is in Penn Township, **Lancaster County**.

Description of Proposed Action/Activity: Upgrades/modifications to their existing wastewater treatment plant.

WQM Permit No. 3804401, Sewerage, **North Annville Township**, Municipal Building, R. D. 3, Annville, PA 17003. This proposed facility is in North Annville and Annville Townships, **Lebanon County**.

Description of Proposed Action/Activity: Construction of the Hill Farm Sewer Extension.

WQM Permit No. 3104401, Sewerage, **Borough of Huntingdon**, 530 Washington Street, Huntingdon, PA 16652. This proposed facility is in Huntingdon Borough, **Huntingdon County**.

Description of Proposed Action/Activity: Construction of a combined sewer overflow project.

WQM Permit No. 3804402, Sewerage, **Palmyra Borough**, Municipal Building, 325 S. Railroad Street, Palmyra, PA 17078-2400. This proposed facility is in Palmyra Borough, **Lebanon County**.

Description of Proposed Action/Activity: Relocation of pump station no. 3.

WQM Permit No. 3604415, Sewerage, **Suburban Lancaster Sewer Authority**, P. O. Box 458, Lancaster, PA 17608-0458. This proposed facility is in West Lampeter Township, **Lancaster County**.

Description of Proposed Action/Activity: Silver Lane Pumping Station Expansion.

WQM Permit No. 2204201, Industrial Waste, **York Building Products Company, Inc.**, P. O. Box 1708, York, PA 17405. This proposed facility is in Lower Swatara Township, **Dauphin County**.

Description of Proposed Action/Activity: Installation of wastewater treatment equipment.

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

WQM Permit No. 3204202, IW, **Central Indiana County Water Authority**, 3 East Wiley Street, Homer City, PA 15748. This proposed facility is in Center Township, **Indiana County**.

Description of Proposed Action/Activity: Application for the construction and operation of the discharge of supernatant from its existing gravity thickener to Yellow Creek.

IV. NPDES Applications for Stormwater Discharges from MS4

V. Applications for NPDES Waiver Stormwater Discharges from MS4

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.

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>
PAI024504028	Pleasant Valley School District Route 115 Brodheads ville, PA 18322	Monroe	Polk Township	Pohopoco Creek HQ-CWF

Carbon County Conservation District: 5664 Interchange Road, Lehighton, PA 18235-5114, (610) 377-4894.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI021304004	Carbon-Lehigh Holdings, Corp. 7785 Spring Creek Rd. Macungie, PA 18062	Carbon	Penn Forest Township	Stony Creek EV Bear 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>
PAI2032104004	Rivendell Residential Subdiv. Skipjack PA LLC 7061 Columbia Gateway Dr. Columbia, MD 21046	Cumberland	Silver Spring Township	Trindle Springs Run

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

Centre Conservation District: 414 Holmes Ave., Suite 4, Bellefonte, PA 16823, (814) 355-6817.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041404014	Amy Story State College Borough 243 S. Allen St. State College, PA 16801	Centre	State College Borough	Walnut Springs/Thompson Run HQ-CWF

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

Washington County Conservation District: 602 Court House Square, Washington, PA 15301, (724) 228-6774.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056304007	Bobby Rahal Dealership 6305 Carlisle Pike Mechanicsburg, PA 17055	Washington	North Strabane Township	Little Chartiers Creek HQ-WWF

Westmoreland County Conservation District: 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056504006	Department of Transportation Engineering District 12-0 P. O. Box 459 Uniontown, PA 15401	Westmoreland	Murrysville	Unnamed tributary to Steels Run HQ-CWF

Cambria District: Environmental Program Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI091704002	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Clearfield	Goshen Township	Trout Run 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 (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should in-

clude the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Permit No. 4004506, Public Water Supply

Applicant	United Water Atlantic Division 3434 Route 22 West Somerville, NJ 08876
Township or Borough	Dallas Township
County	Luzerne
Responsible Official	Thomas Schink, P. E.
Type of Facility	PWS
Consulting Engineer	Steven M. Metzler, P. E. SAIC 1129 Business Parkway South Suite 10 Westminster, MD 21157
Application Received Date	October 6, 2004
Description of Action	Construction of a new well source, treatment building and piping.

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

Permit No. 0604515, Public Water Supply.

Applicant	Shillington Municipal Authority
Municipality	Cumru and Spring Townships
County	Berks
Responsible Official	Michael D. Mountz, Borough Manager 2 East Lancaster Avenue P. O. Box 247 Shillington, PA 19607-0247
Type of Facility	PWS
Consulting Engineer	Eric D. McCracken, P. E. Great Valley Consultants 75 Commerce Drive Wyomissing, PA 19610-1038
Application Received Date	September 30, 2004

Description of Action	System is currently operating with both permitted and nonpermitted entities. The purpose of this project is to issue construction permits as necessary to the entire system. Then issue a comprehensive operating permit for the entire system.
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Permit No. 0604517, Public Water Supply.

Applicant	Shinn Spring Water Company
Municipality	Cumru Township
County	Berks
Responsible Official	Bryan Shinn, Vice President 2 East Pointe Drive Birdsboro, PA 19508
Type of Facility	PWS
Consulting Engineer	John K. Wetzel, P. E. McCarthy Engineering Associates, PC 1121 Snyder Road West Lawn, PA 19609
Application Received Date	October 5, 2004
Description of Action	Application is for the construction of a bottled water plant.

Permit No. 6704512, Public Water Supply.

Applicant	Asbury Pointe LTD
Municipality	East Manchester Township
County	York
Responsible Official	Richard W. Schreiber, President 135 N. George Street York, PA 17401
Type of Facility	PWS
Consulting Engineer	Jerry T. Stahlman, P. E. Stahlman & Stahlman, Inc. 139 E. Market Street York, PA 17401
Application Received Date	October 14, 2004
Description of Action	Construction of well no. 10 with disinfection.

Permit No. 2804505, Public Water Supply.

Applicant	Washington Township Municipal Authority
Municipality	Washington Township
County	Franklin
Responsible Official	Eugene A. Barnhart, Manager 11102 Buchanan Trail East Waynesboro, PA 17268-9424
Type of Facility	PWS
Consulting Engineer	Merle J Holsinger, P. E. Civil Planning & Design 1800 East Main Street Waynesboro, PA 17268
Application Received Date	July 22, 2004

Description of Action Construction of water distribution lines and a 0.144 MGD booster pump station to serve the proposed 40-unit Edgewood Estates development.

Permit No. 2904501, Public Water Supply.

Applicant **Wells Tannery Water System**
 Municipality Wells Township
 County **Fulton**
 Responsible Official Greg Garlock, President
 P. O. Box 26
 Wells Tannery, PA 16691
 Type of Facility PWS
 Consulting Engineer Jack A. Raudenbush, P. E.
 Raudenbush Engineering Inc.
 29 South Union Street
 Middletown, PA 17057
 Application Received Date September 7, 2004

Description of Action This permit application is for the addition of wells 1 and 3 to the Wells Tannery Water System.

Permit No. 2904502, Public Water Supply.

Applicant **Leisure Living Retirement Home**
 Municipality Dublin Township
 County **Fulton**
 Responsible Official Clyde White, Owner
 HC 75 Box 244
 Fort Littleton, PA 17223
 Type of Facility PWS
 Consulting Engineer Lance S. Kegerreis, P. E.
 Dennis E. Black Engineering Inc.
 2400 Philadelphia Avenue
 Chambersburg, PA 17201
 Application Received Date September 14, 2004

Description of Action Permit is for existing unpermitted water system serving the retirement home.

Application No. 0104503 MA, Minor Amendment, Public Water Supply.

Applicant **Lake Meade Municipal Authority**
 Municipality Latimore Township
 County **Adams**
 Responsible Official Bennett L. Leas, Manager
 59 Curtis Drive
 East Berlin, PA 17316
 Type of Facility PWS
 Consulting Engineer Janet R. McNally, P. E.
 William F. Hill & Assoc., Inc.
 207 Baltimore St.
 Gettysburg, PA 17325
 Application Received Date September 27, 2004

Description of Action Construction of a new 438,000-gallon water storage tank.

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

Permit No. 1704503, Public Water Supply.

Applicant **Union Township Municipal Authority**
 Township or Borough Union Township
 County **Clearfield**
 Responsible Official Jarome Heffner, Chairperson
 Union Township Municipal Authority
 Box 4
 Rockton, PA 15856-0004
 Type of Facility PWS—Construction.
 Consulting Engineer Brian S. Sekula, P. E.
 The EADS Group (Clarion)
 15392 Route 322
 Clarion, PA 16214

Application Received Date October 18, 2004

Description of Action Construction of the Bottom Road pump station.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 4604507, Minor Amendment.

Applicant **Borough of East Greenville**
 Township Upper Hanover
 Responsible Official Douglas G. Bricker
 206 Main Street
 East Greenville, PA 18041
 Type of Facility PWS
 Consulting Engineer Cowan Associates, Inc.
 120 Penn-AM Drive
 Quakertown, PA 18951
 Application Received Date October 14, 2004

Description of Action Improvements to the East Greenville Water Filtration Plant. The project consist of installation of a baffle in the sedimentation tank and installation of turbidimeter on combined filter finished waterline.

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

Application No. Minor Amendment.

Applicant **Aqua Pennsylvania, Inc.**
 204 East Sunbury Street
 Shamokin, PA
 Township or Borough Kingston Township, **Luzerne County**

Responsible Official	Richard T. Subasic, Vice President
Type of Facility	PWS
Consulting Engineer	Peter J. Lusardi, P. E.
Application Received Date	October 15, 2004
Description of Action	Modifications at the Sunrise Estates well house to provide a booster pump station, contact time and storage.

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

Application No. 1069502-MA2, Minor Amendment.

Applicant	Pennsylvania American Water Company
Township or Borough	Butler, Butler County
Responsible Official	Wm. C. Kelvington, VP Operations
Type of Facility	PWS
Application Received Date	October 12, 2004
Description of Action	Repaint/rehabilitate 2.5-million gallon ground storage tank known as North Chestnut Street Tank.

WATER ALLOCATIONS

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

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

WA-17-662A, Water Allocations, Union Township Municipal Authority, Union Township, Clearfield County. The Authority has submitted an application for modification of the existing water purchase agreement between the Union Township Municipal Authority and the City of DuBois from 70,000 gallons to 288,000 gallons.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remedi-

ate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

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

Penbrook American Legion, Post 730, Susquehanna Township, Dauphin County. GeoServices, Ltd., 1525 Cedar Cliff Drive, Camp Hill, PA 17011, on behalf of Penbrook American Legion No. 730, 3813 Walnut Street, Harrisburg, PA 17109, submitted a Notice of Intent to Remediate site soils contaminated by petroleum hydrocarbons. The applicant seeks to remediate the site to a Statewide Health Standard.

Molycorp York, Spring Garden Township, York County. Malcolm Pirnie, Inc., 1603 Carmody Court, Sewickley, PA 15143, on behalf of Molycorp, Inc., 350 North Sherman Street, York, PA 17403, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with VOCs, SVOCs, Act 2 metals, molybdenum and fluoride. The applicant seeks to remediate the site to Site-Specific Standard.

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

Lawrence County Sportsmen's Assoc. Site/Millennium Park, New Castle, Lawrence County.

Scott Whipkey, RAR Engineering Group, 1135 Butler Ave., New Castle, PA 16101 on behalf of Linda Nitch, Lawrence County Economic Development Corp., 229 S. Jefferson Street, New Castle, PA 16101 has submitted a Notice of Intent to Remediate. Site was a former shooting sports facility that has been found to be contaminated with lead and other heavy metals, which have contaminated soils and sediments on the site. Intended future use of the property is nonresidential for commercial and industrial use. Proposed remediation measures are to eliminate current and future exposure pathways by removing and disposing of lead impacted soil exceeding Direct Contact Numeric Values and by prohibiting the use of site groundwater for potable use.

MUNICIPAL WASTE GENERAL PERMITS

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 municipal waste regulations for a general permit to operate municipal waste processing facilities and the beneficial use of municipal waste.

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. WMGM029. Valley Forge Land Clearing and Wood Recycling, 1330 Charlestown Road, Phoenixville, PA 19460. The Bureau of Land Recycling and Waste Management has received an application for General Permit No. WMGM029. The application is for the processing and beneficial use of wood and timber waste (that is, tree stumps, roots, grubbing material, and the like) to create mulch for commercial purposes at the Donegal facility in Elizabethtown Township, **Lancaster County**. The Department determined the application to be administratively complete on October 13, 2004.

Comments concerning the application should be directed to 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. Persons interested in obtaining more information about the general permit application should contact the Division at (717) 787-7381. TDD users should 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 Proposed under the Solid Waste Management Act and the Municipal Waste Planning, Recycling and Waste Reduction Act

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. WMGM030. The Department, Bureau of Land Recycling and Waste Management (Bureau), proposes to authorize, under General Permit WMGM030, the composting of yard waste at municipality owned and/or operated facilities that do not exceed 15 acres. This will be a Statewide municipal waste general permit.

The Department is authorized under the Solid Waste Management Act and 25 Pa. Code § 271.801 to initiate

and issue general permits for any category of beneficial use or processing that results in beneficial use of municipal waste on a Statewide basis when the Department determines that the use will not harm or present a threat of harm to the health, safety or welfare of the public or the environment and the activity can be adequately regulated using standard permit conditions. The Department has determined that the beneficial use of composting and the resultant compost can be adequately regulated using standard conditions.

Municipalities requesting approval to operate under the terms of the Bureau's Division of Municipal and Residual Waste. The following minimum information will be required to obtain the determination of applicability:

- a. Name and street address of applicant and generator.
 - b. Number and title of general permit.
 - c. A description of the composting processes, detailed information on the raw materials, waste storage areas, support structures, access roads, stormwater controls, the composting and curing areas and the finished compost storage area.
 - d. A Preparedness, Prevention and Contingency plan for the generating facility prepared in accordance with the most recent edition of the Department's *Guidelines for the Development and Implementation of Environmental Emergency Response Plans*.
 - e. Proof that the beneficial use activities will be consistent with the general permit.
 - f. Signed and notarized statement by the applicant who seeks to operate under the terms and conditions of the permit that states that the person accepts all conditions of the general permit.
 - g. A application fee in the amount specified in the municipal waste regulations, payable to the "Commonwealth of Pennsylvania."
 - h. Information that identifies the applicant (that is, individual, corporation, partnership, government agency, association, and the like), including the names and addresses of every officer that has a beneficial interest in or otherwise controls the operation of the company.
 - i. A list of all previous permits or licenses issued to the permittee by the Department or the Federal government under the environmental protection acts; the date of issuance and current status of those permits; and the permittee's compliance history concerning the environmental protection acts.
 - j. Proof that any independent contractors retained by the permittee to perform any activities proposed under this permit are in compliance with Department regulations.
 - k. Proof that the applicant has legal right to enter the land and operate the facilities proposed for coverage under this permit.
 - l. An irrevocable written consent from the landowner giving the Department permission to enter upon the land where the applicant will be conducting waste management activities.
- Comments concerning the proposed Department initiated general permit should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. Persons interested in obtaining more information, or obtaining copies of, the proposed

general permit should contact the Division of Municipal and Residual Waste at the previous phone number. TDD users should 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 additional conditions or revisions to or approval or denial of the proposed general permit.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications 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.

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

Permit Application No. 101432. Onyx Waste Service Inc., P. O. Box 30, Norristown, PA 19404, Norristown Borough, **Montgomery County**. The application was received for a 10-year permit renewal for the reference transfer facility. The application was received by the Southeast Regional Office on October 13, 2004.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit Application No. 100932. Environmental & Recycling Services, Inc., 1100 Union Street, Taylor, PA 18517. A permit renewal application requesting approval to continue waste disposal activities to allow attainment of the final permit design elevations at this construction/demolition waste landfill in Taylor Borough, **Lackawanna County**. No other changes are proposed by this request to modify either the disposal area or the conditions and terms established by the existing permit documentation. The application was received in the regional office on October 6, 2004, and was found to be administratively complete as of October 15, 2004.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. 301266. Greenridge Reclamation, LLC, R. D. 1, Box 717, East Huntingdon Landfill Road, Scottdale, PA 15683. Greenridge Reclamation, R. D. 1 East Huntingdon Landfill Road, Scottdale, PA 15683. Application for the permit renewal of a municipal waste landfill in East Huntingdon Township, **Westmoreland County** was received in the regional office on October 8, 2004.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

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

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

PLAN APPROVALS

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

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

40-303-020A: Reading Materials, Inc. (P. O. Box 1467, Skippack, PA 19474) for modification of an existing batch asphalt plant to utilize recycled asphalt pavement in the process at their Pikes Creek Asphalt and Crushed Stone facility in Lehman Township, **Luzerne County**.

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

01-05029A: Reliant Energy Hunterstown, LLC (121 Champion Way, Canonsburg, PA 15317) for modification of Plan Approval 01-05029 which addresses the natural gas-fired 900 mW combined cycle electric generating facility at their Hunterstown Station in Straban Township, **Adams County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

03-00239A: TJS Mining (R. D. 1, Box 260D, Shelocta, PA 15774) for installation of a coal prep plant at TJS No. 5 Deep Mine in South Bend Township, **Armstrong County**.

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

10-235A: Sunshine Greenhouse, Inc. (915 Ekastown Road, Saxonburg, PA 16056) for reactivation of a 5.7 mmBtu/hr bituminous coal fired boiler in Clinton Township, **Butler County**. This is a State-only facility.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

15-0041A: Eastern Shore Natural Gas Co. (350 South Queen Street, P. O. Box 1769, Dover, DE 19904-3552) for the company's natural gas compressor station with the associated air cleaning devices at 604 Street Road, Cochranville, PA 19330, Londonderry Township, **Chester County**.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a Federally Enforceable Emissions Cap (FEEC) Plan Approval 15-0041A which will subsequently be incorporated into the Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval 15-0041A is for the natural gas compressor station. Based on the information provided by the applicant and the Department's own analysis, the natural gas compressor station may emit up to 24.9 tons per year of NO_x, 70 tons per year of CO, 0.1 ton per year of SO_x, 0.1 ton per year of PM, 16 tons per year of VOCs and 6.7 tons per year of HAPs.

This Plan Approval institutes a plant-wide FEEC for NO_x emissions from the company's facility of 24.9 tons per year and a facility limit for VOCs of 16 tons per year, for CO of 70 tons per year and for HAPs of 6.7 tons per year.

The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays. To make an appointment, contact Records Management, (484) 250-5910.

23-0098: SAP America, Inc. (3999 West Chester Pike, Newtown Square, PA 19073) for minor modification of operating requirements for four no. 2 fuel oil fired emergency generators at their facility in Newtown Township, **Delaware County**. This facility is a non-Title V facility. The emergency generators are equipped with turbocharger and after-cooler. They are used as a backup power source in the event of a blackout or power interruption. Originally restricted to operating only two emergency generators at a time during an emergency, the facility shall now be permitted to use any combination of the four emergency generators at any time there is an emergency. However, the emergency generators will still be restricted to a total of 500 hours of operation per year. There will be no increase in potential emissions as a result of this modification. The Plan Approval will contain

recordkeeping and further operating restrictions designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

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

36-05001B: Armstrong World Industries, Inc. (1507 River Road, Marietta, PA 17547) for modifications to the dry saw operational area of their Marietta ceiling tile plant in East Donegal Township, **Lancaster County**. The modifications include the installation of a fabric filter in the dry saw area. The modifications will have little impact upon emissions from this Title V facility. The plan approval and Title V permit will include emission limits, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Richard Maxwell, New Source Review Chief, (570) 327-3637.

17-305-050A: Penfield Collieries, LLC (301 Market Street, Kittanning, PA 16201) for construction of coal stockpiling and railcar/truck loading operations at an existing bituminous coal preparation facility near Penfield in Huston Township, **Clearfield County**.

The proposed stockpiling and railcar/truck loading operation will consist of two radial stacking conveyors, various other conveyors, an underground reclaim and a railcar loading chute. The operation will process only coal which has first been processed through a wet preparation plant so all coal will have a moisture content of at least 5%. This inherent moisture content will help prevent fugitive PM from being emitted. Additional fugitive PM control will be provided by loading all railcars with a flood loading technique, by the use of partial conveyor covers and by use of the plant's water truck, as needed. The construction of the proposed stockpiling and railcar/truck loading operations is expected to increase the facility's emission of PM by no more than 10.7 tons per year, of which no more than 4.8 tons per year will be PM₁₀.

The Department's review of the information submitted by Penfield Collieries, LLC indicates that the proposed coal stockpiling and railcar/truck loading operations will meet all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants including the fugitive air contaminant emission requirements of 25 Pa. Code §§ 123.1 and 123.2, the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12 and the requirements of Subpart Y of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.250–60.254. Based on this finding, the Department proposes to issue plan approval for the construction of the proposed coal stockpiling and railcar/truck loading operations.

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. All conditions of Plan Approval 17-305-050 remain in effect unless superseded or modified by a condition contained herein.

2. No coal may be stockpiled onsite unless it has either been processed through the facility's wet preparation plant or will be processed through said plant prior to removal from the site.

3. All clean coal stockpiled onsite shall be placed onto stockpiles with radial stacking conveyors. The freefall distance from the end of these stacking conveyors to the top of the stockpile shall be maintained at 5 or less feet at all times.

4. All conveyors shall be equipped with either partial enclosures or full enclosures. If, at any time, partial enclosures are determined by the Department to be inadequate for controlling fugitive PM emissions, full enclosures shall be installed.

5. The water truck required by Plan Approval 17-305-050 shall be used, as needed, to control fugitive particulate matter from stockpiles, roadways, and the like, in the stockpiling and railcar/truck loading operations area.

6. All coal loaded into railcars shall be loaded using a flood loading technique. Front end loaders shall not be used to load railcars.

7. Trucks may be loaded with front end loaders, but only if the front end loader bucket-to-truck bed height is kept to a minimum at all times and only if the moisture content of the coal being loaded is 5% or greater.

8. All coal placed onto the stockpiles incorporated into the coal stockpiling and railcar/truck loading operations shall have a moisture content of at least 5% as shall all coal removed from the stockpiles and loaded into railcars and trucks. The permittee shall demonstrate compliance with this requirement by sampling and analyzing the coal for moisture content in accordance with ASTM D3302-02ae1 at a frequency to be specified by the Department.

9. Records shall be maintained of:

a. The total number of tons of coal delivered to the facility each month.

b. The number of tons of coal loaded directly into railcars from the wet preparation plant each month using the clean coal conveyor and railcar loading chute currently associated with the wet preparation plant.

c. The number of tons of coal loaded into railcars from the clean coal stockpiling operation each month using the new railcar loading chute associated with the clean coal stock piling operation as well as the portion of this amount, if any, that was not first processed through the wet preparation plant.

d. The number of tons of coal loaded into trucks each month as well as the portion of this amount, if any, that was not first processed through the wet preparation plant.

e. The results of all coal moisture analyses performed.

All records shall be retained for at least 5 years and made available to the Department upon request.

12-399-007H: GKN Sinter Metals, Inc. (P. O. Box 493, Emporium, PA 15834-0493) for construction of two powdered metal parts sintering furnaces in Plant 2, 227 Barton Street, Emporium Borough, **Cameron County**.

The proposed sintering furnaces will be used to sinter parts made of various metal powders. Heat will be provided by electricity and the combustion of natural gas. The PM emissions from the proposed furnaces will be controlled by a fabric collector. The proposed furnaces are expected to emit no more than .58 ton of NO_x, .082 ton of CO, .018 ton of VOCs and .026 ton of PM per year.

The Department's review of the information submitted by GKN Sinter Metals, Inc. indicates that the proposed sintering furnaces will comply with all air quality requirements pertaining to air contamination sources and

the emission of air contaminants including the PM emission limitations of 25 Pa. Code § 123.13 and the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval for the construction of the proposed sintering furnaces.

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. All conditions of Operating Permit 12-399-0007G remain in effect unless superseded or modified by a condition contained herein.

2. The PM emissions from the sintering furnaces shall be controlled by an existing Aeropulse PR-380-12-H-Y fabric collector at all times the furnaces are processing parts or at any time a sintering furnace stack is being cleaned.

3. The metal powders used to make the parts processed through the sintering furnaces shall not contain more than a combined total of 1.75% (by weight) zinc stearate and Acrawax (or equivalent nonmetal-bearing lubricant).

4. Furnace temperatures shall be monitored and shall not be allowed to exceed 2,500°F.

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

43-196A: General Electric Transportation Systems—Grove City Plant (1503 W. Main Street Extension, Grove City, PA 16127) for increase in the allowed fuel consumption in the Test Cells while maintaining the underlying NO_x emission limitation and an increase in VOC limit for their spray paint booth in Grove City Borough, **Mercer County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- The source shall comply with all the conditions in their Title V permit for Sources 106 and 132 except for the following:

- For Source 106, the VOC emission limit will be 24.2 tpy.

- For Source 132, the fuel throughput will be increased to 2,669,400 gallons per year.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

04-00702: United States Gypsum Co. (125 South Franklin—Dept. No. 176, Chicago, IL 60606) for their Aliquippa Plant in Aliquippa, **Beaver County**. The facility's major sources of emissions include a kiln, two kettles, two dryer mills, numerous miscellaneous material han-

dling processes controlled by dust collectors and fugitive emissions from paved and unpaved roads.

26-00495: Allegheny Energy Supply Co. LLC—Gans Turbine Station (4350 Northern Pike, Monroeville, PA 15146) for their facility in Springhill Township, **Fayette County**. The facility's major source of emissions includes two simple cycle combustion turbines, which primarily emit NOx and CO.

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; Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05095: Unicast Co. (6th and Washington Streets, Boyertown, PA 19512) for operation of a gray iron foundry controlled by various fabric collectors, a wet scrubber, an afterburner and a venturi scrubber in the Borough of Boyertown, **Berks County**. The facility is a non-Title V (State-only) facility. The facility will be required to limit the emissions to less than 100 tons for particulate, PM10, SOx, NOx and CO; 50 tons for VOCs; and 10/25 tons of HAPs during any consecutive 12-month period. Limits will be placed on the melt rate of the cupola and the annual production rate of gray iron. The permittee will be required to record the gray iron product and the emission rates monthly and 12-month rolling total. The permit will include monitoring, recordkeeping, work practices and reporting to keep the facility operating within all applicable air quality requirements.

36-03094: Snavely's Mill, Inc. (333 Snavely Mill Road, Lititz, PA 17543) for operation of their flour mill in Warwick Township, **Lancaster County**. The facility has a potential to emit 6 tons/yr of PM10. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson Facilities Permitting Chief, (814) 332-6940.

16-00002: RFI Energy, Inc. (SR 3014, Sligo, PA 16255) for renewal of the Natural Minor Operating Permit for their Shannon coal preparation facility in Toby and Piney Townships, **Clarion County**.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in

response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

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

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

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

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0mg/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	

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

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

California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

11861301. NPDES Permit No. PA0214361, Ramp-side Collieries, Inc. (527 Slate Hill Road, Berlin, PA 15530), to renew the reclamation only and related NPDES permit for the Rampside No. 1 Mine in Richland Township, **Cambria County** and revise the post-mining land use to industrial/commercial. No additional discharges. Application received September 20, 2004.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56010104 and NPDES Permit No. PA0249041. Godin Brothers, Inc., 128 Colton Drive, Stoystown, PA 15563, surface mining permit revision for a stream variance and deletion of acreage in Lincoln and Jenner Townships, **Somerset County**, affecting 136.4 acres. Receiving streams: unnamed tributaries to/and Quemahoning Creek (CWF). The first downstream potable water supply intake from the point of discharge is the Cambria-Somerset Authority Quemahoning Surface Water Withdrawal. Application received August 30, 2004.

56940106 and NPDES Permit No. PA0212903. Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563-8164, surface mining permit renewal in Brothersvalley Township, **Somerset County**, affecting 77.4 acres. Receiving streams: unnamed tributaries to/and Buffalo Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received September 15, 2004.

56930114 and NPDES Permit No. PA0212679. Fieg Brothers, 3070 Stoystown Road, Stoystown, PA 15563-8164, surface mining permit renewal in Brothersvalley Township, **Somerset County**, affecting 28.8 acres. Receiving streams: unnamed tributaries to/and Buffalo Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received September 15, 2004.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

16713021 and NPDES Permit PA0602680. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Renewal of an existing bituminous surface strip operation in Redbank, Clover and Beaver Townships, **Clarion and Jefferson Counties** affecting 135.0 acres. Receiving streams: unnamed tributaries to Pine Creek and Pine Creek; unnamed tributaries to Redbank Creek; unnamed tributaries to Runaway Run (CWF). The first downstream potable water supply intake from the point of discharge is the Hawthorn Area water Authority. Application for reclamation only. Application received October 12, 2004.

16950101 and NPDES Permit No. PA0226921. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Renewal of an existing bituminous surface strip operation in Clarion and Limestone Townships, **Clarion County** affecting 43.3 acres. Receiving streams: two unnamed tributaries of Piney Creek to Piney Creek (CWF). There are no potable surface water supply intakes within 10 mile downstream. Application for reclamation only. Application received October 12, 2004.

33990101 and NPDES Permit No. PA0227951. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Revision to an existing bituminous surface strip and auger operation in Winslow Township, **Jefferson County** affecting 156.8 acres. Receiving streams: Soldier Run and one unnamed tributary to Solider Run (CWF). There are no potable surface water supply intakes within 10 miles downstream. Revision to add 29.0 acres of Upper Kittanning Coal. Application received October 13, 2004.

16-04-06. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Proposal to enter into a Government Financed Reclamation Construction Contract on a 23.2-acre site in Clarion Township, **Clarion County**. The proposal includes total reclamation of 13.3 acres of abandoned mine lands as well as 7.6 acres of coal removal incidental and necessary to the reclamation activities. Receiving streams: unnamed tributaries to Brush Creek to Clarion River (CWF). There are no potable surface water supply intakes within 10 miles downstream. Application received October 6, 2004.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17990112 and NPDES Permit No. PA0238350. Forcey Coal, Inc. (P. O. Box 225, Madera, PA 16661). Renewal of an existing bituminous surface mine-coal refuse disposal-coal ash beneficial use permit in Bigler Township, **Clearfield County** affecting 128 acres. Receiving streams: Banian Run to Clearfield Creek to the West Branch of the Susquehanna River. Application received August 24, 2004.

17813182 and NPDES Permit No. PA0609692. Penn Coal Land, Inc. (P. O. Box 68, Boswell, PA 15531). Renewal of an existing bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 125.8 acres. Receiving streams: unnamed tributary of Big Run, to Big Run to Moshannon Creek to West Branch of the Susquehanna River to the Susquehanna River. Application received September 9, 2004.

17980126 and NPDES Permit No. PA0238198. Hepburnia Coal Company (P. O. Box I, Grampian, PA 16838). Renewal of an existing bituminous surface mine permit in Chest Township, **Clearfield County** affecting 146 acres. Receiving streams: Kings Run and/or Chest Creek to the West Branch of the Susquehanna River. Application received August 20, 2004.

17990110 and NPDES Permit No. PA0238333. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650). Transfer of an existing bituminous surface mine-auger permit from M. B. Energy, Inc. The permit is

in Chest Township, **Clearfield County** and affects 350.0 acres. Receiving streams: unnamed tributaries of Chest Run to Chest Run to the West Branch of the Susquehanna River. Application received September 13, 2004.

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

35840205R4. Ransom Quarry Co., Inc. (1001 Underwood Road, Olyphant, PA 18447), renewal of an existing coal refuse reprocessing operation in Throop and Olyphant Boroughs, **Lackawanna County** affecting 161.0 acres, receiving stream: none. Application received October 12, 2004.

Noncoal Permit Applications Received

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

6276SM6C3 and NPDES Permit No. PA0595365. Donegal Rock Products, LLC (P. O. Box 10, Rheems, PA 17570), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in West Donegal Township, **Lancaster County**, receiving stream: unnamed tributary to Donegal Creek (CWF). The first downstream potable water supply intake from the point of discharge is the Wrightsville Borough Municipal Authority. Application received October 7, 2004.

7774SM2A1C7 and NPDES Permit No. PA0594521. Berks Products Corporation (P. O. Box 421, Reading, PA 19603), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Ontelaunee Township, **Berks County**, receiving stream: Maiden Creek (CWF). The first downstream potable water supply intake from the point of discharge is the Reading Water Authority. Application received October 12, 2004.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 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.

E13-143. Department of Transportation, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103 in Lower Towamensing Township, **Carbon County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a 32-foot wide prestressed concrete spread box beam bridge on a 60 degree skew having a normal span of 62 feet and an underclearance of approximately 14 feet across Buckwha Creek. The project is along SR 2006 (Lower Smith Gap Road) approximately 0.2 mile east of SR 2002 (Little Gap Road) (Palmerton, PA Quadrangle N: 13.3 inches; W: 3.8 inches).

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

E05-328. Department of Transportation, Engineering District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648 in Bedford Township, **Bedford County**, ACOE Baltimore District.

To remove the existing two-span bridge and then to construct and maintain a two-span bridge with a total span of 158.5 feet with a minimum under clearance of 12.5 feet across the Raystown Branch of the Juniata River (TSF) on SR 0030, Section 019 to improve the roadway condition in Wolfsburg Village (Bedford, PA Quadrangle N: 8.4 inches; W: 4.2 inches) in Bedford Township, Bedford County.

E31-196. Department of Transportation, District 9-0, 1620 North Juniata Street, Hollidaysburg, PA 16648 in Warriors Mark Township, **Huntingdon County**, ACOE Baltimore District.

To remove the existing structure and then to construct and maintain a dual 16-foot precast concrete box culvert at the channel of East Branch Warriors Mark Run (HQ-CWF) on SR 0550, Section 001, Segment 0130, Offset 2177 to improve the alignment and safety, about 1.3 miles east of the Warriors Mark Village (Franklinville, PA Quadrangle N: 16.3 inches; W: 15.26 inches) in Warriors Mark Township, Huntingdon County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E08-418. Bradford County Commissioners, Bradford County Courthouse, 301 Main Street, Towanda, PA 18848, bridge replacement in Albany Township, **Bradford County**, ACOE Baltimore District (Dushore, PA Quadrangle N: 16.2 inches; W: 7.9 inches).

To: (1) remove the existing single span riveted steel pony truss bridge with an open steel grid deck and

reinforced concrete abutments and wingwalls. The existing bridge is skewed 90 degrees to the roadway, with a clear span between abutments of about 59 feet with a normal span of 59 feet, a curb-to-curb width of 13 feet 3 inches and a vertical underclearance of about 9 feet; (2) construct and maintain a prestressed spread box beam bridge with a single clear span of 52.84 feet (47.89 feet normal), minimum underclearance of 9.37 feet and a skew of 65 degrees with reinforced concrete abutments and wingwalls; (3) minor realignment of the existing drainage ditch along the near right roadway embankment due to the increased roadway width; (4) construct an improved rock lined drainage ditch along the far left approach with a new 18-inch thermoplastic pipe under an adjacent driveway; (5) place R-7 riprap for scour protection along the abutments and wingwalls; (6) install R-4 rock protection at the far right along the edge of the roadway to stabilize the existing soils behind the guide rail; (7) construct a temporary stream crossing/ford for the contractors use only consisting of clean R-4 rock, AASHTO No. 2 coarse aggregate and Geotextile, Class 4, Type A.

The project is over South Branch Towanda Creek (CWF) on T-382 (French Creek Road) about 500 feet west of the intersection of T-382 with SR 220.

The project will not impact wetlands while impacting about 140 feet of waterway and 0.92 acre of disturbed earth.

E14-466. State College Borough, 243 South Allen Street, State College, PA 16801. Walnut Springs Park in State College, **Centre County**, ACOE Baltimore District (State College, PA Quadrangle N: 8.45 inches; W: 12.9 inches).

To construct and maintain: (1) a masonry covered concrete weir less than 3 feet high and 26 feet, 4 inches wide to filter debris laden storm sewer water as it enters Walnut Spring Run; (2) 300 square feet of stream bank rehabilitation immediately downstream of the weir; (3) 150 square feet of stream bank rehabilitation immediately upstream of the weir; and (4) 66 linear feet of plain concrete streambed paving immediately upstream of the weir to facilitate removal of the trapped debris in Walnut Spring Run that is a tributary of Slab Cabin Run (HQ-CWF). This project proposes to permanently impact 100 feet of Slab Cabin Run.

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

E32-467. Department of Transportation, P. O. Box 429, 2550 Oakland Avenue, Indiana, PA 15701-0429. Harry Boring Road culvert in West Wheatfield Township, **Indiana County**, Pittsburgh ACOE District (New Florence, PA Quadrangle N: 8.1 inches; W: 12.0 inches and Latitude: 40° 25' 11"—Longitude: 79° 5' 10"). The applicant proposes to operate and maintain dual 40-foot long, 48-inch diameter smooth-bore plastic pipes in East Branch Richards Run (CWF). The inverts of both pipes are depressed 1.0 foot. The pipe replacement project has been completed and was authorized by Emergency Permit EP3204202 issued on August 3, 2004. Including the R-7 rock outlet protection, the project impacted 55 linear feet of perennial stream; no vegetated wetlands are impacted.

E65-492 A3. Three Rivers and Rail Terminals, Vista One Professional Building, Suite 206, Charleroi, PA 15222. Amendment to Permit E65-492 in Rostraver Township, **Westmoreland County**, Pittsburgh ACOE District (Monongahela, PA Quadrangle N: 0.45 inch; W: 0.23 inch and Latitude: 40° 07' 39"—Longitude: 79° 52' 36"). The

applicant proposes to amend Permit E65-492 to construct and maintain a sheet pile wall with two wing walls having a facilities area of 29 feet by 20 feet in and along the right bank of the Monongahela River between the existing mooring posts at a point 146 feet downstream of the existing sheet pile crane platform to create a ramp to trucks onto the load barges.

E65-857. City of Monessen, 100 Third Street, Monessen, PA 15062. Stream improvement in City of Monessen Park, **Westmoreland County**, Pittsburgh ACOE District (Monongahela, PA Quadrangle N: 3.48 inches; W: 0.31 inch and Latitude: 40° 8' 39"—Longitude: 79° 52' 38"). To construct and maintain a stream bank stabilization project consisting of 725 linear feet of the left bank of an unnamed tributary to the Monongahela River (WWF). The project is in the City Park along Grand Boulevard.

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

E20-539. Meadville Medical Center, 1034 Grove Street, Meadville, PA 16335. Mill Run Restoration in the City of Meadville, **Crawford County**, ACOE Pittsburgh District (Meadville, PA Quadrangle N: 2.8 inches; W: 14.3 inches).

The applicant proposes to construct and maintain a stream restoration project and establish a stream side trail, landscaping and butterfly gardens in and adjacent to Mill Run (WWF, perennial) (Meadville, PA Quadrangle N: 2.8 inches; W: 14.3 inches) in the City of Meadville, Crawford, County approximately 800 feet east of the intersection of SR 86 and North Street involving: (1) removal of approximately 200 lineal feet of concrete retaining walls; (2) establishment of a floodplain area along approximately 350 feet of the left bank; (3) installation of two J-hook structures, one cross vane structure and one log rollover structure; and (4) construction of a pedestrian bridge. The project proposes to directly impact approximately 410 lineal feet of stream.

E25-692. North East Township Supervisors, 10300 West Main Road, Box 249, North East, PA 16428. West Law Road Bridge Replacement Project in Northeast Township, **Erie County**, ACOE Pittsburgh District (North East, PA Quadrangle N: 11.3 inches; W: 16.5 inches).

The applicant proposes to remove the existing structure and to construct and maintain a prestressed concrete adjacent box beam bridge having a clear span of 38.5 feet and an underclearance of 11.5 feet across Twelvemile Creek (HQ-CWF, MF, perennial) approximately 500 feet northeast of the intersection of T-743 (West Law Road Bridge) and Williams Road. Project includes riprap protection of the abutments. The project proposes to directly affect a total of approximately 100 linear feet of stream channel

E33-223. Department of Transportation, District 10-0, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701-0429. DuBois-Jefferson County Airport Access Road in Washington Township, **Jefferson County**, ACOE Pittsburgh District (Hazens, PA Quadrangle N: 4.9 inches; W: 2.0 inches).

This project (Phase II) consists of construction of the DuBois-Jefferson County Airport Access Road, designated as SR 6830, Section 590. The project consists of a 4.5-mile two-lane full access arterial roadway to provide improved access between Interstate 80 and the DuBois-Jefferson County Airport. Phase 1 of the project consisted of the construction of the DuBois-Jefferson County Airport Access Road I-80 Interchange.

Phase 2 will impact 0.69 acre of wetland and 5,475 linear feet of stream impacts (ephemeral, intermittent and perennial), including the following activities:

1. Replace and existing 48-inch corrugated metal pipe culvert (on SR 6830) with an 85-foot long precast reinforced concrete box culvert with a 20-foot span and 9-foot rise over Horm Run (CWF).

2. Construct (on SR 6830) a 235-foot long precast reinforced concrete box culvert with a 12-foot span and 9-foot rise over unnamed tributary to Horm Run (CWF).

3. Construct (on SR 6830) a 141-foot precast reinforced concrete box culvert with a 14-foot span and 9-foot rise over unnamed tributary to Keys Run (CWF).

4. 600 linear feet of stream impacts due to the Relocation of 368 linear feet of an unnamed tributary to Keys Run.

5. 250 linear feet of stream impacts due to the Relocation of 174 linear feet of Horm Run.

The box culvert floors will be depressed 1 foot below the streambed and will be lined with baffles to encourage the formation of natural streambed and fish passage within the culvert.

0.84 acre of wetlands will be constructed as mitigation for the 0.69 acre of wetland impacts. Phase II wetland impacts will be mitigated at the wetland mitigation site authorized under DEP Permit E33-219 Phase 1 I-80 interchange project.

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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>
PA0083585 Sewage	Todd Township Supervisors Knobsville WTP HRC 75 McConnellsburg, PA 17233	Fulton County Todd Township	Licking Creek 13-B	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>
PA0100161 IW	Triangle Suspension Systems, Inc. P. O. Box 425 DuBois, PA 15801	Sandy Township Clearfield County	Pentz Run 17-C	Y
PA0009318 IW	Alcan Cable 409 Reighard Avenue Williamsport, PA 17701-4195	Williamsport Lycoming County	Fox Hollow Run 10-A	Y

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>
PA0028193	McCandless Township Sanitary Authority 9600 Perry Highway Pittsburgh, PA 15237	Allegheny County Ross Township	Unnamed tributary of Girty's 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.

PA0228818, Industrial Waste, SIC 2621, **First Quality Tissue LLC**, 599 South Highland Street, Lock Haven, PA 17745-3431. This proposed/existing facility is in Castanea Township, **Clinton County**.

Description of Proposed Activity: Permit issued authorizing the discharge of treated process wastewater. First Quality Tissue has purchased the former International Paper site and will begin making paper products in late fall 2004. The industrial waste treatment plant will be upgraded to meet the needs of the new processes onsite.

The receiving stream, Bald Eagle Creek, is in the State Water Plan watershed 9C and classified for WWF. The nearest downstream public water supply intake for the Pennsylvania American Water Company is on the West Branch Susquehanna River, 60 miles below the point of discharge.

The proposed effluent limits for Outfall 003 are based on a design flow of 3.95 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/L)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
BOD ₅	3,550	7,308	108	222	333
TSS	2,714	6,264	82	190	285
Total P			Report		
Total N			Report		
pH			within the range of 6.0 to 9.0		

Outfalls 001, 002 and 004 are proposed stormwater outfalls.

In addition to the effluent limits, the permit contains the following major special conditions: management of chemical usage additives; stormwater management; and prohibition of chlorophenolic compounds.

PA0110582, Sewage, SIC 4952, **Eastern Snyder County Regional Authority**, P. O. Box 330, Selinsgrove, PA 17870. This existing facility is in Penn Township, **Snyder County**.

Description of Proposed Activity: The Authority plans to upgrade its treatment plant to incorporate nutrient reduction technology. The NPDES permit has been renewed and includes monitoring requirements for Total N and Total P (Report). The annual average daily flow will be reduced from the current 2.8 MGD to 2.0 MGD, once the new facilities are completely operational.

The receiving stream, Susquehanna River, is in the State Water Plan watershed 6B and classified for WWF. The nearest downstream public water supply intake for United Water Pennsylvania is on the Susquehanna River, 39 river miles below the point of discharge at Dauphin, PA.

The existing effluent limits for Outfall 001 are based on a design flow of 2.8 MGD, for the period of Permit Issuance through Substantial Completion + 3 Months:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
TSS	30	45		60
CBOD ₅	25	40		50
Total Chlorine Residual	0.50			1.6
pH			within the range 6.0 to 9.0	
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)			200 per 100 mL as a geometric average 2,000 per 100 mL as a geometric average	
Total Nitrogen	Report			
Total Phosphorus	Report			

The proposed effluent limits for Outfall 001 are based on a design flow of 2.0 MGD, for the period of Substantial Completion + 3 Months until Permit Expiration.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
TSS	30	45		60
CBOD ₅	25	40		50
Total Chlorine Residual	0.50			1.6
pH			within the range 6.0 to 9.0	
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)			200 per 100 mL as a geometric average 2,000 per 100 mL as a geometric average	
Total Nitrogen	Report			
Total Phosphorus	Report			

In addition to the effluent limits, the permit contains the following major special conditions: Phase II stormwater.

PA0009024, SIC 3399, **Osram Sylvania Products, Inc.**, Hawes Street, Towanda, PA 18848. This proposed action is for renewal of an NPDES permit for a discharge of treated industrial wastewater to the North Branch Susquehanna River in North Towanda Township, **Bradford County**.

The receiving stream is in the Towanda watershed (4-C) and classified for WWF, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the downstream potable water supply considered during the evaluation is the Danville Municipal Water Authority.

Outfall 001: The proposed effluent limits, based on a design flow of 1.22 MGD, are:

<i>Specific Substance</i>	<i>Monthly Average (lb/day)</i>	<i>Daily Maximum (lb/day)</i>	<i>Instantaneous Maximum (mg/l)</i>
Copper	6.6	17.1	1.7
Nickel	21.3	47.9	4.7
Lead	1.5	3.4	0.4
Zinc	6	14.9	1.6
Arsenic	7.4	18.8	1.9
Tantalum	4.25	4.3	0.4
Selenium	2.9	7.2	0.7
Fluoride	246	446	45.6
Molybdenum	287	575	55.4
Cobalt	16.2	36.8	3.7
Tungsten	597.6	1,342.8	132
Cadmium	1.8	4.1	0.4
Ammonia	1,363	3,097	295
TSS	388	792	86.7
Oil and Grease			30.0
pH	6.0 to 9.0 at all times		

Outfalls 002—004: The proposed effluent limits for discharge of noncontact cooling water and stormwater are:

<i>Specific Substance</i>	<i>Monthly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Copper		Monitor	
Nickel		Monitor	
Zinc		Monitor	
Molybdenum		Monitor	
Ammonia		Monitor	
Oil and Grease (mg/l)	15.0	30.0	30.0

<i>Specific Substance</i>	<i>Monthly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH	6.0 to 9.0 at all times		

Special Conditions: Whole Effluent Toxicity testing and stormwater monitoring and control.

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

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

WQM Permit No. 5303402, Sewerage 4952, **Roulette Township Supervisors**, Roulette Township Building, R. R. 1, Roulette, PA 16746. This proposed facility is in Roulette Township, **Potter County**.

Description of Proposed Action/Activity: Issuance of a Water Quality Management Part II Permit for construction and operation of sewer extensions to serve the West Main Street, Laninger Creek Road and Railroad Street areas and a pump station on Railroad Street. The existing Roulette Wastewater Plant will provide treatment.

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

WQM Permit No. 0204408, Sewerage, **The Mills Corporation**, 2012-A Butler Logan Road, Tarentum, PA 15084. This proposed facility is in Frazer Township, **Allegheny County**.

Description of Proposed Action/Activity: To construct sanitary sewer to serve Frazer Mall.

WQM Permit No. 0204410, Sewerage, **Sonoma Ridge, L. P. c/o James Rumbaugh**, 772 Pine Valley Drive, Pittsburgh, PA 15239. This proposed facility is in Moon Township, **Allegheny County**.

Description of Proposed Action/Activity: Sanitary sewer extensions to serve Sonoma Ridge, L. P.

WQM Permit No. 3004401, Sewerage, **Alex Shuppe, Shuppe Rentals Trailer Park**, 380 Budapest Road, Dillner, PA 15327. This proposed facility is in Dunkard Township, **Greene County**.

Description of Proposed Action/Activity: To construct a sewage treatment plant to serve the Shuppe Rentals Trailer Park.

WQM Permit No. 6303405, Sewerage, **City of Monongahela**, 449 West Main Street, Monongahela, PA 15063. This proposed facility is in the City of Monongahela, **Washington County**.

Description of Proposed Action/Activity: New sanitary sewers and Nelson Street Pump Station to serve 279 homes in the Dry Run, Cherry Alley, Stephens Plan, Stoglestown, Pigeon Creek, Factory Street, Black Diamond and Railroad Street areas.

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

WQM Permit No. 4304201, Industrial Waste, **Gibraltar DFC Strip Steel, LLC**, 15 Roemer Boulevard, Farrell, PA 16121-2299. This proposed facility is in City of Farrell, **Mercer County**.

Description of Proposed Action/Activity: This project is for a contact wastewater treatment and discharge system for the no. 1 cold roll facility.

WQM Permit No. 4304202, Industrial Waste, **Duferco Farrell Corporation**, 15 Roemer Boulevard, Farrell, PA 16121-2299. This proposed facility is in City of Farrell, **Mercer County**.

Description of Proposed Action/Activity: This project is for a contact wastewater treatment and discharge system for the no. 2 cold roll facility.

WQM Permit No. WQG018315, Sewerage, **Ryan J. Konetsky**, P. O. Box 313, McKean, PA 16426. This proposed facility is in Fairview Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. 1604404, Sewerage, **Bryan L. and Michelle L. Kunselman**, 1440 Pumpton Road, Fairmont City, PA 16224. This proposed facility is in Redbank Township, **Clarion County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. 6204401, Sewerage, **Anne M. Behrend and Barbara M. Leonard**, 859 Amerst Lane, Brunswick, OH 44212. This proposed facility is in Limestone Township, **Warren County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. WQG018316, Sewerage, **Thomas J. Makowski**, 10500 Greenlee Road, Waterford, PA 16441. This proposed facility is in Summit Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a small flow treatment facility to serve a small commercial building with 12 employees.

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>
PAI024804025	RGC Development LP P. O. Box 86 Bath, PA 18014-0086	Northampton	Palmer Township	Bushkill Creek HQ-CWF
PAI024804018	Horst W. and Rosemarie A. Hoppe 1026 Blue Valley Dr. Penn Argyl, PA 18072	Northampton	Plainfield Township	Little Bushkill Creek HQ-CWF, MF
PAI025204003	John J. Schneider, Trustee Schneider Revocable Management Trust 104 West High St. Milford, PA 18337	Pike	Dingman Township	Sawkill Creek EV
PAI026404003	Department of Transportation Engineering District 4-0 P. O. Box 111 Scranton, PA 18501	Wayne	Honesdale Borough	Lackawaxen River HQ-TSF, MF West Branch Lackawaxen River HQ-TSF, MF

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>
PAI045304002	William Grandin, Chairperson Roulette Township R. R. 1 Roulette, PA 16846	Potter	Roulette Township	Laninger HQ-CWF Fishing Creeks CWF

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

General Permit Type—PAG-2

<i>Facility Location 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>
Washington Township Schuylkill County	PAG2005404027	Philip Lapp 657 Mountain Road Pine Grove, PA 17963	UNT to Lower Little Swatara Creek 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>
Exeter Township Luzerne County	PAG2004004014	Ted Harris 324 Warren Ave. Exeter, PA 18643	Hicks Creek CWF	Luzerne County Conservation District (570) 674-7991
Pittston Township Luzerne County	PAG2004004008	Department of General Services 18th and Herr Sts. Harrisburg, PA 17125	Collins Creek WWF	Luzerne County Conservation District (570) 674-7991
North Whitehall Township Lehigh County	PAG2003904021	Dennis Atiyeh Laurie Atiyeh 5828 Bark Valley Rd. Schnecksville, PA 18078	Coplay Creek CWF	Lehigh County Conservation District (610) 391-9583
Lower Milford Township Lehigh County	PAG2003904025	Dennis Dekrane 6340 Redfox Ct. Coopersburg, PA 18036	Saucon Creek CWF	Lehigh County Conservation District (610) 391-9583
Dauphin County	PAG200204035	Amos Stoltzfus 34 Quaker Drive Hegins, PA 17938	Wiconisco Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Centre County Patton Township	PAG2001404018	Hawbaker YZ Tract Dan Hawbaker Glenn O Hawbaker Inc. P. O. Box 135 State College, PA 16804	UNT Big Hollow Run CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Lycoming County Loyalsock Township	PAG2004104010	Robert Yoder 5960 Susquehanna Trail Turbotville, PA 17772	Miller Run WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Centre County Patton Township	PAR10F146-R1	Carol Hermann Pinnacle Dev. LLC 501 Rolling Ridge Dr. Suite 200 State College, PA 16801	UNT Big Hollow CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Indiana County White Township	PAG2003204013	Don Haubert, Sr. Bentridge Subdivision 15 Central Blvd. Camp Hill, PA 17011	Unnamed tributary to Ramsey Run CWF	Indiana County Conservation District (724) 463-8547
Butler County Bruin, Fairview, Karns City and Petrolia Boroughs Concord, Fairview and Parker Townships Clarion County East Brady Borough Armstrong County Brady's Bend and Perry Townships	PAG2060003001	Petroleum Valley Regional Water Authority P. O. Box P Bruin, PA 16022	Allegheny River WWF	Northwest Regional Office Soils and Waterways (814) 332-6942
Butler County Cranberry Township	PAG2001004002	On A Roll Family Skate Center Patrick Montgomery 428 Anna Marie Drive Cranberry Township, PA 16066	Brush Creek WWF	Butler Conservation District (724) 284-5270

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<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>
Butler County Cranberry Township	PAR10E125R	Cranberry Business Park Associates, LP 200 West Kensinger Drive Suite 400 Cranberry Township, PA 16066	UNT Brush Creek WWF	Butler Conservation District (724) 284-5270
Crawford County Saegertown Borough	PAG2002004005	Lord Corporation, Joseph McCallion 601 South State Street Saegertown, PA 16433	Woodcock Creek CWF	Crawford Conservation District (814) 724-1793
Crawford County Vernon Township	PAG2002004006	Doug Braham Divide Development Company P. O. Box 1160 Livingston, MT 59047	UNT French Creek WWF	Crawford Conservation District (814) 724-1793
Crawford County West Mead Township	PAG2002004007	Shartle & Walker Subdivision Lynn Walker 13622 Shartle Avenue Meadville, PA 16335	UNT Little Sugar Creek CWF	Crawford Conservation District (814) 724-1793
Erie County Millcreek Township	PAG2002504033	ECHO Real Estate Services Co. 701 Alpha Drive Pittsburgh, PA 15238	Separate Municipal Storm Sewer	Erie Conservation District (814) 825-6403
Erie County Harborcreek Township	PAG2002504034	ECHO Real Estate Services Co. 701 Alpha Drive Pittsburgh, PA 15238	UNT Fourmile Creek WWF, MF	Erie Conservation District (814) 825-6403
Jefferson County Oliver Township	PAG2003304004	"O" Ring & Associates, Inc.	UNT Hadden Run Hadden Run Clutch Run Little Sandy Creek CWF	Jefferson Conservation District (814) 849-7463
Mercer County City of Hermitage	PAG2004304014	Joy Cone Company 3435 Lamor Road Hermitage, PA 16148	Pine Hollow Run WWF	Mercer Conservation District (724) 662-2242
Armstrong County Wayne Township	PAG2090304005	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Unnamed tributary to Mahoning Creek CWF	DEP Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800
Graham and Morris Townships Clearfield County	PAG2101704005	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476	UNT to Alder Run CWF	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311

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>
Berks County Bern Township	PAR203511	Heyco Metals, Inc. 1069 Stinson Drive Reading, PA 19605	UNT to Schuylkill River WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Maidencreek Township (formerly PA0086509)	PAR213552	Lehigh Cement Company P. O. Box 619 Blandon, PA 19510-0619	UNT Lake Ontelanee/Maiden Creek 3B	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<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>
Shamokin Township Northumberland County	PAR804874	Rolling Frito-Lay Sales, LP 800 Hickory Drive Aberdeen, MD 21001	Storm Drain to Shamokin Creek WWF	Water Management Program Manager 208 West Third Street Williamsport, PA 17701 (570) 327 3664
Boggs Township Centre County	PAR234815	CCDA Waters LLC 1 Aqua Penn Dr. P. O. Box 938 Milesburg, PA 16853	Bald Eagle Creek TSF	Water Management Program Manager 208 West Third Street Williamsport, PA 17701 (570) 327 3664
Sandy Township Clearfield County	PAR804875	Rolling Frito-Lay Sales, LP 7781 Service Center Drive Westchester, OH 45069	Storm Drain to Sandy Lick Creek TSF	Water Management Program Manager 208 West Third Street Williamsport, PA 17701 (570) 327 3664
Westmoreland County Scottdale Borough	PAR206118	Duraloy Technologies Inc. 120 Bridge Street Scottdale, PA 15683-0081	Jacobs Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Westmoreland County Hyde Park Borough	PAR206144	Akers National Roll 400 Railroad Avenue Avonmore, PA 15618	Kiskiminetas River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Indiana County Center Township	PAR316102	Halliburton Energy Services Inc. P. O. Box 4574 Houston TX 77210-4574	Two Lick Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Beaver County Ambridge Borough	PAR606117	Waste Management of PA Inc. 2097 Duss Avenue Ambridge, PA 15003	UNT to Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Westmoreland County East Huntingdon Township	PAR606147	Henderson Auto Inc. 802 Mt. Pleasant Road Scottdale, PA 15683	UNT of Jacobs Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

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<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>
Washington County Donegal Township	PAR606195	U-Pull-It Used Auto and Truck Parts 801 Old Brick Road West Alexander, PA 15376	Middle Wheeling Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-4

<i>Facility Location 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>
Doylestown Township Bucks County	PAG040012	Howard Elliot 73 Valley Drive Furlong, PA 18925	UNT to Neshaminy Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Sugar Grove Borough Warren County	PAG048330	Weston W. Wilcox 240 Younie Street Sugar Grove, PA 16350	Unnamed tributary to Stillwater Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Union Township Erie County	PAG048652	James J. and Norma J. Fialkowski 7889 Clemens Road Union City, PA 16438	Unnamed tributary to Horton Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Fairview Township Erie County	PAG049006	Ryan J. Konetsky P. O. Box 313 McKean, PA 16426	Unnamed tributary to Trout Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Redbank Township Clarion County	PAG049003	Bryan L. and Michelle L. Kunselman 1440 Pumptown Road Fairmount City, PA 16224	Unnamed tributary to Town Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Limestone Township Warren County	PAG048978	Anne M. Behrend and Barbara M. Leonard 859 Amherst Lane Brunswick, OH 44212	Alex Magee Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Summit Township Erie County	PAG049008	Thomas J. Makowski 10500 Greenlee Road Waterford, PA 16441	Unnamed tributary to LeBoeuf Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-8 (SSN)

<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>
Lititz Borough Lancaster County	PAG083535	Lititz Borough WWTP 50 Lititz Run Rd. Lititz, PA 17543	Keith Fahnestock Farm Penn Township Lancaster County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

<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>
Lititz Borough Lancaster County	PAG083535	Lititz Borough WWTP 50 Lititz Run Rd. Lititz, PA 17543	Dean Hess Farm Warwick Township Lancaster County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Southampton Township Franklin County	PAG083507	Shippensburg WWTP 963 Avon Dr. Shippensburg, PA 17257	Mark Brandt—Middle Spring Road Farm Southampton Township Cumberland County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act.

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

Permit No. 0904501 , Public Water Supply.	
Applicant	Bedminster Municipal Authority 3112 Bedminster Road Bedminster, PA 18901
Township	Bedminster
County	Bucks
Type of Facility	PWS

Consulting Engineer Gilmore & Associates, Inc.
331 Butler Avenue
New Britain, PA 18901

Permit to Construct Issued October 14, 2004

Permit No. 0904504, Public Water Supply.

Applicant	Plumstead Township 5186 Stump Road Plumsteadville, PA 18942
Township	Plumstead
County	Bucks
Type of Facility	PWS

Consulting Engineer Pennoni Associates, Inc.
2005 S. Easton Road
Suite 100
Doylestown, PA 18901

Permit to Construct Issued October 14, 2004

Permit No. 0903507, Public Water Supply.

Applicant	Milford township Water Authority P. O. Box 516 Spinnerstown, PA 18968
Township	Milford
County	Bucks
Type of Facility	PWS

Consulting Engineer Pennoni Associates, Inc.
2005 S. Easton Road, Suite 100
Doylestown, PA 18901

Permit to Construct Issued October 18, 2004

Operations Permit issued to **Hilltown Township Water and Sewer Authority**, 316 Highland Park Road, Sellersville, PA 18960, PWS ID 1090117, Hilltown Township, **Bucks County** on October 14, 2004, for the operation of facilities approved under Construction Permit No. 0904505.

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

Permit No. 6704511, Public Water Supply.

Applicant	The York Water Company
Municipality	York
County	York

Type of Facility This permit is for the installation of a packaged booster pump station on Oak Street.

Consulting Engineer Ryan M. Ural, P. E.
The York Water Company
130 East Market Street
P. O. Box 15089
York, PA 17405-7089

Permit to Construct Issued October 7, 2004

Permit No. 2104503 MA, Minor Amendment, Public Water Supply.

Applicant **North Middleton Authority**
Municipality North Middleton Township
County **Cumberland**
Type of Facility This permit approves the raising and repainting of North Middleton Authority's existing 770,000-gallon finished water storage tank.

Consulting Engineer Peter Lusardi, P. E.
CET Engineering Services
1240 N. Mountain Rd.
Harrisburg, PA 17112

Permit to Construct Issued October 7, 2004

Permit No. 5004505 MA, Minor Amendment, Public Water Supply.

Applicant **Borough of Blain**
Municipality Blain Borough and Jackson Township
County **Perry**
Type of Facility This PWS Minor Permit Amendment is for the replacement of water mains along SR 0274 and SR 0017 and is part of a Department of Transportation project.

Consulting Engineer Angelo A. Tesoriero, P. E.
GeoSource Engineers
7 Winter Drive
Dillsburg, PA 17019-9550

Permit to Construct Issued September 23, 2004

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

Permit No. 1702503—Operation, Public Water Supply.

Applicant **Irvona Municipal Authority**
Township or Borough Irvona Township
County **Clearfield**
Responsible Official Donald Morrison, Chairperson
P. O. Box 247
Berwind Street
Irvona, PA 16656
Type of Facility PWS—Operation

Consulting Engineer Leo J. Drass, Jr., P. E.
Gwin, Dobson & Foreman, Inc.
3121 Fairway Drive
Altoona, PA 16602

Permit Issued Date October 15, 2004

Description of Action Operation of the recently constructed Pall Aria AP-3 membrane microfiltration plant, a measuring weir below the Hockenberry Run Reservoir and approximately 4,500 feet of 6-inch distribution mains.

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

Permit No. 1004501, Public Water Supply.

Applicant **Petroleum Valley Regional Water Authority**
Borough or Township Various Municipalities
County **Armstrong and Butler**
Type of Facility PWS
Permit to Construct Issued October 13, 2004

Permit No. 4304501, Public Water Supply.

Applicant **St. Paul Homes**
Borough or Township West Salem Township
County **Mercer**
Type of Facility PWS
Permit to Construct Issued October 13, 2004

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property

and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Kierna Black Residence, Hampden Township, **Cumberland County**. Marshall Miller & Associates, Inc., 3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Kierna Black, 106 North Walnut Street, Mechanicsburg, PA 17055, submitted an NIR and Final Report concerning remediation of site soils contaminated with mineral spirits. The report is intended to document remediation of the site to the Statewide Health Standard.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Osram Sylvania Products, Inc., Wellsboro Borough, **Tioga County**. Civil & Environmental Consultants, Inc., on behalf of Osram Sylvania Products, Inc., One Jackson Street, Wellsboro, PA 16901 has submitted a Final Report concerning soil contaminated with hydrofluoric acid glass etching solution. This Final Report is intended to demonstrate attainment of the Site-Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report

and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

McCandless Fuels, Narberth Borough, **Montgomery County**. Rodd Bender, Esq., Manko Gold, Katcher & Fox, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004 has submitted a Final Report concerning the remediation of site soil contaminated with lead, BTEX, PAH, solvents, cumene and MTBE and groundwater contaminated with lead, BTEX, PAH, cumene and MTBE. The Final report demonstrated attainment of the Site-Specific Standard and was approved by the Department on October 12, 2004.

Lincoln Avenue and Penn St. Site, Newtown Borough, **Bucks County**. Christopher Orzechowski, RT Environmental Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406 has submitted a Final Report concerning the remediation of site soil contaminated with lead. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on October 12, 2004.

Houghton Intl., Inc., Lower Providence Township, **Montgomery County**. Richard Werner, Environmental Consulting, Inc., 500 E. Washington St., Norristown, PA 19401 on behalf of Larry Steward, Houghton Intl., Inc., 945 Madison Ave., Norristown, PA 19403 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 12, 2004.

Passyunk Property, City of Philadelphia, **Philadelphia County**. Trevor King, ARCADIS, 3000 Cabot Blvd., West, Suite 3004, Langhorne, PA 19047 on behalf of Rodd W. Bender, Attorney for Mary T. Bosco, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Bala Cynwyd, PA

19004 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final Report demonstrated attainment of the State-wide Health and Site-Specific Standards and was approved by the Department on August 11, 2004.

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

Deluxe Storage Systems, Inc., City of Warren, **Warren County**. Mark A. Spence, W J Smith & Assoc. Inc., P. O. Box 153, Corry, PA 16407, on behalf of Struthers Street Realty, 415 Madison Ave., 7th Floor, New York, NY 10017, has submitted a Remedial Action Completion Report concerning the remediation of site soil and groundwater contaminated with solvents. The Remedial Action Completion Report was disapproved by the Department on October 15, 2004, in accordance with the provisions of Act 2. The Report does not adequately address each of the requirements of the Act 2 Statewide Health Standards.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit revoked 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.

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

Permit No. 601175. Severn Trent Services, 50 Lititz Run Road, Lititz, PA 17543. The permit was revoked at the request of the permittee for the John Hess Farm, Warwick Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on October 13, 2004.

Permit No. 601175. Severn Trent Services, 50 Lititz Run Road, Lititz, PA 17543. The permit was revoked at the request of the permittee for the Robert Fahnestock Farm, Penn Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on October 13, 2004.

Persons interested in reviewing the general permit should contact Cynthia Wolfe, File Review Coordinator, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4732. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

Permit approved 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. 301343, RecOil, Bedford Township, **Bedford County**. Permit approved for the operation of RecOil Bedford Transfer facility, issued in accordance with Article V of the Solid Waste Management Act.

Persons interested in reviewing the general permit should contact John Krueger, Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

Permit modification 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. 100945, Cumberland County Landfill, Hopewell and North Newton Townships, **Cumberland County**. The major permit modification approves an increase in daily volumes in accordance with Article V of the Solid Waste Management Act.

Persons interested in reviewing the general permit should contact John Krueger, Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

Permits issued 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.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. 301278. Kurt J. Lesker Company, 255 William Pitt Way, Pittsburgh, PA 15238. Operation of a residual waste processing facility in Harmar Township, **Allegheny County**. Permit renewal issued in the regional office on October 12, 2004.

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.

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

39-310-021GP3: Slatedale Aggregate Materials, Inc. (635 Stagecoach Road, Lehighton, PA 18235) on October 8, 2004, to construct and operate a portable stone crushing operation and associated air cleaning device at their facility at 8450 Brown Street, Washington Township, **Lehigh County**.

40-310-060GP3: Barletta Materials and Construction, Inc. (P. O. Box 550, Tamaqua, PA 18252) on October 8, 2004, to construct and operate a portable stone crushing operation and associated air cleaning device at their Nescopeck Asphalt Plant and Quarry, Nescopeck Township, **Luzerne County**.

45-310-033GP3: Reading Materials, Inc. (P. O. Box 1467, 2052 Lucon Road, Skippack, PA 19474) on October 8, 2004, to construct and operate a portable stone crushing operation and associated air cleaning device at their facility in Smithfield Township, **Monroe County**.

52-310-010GP3: Dingmans Ferry Stone, Inc. (P. O. Box 686, Dingmans Ferry, PA 18328) on October 8, 2004, to construct and operate a portable stone crushing operation and associated air cleaning device at their facility on Old Milford Road, Delaware Township, **Pike County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

GP5-26-00555: The Atlas Pipeline Pennsylvania, LLC (311 Rouser Road, P. O. Box 611, Moon Township, PA 15108) permit (GP-5) on October 13, 2004, to operate one 512 bhp Waukesha rich burn natural gas-fired compressor engine, model no. F3521G, equipped with a Miratech catalytic converter, model no. DC-60; one 738 bhp Waukesha rich burn natural gas-fired compressor engine, model No. F3521GSI, equipped with a Johnson Mathey catalytic converter, model No. OXH-50-10EE; and one 0.150 mmBtu/hr TulPro natural gas glycol dehydrator, model no. 5G-150 at their Joseph Compressor Station in Dunbar Township, **Fayette County**.

GP5-26-00555: The Atlas Pipeline Pennsylvania, LLC (311 Rouser Road, P. O. Box 611, Moon Township, PA 15108) on October 13, 2004, for to operate one 276 bhp Caterpillar rich burn natural gas-fired compressor engine, model no. G3406TA, equipped with a Miratech catalytic converter, model no. MBA 1206FC1 at their Debord Compressor Station in Luzerne Township, **Fayette 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, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

09-0176: Metal Improvement Co. LLC (450 Winks Lane, Bensalem, PA 19020) on October 15, 2004, to operate a surface coating/metal plating in Bensalem Township, **Bucks County**.

09-0177: North Penn Polishing and Plating (40 West Park Avenue, Sellersville, PA 18960) on October 13, 2004, to operate an ultra kool degreaser in Sellersville Borough, **Bucks County**.

46-0035D: SmithKline Beecham Corp. d/b/a GlaxoSmithKline (709 Swedeland Road, King of Prussia, PA 19406) on October 15, 2004, to operate an incinerator in Upper Merion Township, **Montgomery County**.

46-0237: Numonics Corp. (101 Commerce Drive, Montgomeryville, PA 18936) on October 15, 2004, to operate a metal spray booth in Montgomery Township, **Montgomery County**.

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

48-328-004A: Lower Mount Bethel Energy LLC (Two North Ninth Street, GEN PL 6, Allentown, PA 18101) on October 8, 2004, inclusion of conditions to be utilized in the Martins Creek Station's Title V Operating Permit No. 48-00011, in Lower Mount Bethel Township, **Northampton County**.

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

ER-36-05031: Bollman Hat Co. (P. O. Box 517, Adamstown, PA 19501) on October 15, 2004, to approve an Emission Reduction Credit of 14.34 tons of VOCs from

the shutdown of their Willow Street manufacturing plant in Adamstown Borough, **Lancaster County**.

31-03033A: Stone Valley Welding (R. D. 2, Box 213, Huntingdon, PA 16652) on October 13, 2004, to operate a metal surface coating booth using solvent coatings in Jackson Township, **Huntingdon County**.

36-03135C: Shared Mail Acquisitions, LLC (72 Industrial Circle, Lancaster, PA 17601-5928) on October 12, 2004, to construct a heatset printing press at their facility in Upper Leacock Township, **Lancaster 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.

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

48-328-004: Lower Mount Bethel Energy LLC (Two North Ninth Street, GEN PL6, Allentown, PA 18101) on October 15, 2004, to construct a combined cycle power plant and associated air cleaning device at their facility on Depues Ferry Road, Lower Mount Bethel Township, **Northampton County**. The Plan Approval has been extended.

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

41-0008A: Koppers, Inc. (P. O. Box 189, Montgomery, PA 17752) on October 8, 2004, to operate a wood-fired boiler fuel feeding system and associated air cleaning device (a fabric collector) on a temporary basis until February 5, 2005, in Clinton Township, **Lycoming County**. The plan approval has been extended.

53-0009D: National Fuel Gas Supply Corp. (P. O. Box 2081, Erie, PA 16512) on October 8, 2004, to operate a 4,445 horsepower natural gas-fired reciprocating internal combustion compressor engine (Engine 1A) on a temporary basis until February 5, 2005, at the Ellisburg Compressor Station in Allegany Township, **Potter County**. The plan approval has been extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

56-00011B: New Enterprise Stone and Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664) on October 7, 2004, to submit and review the stack test report for their Central City Sand Plant in Shade Township, **Somerset County**. This plan approval was extended.

11-00507B: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201) on October 7, 2004, to operate their coal processing facility at Twin Rocks in Blacklick Township, **Cambria County**. This plan approval was extended.

32-00040B: Reliant Energy Seward, LLC (121 Champion Way, Suite 200, Canonsburg, PA 15317) on October 7, 2004, to perform boiler tuning that will enable guaranteed emission rates to be achieved, therefore the stack testing will be scheduled. This plan approval was extended.

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, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

46-00137: Oehlert Brothers, Inc. (1203 Township Line Road, Royersford, PA 19468) to operate a fuel oil dealership in Limerick Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The major sources of air emissions are three gasoline storage tanks and associated gasoline delivery trucks. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

06-03047: Metropolitan Steel Industries, Inc. (601 Fritztown Road, Sinking Spring, PA 19608) on October 14, 2004, to operate their structural steel fabrication facility in Spring Township, **Berks County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

15-00027: Johnson Matthey, Inc. (456 Devon Park Drive, Wayne, PA 19087) on October 15, 2004, to amend the facility Title V Operating Permit issued in Tredyffrin Township, **Chester County**.

09-00015: Rohm and Haas Co. (200 Route 413, Bristol, PA 19007) on October 15, 2004, to modify their Title V Operating Permit in Bristol Township, **Bucks County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

N00-008: Roto-Die Co., Inc. (2850 Comly Road, Philadelphia, PA 19154) on October 7, 2004, administratively amended to change contact information. The Natural Minor Operating Permit was originally issued July 31, 2001.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

11733701. NPDES Permit NA, Robindale Energy Services, Inc. (1001 Broad Street, Suite 130, Johnstown, PA 15906), to revise the permit for the Cambria Slope Mine No. 33 in Cambria Township, **Cambria County** to add acreage to utilize an existing building and install a truck scale. CRDP Refuse Disposal Acres Proposed 3.9. No additional discharges. Permit issued October 12, 2004.

56911302. NPDES Permit No. PA0213772, RoxCOAL, Inc. (P. O. Box 149, Friedens, PA 15541), to renew the permit for the Long T Permit in Shade and Somerset Townships, **Somerset County** and related NPDES permit for reclamation only. No additional discharges. Permit issued October 15, 2004.

63831302. NPDES Permit No. PA0213608, Eighty Four Mining Company (1525 Pleasant Grove, P. O. Box J, Claysville, PA 15323), to revise the permit for the Mine No. 84 in South Strabane Township, **Washington County** to add surface activity site acres for the installation of a ventilation borehole and a pressure relief borehole. Surface Acres Proposed 2.0. No additional discharges. Permit issued October 15, 2004.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32990108 and NPDES Permit No. PA0235130. KMP Associates, 1094 Lantz Road, Avonmore, PA 15618, surface mining permit transfer to KMP Associates, Inc., 1094 Lantz Road, Avonmore, PA 15618 in Young Township, **Indiana County**, affecting 54 acres. Receiving streams: unnamed tributaries to Whiskey Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received March 12, 2004. Permit issued October 12, 2004.

Greensburg District Mining Office: R. R. 2, Box 603-C, Greensburg, PA 15601, (724) 925-5500.

65950104 and NPDES Permit No. PA0201367. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650). Transfer of permit formerly issued to Dunamis Resources for continued operation and reclamation of a bituminous surface mining site in Fairfield and Ligonier Townships, **Westmoreland County**, affecting 111.5 acres. Receiving streams: unnamed tributaries to Hannas Run and Hypocrite Creek. Application received March 11, 2003. Transfer permit issued October 12, 2004.

03030105 and NPDES Permit No. PA0250562. Thomas J. Smith, Inc. (R. D. 1, Box 260D, Shelocta, PA 15774). Permit issued for commencement, operation and reclamation of a bituminous surface/auger mining site in Mahoning Township, **Armstrong County**, affecting 154.4 acres. Receiving streams: Cathcart Run and unnamed tributaries to Cathcart Run. Application received April 15, 2004. Permit issued October 12, 2004.

03900109 and NPDES Permit No. PA0200476. Short Brothers, Inc. (15 Rayne Run Road, Marion City, PA 15759). Transfer of permit formerly issued to State Industries, Inc., for continued operation and reclamation of a bituminous surface/auger mining site in Kittanning Township, **Armstrong County**, affecting 92.5 acres. Receiving streams: unnamed tributaries to Campbell Run and Campbell Run. Application received June 1, 2004. Transfer permit issued October 13, 2004.

03940110 and NPDES Permit No. PA0200999. Seven Sisters Mining Co., Inc. (200 U. S. Route 22,

Delmont, PA 15626). Permit renewal issued for continued operation and reclamation of a bituminous surface mining site in Wayne Township, **Armstrong County**, affecting 55.5 acres. Receiving streams: unnamed tributaries to the North Branch of the South Fork of Pine Creek. Application received August 16, 2004. Renewal issued October 13, 2004.

03010102 and NPDES Permit No. PA0202941. State Industries, Inc. (P. O. Box 1022, Kittanning, PA 16201). Permit renewal issued for continued operation and reclamation of a bituminous surface/auger mining site in Boggs Township, **Armstrong County**, affecting 115.8 acres. Receiving streams: unnamed tributary to Scrubgrass Creek and to Scrubgrass Creek. Application received August 3, 2004. Renewal issued October 14, 2004.

03970110 and NPDES Permit No. PA0202134. GLR Mining, Inc. (P. O. Box 105, Clymer, PA 15728). Permit renewal issued for continued reclamation only of a bituminous surface mining site in Valley Township, **Armstrong County**, affecting 27.4 acres. Receiving streams: unnamed tributary to Cowanshannock Creek to the Allegheny River. Application received August 31, 2004. Reclamation only renewal issued October 18, 2004.

Knox District Mining Office: P. O. Box 669, Knox, PA 16232, (814) 797-1191.

24020104 and NPDES Permit No. PA0242080. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767). Revision to an existing bituminous strip operation to add coal ash placement in Benzette Township, **Elk County**. Receiving streams: unnamed tributary to Porcupine Hollow Run and unnamed tributary to Chase Hollow. Application received August 9, 2004. Permit issued October 14, 2004.

33693008 and NPDES Permit No. PA0604186. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767). Renewal of an existing bituminous strip operation in Gaskill Township, **Jefferson County** affecting 116.0 acres. Receiving streams: unnamed tributaries to Lost Run and East Branch Lost Run. Application received August 26, 2004. Permit issued October 12, 2004.

10030101 and NPDES Permit No. PA0242331. Quality Aggregates, Inc. (200 Neville Road, Pittsburgh, PA 15225). Revision to an existing bituminous strip and coal ash placement operation to add auger mining in Venango Township, **Butler County**. Receiving streams: unnamed tributary no. 2 to Seaton Creek. Application received August 2, 2004. Permit issued October 12, 2004.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17970110 and NPDES Permit No. PA0220655. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650). Transfer of an existing bituminous surface mine-auger permit from Moravian Run Reclamation Co., Inc. in Penn Township, **Clearfield County** affecting 256 acres. Receiving streams: unnamed tributaries to Bell Run to Bell Run to the West Branch of the Susquehanna River to the Susquehanna River. Application received June 2, 2004. Permit issued October 8, 2004.

17910113 and NPDES Permit No. PA0206610. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650). Transfer of an existing bituminous surface mine permit from Moravian Run Reclamation Co., Inc. in Penn Township, **Clearfield County** affecting 78 acres.

Receiving streams: Bell Run and Poplar Run. Application received June 2, 2004. Permit issued October 8, 2004.

Noncoal Permits Actions

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

59990802. John R. Wood (R. D. 1, Box 1840, Knoxville, PA 16928). Final bond release for a small noncoal mining operation in Deerfield Township, **Tioga County**. Restoration of .5 acre. Application for final bond release received September 24, 2004. Final bond release approved October 12, 2004.

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

58040829. Thomas J. Malandri (R. R. 1, Box 233D, Springville, PA 18844), commencement, operation and restoration of a quarry operation in Auburn Township, **Susquehanna County** affecting 5.0 acres. Receiving streams: Little Meshoppen Creek, Riley Creek and Deer Lick Creek. Application received May 4, 2004. Permit issued October 12, 2004.

58040856. Darwin R. Greene (R. R. 3 Box 219B, Susquehanna, PA 18847), commencement, operation and restoration of a quarry operation in Harmony Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received August 25, 2004. Permit issued October 13, 2004.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151—161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Greensburg District Mining Office: R. R. 2, Box 603-C, Greensburg, PA 15601, (724) 925-5500.

26044009. Penn Development (P. O. Box 110, Uniontown, PA 15410). Blasting activity permit to the Fayette County Business Park for construction in South Union Township, **Fayette County**, with an expected duration of 60 days. Permit issued October 13 2004.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

14044024. Glenn Johnson (1055 Center Street, McKeesport, PA 16243), for construction blasting in Spring Township, **Centre County**, with an expected duration of 60 days. Permit issued October 12, 2004.

14044019. Graymont (PA) Inc. (965 E. College Avenue, Pleasant Gap, PA 16823), for construction blasting in Spring Township, **Centre County**, with an extended expected duration of 60 days. Permit issued October 12, 2004.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

09044029. MF Ronca & Sons (179 Mikron Road, Bethlehem, PA 18102) and **Bernard J. Hasara** (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), excavation blasting at NAWC Wastewater Treatment Plant in Warminster Township, **Bucks County** with an expiration date of October 28, 2005. Permit issued October 12, 2004.

48044037. MF Ronca & Sons (179 Mikron Road, Bethlehem, PA 18102) and **Bernard J. Hasara** (1125

East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting at Linden Court Condominiums in the City of Bethlehem, **Northampton County** with an expiration date of November 8, 2005. Permit issued October 12, 2004.

06044102. Allan A. Myers, Inc. (1805 Berks Road, P. O. Box 98, Worcester, PA 19490), construction blasting for Woodside Village in Exeter Township, **Berks County** with an expiration date of October 1, 2005. Permit issued October 12, 2004.

36044110. Keystone Blasting Services (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in East Earl Township, **Lancaster County** with an expiration date of December 30, 2005. Permit issued October 12, 2004.

28044041. David H Martin, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting at Rine Manor in Greene Township, **Franklin County** with an expiration date of October 31, 2005. Permit issued October 14, 2004.

28044042. David H. Martin, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting at Findlay Park Development in Peters Township and Mercersburg Borough, **Franklin County** with an expiration date of October 31, 2005. Permit issued October 14, 2004.

55044001. Harvey Mowrey (R. R. 1 Box 93M, Mount Pleasant Mills, PA 17853) and **Douglas Explosives, Inc.** (P. O. Box 77, Philipsburg, PA 16866), construction blasting Perry Township, **Snyder County** with an expiration date of December 31, 2004. Permit issued October 14, 2004.

54044101. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Wal-Mart Distribution Center/High Ridge in Butler Township, **Schuylkill County** with an expiration date of October 15, 2005. Permit issued October 14, 2004.

13044102. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting for Boulder Creek Resort in Kidder Township, **Carbon County** with an expiration date of October 8, 2005. Permit issued October 15, 2004.

21044101. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting in Penn Township, **Cumberland County** with an expiration date of October 31, 2005. Permit issued October 15, 2004.

21044102. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at The Townes at Oakwood, Silver Spring Township, **Cumberland County** with an expiration date of October 30, 2005. Permit issued October 15, 2004.

23044101. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for Radnor Recreational in Radnor Township, **Delaware County** with an expiration date of May 31, 2005. Permit issued October 15, 2004.

28044103. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting for Franklin Square Development in Greene Township, **Franklin County** with an expiration date of October 11, 2005. Permit issued October 15, 2004.

35044102. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting

in Moosic Borough, **Lackawanna County** with an expiration date of October 1, 2005. Permit issued October 15, 2004.

45044103. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for The Preserves in Jackson Township, **Monroe County** with an expiration date of October 12, 2004. Permit issued October 15, 2004.

48044102. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Bethlehem Steel-Lehigh Valley Development in the City of Bethlehem, **Northampton County** with an expiration date of October 10, 2005. Permit issued October 15, 2004.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E09-875. Tuck Elfman, 51 Elfman Drive, Doylestown, PA 18901, Bridgeton Township, **Bucks County**, ACOE Philadelphia District.

To construct and maintain a residential dwelling within the 100-year floodway of the Delaware River (WWF). Total acreage of the property is 0.4 acre. An onsite underground septic system and driveway will also be constructed for the residence. The site is about 0.75 mile northeast of intersection of Route 32 (River Road) and Narrows Hill Road (Riegelsville, PA USGS Quadrangle N: 13.20 inches; W: 1.0 inch).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act.

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

E35-372. Glenburn Township, P. O. Box 694, Dalton, PA 18414. Glenburn Township, **Lackawanna County**, Army Corps of Engineers Baltimore District.

To remove the existing structure and to construct and maintain a road crossing consisting of a 30-foot long, 8-foot by 5-foot concrete box culvert, depressed 1 foot below stream bed elevation, across South Branch Tunkhannock Creek (CWF). The project is on Kittle Lane (T-568) approximately 0.1 mile southwest of Old State Road (Dalton, PA Quadrangle N: 1.1 inches; W: 12.9 inches) (Subbasin: 04F).

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

E22-467. James D. Novinger, 1213 Paxton Church Road, Harrisburg, PA 17110 in Middle Paxton Township, **Dauphin County**, ACOE Baltimore District.

To: (1) redeck and maintain the existing bridge structure; (2) to install and maintain a dual culvert crossing across an unnamed tributary and wetlands; (3) to modify and enlarge an existing on-stream pond within an unnamed tributary; (4) construct and maintain a 215 linear foot stream enclosure on an unnamed tributary; and (5) construct and maintain a fish habitat enhancement project in accordance with the General Permit No. 1, within an unnamed tributary, wetlands and the main channel of Stony Creek (CWF), all for the purpose of reconstructing a single family residential home, at 815 Stony Creek Road, just east of Dauphin Borough (Halifax, PA Quadrangle N: 0.7 inch; W: 3.7 inches) in Middle Paxton Township, Dauphin County. The amount of wetland impact is considered a de minimis impact of 0.005 acre and wetland mitigation is not required.

E34-112. Department of Transportation, District 2-0, 1924-30 Daisy Street, Clearfield, PA 16830 in Milford and Turbett Townships, **Juniata County**, ACOE Baltimore District.

To remove the existing steel truss bridge and then to construct and maintain a two-span concrete bridge with a total span of 251.5 feet on an 84.68 degree skew with an average underclearance of 15.4 feet across the Tuscarora Creek (CWF) on SR 3008, Section A01, Segment 0170, Offset 1681 to provide a 50-foot long right bank revetment and other related improvements to improve traffic safety, about 1.7 miles west of Port Royal (Mifflintown,

PA Quadrangle N: 2.85 inches; W: 6.2 inches) in Turbett and Milford Townships, Juniata County.

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

E41-539. Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. SR 0284 Block House Creek bridge replacement in Pine Township, **Lycoming County**, ACOE Susquehanna River Basin District (White Pine, PA Quadrangle N: 17.9 inches; W: 14.7 inches).

To remove an existing single span steel truss bridge and construct and maintain a single span prestressed concrete box beam bridge having a clear span of 93.49 feet, with an minimum underclearance of 9.85 feet on a skew of 84° over Blockhouse Creek, along SR 0284, 4.5 miles east of the intersection of SR 0015 South and SR 0284 in Pine Township, Lycoming County. This project proposes to have a minimal impact on Blockhouse Creek (CWF). This project proposes to permanently impact 0.01 acre of jurisdictional wetlands.

E41-540. Gregory F. Welteroth, 356 Laurens Road, Montoursville, PA 17754. Water Obstruction and Encroachment Joint Permit Application in Fairfield Township, **Lycoming County**, ACOE Susquehanna River Basin District (Montoursville North, PA Quadrangle N: 0.65 inch; W: 2.31 inches).

To construct and maintain a 27-foot long by 17-foot wide steel beam, concrete deck bridge with a minimum underclearance of 5.5 feet; to include cast-in-place concrete wing walls in Bennett's Run, 0.3 mile east of the intersection of Brushy Ridge Road and Fairfield Road along Brushy Ridge Road. This project proposes to permanently impact 20 linear feet of Bennett's Run (WWF) and does not propose to impact any jurisdictional wetlands. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E57-105. Muncy Creek Watershed Association, Inc., P. O. Box 47, Muncy, PA 17756. Upper Muncy Creek Restoration Project in Davidson and Laporte Townships, **Sullivan County**, ACOE Baltimore District (Sonestown, PA Quadrangle N: 17.1 inches; W: 10.3 inches).

To construct, operate and maintain a stream restoration project consisting of several areas of step-pool structures, six rock cross vane structures, nine log vane structures, two log cross vane structures and seven log "J" hook vanes in Muncy Creek. The structures will be constructed out of stone measuring a minimum of 3.5 feet by 2.3 feet by 4 feet. The step-pool structures shall be constructed of rock and are designed to produce pocket water in the long riffle sections. All structures shall be constructed in accordance with the plans and specifications. This project is in Laporte and Davidson Townships, Sullivan County. This permit also includes 401 Water Quality Certification.

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

E02-1460. Borough of Greentree, 10 West Manila Avenue, Pittsburgh, PA 15220. Construct an energy dissipater in Greentree Borough, **Allegheny County**, Pittsburgh ACOE District (Pittsburgh West, PA Quadrangle N: 6.7 inches; W: 7.5 inches and Latitude: 40° 24' 44"—Longitude: 80° 3' 14"). To construct and maintain an energy dissipater approximately 25 feet long on the downstream end of an existing 60-inch diameter culvert in Whiskey Run (WWF). The applicant will also remove approximately 2 feet of the existing culvert. The project is

on the north side of Glencoe Avenue approximately .2 mile west of its intersection with Dale Drive.

E02-1466. Richland Township, 4011 Dickey Road, Gibsonia, PA 15044-9713. Remove and replace the existing bridge in Richland Township, **Allegheny County**, Pittsburgh ACOE District (Valencia, PA Quadrangle N: 1.5 inches; W: 8.9 inches and Latitude: 40° 37' 59"—Longitude: 79° 56' 20"). To remove the existing structure and to construct and maintain a concrete conspan bridge having a span of 20 feet and underclearance of 4.8 feet and approximately 32 feet long across the West Branch of Deer Creek (CWF). The bridge is on Community Center Drive approximately 30 feet south of its intersection with Route 910.

E02-1471. Township of Upper St. Clair, 1820 McLaughlin Run Road, Upper St. Clair, PA 15241. Relocate stream channel in Upper St. Clair Township and the Municipality of Bethel Park, **Allegheny County**, Pittsburgh ACOE District (Project begins at Bridgeville, PA Quadrangle N: 14.4 inches; W: 8.6 inches and Latitude: 40° 19' 45"—Longitude: 80° 03' 42" and Project Ends at Bridgeville, PA Quadrangle N: 14.6 inches; W: 7.6 inches and Latitude: 40° 19' 49"—Longitude: 80° 03' 16"). To relocate and maintain approximately 913 feet of Graesers Run (WWF) and stabilize and maintain in place approximately 1,250 feet of the same stream channel. This project is using Fluvial Geomorphology to improve water quality and habit as part of the McLaughlin Run watershed restoration Phase IV. The project starts at Upper St. Clair and Municipal border and extends approximately 2,163 feet upstream.

E03-420. Armstrong School District, 410 Main Street, Ford City, PA 16226. Wetland fill and pipe culvert in East Franklin Township, **Armstrong County**, Pittsburgh ACOE District (Kittanning, PA Quadrangle N: 14.6 inches; W: 8.0 inches and Latitude: 40° 49' 49"—Longitude: 79° 33' 28"). To place and maintain fill in 0.36 acre of PEM/PSS wetland in the watersheds of unnamed tributaries to Glade Run (TSF); and to construct and maintain a 36-foot long, 42-inch diameter pipe culvert (invert depressed 12 inches) for a proposed access road in an unnamed tributary to Glade Run. The proposed culvert qualifies for authorization under the Department's waiver 105.12(a)(2). The project is for expansion of the West Hills Primary School, along SR 4010. To meet the wetland replacement requirements, the permittee shall construct 0.46 acre of wetlands onsite.

E03-425. West Penn Power d/b/a Allegheny Power, 800 Cabin Hill Drive, Greensburg, PA 15601-9442. Remove bays in Manor North Township, **Armstrong County**, Pittsburgh ACOE District (Kittanning, PA Quadrangle N: 8.0 inches; W: 2.4 inches and Latitude: 40° 47' 37"—Longitude: 79° 31' 03"). Work authorized as stated on permit—to remove bays and a concrete platform across Garretts Run (WWF) at the Kittanning Substation along the west side of Old Route 66.

E26-320. Fairchance Georges Joint Municipal Sewage Authority, 141 Big Six Road, Smithfield, PA 15478. Fill in wetlands in Georges Township, **Fayette County**, Pittsburgh ACOE District (Smithfield, PA Quadrangle N: 10.5 inches; W: 2.6 inches and Latitude: 39° 48' 28"—Longitude: 79° 46' 7"). To place and maintain fill in 0.27 acre of wetlands (PFO) associated with construction of buildings to increase the capacity of the sewage treatment plant along the right bank of Georges Creek (WWF). The project's length is approximately 300 feet and is just downstream of the Big Six Road Bridge. To

mitigate for the wetland impacts 0.54 acre of replacement wetlands shall be constructed.

E56-332. David G. and Linda T. Assard, 425 Glenmeade Road, Greensburg, PA 15601. Construct a water intake structure in Northampton Township, **Somerset County**, Pittsburgh ACOE District. To construct and maintain: (1) a water intake structure along the left bank of Brush Creek (HQ-CWF) to provide gravity flow to a proposed pond (Berlin, PA Quadrangle N: 0.76 inch; W: 1.56 inches and Latitude: 39° 52' 45"—Longitude: 78° 53' 10"); and (2) and an outfall structure along the left bank of said stream to discharge water from the pond (Berlin, PA Quadrangle N: 0.71 inch; W: 1.29 inches and Latitude: 39° 52' 44"—Longitude: 78° 53' 3"). The project is on the south side of SR 2017, 1.1 miles northeast of the intersection of Brush Creek (SR 2017) and School House Road (T-718).

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

E20-537. West Mead Township, 1150 Morgan Village Road, P. O. Box 491, Meadville, PA 16335. Thurston/Mill Run Gravel and Sediment Removal in West Mead Township, **Crawford County**, ACOE Pittsburgh District (Blooming Valley, PA Quadrangle N: 0.7 inch; W: 16.9 inches).

The applicant proposes to conduct maintenance removal of gravel and sediment for 5 years on a as-needed basis from the unnamed tributary (Thurston Run) to Mill Run (WWF, intermittent stream) to original stream contours (to elevations described in the application) for approximately 1,000 feet upstream from the confluence of the unnamed tributary and Mill Run and from Mill Run (WWF, perennial) approximately 100 feet upstream and 100 feet downstream of the confluence of the unnamed tributary and Mill Run (Blooming Valley, PA Quadrangle N: 0.7 inch; W: 16.9 inches) in West Mead Township, Crawford County approximately 0.2 mile northwest of the intersection of Thurston Road and Hunter Road. The project proposes to directly impact approximately 1,200 lineal feet of stream.

E37-160. Jeff Reckard, 496 Old Ash Road, Mercer, PA 16137. Reckard Subdivision in Scott Township, **Lawrence County**, ACOE Pittsburgh District (Harlansburg, PA Quadrangle N: 7.8 inches; W: 13.7 inches).

To construct and maintain: (1) a steel arch having a clear span of 12 feet, a rise of 5 feet and an instream length of 22 feet within Hottenbaugh Run (TSF); (2) a 48-inch diameter 20-foot long CPP culvert within an unnamed tributary to Hottenbaugh Run (TSF); and (3) to place and maintain fill within 0.038 acre of PEM wetlands tributary to the (UNT) Hottenbaugh Run all at a point/points within the Reckard subdivision approximately 3,500 feet west of the intersection of SR 0956 and Eastbrook-Harlansburg Road.

E37-162. Neshannock Township Supervisors, 3131 Mercer Road, New Castle, PA 16105, Catalina Drive Culverts in Neshannock Township, **Lawrence County**, ACOE Pittsburgh District (Edinburg, PA Quadrangle N: 0.7 inch; W: 16.9 inches).

The applicant proposes to remove the existing structures damaged during flooding in 2003 and to construct and maintain two 52-foot long, 6.75-foot wide by 4.9-foot high pipe arch culverts in an unnamed tributary to the Shenango River (WWF, perennial) adjacent to the intersection of Kings Chapel Road and Catalina Drive. Project

includes embankment stabilization with rock riprap. The project proposes to directly affect approximately 70 linear feet of stream.

Cambria District: Environmental Program Manager, 286 Industrial Pk. Rd., Ebensburg, PA 15931-4119.

E03-09-001. Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Rd., Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project in West Franklin Township, **Armstrong County,** Pittsburgh ACOE District.

The applicant proposes to backfill an abandoned surface mine, which includes a 3,875-foot long dangerous highwall. The project will include the backfilling of: (1) 1.27 acres of PEM wetland; and (2) 1.27 acres of PEM replacement wetland will be constructed as part of the reclamation. The project will directly impact 1.27 acres of wetland. Wetland creation of 1.27 acres is proposed to compensate for wetland impacts (Worthington Quadrangle N: 16.5 inches; W: 7.4 inches).

SPECIAL NOTICES

Certified Emission Reduction Credits in the Commonwealth's ERC Registry

Emission reduction credits (ERCs) are surplus, permanent, quantified and Federally enforceable emission reductions used to offset emission increases of NOx, VOCs and the following criteria pollutants: CO, lead, SOx, PM, PM10 and PM10 precursors.

The Department of Environmental Protection (Department) maintains an ERC registry in accordance with the requirements of 25 Pa. Code § 127.209. The ERC registry system provides for the tracking of the creation, transfer

and use of ERCs. Prior to registration of the credits, ERC registry applications are reviewed and approved by the Department to confirm that the ERCs meet the requirements of 25 Pa. Code §§ 127.206—127.208. Registration of the credits in the ERC registry system constitutes certification that the ERCs satisfy applicable requirements and that the credits are available for use. The following registered and certified ERCs in the ERC Registry are currently available for use as follows:

- (1) To satisfy new source review (NSR) emission offset ratio requirements.
- (2) To "net-out" of NSR at ERC-generating facilities.
- (3) To sell or trade the ERCs for use as emission offsets at new or modified facilities.

The following certified ERCs, expressed in tons per year (tpy), satisfy the applicable ERC requirements in 25 Pa. Code §§ 127.206—127.208. ERCs created from the curtailment or shutdown of a source or facility expires for use as offsets 10 years after the emission reduction occurs. ERCs generated by the overcontrol of emissions by an existing facility do not expire for use as offsets. However, credits in the registry that are not used in a plan approval will be discounted if new air quality requirements are adopted by the Department or the EPA.

For additional information concerning the listing of certified ERCs, contact Virendra Trivedi, Bureau of Air Quality, Division of Permits, Department of Environmental Protection, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. This ERC registry report, ERC registry application and instructions are on the Department's website: www.dep.state.pa.us (Subjects/Air Quality/Business/Permits/Emission Reduction Credit Registry System).

<i>Facility Information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
R. R. Donnelley & Sons Co. County: Lancaster Ozone Nonattainment Status: Moderate Contact Person: Frederick Shaak, Jr.	VOCs	54.00		Internal Use
R. R. Donnelley & Sons Co. County: Lancaster Ozone Nonattainment Status: Moderate Contact Person: Frederick Shaak, Jr.	VOCs	25.00	3/30/2011	Internal Use
Kurz Hastings Inc. County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: George Gornick, (215) 632-2300	VOCs	137.45		Trading
Kurz Hastings Inc. County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: George Gornick, (215) 632-2300	NOx VOCs	8.01 64.55	Varies from 3/28/2013 to 1/9/2014	Trading
ConAgra Grocery Products Company Source Location: Milton Borough County: Northumberland Ozone Nonattainment Status: Moderate Contact Person: Karl Henschel, (570) 742-6644	NOx VOCs	24.45 12.88	4/1/2006	Trading

<i>Facility Information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
Metallized Paper Corporation of America Recipient/Holder: PNC Bank, National Association, assignee (by private lien foreclosure) from Metallized Paper Corp. Source Location: McKeesport County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: Martin Mueller, (412) 762-5263	VOCs	41.70	6/30/2006	Trading
PPG Industries, Inc. Source Location: Springdale Complex County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: Lori Burgess, (412) 274-3884	VOCs	171.82		Trading
York International Corporation Sources: Trichloroethylene Vapor Degreaser (151) Trichloroethylene Vapor Degreaser (152) Source Location: Spring Garden Township County: York Ozone Nonattainment Status: Moderate Contact Person: Garen Macdonald, (717) 771-7346	VOCs VOCs	12.20 2.70	6/1/2006 10/1/2005	Trading
REXAM DSI Source Location: Muhlenberg Township County: Berks Ozone Nonattainment Status: Moderate Contact Person: LeRoy H. Hinkle, (610) 916-4248	NOx	9.42	11/22/2005	Trading
Recipient/Holder of ERC: Coastal Aluminum Rolling Mills Inc. ERC Generating Facility: Fasson Div. of Avery Dennison Corp. ERC-Generating Facility Location: Quakertown, Bucks Ozone Nonattainment Status: Severe Contact Person: Jesse Hackenberg, (570) 323-4430	VOCs	3.62		Internal Use/Trading
Recipient/Holder of ERC: PG&E Energy Trading-Power, L. P. ERC Generating Facility: Fasson Div. of Avery Dennison Corp. ERC-Generating Facility Location: Quakertown, Bucks Ozone Nonattainment Status: Severe Contact Person: Mark Sheppard, (301) 280-6607	VOCs	39.84	8/1/2006	Trading
Baldwin Hardware Corporation Source Location: Reading County: Berks Ozone Nonattainment Status: Moderate Contact Person: D. David Hancock, Jr., (215) 777-7811	VOCs	18.00	7/28/2005	Trading
Magee Rieter Automotive Systems Source Location: Bloomsburg County: Columbia Ozone Nonattainment Status: Moderate Contact Person: Tim Bergerstock, (717) 784-4100	NOx VOCs	0.39 0.02	4/17/2006	Internal Use
Congoleum Corporation Source Location: Marcus Hook County: Delaware Ozone Nonattainment Status: Severe Contact Person: Theresa C. Garrod, (609) 584-3000	NOx	5.20		Trading
Dominion Transmission, Inc. CNG Transmission Corporation Source Location: Leidy Township County: Clinton Ozone Nonattainment Status: Moderate Contact Person: Sean R. Sleigh, (304) 623-8462	NOx VOCs	15.28 0.55	10/27/2004	Internal use and trading

<i>Facility Information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
Bethlehem Structural Products Corp. Source Location: Bethlehem County: Northampton Ozone Nonattainment Status: Moderate Contact Person: Joseph E. Schindler, (610) 694-5104	NOx VOCs	1,054.00 473.80	Varies from 3/28/2008 to 6/19/2008	Trading
Morgan Adhesives Company (MActac) Source Location: Scranton County: Lackawanna Ozone Nonattainment Status: Moderate Contact Person: Tim Owens, (330) 688-1111	VOCs	75.00	6/30/2008	Trading
National Fuel Gas Supply Corporation Sources: Generators 1 and 2, Dehydrator 1 Source Location: Ellisburg Station County: Potter Ozone Nonattainment Status: Moderate Contact Person: Gary A. Young, (814) 871-8657	NOx VOCs	16.14 1.80	2/1/2009	Internal Use
General Electric Company Source Location: Lawrence Park County: Erie Ozone Nonattainment Status: Moderate Contact Person: Scott Gowdy, (814) 875-2427	VOCs	33.60 2.60 1.80	12/1/2004 12/31/2005 12/31/2006	Internal Use/Trading
Sun Company, Inc. Source: API Separator 10 and 1-F Source Location: Marcus Hook County: Delaware Ozone Nonattainment Status: Severe Contact Person: John A. Rossi	VOCs	2.37	9/30/2004	Internal Use
TYK America, Inc. Source Location: Irvona Facility County: Clearfield Ozone Nonattainment Status: Moderate Contact Person: David B. Orr, (412) 384-4259	NOx VOCs	0.30 0.02	11/6/2008	Trading
Smithkline Beechman Pharmaceuticals Sources: Two boilers and oxidizer Source Location: Spring Garden Street Facility County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Eileen Ackler, (610) 239-5239	NOx VOCs	5.72 0.10	12/31/2008	Trading
Recipient/Holder of ERC: PG&E Energy Trading-Power, L. P. ERC Generating Facility: Global Packaging, Inc. ERC-Generating Facility Location: Oaks Plant, Montgomery County Ozone Nonattainment Status: Severe Contact Person: Sarah M. Barpoulis, (301) 280-6607	VOCs	7.70	9/1/2006	Trading
Recipient/Holder of ERC: PG&E Energy Trading-Power, L. P. ERC Generating Facility: Global Packaging, Inc. ERC-Generating Facility Location: Oaks Plant, Montgomery County Ozone Nonattainment Status: Severe Contact Person: Sarah M. Barpoulis, (301) 280-6607	VOCs	43.50		Trading
The Procter & Gamble Paper Products Company Source Location: Mehoopany Plant County: Wyoming Ozone Nonattainment Status: Moderate Contact Person: Lars Lundin, (570) 833-3545	NOx VOCs	136.00 237.67	5/3/2009	Internal Use/Trading

<i>Facility Information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
Caparo Steel Company Source: EAF Furnace No. 2 and Ladle Preheater No. 2 Source Location: Farrell Plant County: Mercer County Ozone Nonattainment Status: Moderate Contact Person: Richard A. Herman, (724) 983-6464	NOx VOCs	36.73 12.07	8/18/2007	Trading
LTV Steel Company, Inc. Source Location: Pittsburgh Coke Plant County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: William L. West, (216) 642-7178	NOx VOCs	1,663.00 373.00	2/28/2008	Trading
Newcomer Products Inc. Source Location: Latrobe County: Westmoreland Ozone Nonattainment Status: Moderate Contact Person: Edward M. Nemeth, (724) 694-8100	VOCs	26.00	7/14/2010	Trading
Cyprus Cumberland Resources Corporation Source Location: Cumberland Mine, Whiteley Township County: Greene Ozone Nonattainment Status: Moderate Contact Person: Terry L. Dayton, (412) 627-2219	NOx VOCs	64.00 15.00	6/30/2005	Trading
Scranton-Altoona Terminals Corporation Source Location: Monroe Township County: Cumberland County Ozone Nonattainment Status: Moderate Contact Person: Thomas M. Carper, (717) 939-0466	VOCs	4.84	9/30/2010	Trading
Pennzoil Wax Partner Company Source Location: Rouseville County: Venango Ozone Nonattainment Status: Moderate Contact Person: David W. Dunn, (713) 546-6941	NOx VOCs	15.47 0.68	2/26/2010	Trading
Pennzoil Wax Partner Company Source Location: Rouseville County: Venango Ozone Nonattainment Status: Moderate Contact Person: David W. Dunn, (713) 546-6941	NOx VOCs	2.82 44.34	4/1/2010	Trading
INDSPEC Chemical Corp. Source: Boiler No. 8 Source Location: Petrolia County: Butler Ozone Nonattainment Status: Moderate Contact Person: Terry Melis, (412) 756-2376	NOx	158.68		Trading
Sun Company, Inc. Source: Wastewater Conveyance System Source Location: Marcus Hook Borough County: Delaware Ozone Nonattainment Status: Severe Contact Person: Steve Martini, (610) 859-1000	VOCs	426.59		Trading/ Internal Use
Columbia Gas Transmission Corporation Source Location: Kent Station County: Indiana Ozone Nonattainment Status: Moderate Contact Person: Gregory Lago, (304) 357-2079	NOx VOCs	44.36 2.66	5/31/2011	Trading
Columbia Gas Transmission Corporation Source Location: Homer Station County: Indiana Ozone Nonattainment Status: Moderate Contact Person: Gregory Lago, (304) 357-2079	NOx VOCs	45.89 3.79	5/31/2011	Trading

<i>Facility Information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
ISG Steelton, Inc. Source: Rail Heat Treating and Quenching Source Location: Steelton Plant County: Dauphin Ozone Nonattainment Status: Moderate Contact Person: James R. Hernjak, (717) 986-2042	NOx VOCs	7.00 43.00	11/9/2009	Trading
General Electric Transportation System Source: Boiler No. 2 Source Location: E. Lake Road County: Erie Ozone Nonattainment Status: Moderate Contact Person: Mark D. Restifo, (814) 875-5406	NOx VOCs	280.90 1.70	12/31/2010	Trading
3M Minnesota Mining & Manufacturing Source Location: Bristol Plant County: Bucks Ozone Nonattainment Status: Severe Contact Person: Jeff Muffat, (651)-778-4450	VOCs VOCs	607.00 279.00	11/30/2011 12/17/2011	Trading
Kosmos Cement Company, Cemex Inc. Source Location: Neville Road, Pittsburgh County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: Amarjit Gill, (713) 653-8554	NOx VOCs	910.00 26.00	4/24/2011	Trading
Edgewater Steel Ltd. Source Location: College Avenue, Oakmont County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: Peter M. Guzanick, (412) 517-7217	NOx VOCs	17.05 1.87	8/6/2008	Trading
JG Furniture Group, Inc. Source Location: Quakertown, Bucks County: Bucks Ozone Nonattainment Status: Severe Contact Person: Donald Boisselle, (336) 410-7263	VOCs	24.4	9/1/2007	Trading
Recipient/Holder of ERC: Cypress Energy, Inc. ERC Generating Facility: Laclede Steel Corporation Source Location: Fairless County: Bucks Ozone Nonattainment Status: Severe Contact Person: Gary Stephenson, (781) 993-3098	NOx VOCs	104.00 45.00	11/29/2011	Trading
Recipient/Holder of ERC: Natsource Emissions Brokers ERC Generating Facility: Laclede Steel Corporation Source Location: Fairless County: Bucks Ozone Nonattainment Status: Severe Contact Person: David Oppenheimer, (212) 232-5305	NOx VOCs	0.27 1.50	11/29/2011	Trading
Trinity Industries, Inc. Source Location: Greenville County: Mercer County Ozone Nonattainment Status: Moderate Contact Person: Dennis Lencioni, (214) 589-8141	VOCs	61.65	10/31/2010	Trading
Rohm and Haas Company Source Location: Bristol Township County: Bristol Ozone Nonattainment Status: Severe Contact Person: Lloyd Davis, (215) 785-8871	VOCs VOCs	1.15 0.32	10/30/2010 1/30/2011	Trading
The Worthington Steel Company Source Location: Malvern, East Whiteland County: Chester Ozone Nonattainment Status: Severe Contact Person: Gregory Sautter, (614) 438-3197	VOCs	113.00	1/31/2012	Trading

<i>Facility Information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
PPL Inc. Source Location: Holtwood Station County: Lancaster Ozone Nonattainment Status: Moderate Contact Person: Linda A. Boyer, (610) 774-5410	NOx VOCs	3,702.09 9.70	4/29/2009	Trading
North American Refractories Company Source Location: Womelsdorf County: Lebanon Ozone Nonattainment Status: Moderate Contact Person: Rhonda Vete, (412) 469-6122	NOx NOx VOCs	5.11 62.57 0.25	12/15/2010 9/30/2008 9/30/2008	Trading
The Quaker Oats Company Source Location: Shiremanstown Plant County: Cumberland Ozone Nonattainment Status: Moderate Contact Person: Richard C. Pitzer, (717) 731-3334	NOx VOCs	4.00 1.68	Varies from 4/3/2010 to 7/15/2011	Trading
Glasgow, Inc. Source Location: Plymouth Meeting County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Brian Chabak, (215) 884-8800	NOx VOCs NOx VOCs	2.72 0.21 6.54 0.52	12/31/2010 12/31/2010 6/1/2010 6/1/2010	Trading
Scranton-Altoona Terminals Corporation Source Location: East Freedom Terminal County: Cumberland Ozone Nonattainment Status: Moderate Contact Person: Thomas M. Carper, (717) 939-0466	VOCs	9.19	4/1/2009	Trading
SLI Lighting Inc. Source Location: Ellwood City County: Lawrence Ozone Nonattainment Status: Moderate Contact Person: Tim Haubach, (724) 752-6493	VOCs	5.70	6/3/2010	Trading
National Fuel Gas Supply Corp. Source Location: Van Compressor St., Cranberry Township County: Venango Ozone Nonattainment Status: Moderate Contact Person: Gary A. Young, (814) 871-8657	NOx VOCs	80.90 0.65	7/19/2006	Trading
Harvard Industries, Inc. Plant name: Pottstown Precision Casting Inc. Source Location: West Pottsgrove Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Allan B. Currie, Jr., (517) 787-5181	NOx VOCs	28.25 8.70	11/12/2011	Trading
Recipient/Holder of ERC: Morgan Stanley Capital Group Inc. ERC Generating Facility: Occidental Chemical Corp. ERC Generating Source Location: Pottsgrove Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Trevor Woods, (212) 761-8895	NOx	71.40	2/28/2007	Trading
Recipient/Holder of ERC: Kvaerner Philadelphia Shipyard, Inc. ERC Generating Facility: Occidental Chemical Corp. ERC Generating Source Location: Pottsgrove Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Michael Masington, (215) 875-2649	NOx	50.00	2/28/2007	Trading
Horsehead Resource Co., Inc. Source Location: East Plant (Waelz) County: Carbon Ozone Nonattainment Status: Moderate Contact Person: John M. Cigan, (610) 826-8719	NOx VOCs	30.80 53.80	5/31/2006	Trading

<i>Facility Information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
The Peoples Natural Gas Company Source Location: Laurel Ridge Station County: Cambria Ozone Nonattainment Status: Moderate Contact Person: Sheri Franz, (412) 497-6582	NOx VOCs	13.00 4.00	11/11/2004	Trading
Alcoa, Inc. Source Location: Lebanon Township County: Lebanon Ozone Nonattainment Status: Moderate Contact Person: Kevin S. Barnett, (412) 553-2094	NOx VOCs	48.86 882.43	Varies from 9/29/2010 to 5/1/2012	Trading
Rohm and Haas Source Location: Richmond Street County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Frank Jackson, (215) 537-4000	NOx VOCs NOx	50.10 30.30 0.19	6/13/2005 12/31/2004	Trading
American Color Graphics, Inc. Formerly Flexi-Tech Graphics, Inc. Source Location: Barnhart Drive, Hanover County: York Ozone Nonattainment Status: Moderate Contact Person: Glenn Shaffer, (717) 792-8104	VOCs	9.60	1/15/2012	Trading
Allegro Microsystems, Inc. Source Location: Upper Moreland Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Wendy Cooper, (610) 286-7434	VOCs	42.61	3/29/2012	Trading
National Fuel Gas Supply Corp. Source Location: Heath Station County: Jefferson Ozone Nonattainment Status: Moderate Contact Person: Gary A. Young, (814) 871-8657	NOx VOCs	122.80 2.10	7/1/2005	Trading
Williams Generation Company Source Location: Hazleton Co-Gen Facility County: Luzerne Ozone Nonattainment Status: Moderate Contact Person: Terrie Blackburn, (918) 573-9766	NOx	794.6	1/31/2007	Trading
Calumet Lubricants Company Source Location: Rouseville Plant County: Venango Ozone Nonattainment Status: Moderate Contact Person: Daniel R. Chapman, (814) 678-4602	NOx VOCs	89.80 2.38	5/21/2012	Trading
Avery Dennison Corporation Source Location: Dungan Road County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Frank J. Brandauer, (626) 398-2773	VOCs	3.13	6/30/2012	
Henry Miller Spring & Manufacturing Company Source Location: Sharpsburg County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: David J. Jablonowski, (412) 782-7300	NOx VOCs	10.96 36.47	1/22/2010	Trading
Penco Products, Inc. Source Location: Lower Providence Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Allan J. Goss, (610) 666-0500	NOx VOCs	3.11 29.48	10/1/2011	Trading
Norfolk Southern Railway Co. Source Location: Hollidaysburg Car Shop County: Blair Ozone Nonattainment Status: Moderate Contact Person: Carl Russo, (814) 949-1479	NOx VOCs	4.35 69.80	7/19/2012	Trading

<i>Facility Information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
World Kitchen Inc. Source Location: Charleroi Plant County: Washington Ozone Nonattainment Status: Moderate Contact Person: James Rowlett, (724) 489-2288	NOx	251.43		Trading
PPG Industries, Inc. Source Location: Greenwood Township County: Crawford Ozone Nonattainment Status: Moderate Contact Person: David J. Neal, (412) 492-5507	NOx	1,118.50		Trading
Sentry Paint Technologies, Inc. Source Location: Mill Street, Darby County: Delaware Ozone Nonattainment Status: Severe Contact Person: Benjamin Breskman, (610) 522-1900	VOCs	3.56	4/30/2013	Trading
R. H. Sheppard Company, Inc. Source Location: Core making operation in Hanover County: York Ozone Nonattainment Status: Moderate Contact Person: Julie L. Smith, (717) 637-3751	VOCs	14.43	4/15/2013	Trading
International Paper Source: Bleach Plant, Erie Mill County: Erie Ozone Nonattainment Status: Moderate Contact Person: Gary Morrow, (814) 870-6782	VOCs	72.6		Trading
International Paper Source Location: Erie Mill County: Erie Ozone Nonattainment Status: Moderate Contact Person: Gary Morrow, (814) 870-6782	NOx VOCs	1,235.00 943.00	9/30/2012	Trading
Crompton Corporation Formally known as Witco Corporation Source Location: Petrolia Facility County: Butler Ozone Nonattainment Status: Moderate Contact Person: R. G. Fleeger, (412) 756-2210	NOx	2.65	5/31/2005	Trading
Corning Incorporated Source Location: College Township County: Centre Ozone Nonattainment Status: Moderate Contact Person: Douglas A. Wolf, (607) 974-4267	NOx	1,400.01	6/23/2013	Trading
Sea Gull Lighting Products, Inc. Source Location: 25th and Wharton St. County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Mark Gardiner, (215) 468-7255	VOCs	12.5	3/1/2013	Trading
Allegro Microsystems, Inc. Source Location: Upper Moreland Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Wendy Cooper, (610) 286-7434	NOx CO	2.90 1.30	10/20/2013	Trading

Summary of ERC Transaction

The following ERC transaction is approved by the Bureau of Air Quality, Department of Environmental Protection, Commonwealth of Pennsylvania. The ERC transaction requirements are specify in 25 Pa. Code § 127.208.

ERC Generating Facility Information

ERC Generating Facility Name: International Paper—Erie
Location of Source: 1540 East Lake Road, Erie, PA 16533
Certified ERCs (tpy): 1235 tpy of NOx and 990 tpy of VOC ERCs
Amount of ERCs traded to Purchaser/Recipient: 47 tpy of VOC
Date of ERCs Transfer: 8/17/2004
ERCs available for future use: 1,235 tpy of NOx and 943 tpy of VOC

Purchaser/Recipient of ERCs

Purchaser/Recipient of ERCs: CraftMaster Manufacturing, Inc.
 Location of Source: P. O. Box 311, Shiner Road, Towanda, PA 18848
 Plan Approval Number: 08-0003A
 VOC credits used: 0 tpy
 VOC credits available for future use: 47 tpy

ERC Generating Facility Information

ERC Generating Facility Name: Hershey Chocolate USA (Hershey Foods Corporation)
 Location of Source: 19 East Chocolate Avenue, Hershey, PA 17033
 Certified ERCs (tpy): 189 tpy of NOx
 Amount of ERCs donated: 189 tpy of NOx
 Date of ERCs donation: 8/27/2004
 ERCs available for future use: 0 tpy

Purchaser/Recipient of ERCs

Recipient of ERCs: Chesapeake Bay Foundation
 Mailing Address: Old Water Works Building, 614 North Front St., Suite G, Harrisburg, PA 17101
 Intended Use: Permanent Retirement
 NOx credits available for future use: 0 tpy

**Abandoned Strip Mine Project; Pinecreek,
 Jefferson County**

Knox District Mining Office: P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

Under Act 181 of 1984, the Department solicits letters of interest from the landowners and licensed mine operators for the reclamation of the following abandoned strip mine project:

<i>Project No.</i>	<i>Municipality</i>	<i>County</i>	<i>Acres</i>
40-02-008	Pinecreek	Jefferson	2.3

R & L Coal Corporation, SMP No. 33980106, on the Arnold E. Kerner property requires backfilling and revegetation.

Letters of interest must be received by Javed I. Mirza, District Mining Manager, Department of Environmental Protection, P. O. Box 669, Knox, PA 16232 by 4:30 p.m. on November 15, 2004, to be considered.

Telephone inquiries should be directed to Javed I. Mirza, (814) 797-1191.

**Request for Comment and Notice of Public Meeting
 for the Proposed Total Maximum Daily Load
 (TMDL) for the North Branch Upper Morgan Run
 Watershed in Clearfield County**

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

The Department will hold a public meeting to discuss and accept comments on a proposed TMDL for the North Branch Upper Morgan Run Watershed in Clearfield County. The meeting will be held on November 17, 2004, at 6:30 p.m. at the Clearfield County Multiservice Center, Daisy Street, Clearfield, PA. Individuals who plan to make a presentation at the public meeting should contact John Mital, Moshannon District Mining Office, (814) 342-8200 by 4 p.m. on Monday, November 15, 2004. The Department will consider all comments in developing the final TMDL for the North Branch Upper Morgan Run Watershed, which will be submitted to the EPA for approval.

The proposed TMDL for the North Branch Upper Morgan Run Watershed was established in accordance with the requirements of the Clean Water Act, section 303(d). One stream segment in the North Branch Upper Morgan Run Watershed has been identified as impaired on the 1996 Pennsylvania Section 303(d) list due to depressed pH and/or high concentrations of metals. The

listed segment and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
26216 (7174)	North Branch Upper Morgan Run	2.7

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation (MCS) to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the North Branch Upper Morgan Run Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 2 years was used to establish the proposed TMDL for the North Branch Upper Morgan Run Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the North Branch Upper Morgan Run Watershed. Written comments must be postmarked by December 29, 2004, and sent to John Mital, Geologic Specialist, Department of Environmental Protection, Moshannon District Mining Office, 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, jmital@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Clearfield County Multiservice Center, contact John Mital.

The proposed TMDL for the North Branch Upper Morgan Run Watershed can be accessed through the Department's website: www.dep.state.pa.us (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) for the Little Schuylkill River, West Branch Schuylkill River, Muddy Branch Creek and Mill Creek in the Upper Schuylkill River Watershed in Schuylkill County

Pottsville District Mining Office: Mike Hill, Geologic Specialist, 5 West Laurel Boulevard, Pottsville, PA 17901.

The Department is holding a public meeting on November 16, 2004, at 7 p.m. at the Schuylkill County Agricultural Center, Pottsville, PA to discuss and accept comments on a proposed TMDL, established in accordance with the requirements of the 1996 section 303(d) of the Clean Water Act. Four stream segments in the Upper Schuylkill River Watershed have been identified as impaired on the 1996 Pennsylvania 303(d) list due to metals, other inorganics and pH. The listed segments and miles degraded are shown in the following table:

Stream Code	Stream Name	Miles Degraded
02202	Little Schuylkill River	2.5
02202	Little Schuylkill River	3.2
02202	Little Schuylkill River	2.4
02329	West Branch Schuylkill River	9
02336	Muddy Branch Creek	3.5
02353	Mill Creek	5.5

The proposed plan provides calculations of the stream's total capacity to accept metals, other inorganics and pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

Parameter	Criterion Value (mg/l)	Total Recoverable/Dissolved
Aluminum (Al)	0.75	Total Recoverable
Iron (Fe)	1.50	30-day average; Total
Manganese (Mn)	1.00	Total Recoverable
pH *	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal. The effects of this are still present. Allocations made in the TMDLs are load allocations that are made to nonpoint sources of pollution and waste load allocations that are made to point sources of pollution.

The TMDL was developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 10 years.

The data and all supporting information used to develop the proposed TMDL are available from the Depart-

ment. To request a copy of the proposed TMDL and an information sheet, contact Mike Hill, 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118, mihill@state.pa.us. Directions to the meeting place can also be obtained through this contact.

The TMDL can be viewed and printed by accessing the Department's website: www.dep.state.pa.us (DEP Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by January 15, 2004. Persons who plan to make a presentation at the public meeting should notify the Department by November 10, 2004. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

[Pa.B. Doc. No. 04-1961. Filed for public inspection October 29, 2004, 9:00 a.m.]

Recycling Fund Advisory Committee Meeting Cancellation

The Recycling Fund Advisory Committee (RFAC) meeting scheduled for Thursday, November 4, 2004, has been canceled. The next meeting of the RFAC will be determined at a later date. Notice concerning the next meeting will be published in the *Pennsylvania Bulletin*.

Questions concerning the cancellation of the meeting should be directed to Tammy Snyder or Larry Holley, Bureau of Land Recycling and Waste Management, (717) 787-9871, tasnyder@state.pa.us or lholley@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-1962. Filed for public inspection October 29, 2004, 9:00 a.m.]

State Water Plan; Statewide Water Resources Committee; Critical Water Planning Area Subcommittee Meeting

The Critical Water Planning Area Subcommittee of the State Water Plan; Statewide Water Resources Committee has scheduled a meeting to discuss the development of criteria/guidelines for designation of Critical Water Planning Areas. The meeting will be held on November 4, 2004, at 10 a.m. at the Rachel Carson State Office Building, 10th Floor Conference Room, 400 Market Street, Harrisburg, PA 17105.

Questions concerning this meeting should be directed to Susan K. Weaver, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-8055, suweaver@state.pa.us.

Persons with a disability who require accommodations to attend the meeting should contact the Department of Environmental Protection (Department) at (717) 705-2425 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. 04-1963. Filed for public inspection October 29, 2004, 9:00 a.m.]

State Water Plan; Statewide Water Resources Committee Meeting

The State Water Plan, Statewide Water Resources Committee (Committee) has scheduled a meeting to discuss the development of the State Water Plan. The meeting will be held on November 19, 2004, at 10 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning this meeting should be directed to Susan K. Weaver, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-8055, sueweaver@state.pa.us.

Persons with a disability who require accommodations to attend the meeting should contact the Department of Environmental Protection (Department) at (717) 705-2425 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. 04-1964. Filed for public inspection October 29, 2004, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Alle-Kiski Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Alle-Kiski Medical Center has requested an exception to the requirements of 28 Pa. Code § 117.30 (relating to emergency paramedic services).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previous address or phone number, for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 04-1965. Filed for public inspection October 29, 2004, 9:00 a.m.]

Application of Children's Hospital of Pittsburgh for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Children's Hospital of Pittsburgh has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previous address or phone number, for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 04-1966. Filed for public inspection October 29, 2004, 9:00 a.m.]

Application of University of Pennsylvania Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that University of Pennsylvania Medical Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards in the *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard in this publication: 7.4.C (relating to square feet per bassinets).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, dditlow@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care, (717) 783-8980,

V/TT: (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 04-1967. Filed for public inspection October 29, 2004, 9:00 a.m.]

783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 04-1968. Filed for public inspection October 29, 2004, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

The Lutheran Home at Topton
One South Home Avenue
Topton, PA 19562

Luther Crest Nursing Facility
800 Hausman Road
Allentown, PA 18104-8414

Penn Lutheran Village
800 Broad Street
Selinsgrove, PA 17870-1299

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Scranton Health Care Center
McCarthy Street
Scranton, PA 18509

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.33(a) (relating to utility room):

Beverly Healthcare—Shippenville
21158 Paint Boulevard
Shippenville, PA 16254

Beverly Healthcare—Waynesburg
300 Center Avenue
Waynesburg, PA 15370

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax: (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address previously listed.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the previous address or phone number, for speech and/or hearing impaired persons, V/TT: (717)

DEPARTMENT OF TRANSPORTATION

Finding Indiana County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

Norfolk Southern Corporation and Norfolk Southern Railway Company plan the construction and operation of approximately 5.26 miles of new single track rail line between Saltsburg and Clarksburg, Indiana County.

An Environmental Assessment (EA) was prepared to evaluate the potential environmental impacts caused by the subject project. The Surface Transportation Board (STB) issued a Decision on May 15, 2003, approving the construction and operation of the Saltsburg Connection subject to the environmental mitigation set forth in the Appendix to the Decision. The Federal Highway Administration adopted the STB Decision on September 22, 2004.

The EA and supporting documentation find that there is no practicable alternative to the construction of the preferred alternative, and the proposed action includes all practicable measures to minimize harm to the environment that may result from the proposed project.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered, and it has been concluded that all reasonable planning was completed to avoid, minimize or mitigate the environmental effects that are likely to result from the construction of this project.

GARY L. HOFFMAN, P. E.,
*Deputy Secretary
for Highway Administration*

[Pa.B. Doc. No. 04-1969. Filed for public inspection October 29, 2004, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

**Rose Sprenkle and William and Brenda Anderson
v. DEP and CMV Sewage Company, Inc., Permit-
tee; EHB Doc. No. 2004-220-MG**

Rose Sprenkle and William and Brenda Anderson have appealed the issuance by the Department of Environmental Protection of an NPDES permit to CMV Sewage Company, Inc. for a facility in North Cordorus Township, York 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. 04-1970. Filed for public inspection October 29, 2004, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petitions for Study

On October 19, 2004, the Environmental Quality Board (Board) accepted four rulemaking petitions for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). Two petitions were submitted by Shrewsbury Township, Glen Rock, PA for the redesignation of Little Falls (from its headwaters in Shrewsbury Township and New Freedom Borough to the Pennsylvania/Maryland state line) and Deer Creek (from its headwaters in Shrewsbury and Hopewell Townships and associated municipalities to the Pennsylvania/Maryland state line). These petitions request that the Board redesignate Little Falls (Gunpowder Falls Basin) from Warm Water Fishes to High Quality-Cold Water Fishes and Deer Creek from Cold Water Fishes to High Quality-Cold Water Fishes.

Under 25 Pa. Code § 23.6 (relating to notice of acceptance and Department report), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters before performing survey work. This notice will include a request that interested persons submit to the Department any technical data they may have for Little Falls and Deer Creek. The Department's assessment notices for Little Falls and Deer Creek will appear in a future issue of the *Pennsylvania Bulletin*.

The Board also accepted a rulemaking petition submitted by the Commander, Navy Region, Mid-Atlantic on behalf of the Department of Defense Regional Environmental Coordinator for Military Installations. This petition requests the amendment of 25 Pa. Code §§ 271.1 and 279.101 (relating to definitions and general requirements) and the addition of a new section proposed to be numbered §293.112 to require waste transfer facility applicants to notify the Department of Transportation, the Federal Aviation Administration and the airport of their intent to build or expand their facility within 6 miles of an airport runway. This requirement would include notifi-

cation to military airports. The petitioner contends that incompatible development around military installations, including development that causes increased bird activity around airfield runways, can cause significant mission impacts leading to the vulnerability of military operations.

The Board accepted a fourth petition at its October 19, 2004, meeting submitted on behalf of the Citizens for Pennsylvania's Future (PennFuture), PennEnvironment, Pennsylvania Federation of Sportsmen's Clubs, Pennsylvania NOW, Pennsylvania State Building and Construction Trades Council, Pennsylvania Trout, Planned Parenthood Pennsylvania Advocates, Sierra Club Pennsylvania Chapter, Women's Law Project and Women Vote PA. The petition seeks protection of human health and the environment by the regulation of mercury emissions to the air. Specifically, the petition requests Department action to regulate the emission of mercury to the air from this Commonwealth's electric utilities.

Under the Board's acceptance of the petitions submitted by the Department of Defense and PennFuture, et al., the Department will prepare individual reports evaluating each petition. These reports will include a recommendation on whether the Board should approve the actions requested in the petitions. If the Department's recommendation is to change a regulation, the reports will also specify the anticipated date that the Board will consider a proposed rulemaking. These reports must be completed within 60 days from the date the petitions were accepted by the Board. If these reports cannot be completed within the 60-day time period, at the next Board meeting the Department will state how much additional time is necessary to complete these reports.

The previously referenced petitions are available to the public for review by contacting the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526. The previously referenced petitions are accessible on Department's website: www.dep.state.pa.us (DEP Keyword: EQB (under "Meeting Agendas/Handouts/Minutes," choose "2004" then "October 19, 2004").

KATHLEEN A. MCGINTY,
Chairperson

[Pa.B. Doc. No. 04-1971. Filed for public inspection October 29, 2004, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The Health Care Cost Containment Council (Council) has scheduled the following meetings: Wednesday, November 3, 2004, Data Systems Committee meeting—10 a.m., Education Committee meeting—1 p.m.; Thursday, November 4, 2004, Council meeting—10 a.m. The meetings will be held in the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Individuals who need accommodation due to a disability who wish to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street,

Harrisburg, PA 17101, (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 04-1972. Filed for public inspection October 29, 2004, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website: www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
11-222	Insurance Department Workers' Compensation Act—Provider Fees; Payment for Anesthesia Services	10/19/04
57-232	Pennsylvania Public Utility Commission Establishing Local Service Provider Abandonment Process for Jurisdictional Telecommunication Companies	10/15/04
57-234	Pennsylvania Public Utility Commission Public Utility Security Planning and Readiness	10/15/04

Final-Omit

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
11-223	Insurance Department Public Adjuster Contracts and Licensing Requirements	10/19/04

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 04-1973. Filed for public inspection October 29, 2004, 9:00 a.m.]

INSURANCE DEPARTMENT

Agency Contract Termination of LoCastro Bonini Insurance Agency, Inc. under Act 143; Merchants Mutual Insurance Company; Doc. No. AT04-10-018

A pre-review telephone conference initiated by this office is scheduled for November 12, 2004, at 10 a.m. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before October 26, 2004. A date for a review shall be determined, if necessary, at the pre-review telephone conference.

On or before November 2, 2004, each party shall file with the Administrative Hearings Office by means of facsimile to (717) 787-8781 and serve upon the other party by means of facsimile an entry of appearance designating the lead attorney or representative to receive service of orders, filings and communications in this matter, together with that person's address, telephone number and facsimile number. Each party shall similarly designate the lead attorney or representative who will attend the pre-review telephone conference, if different than the person designated for service.

Motions preliminary to those at the review, protests, petitions to intervene or notices of intervention, if any, must be filed on or before November 8, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before November 10, 2004.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-1974. Filed for public inspection October 29, 2004, 9:00 a.m.]

Children's Health Insurance Program; Children's Health Advisory Council Meeting

The Insurance Department (Department) has scheduled a meeting of the Children's Health Advisory Council (Council) on Thursday, November 18, 2004, at 10 a.m. in Room 327, Health and Welfare Building, Seventh and Forster Streets, Harrisburg, PA. The Children's Health Care Act (40 P. S. §§ 991.2301—991.2361) charges the Council with the responsibilities of overseeing outreach activities and evaluating access and quality of service provided to children enrolled in the Children's Health Insurance Program. The public is invited to attend. Persons who need accommodations due to a disability who wish to attend the meeting should contact Jeffrey Wallace, Insurance Department, 1300 Strawberry Square, Harrisburg, PA 17120, (717) 787-4298 at least 24 hours in advance so that arrangements can be made.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-1975. Filed for public inspection October 29, 2004, 9:00 a.m.]

**Cumberland Farms, Inc. (Gulf No. 142469);
Prehearing Telephone Conference**

**Appeal of Cumberland Farms, Inc. (Gulf No. 142469)
under the Storage Tank and Spill Prevention Act;
Underground Storage Tank Indemnification Fund;
USTIF File No. 02-325(M) (See Also 01-323(M)); Doc.
No. UT04-10-010**

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Ad-

ministrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on December 1, 2004, at 10:30 a.m. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before November 2, 2004. Parties shall be prepared to address the timeliness issues raised in this case. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previous address on or before November 22, 2004. Answers to petitions to intervene, if any, shall be filed on or before November 29, 2004.

A date for a hearing shall be determined, if necessary, at the prehearing telephone conference.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-1976. Filed for public inspection October 29, 2004, 9:00 a.m.]

Jeffersonville Internal Medicine; Prehearing Telephone Conference

Appeal of Jeffersonville Internal Medicine under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM04-10-016

On or before November 16, 2004, the appellant shall file a concise statement setting forth the factual and/or legal basis for its disagreement with MCARE's July 30, 2004, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for December 7, 2004, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before November 9, 2004. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at the hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before November 24, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before December 6, 2004.

Persons with a disability, who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-1977. Filed for public inspection October 29, 2004, 9:00 a.m.]

Keystone Health Plan East; Changes to Demographic Factors for Group Sizes Less than 100; Rate Filing

On October 1, 2004, by filing no. A82675001, Keystone Health Plan East submitted a filing to change the demographic rating factors for groups of sizes less than 100 contracts. The filing submission proposes to remove the minimum composite age/gender factor of 0.65. In addition, Keystone Health Plan East will reduce several of the age/gender specific factors from the levels currently approved.

A copy of the filing is available on the Insurance Department's (Department) website: www.ins.state.pa.us. To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The pdf copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional offices in Harrisburg and Philadelphia.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Insurance Department, Bureau of Accident and Health Insurance, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-1978. Filed for public inspection October 29, 2004, 9:00 a.m.]

Medical Care Availability and Reduction of Error Fund; Notice of and Amount of Assessment Action; Notice 2004-09

The Insurance Department (Department), Medical Care Availability and Reduction of Error Fund, by Jennifer M. McHugh, Deputy Insurance Commissioner, under section 712 of the Medical Care Availability and Reduction of Error (MCARE) Act (act) (40 P. S. § 1303.712), has determined that the annual assessment to be levied for calendar year 2005 shall be 39% applied to the prevailing primary premium for each participating health care provider.

The act defines "prevailing primary premium" as the schedule of occurrence rates approved by the Insurance Commissioner for the Joint Underwriting Association (JUA). For purposes of the 2005 annual assessment, the JUA rates to be used are \$500,000 per occurrence/\$1.5 million per annual aggregate for participating health care providers other than hospitals and \$500,000 per occurrence/\$2.5 million per annual aggregate for hospitals.

Participating health care providers having approved self-insurance plans shall be assessed an amount equal to the assessment imposed on a participating health care provider of like class, size, risk and kind as determined by the Department.

This action is subject to 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure)

JENNIFER M. MCHUGH,
Deputy Insurance Commissioner

[Pa.B. Doc. No. 04-1979. Filed for public inspection October 29, 2004, 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, Philadelphia and Pittsburgh, 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 Joseph W. and Joan D. Mandarano; file no. 04-215-02799; AIG Preferred Insurance Company; doc. no. P04-10-005; November 17, 2004, 10:30 a.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 Mary Ellen Thompson; file no. 04-265-03138; Great Northern Insurance Company; doc. no. PH04-09-039; November 17, 2004, 9 a.m.

Appeal of Walter Clee; file no. 04-267-03475; Progressive Insurance Company; doc. no. PH04-09-035; November 17, 2004, 10 a.m.

Appeal of Carol Hoernle; file no. 04-267-03542; New Hampshire Indemnity Company; doc. no. PH04-09-034; November 17, 2004, 11 a.m.

Appeal of Susan L. McIntyre; file no. 04-265-03676; Nationwide Mutual Fire Insurance Company; doc. no. PH04-10-001; November 17, 2004, 1 p.m.

Appeal of Martin and Joyce Vale; file no. 04-215-03373; American Independent Insurance Company; doc. no. PH04-10-003; November 17, 2004, 2:30 p.m.

Appeal of Garnie Hatfield; file no. 04-210-03293; Erie Insurance Exchange; doc. no. PH04-10-008; November 18, 2004, 9 a.m.

Appeal of William H. Dye; file no. 04-215-03024; Hartford Insurance Company of the Midwest; doc. no. PH04-10-007; November 18, 2004, 10 a.m.

Appeal of Johnny J. and Yvonne Pierce; file no. 04-266-03628; Prudential Property & Casualty Insurance Company; doc. no. PH04-10-017; November 18, 2004, 11 a.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Edward J. Niederriter; file no. 04-303-71750; Donegal Mutual Insurance Company; doc. no. PI04-10-006; December 9, 2004, 2 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 Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-1980. Filed for public inspection October 29, 2004, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested hearings 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 office in Pittsburgh, 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 Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Matthew W. and Tammy L. Lang; file no. 04-303-71548; Travelers Property & Casualty Insurance Company; doc. no. PI04-10-002; December 9, 2004, 1 p.m.

Appeal of Forrest P., Jr. and Pauline S. Smith; file no. 04-188-08737; Erie Insurance Exchange; doc. no. P04-10-004; December 10, 2004, 1 p.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 Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-1981. Filed for public inspection October 29, 2004, 9:00 a.m.]

Kenneth R. Scott; Hearing

License Denial; Doc. No. AG04-09-042

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

A prehearing conference is scheduled for November 30, 2004, at 10 a.m. in Room 200, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA. If an attorney or representative for a party attending the conference does not have complete settlement authority relative to this matter, the party or persons with full settlement authority shall be available by telephone during the conference.

A hearing shall occur on December 14, 2004, at 1:30 p.m. in Room 200, Administrative Hearings Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102.

On or before November 16, 2004, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for that party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office.

Motions preliminary to those at the hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before December 6, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Sev-

enth Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before December 13, 2004.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodations to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-1982. Filed for public inspection October 29, 2004, 9:00 a.m.]

United Security Assurance Company of Pennsylvania; Rate Increase Filing for Long Term Care Policy Form LTC-95P; Rate Filing

United Security Assurance Company of Pennsylvania is requesting approval to increase the premium 25% for the Long Term Care Form LTC-95P and the associated riders. The average premium will increase from \$1,350 to \$1,687 and will affect 1,291 policyholders in this Commonwealth.

Unless formal administrative action is taken prior to January 13, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website: www.ins.state.pa.us. To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The pdf copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-1983. Filed for public inspection October 29, 2004, 9:00 a.m.]

Workers' Compensation Security Fund Assessment; Notice 2004-08

The Insurance Department (Department) has determined that no contributions will be required for the Workers' Compensation Security Fund (Fund) in 2004.

Section 5 of the Workers' Compensation Security Fund (act) (77 P. S. § 1059(1)) states ". . . If, due to payment of liabilities or claims, the balance of the fund is reduced below \$500,000,000, the department shall require contributions to maintain the actuarial soundness of the fund and to restore, in a timely manner, the balance of the fund to a level at or above \$500,000,000." The evaluation date of December 31 was established in 31 Pa. Code § 165.7 (regarding the Workers' Compensation Security

Fund assessment). As of the evaluation date of December 31, 2003, the balance of the fund was \$512,068,410.

Therefore, insurers writing workers' compensation insurance in this Commonwealth will not be required to submit any contributions for the Fund for 2004.

The act may be viewed at www.ncigf.org under "Guaranty Fund Laws" and the rules and regulations may be viewed at www.pacode.com under "Title 31, Chapter 165." Additional information regarding the Fund is located on the Department's webpage under "Liquidations, Rehabilitations and Special Funds" at www.ins.state.pa.us.

No acknowledgement of this notice is required.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-1984. Filed for public inspection October 29, 2004, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation Order; Identity Theft

Public Meeting held
July 23, 2004

Commissioners Present: Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli; Wendell F. Holland

Investigation In Re: Identity Theft; Doc. No. M-00041811

Investigation Order

By the Commission:

By this order, the Commission is initiating an investigation, under sections 331(a), 501(a) and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 331(a), 501(a) and 1501, to examine identity theft and its impact on utility companies and consumers in this Commonwealth.

Identity theft is a growing problem that plagues millions Nationwide. Identity theft takes place when one person uses another's personal information such as name, Social Security number, credit card number or other identifying information to commit fraud or other crimes.¹ The Federal Trade Commission (FTC) reports that nearly 10 million people have been victims of some form of identity theft.² In fact, the FTC estimates that identity theft has resulted in nearly \$48 billion in losses to businesses and nearly \$5 billion in losses to its victims.³

Recent FTC reports indicate that, in 2003, "phone or utilities fraud" accounted for 21% of the types of identity theft reported in this Commonwealth.⁴ Phone or utilities fraud is second only to credit card fraud reported in this Commonwealth.

In response to this growing National problem, Congress has enacted legislation to address identity theft. The Fair

and Accurate Credit Transactions Act of 2003 (FACT),⁵ in part, amended the Fair Credit Reporting Act (FCRA) to enhance the consumer's ability to resolve problems caused by identity theft. In further recognition of the serious nature of identity theft, Congress passed the Identity Theft Penalty Enhancement Act⁶ on July 15, 2004, to prescribe more severe penalties for those persons committing identity theft and fraud.

While the Commission's ruling in a recent proceeding⁷ addressed the issue of one consumer's problem involving identity theft, the issue of identity theft as it relates to utilities and utility regulation warrants a more comprehensive review. Indeed, on a yearly basis, thousands of citizens in this Commonwealth apply to utilities and energy suppliers in this Commonwealth to initiate or transfer utility service. The Commission's current rules and regulations governing billing and credit policies⁸ were enacted long before identity theft became a National concern and the aforementioned federal legislation and FTC initiatives⁹ addressing this problem were adopted.

Identity theft results in losses for both the customer and the utility company. For the victims of identity theft, the recovery from damage and the tainting of one's financial reputation may be a slow, arduous and time-consuming process. Often, repair to a victim's credit reputation and financial condition takes years. For the utility company, identity theft frequently results in uncollected charges for service as well as increased expenditures of company resources to collect unpaid bills. Without question, it is in the public interest that the Commission examine whether existing regulations and processes provide adequate protections against the problem of identity theft in this Commonwealth. Accordingly, with this order, the Commission directs an investigation be initiated.

Additionally, under our authority under sections 501, 504, 505 and 506, 66 Pa.C.S. §§ 501, 504, 505 and 506, all major jurisdictional fixed utility companies, as well as telecommunications service providers, electric generation suppliers and natural gas suppliers, are directed to file written responses to the questions presented in Appendix A. Recognizing the sensitive nature of information requested, we will direct that the responses be filed under seal and that access to these documents be limited to Commission staff members. 52 Pa. Code § 5.423 (relating to orders to limit availability of proprietary information). Note that because this proceeding is presently limited to gathering relevant information, this is not a contested proceeding. Accordingly, the Commission's ex parte rules do not apply. See 66 Pa.C.S. § 334.

Also, we invite all interested parties to file written comments on the problem of identity theft relating to utility service and to propose solutions to address the problem, including proposed amendments to the Commission's regulations relating to credit and billing procedures. The information provided will allow the Commission to determine the impact of identity theft on utilities, suppliers and their customers, and to formulate and

⁵ Pub. L. No. 108-159, 117 Stat. 1952.

⁶ Pub. L. No. 108-275.

⁷ *Donna MacDougall v. Verizon North, Inc.*, Doc. F-01339719 (Order adopted July 23, 2004).

⁸ See, for example, 52 Pa. Code §§ 64.31 et seq.; 52 Pa. Code §§ 56.31, et seq.

⁹ The FTC initiated a rulemaking, under authority in FACT, proposing rules that would establish: (1) definitions for the terms "identity theft" and "identity theft report"; (2) the duration of an "active duty alert"; and (3) the "appropriate proof of identity" for purposes of sections 605A (fraud alerts and active duty alerts), 605B (consumer report information blocks) and 609(a)(1) (truncation of Social Security numbers) of the FCRA, as amended by the act. *FTC Rulemaking Amending 16 CFR Parts 603, 613, and 614* (Related Identity Theft Definitions, Duration of Active Duty Alerts, and Appropriate Proof of Identity Under the Fair Credit Reporting Act), RIN 308-AA94 (FTC Rulemaking Order). Final FTC action on the proposed regulations is pending.

¹ In the Pennsylvania Crimes Code, the offense of "identity theft" is defined as "... the possession or use, through any means, of identifying information of another person without the consent of that other person to further any unlawful purpose." 18 Pa.C.S. § 4120.

² Prepared Statement of the Federal Trade Commission on Identity Theft: Prevention and Victim Assistance Before the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce, December 15, 2003.

³ *Id.*

⁴ FTC, *National and State Trends in Fraud and Identity Theft, January–December 2003*, January 22, 2004. Source: Data from Consumer Sentinel and the Identity Theft Data Clearinghouse.

adopt measures to better provide for identity verification and thereby reduce identity theft in the initiation, transfer and use of utility service; *Therefore,*

It Is Ordered That:

1. An investigation docket be opened to examine the impact of identity theft on consumers and utilities, and whether existing Commission rules, regulations and policies adequately protect consumers and utilities from the effects of identity theft.

2. All major jurisdictional fixed utility companies, telecommunication service providers, electric generation suppliers and natural gas suppliers are directed to file written responses to the questions presented in Appendix A. An original and ten copies of the written responses and one diskette containing an electronic version of the written responses shall be filed no later than 20 days after the date of publication of this order in the *Pennsylvania Bulletin*. Responses shall be addressed to James J. McNulty, Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Responses shall be marked as proprietary and filed under seal. Access to these documents will be limited to Commission staff.

3. A person wishing to submit written comments addressing the issues presented in this order shall do so no later than 20 days after the date of publication of this order in the *Pennsylvania Bulletin*. An original and ten copies of the comments and one diskette containing an electronic version of the comments shall be filed with the Commission's Secretary. Comments shall be addressed to James J. McNulty, Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

4. The contact persons for this investigation are Louis Sauers, Consumer Research Analyst Supervisor, Bureau of Consumer Services, (717) 783-6688 lsauers@state.pa.us; Patricia Krise Burket, Assistant Counsel, (717) 787-3464, pburket@state.pa.us; or W. Blair Hopkin, Assistant Counsel, (717) 783-6152, whopkin@state.pa.us.

5. The Order and the written comments submitted shall be posted at the Commission's website: www.puc.state.pa.us.

6. The Order shall be published in the *Pennsylvania Bulletin*.

7. Copies of the Order shall be served on all major jurisdictional fixed utility companies, all electric generation suppliers, all natural gas suppliers, all telecommunications services providers, the Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate and the Office of Attorney General.

JAMES J. MCNULTY,
Secretary

Appendix A

All major jurisdictional fixed utility companies, telecommunications service providers, and electric generation suppliers and natural gas suppliers, are directed to file written responses to the following questions on identity theft:¹

1. Provide the total number of disputes, as that term is defined in Commission regulations,² in which a customer alleged identity theft for each of the following calendar years:

- (a) For the year ending December 31, 2000.
- (b) For the year ending December 31, 2001.
- (c) For the year ending December 31, 2002.
- (d) For the year ending December 31, 2003.

If the company keeps statistics by fiscal year, please provide the above information for the immediate past four fiscal years.

2. Describe and provide a copy of company policy and procedures relating to verification of the customer's identity in the application process and the account transfer process. Also, provide information regarding the circumstances under which the company requests that a consumer provide additional sources of personal identification in order to verify that consumer's identity.

3. Describe and provide a copy of the company's written policy regarding new applications for service. Provide a copy of rules and regulations from the company's current and effective tariff relating to new applications for service, including circumstances under which written applications are required, and circumstances under which applications for service may be accepted over the telephone. Describe the process employed by the company to verify information provided over the telephone to ensure that the person requesting the service is in fact who he or she represents themselves to be.

4. Other than applications for new service, what kind of personal information is required when customers call in regarding their service and seeks to do the following?

- a. Verify the balance due.
- b. Transfer the account into another person's name.
- c. Complain about a service disruption.
- d. Pay the bill over the phone.
- e. Ask questions about their bill or service.
- f. Close an account.
- g. Any other action not described above.

5. Describe and provide a copy of the company's policy relating to the use of an applicant's or a customer's social security, particularly the circumstances under which the company requires that a social security number be provided, and how the social security number is used by the company. Describe and provide a copy of all documents related to security measures that the company uses to protect a customer's social security number. Describe and provide a copy of all documents relating to the company's procedures and policy applicable to situations where a customer refuses or fails to provide a social security number. By way of example only, if the company declines to serve to a new customer, what is the basis for the denial?

6. Describe and provide a copy of the company's policies and procedures relating to protecting the privacy of a customer's account information and other personal identification information that may be provided by the customer in conjunction with applying for, or transferring utility service, or paying utility bills. In particular, describe the security measures or procedures that are in place to protect or secure personal information customers provide to the company.

7. For the calendar year ending December 31, 2003, provide the following information related to establishing or transferring customer accounts:

- (a) Total number of new accounts.

¹ The offense of "identity theft" is defined as "... the possession or use, through any means, of identifying information of another person without the consent of that other person to further any unlawful purpose." 18 Pa.C.S. § 4120.

² See 52 Pa. Code § 56.2 (definitions) and 52 Pa. Code § 64.2 (definitions).

- (b) Total number of transferred accounts.
- (c) Total number of new accounts for which identity of consumer was verified by:
- i. Credit history check.
 - ii. Government-issued photograph identification card, such as a driver's license, student identification card, employee identification card.
 - iii. Government issued nonphotograph identification card, such as a library card, voter registration card.
 - iv. Other form of identification, such as credit card, automobile club service card, student identification card, employee identification card.
- (d) Total number of transferred accounts for which identity of the consumer was verified by:
- i. Credit history check.
 - ii. Government-issued photograph identification card, such as a driver's license, student identification card, employee identification card.
 - iii. Government issued nonphotograph identification card, such as a library card, voter registration card.
 - iv. Other form of identification, such as credit card, automobile club service card, student identification card, employee identification card.

8. Provide the address and hours of operation of each company office that is open to the public where a consumer can establish or transfer a service account in person. The term "company office" includes an office that is operated by an agent of the company. Identify each company office that is operated by contracted agents.

9. Provide the total amount of costs attributable to identity theft involving customer accounts for each of the following calendar years:

- (a) For the year ending December 31, 2000.
- (b) For the year ending December 31, 2001.
- (c) For the year ending December 31, 2002.
- (d) For the year ending December 31, 2003.

If the company keeps statistics by fiscal year, please provide the above information for the immediate past four fiscal years.

Explain how the company identifies and tracks costs that can be attributed to identity theft. The term "costs" is defined to include all expenditures made in investigating and verifying identity theft claims.

10. Provide the total amount of losses attributable to identity theft involving customer accounts for each of the following calendar years:

- (a) For the year ending December 31, 2000.
- (b) For the year ending December 31, 2001.
- (c) For the year ending December 31, 2002.
- (d) For the year ending December 31, 2003.

If the company keeps statistics by fiscal year, please provide the above information for the immediate past four fiscal years.

The term "losses" is the dollar amount of uncollected charges for stolen service as a result of identity theft. Explain how the company identifies and tracks losses that can be attributed to identity theft. Also, explain how much of the company's active debt and write-offs, expressed in total dollars and as a percentage of the whole,

are directly attributable to identity theft. Please provide figures for the company's gross debt and for gross write-offs for comparison to the percentages attributable to identity theft.

11. Provide a copy of the company's current procedures for conducting internal investigations related to alleged customer identity theft by a company employee. Provide a copy of the final report on each internal investigation of alleged customer identity theft by a company employee that was conducted since January 1, 2000. Identifying personal information for the employee and customer must be redacted from each report.

12. Provide a copy of the company's current procedures for investigating customer allegations of identity theft relating to a utility service account. Provide a copy of the final report on each such investigation conducted since January 1, 2000. Identifying personal information for the customer must be redacted from each report.

13. Provide the total number of internal investigations of alleged customer identity theft by company employee conducted by the company for each of the following calendar years:

- (a) For the year ending December 31, 2000.
- (b) For the year ending December 31, 2001.
- (c) For the year ending December 31, 2002.
- (d) For the year ending December 31, 2003.

Indicate the number of internal investigations that are currently in progress.

14. Provide the total number of investigations of customer allegations of identity theft conducted by company for each of the following calendar years:

- (a) For the year ending December 31, 2000.
- (b) For the year ending December 31, 2001.
- (c) For the year ending December 31, 2002.
- (d) For the year ending December 31, 2003.

Indicate the number of investigations that are currently in progress.

15. Identify those Commission regulations that may create an opportunity for identity theft. Explain in detail how each regulation may contribute to the identity theft, and propose amendments to correct the problem.

Directions for Filing

An original and ten copies of the written responses and one diskette containing an electronic version of the written responses shall be filed no later than 20 days after the date of publication of the Commission's order in the *Pennsylvania Bulletin*. Responses shall be addressed to James J. McNulty, Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Responses shall be filed under seal and access thereto will be limited to Commission staff. Reference Docket No. M-00041811.

[Pa.B. Doc. No. 04-1985. Filed for public inspection October 29, 2004, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth

have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 with a copy served on the applicant, on or before November 22, 2004. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

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-00104027, Folder 6. Valley Lines, Inc. (1395 Sarver Road, Freeport, Armstrong County, PA 16229), a corporation of the Commonwealth—persons, in limousine service, between points in the Counties of Armstrong, Butler, Allegheny and Westmoreland, and from points in said counties, to points in Pennsylvania and return. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219.

Application of the following for approval to begin operating as common carriers for transportation of person as described under the application.

A-00117080, Folder 2. Baillis Limousine, Inc. (22 War Trophy Lane, Media, Delaware County, PA 19063), a corporation of the Commonwealth—persons, in limousine service, between points in the Counties of Chester, Delaware, Montgomery and Bucks and the City and County of Philadelphia, and from points in said territory, to points in Pennsylvania and return. *Attorney:* Bradley T. Beckman, Two Penn Center Plaza, Suite 910, Philadelphia, PA 19102.

Application of the following for amendment to the certificate of public convenience approval of the right and privilege of operating motor vehicles as common carriers for the transportation of persons as described under the application.

A-00120108, Folder 3, Am-A. Northern Limousine, Inc. (626 W. Lackawanna Avenue, Scranton, Lackawanna County, PA 18503), inter alia, a corporation of the Commonwealth—to transport by motor vehicle, persons, in 11-15 group and party service, including the driver, between points in the Counties of Wayne, Monroe and Pike, and from points in said counties, to points in Pennsylvania and return: *So as to permit* the transportation of persons, in 11-15 group and party service, between points in the Counties of Lackawanna and Luzerne, and from points in said counties to points in Pennsylvania and return. *Attorney:* Wick, Streiff, Meyer, O'Boyle & Szeligo, P. C. by David M. O'Boyle, 1450 Two Chatham Center, Pittsburgh, PA 15219.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-1986. Filed for public inspection October 29, 2004, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearing Scheduled

A hearing has been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Labor and Industry Building, 7th and Forster Street, Harrisburg, PA 17120.

December 2 and 3, 2004	Pennsylvania Association of School Retirees (Right to Know)	9 a.m.
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Persons with a disability wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective position. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

VERONICA THOMAS,
*Assistant Executive Director for
Benefits and Administration*

[Pa.B. Doc. No. 04-1987. Filed for public inspection October 29, 2004, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, First Floor, Harrisburg, PA 17101:

November 8, 2004	Hans-Dietrich Meurer (D) (Contested Death Benefit)	1 p.m.
December 13, 2004	Helene V. Hoffman (Benefit Reduction)	1 p.m.
December 15, 2004	David A. Dows (Benefit Recalculation)	1 p.m.

Parties in each respective case may appear with or without counsel and offer relevant testimony or evidence

to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the

General Rules of Administrative Practice and Procedure), unless specific exemption is granted.

ERIC HENRY,
Secretary

[Pa.B. Doc. No. 04-1988. Filed for public inspection October 29, 2004, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

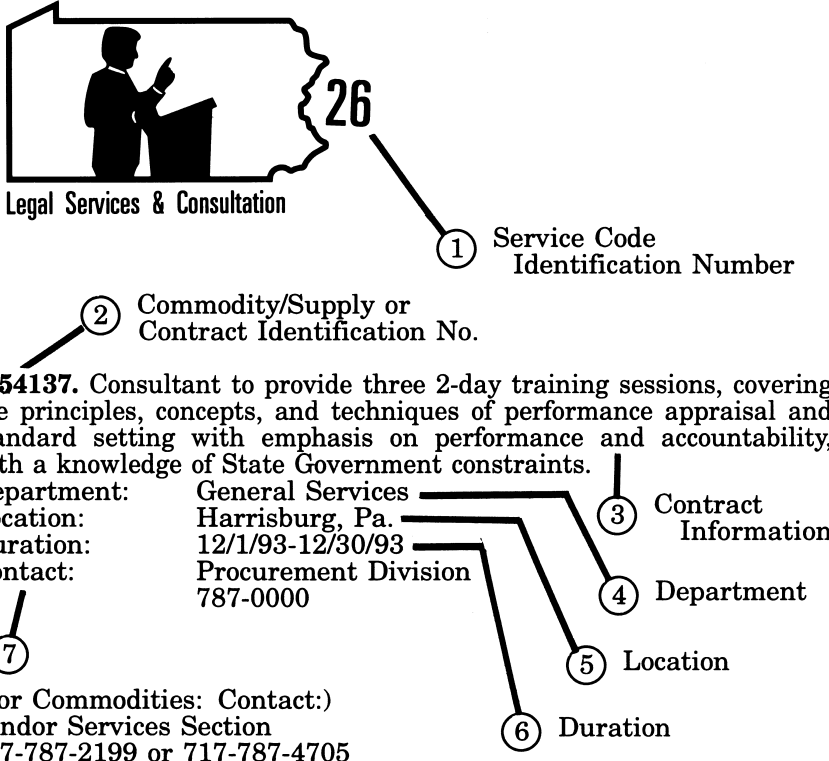
Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

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

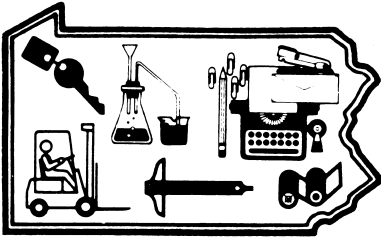
<h3 style="margin: 0;">Reader's Guide</h3> 	<h3 style="margin: 0;">REQUIRED DATA DESCRIPTIONS</h3>
<p>Legal Services & Consultation</p> <p>① Service Code Identification Number</p> <p>② Commodity/Supply or Contract Identification No.</p> <p>B-54137. Consultant to provide three 2-day training sessions, 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.</p> <p>Department: General Services Location: Harrisburg, Pa. Duration: 12/1/93-12/30/93 Contact: Procurement Division 787-0000</p> <p>③ Contract Information</p> <p>④ Department</p> <p>⑤ Location</p> <p>⑥ Duration</p> <p>⑦ (For Commodities: Contact:) Vendor Services Section 717-787-2199 or 717-787-4705</p>	<p>① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.</p> <p>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.</p> <p>③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.</p> <p>④ Department: State Department or Agency initiating request for advertisement.</p> <p>⑤ Location: Area where contract performance will be executed.</p> <p>⑥ Duration: Time estimate for performance and/or execution of contract.</p> <p>⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.</p> <p>(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705</p>

PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

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. Services are free except for the cost of photocopying contracts (15 cents per page); postage; redaction, and certified copies. The bureau may assess reasonable fees for labor and other expenses necessary to comply with the request. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room 201 Finance Building
 Harrisburg, PA 17120
 717-787-4586
 1-800-252-4700
 BizOutlet@patreasury.org

BARBARA HAFER,
State Treasurer



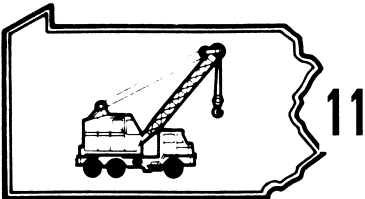
Commodities

CN00011389 Greenhouse Bench System - Fiberglass/Plastic (Metal not acceptable).
Department: Public Welfare
Location: Polk Center, P. O. Box 94, Polk, PA 16342
Contact: Amy Tatarek, (814) 432-0229

CN0011267 Linen Supplies as follows: Quilted Mattress Pads (Fitted, Flannel Blankets, Contour Top Fitted Sheets and Washcloths. Detailed description of these items will be available at the Ebensburg Center Purchasing Office.

Department: Public Welfare
Location: Ebensburg Center, Rt. 22 West, PO Box 600, Ebensburg, PA 15931
Contact: Marilyn Cartwright, Purchasing Agent 3, (814) 472-0259

SERVICES



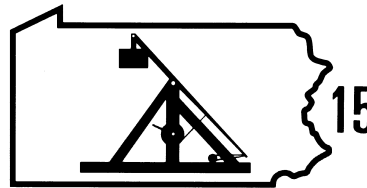
Demolition—Structural Only

0065-A11 The Pennsylvania Department of Transportation will be accepting seal bids for the sale and removal of Residential dwellings located along State Route 0065 (also known as Ohio River Boulevard) in the Borough of Avalon, Allegheny County. Contractors will be required to demolish or remove all structures, outbuildings and site improvements. They will also be required to comply with FHWA and State Regulations. For bid information, specifications and further information, please contact Mr. Michael Sudar, District Property Manager at (412) 429-4830.

Department: Transportation
Location: Borough of Avalon
Duration: 30 days from Notice to Proceed
Contact: Michael Sudar, (412) 429-4830

0008-A05 The Pennsylvania Department of Transportation will be accepting seal bids for the sale and removal of Residential dwellings located along State Route 0008 (also known as William Flynn Highway) in the Borough of Etna, Allegheny County. Contractors will be required to demolish or remove all structures, outbuildings and site improvements. They will also be required to comply with FHWA and State Regulations. For bid information, specifications and further information, please contact Mr. Michael Sudar, District Property Manager at (412) 429-4830.

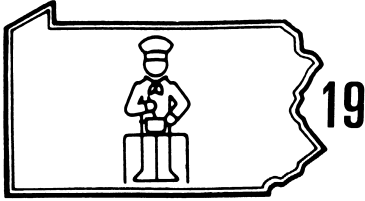
Department: Transportation
Location: Borough of Etna
Duration: 30 days from Notice to Proceed
Contact: Michael Sudar, (412) 429-4830



Environmental Maintenance Service

OSM 24(3894)101.1 Abandoned Mine Reclamation Project, Winslow Hill II. The principal items of work and approximate quantities include 135,520 cubic yards of grading, 24,000 tons of alkaline addition and 14.5 acres of seeding. This project issues on October 29, 2004 and bids will be opened on November 30, 2004 at 2:00 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. Funding for this project has been made available from "The Surface Mining Control and Reclamation Act of 1977" and is subject to that Law and to the Federal Grant for this project.

Department: Environmental Protection
Location: Benazette Township, Elk County
Duration: 150 calendar days after the official starting date.
Contact: Construction Contracts Section, (717) 787-7820



Food

CN00011395 Miscellaneous Foods.

Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: January 1, 2005 - March 31, 2005
Contact: Tina Robbins, (570) 271-4578

CN00011393 Dairy Products.

Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: January 1, 2005 - June 30, 2005
Contact: Tina Robbins, (570) 271-4578

CN00011396 Miscellaneous Meats.

Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: January 1, 2005 - March 31, 2005
Contact: Tina Robbins, (570) 271-4578

CN00011398 Frozen Vegetables.

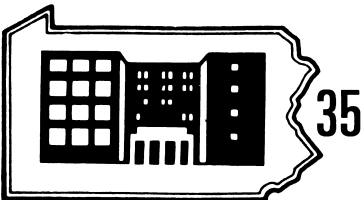
Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: January 1, 2005 - June 30, 2005
Contact: Tina Robbins, (570) 271-4578

CN00011397 Poultry.

Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: January 1, 2005 - March 31, 2005
Contact: Tina Robbins, (570) 271-4578

ADV-228 Indiana University of Pennsylvania (IUP), a member of the Pennsylvania State System of Higher Education, is seeking proposals for a vendor to provide dining services to the University in accordance with Request for Proposal 2005-01. Requests for an RFP package should be made in writing, referencing Advertisement No. ADV-228, and directed to P. K. Froelicher, Director of Purchasing, IUP, 650 S. 13th St., Indiana, PA 15705; fax: (724) 357-2670; or e-mail: pkfro@iup.edu. Requests for the RFP package will be accepted until November 5, 2004. A complete RFP package will be mailed shortly thereafter. The University encourages responses from small and disadvantaged, minority, and women-owned firms.

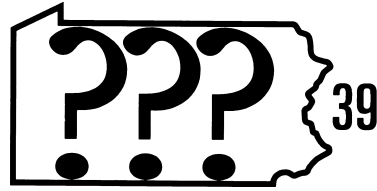
Department: State System of Higher Education
Location: Indiana University of Pennsylvania, Indiana, PA 15705
Duration: June 1, 2005 to May 31, 2010
Contact: P. K. Froelicher, (724) 357-3077



Real Estate Services

93764 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Labor and Industry with 60,234 to 72,179 useable square feet of office space in with a minimum parking requirement for 13 ADA vehicles, within the City limits of Greensburg, Westmoreland County, PA. Downtown locations will be considered. For more information on SFP #93764 which is due on November 5, 2004 visit www.dgs.state.pa.us and click on "Real Estate" to download an SFP package or call (717) 787-7412.

Department: Labor and Industry
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: Mr. Jennings K. Ward, (717) 787-7412



Miscellaneous

CN00011333 Preventative maintenance on generators to include transfer switches, and calibration for the power controls at SCI-Chester. More detailed information may be obtained from the institution.

Department: Corrections
Location: SCI-Chester, 500 E. 4th Street, Chester, PA 19013
Duration: January 1, 2005 - June 30, 2007
Contact: Jacqueline Newson, Purchasing Agent, (610) 490-4370

[Pa.B. Doc. No. 04-1989. Filed for public inspection October 29, 2004, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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DONALD T. CUNNINGHAM, Jr.
Secretary

