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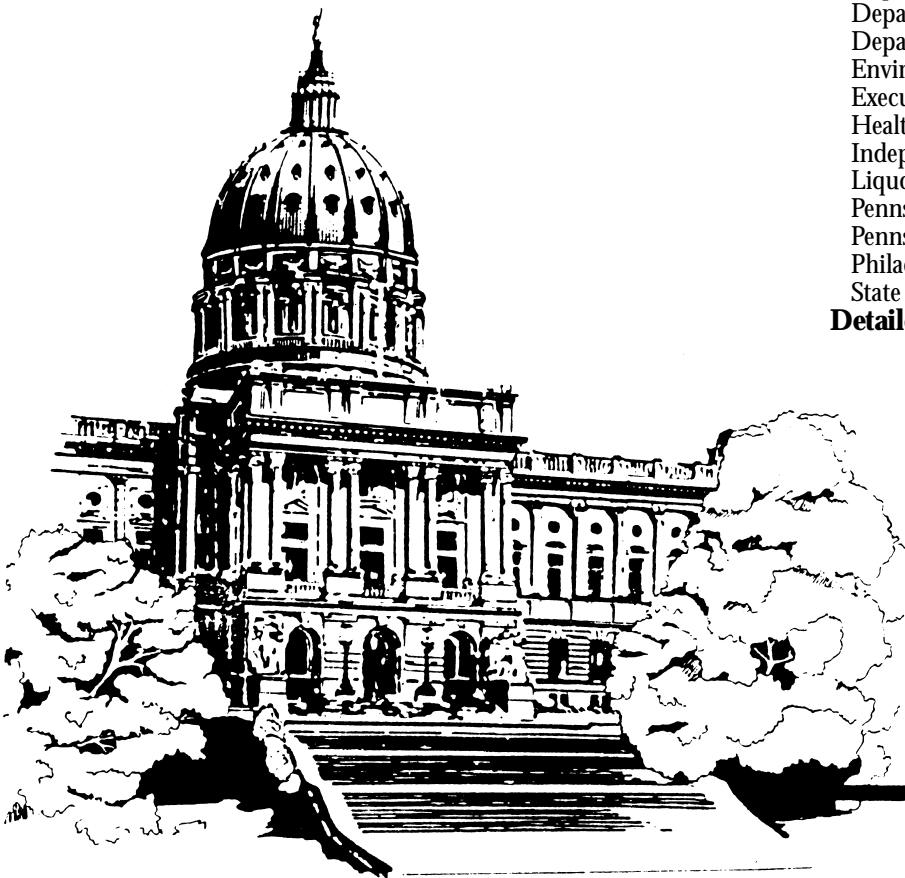
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Subject Index for
January—December 2006

Part I

Agencies in this issue

The Courts
Department of Banking
Department of Conservation and Natural Resources
Department of Environmental Protection
Department of General Services
Department of Health
Department of Revenue
Environmental Quality Board
Executive Board
Health Care Cost Containment Council
Independent Regulatory Review Commission
Liquor Control Board
Pennsylvania Gaming Control Board
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
State Board of Cosmetology

Detailed list of contents appears inside.



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**Latest Pennsylvania Code Reporter
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No. 386, January 2007

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2007.

4 Pa. Code (Administration)

Statements of Policy

9 27

25 Pa. Code (Environmental Protection)

Adopted Rules

93 11

40 Pa. Code (Liquor)

Adopted Rules

5 16

11 16

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52 Pa. Code (Public Utilities)

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58 Pa. Code (Recreation)

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401 21

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491a 23

231 Pa. Code (Rules of Civil Procedure)

Proposed Rules

4000 7

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 4000]

Proposed New Rule 4003.8 Governing Pre-Complaint Discovery; Proposed Recommendation No. 221

The Civil Procedural Rules Committee is proposing that new Rule of Civil Procedure 4003.8 governing pre-complaint discovery be promulgated as set forth in the following recommendation. The recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than February 16, 2007 to:

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

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

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 4000. DEPOSITIONS AND DISCOVERY

Rule 4001. Scope. Definitions.

* * * * *

(c) Subject to the provisions of this chapter, any party may take the testimony of any person, including a party, by deposition upon oral examination or written interrogatories for the purpose of discovery, or for preparation of pleadings, or for preparation or trial of a case, or for use at a hearing upon petition, motion or rule, or for any combination of the foregoing purposes.

Official Note: See Rule 4003.8 governing pre-complaint discovery.

* * * * *

Rule 4003.8. Pre-Complaint Discovery.

(a) A plaintiff may obtain pre-complaint discovery where the information sought is material and necessary to the filing of the complaint and the discovery will not cause unreasonable annoyance, embarrassment, oppression, burden or expense to any person or party.

(b) Upon a motion for protective order or other objection to a plaintiff's pre-complaint discovery, the court may require the plaintiff to state with particularity how the discovery will materially advance the preparation of the

complaint. In deciding the motion or other objection, the court shall weigh the importance of the discovery request against the burdens imposed on any person or party from whom the discovery is sought.

Rule 4005. Written Interrogatories to a Party.

(a) Subject to the limitations provided by Rule 4011, any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or similar entity or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party. Interrogatories may be served upon any party at the time of service of the original process or at any time thereafter. Interrogatories which are to be served prior to service of the complaint shall be limited to the purpose of preparing a complaint and shall contain a brief statement of the nature of the cause of action. Interrogatories shall be prepared in such fashion that sufficient space is provided immediately after each interrogatory or subsection thereof for insertion of the answer or objection.

Official Note: Rule 440 requires the party serving interrogatories upon any other party to serve a copy upon every party to the action.

See Rule 4003.8 governing pre-complaint discovery.

* * * * *

Rule 4007.1. Procedure in Deposition by Oral Examination.

* * * * *

(c) The purpose of the deposition and matters to be inquired into need not be stated in the notice unless the action has been commenced by writ of summons and the plaintiff desires to take the deposition of any person upon oral examination for the purpose of preparing a complaint. In such case the notice shall include a brief statement of the nature of the cause of action and of the matters to be inquired into.

Official Note: See Rule 4003.8 governing pre-complaint discovery.

* * * * *

Explanatory Comment

Case law governing pre-complaint discovery has not developed a general rule of application. In his opinion addressing pre-complaint discovery in *McNeil v. Jordan*, 894 A.2d 1260 (2006), Justice Baer stated in a footnote that the matter would be referred to the Civil Procedural Rules Committee to consider the adequacy of the existing rules and "to recommend any amendments that might clarify this vexing area of civil procedure."

The Committee in proposing new Rule 4003.8 has established in subdivision (a) a two-prong test for pre-complaint discovery: (1) the information sought must be material and necessary to the filing of the complaint and (2) "the discovery will not cause unreasonable annoyance, embarrassment, oppression, burden or expense to any person or party." The first prong incorporates the language of the opinion quoted above that the information sought be both "material and necessary" to the filing of a complaint in a pending action. The requirement of the opinion that there be "probable cause" that the information sought is material and necessary has not been

included in the rule. The language of the second prong that the discovery not cause "unreasonable annoyance, embarrassment, oppression, burden or expense" is taken verbatim from present Rule 4011(b) governing limitation of scope of discovery and deposition.

New Rule 4003.8(b) governs a motion for protective order or other objection to pre-complaint discovery. The court may require the plaintiff "to state with particularity how the discovery will materially advance the preparation of the complaint." The language "materially advance" is also derived from the opinion quoted above. The requirement set forth in the *McNeil* opinion of "probable cause for believing" the information will materially advance the pleading has not been retained.

Subdivision (b) confers discretion on the court in deciding a motion for pre-complaint discovery. It also incorporates the language of the opinion in the *McNeil* case, 894 A.2d at 1278-1279:

In practice, of course, a trial court addresses a discovery request not in abstract terms but in the context of the case at bar. In doing so, the court exercises significant discretion, weighing the importance of the request against the burdens imposed on the subject party to determine, as a practical matter, whether the discovery request should be permitted.

Rule 4001(c) refers to discovery for preparation of pleadings. Rules 4005(a) and 4007.1(c) refer, *inter alia*, to written interrogatories and depositions for the purpose of preparing a complaint. Notes are to be added to these rules cross-referring to new Rule 4003.8.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,
Chair

[Pa.B. Doc. No. 07-1. Filed for public inspection January 5, 2007, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated November 15, 2006, pursuant to Pennsylvania Rules of Disciplinary Enforcement 219 which requires that all attorneys admitted to practice in any court of this Commonwealth must pay an annual assessment of \$175.00. The Order became effective December 15, 2006.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

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Cherry Hill, NJ

Babst, David McNary
Cleveland, OH

Bailey, Marchelle
Glendale, CA

Bakst, Daren Lawrence
Raleigh, NC

Bennetsen, Julia Marie
Haddon Township, NJ

Bernardo, Paul J.
Astoria, NY

Bernstein, Leon
Las Vegas, NV

Blaney, Dana Marie
Cape May Court House, NJ

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Arlington, VA

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Wilmington, DE

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Bradenton, FL

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Woodbridge, VA

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Marlton, NJ

Williams, Nicole J.
Washington, DC

Wilson, Timothy James
Wilmington, DE

Zis, Peter J.
Richton Park, IL

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated November 21, 2006, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective December 21, 2006 for Compliance Group 1 due April 30, 2006. Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Barbour, Roger A.
Maple Shade, NJ

Byrer, Robert Glenn
Washington, DC

Campbell, Kelly Lynn
Camden, NJ

Drabkin, David Allan
Springfield, VA

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

[Pa.B. Doc. No. 07-2. Filed for public inspection January 5, 2007, 9:00 a.m.]

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

[Pa.B. Doc. No. 07-3. Filed for public inspection January 5, 2007, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

Stream Redesignations (Newtown Creek, et al.)

The Environmental Quality Board (Board) amends §§ 93.7, 93.9d, 93.9e, 93.9g, 93.9l, 93.9o, 93.9q and 93.9v to read as set forth in Annex A.

A. *Effective Date*

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

B. *Contact Persons*

For further information, contact Richard H. Shertzer, Chief, Division of Water Quality Standards, Bureau of Water Standards and Facility Regulation, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, 400 Market Street, Harrisburg, PA 17105-8467, (717) 787-9637; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD-users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection (Department) website at www.depweb.state.pa.us.

C. *Statutory and Regulatory Authority*

This final-form rulemaking is being made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law, and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grants to the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department. In addition, section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313) sets forth requirements for water quality standards and the Federal regulation in 40 CFR 131.32 (relating to Pennsylvania) sets forth certain requirements for portions of the Commonwealth's antidegradation program.

D. *Background of the Final-Form Rulemaking*

Water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements (such as treatment requirements and effluent limits) on individual sources of pollution.

The Department may identify candidates for redesignation during routine waterbody investigations. Requests for consideration may also be initiated by other agencies, such as the Fish and Boat Commission (Commission). Organizations, businesses or individuals may submit a rulemaking petition to the Board.

The Department considers candidates for High Quality (HQ) or Exceptional Value (EV) Waters and all other designations in its ongoing review of water quality standards. In general, HQ and EV waters must be maintained at their existing water quality and permitted activities shall ensure the protection of designated and existing uses.

Existing use protection is provided when the Department determines, based on its evaluation of the best available scientific information, that a surface water attains water uses identified in §§ 93.3 and 93.4 (relating to protected water uses; and Statewide water uses). Examples of water uses protected include the following: Cold Water Fishes (CWF), Warm Water Fishes (WWF), HQ and EV. A final existing use determination is made on a surface water at the time the Department takes a permit or approval action on a request to conduct an activity that may impact surface water. If the determination demonstrates that the existing use is different than the designated use, the water body will immediately receive the best protection identified by either the attained uses or the designated uses. A stream will then be "redesignated" through the rulemaking process to match the existing uses with the designated uses. For example, if the designated use of a stream is listed as protecting WWF but the redesignation evaluation demonstrates that the water attains the use of CWF, the stream would immediately be protected for CWF, prior to a rulemaking. Once the Department determines the water uses attained by a surface water, the Department will recommend to the Board that the existing uses be made "designated" uses, through rulemaking, and be added to the drainage lists of uses identified in §§ 93.9a—93.9z.

These streams were evaluated in response to one petition, as well as requests from the Pennsylvania Fish and Boat Commission (FBC) and the Department as follows:

Petition: Pine Run (Chest Township Road District)

FBC: Messenger Run

Department: Indian Spring Run, Unnamed Tributary (UNT) to Lizard Creek, Newtown Creek and Indian Creek

These amendments were developed as a result of aquatic studies conducted by the Department and the Commission. The physical, chemical and biological characteristics and other information on these waterbodies were evaluated to determine the appropriateness of the current and requested designations using applicable regulatory criteria and definitions. In reviewing whether waterbodies qualify as HQ or EV waters, the Department considers the criteria in § 93.4b (relating to qualifying as High Quality or Exceptional Value Waters). Based upon the data collected in these surveys, the Board has made the designations in Annex A.

E. *Summary of Comments and Responses on the Proposed Rulemaking*

The Board approved the proposed rulemaking for the Newtown Creek, et al. package at its June 21, 2005, meeting. The proposed rulemaking was published at 35 Pa.B 4734 (August 20, 2005) with provision for a 45-day public comment period that closed on October 4, 2005. Comments were received from five commentators including the United States Environmental Protection Agency (EPA).

The EPA Region 3 office supported the package in general. Three commentators supported the redesignation of Pine Run to EV.

One commentator supported redesignating UNT 03876 to Lizard Creek as an EV water. This same commentator, however, also declared his opposition to plans for a quarry operation in the immediate vicinity of UNT 03876 to Lizard Creek. This comment is not relevant to this

final-form rulemaking and was forwarded to the Department's Office of Mineral Resource Management for appropriate review and consideration.

F. *Summary of Changes to the Proposed Rulemaking*

No changes were made to the redesignations recommended in the proposed rulemaking. Minor revisions are included in Annex A which have occurred following the proposed rulemaking. The Board recommends an additional correction to § 93.7, Table 3 (relating to specific water quality criteria) for Dissolved Oxygen (DO₃) criteria. An erroneous reference is given to "See the following table." This reference should be removed. Additionally, further clarification was added to the zone descriptions by identifying the river mile of the confluence for the unnamed tributaries listed in drainage lists D, L and O.

G. *Benefits, Costs and Compliance*

Benefits. Overall, the citizens of this Commonwealth will benefit from this final-form rulemaking because it reflects the appropriate designated use and maintains the most appropriate degree of protection for each stream in accordance with the existing use of the stream.

Compliance costs. Generally, the changes should have no fiscal impact on, or create additional compliance costs for the Commonwealth or its political subdivisions. The streams are already protected at their existing use, and therefore the designated use changes will have no impact on treatment requirements. No costs will be imposed directly upon local governments by these revisions. Political subdivisions that add a new sewage treatment plant or expand an existing plant in these basins may experience changes in cost as noted in the discussion of impacts on the private sector.

Persons conducting or proposing regulated activities shall comply with the regulatory requirements regarding designated and existing uses. For example, persons could be adversely affected if they expand a discharge or add a new discharge point since they may need to provide a higher level of treatment to meet the designated and existing uses of the stream. These increased costs may take the form of higher engineering, construction or operating costs for wastewater treatment facilities. Treatment costs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs. Economic impacts would primarily involve the potential for higher treatment costs for new or expanded discharges to streams that are redesignated to a more protective use.

Compliance assistance plan. This final-form rulemaking has been developed as part of an established program that has been implemented by the Department since the early 1980s. The final-form rulemaking is consistent with and based on existing Department regulations. The final-form rulemaking extends additional protection to selected waterbodies that exhibit exceptional water quality and are consistent with antidegradation requirements established by the Federal Clean Water Act and The Clean Streams Law. All surface waters in this Commonwealth are afforded a minimum level of protection through compliance with the water quality standards, which prevent pollution and protect existing water uses.

The redesignations will be implemented through the Department's permit and approval actions. For example, the National Pollutant Discharge Elimination System (NPDES) permitting program bases effluent limitations on the use designation of the stream. These permit conditions are established to assure water quality criteria

are achieved and designated and existing uses are protected. New and expanded dischargers with water quality based effluent limitations are required to provide effluent treatment according to the water quality criteria associated with existing uses and revised designated water uses.

Paperwork requirements. The final-form rulemaking should have no direct paperwork impact on the Commonwealth, local governments and political subdivisions or the private sector. This final-form rulemaking is based on existing Department regulations and simply mirrors the existing use protection that is already in place for these streams. There may be some indirect paperwork requirements for new or expanding dischargers to streams upgraded to HQ or EV. For example, NPDES general permits are not currently available for new or expanded discharges to these streams. Thus, an individual permit and its associated paperwork would be required. Additionally, paperwork associated with demonstrating social and economic justification may be required for new or expanded discharges to certain HQ Waters, and consideration of nondischarge alternatives is required for all new or expanded discharges to EV and HQ Waters.

H. *Pollution Prevention*

The water quality standards and antidegradation program are major pollution prevention tools because their objective is to prevent degradation by maintaining and protecting existing water quality and existing uses. Although the antidegradation program does not prohibit new or expanded wastewater discharges, nondischarge alternatives are encouraged and required when environmentally sound and cost effective. Nondischarge alternatives, when implemented, remove impacts to surface water and reduce the overall level of pollution to the environment by remediation of the effluent through the soil.

I. *Sunset Review*

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

J. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 5, 2005, the Department submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 4734, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 29, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved effective November 29, 2006, by IRRC.

K. Findings

The Board finds that:

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

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

(3) These final-form amendments do not enlarge the purpose of the proposal published at 35 Pa.B. 4734.

(4) These final-form amendments are necessary and appropriate for the administration and enforcement of the authorizing acts identified in Section C of this order.

(5) This final-form rulemaking does not contain standards or requirements that exceed requirements of the companion Federal regulations.

L. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapter 93, are amended by amending §§ 93.7, 93.9d,

93.9e, 93.9g, 93.9l, 93.9o, 93.9q and 93.9v to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

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

KATHLEEN A. MCGINTY,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 7777 (December 16, 2006).)

Fiscal Note: Fiscal Note 7-397 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 93. WATER QUALITY STANDARDS

WATER QUALITY CRITERIA

§ 93.7. Specific water quality criteria.

* * * * *

TABLE 3

Parameter	Symbol	Criteria	Critical Use*
		* * * * *	
Dissolved Oxygen		The following specific dissolved oxygen criteria recognize the natural process of stratification in lakes, ponds and impoundments. These criteria apply to flowing waters and to the epilimnion of a naturally stratified lake, pond or impoundment. The hypolimnion in a naturally stratified lake, pond or impoundment is protected by the narrative water quality criteria in § 93.6 (relating to general water quality criteria). For nonstratified lakes, ponds or impoundments, the dissolved oxygen criteria apply throughout the lake, pond or impoundment to protect the critical uses.	
		* * * * *	
	DO ₃	For the period February 15 to July 31 of any year, minimum daily average 6.0 mg/l; minimum 5.0 mg/l. For the remainder of the year, minimum daily average 5.0 mg/l; minimum 4.0 mg/l.	TSF
		* * * * *	

DESIGNATED WATER USES AND WATER QUALITY CRITERIA

§ 93.9d. Drainage List D.

Delaware River Basin in Pennsylvania

Lehigh River

Stream	Zone	County					Water Uses Protected	Exceptions To Specific Criteria
		*	*	*	*	*		
3—Fireline Creek	Basin			Carbon			CWF	None
3—Lizard Creek	Basin, Source to T-922 Bridge			Schuylkill			CWF	None
3—Lizard Creek	Basin, T-922 Bridge to Confluence of UNT 03876 at RM 7.90			Carbon			TSF	None
4—UNT 03876 at RM 7.90	Basin			Carbon			EV	None
3—Lizard Creek	Basin, UNT 03876 to Mouth			Carbon			TSF	None
		*	*	*	*	*		

§ 93.9e. Drainage List E.

Delaware River Basin in Pennsylvania

Delaware River

Stream	Zone	County					Water Uses Protected	Exceptions To Specific Criteria
		*	*	*	*	*		
2—Neshaminy Creek	Non-Tidal Portion of Main Stem, RM 26.84 to Mouth			Bucks			WWF, MF	Add Tur ₁
3—Mill Creek	Basin, Watson Creek to Mouth			Bucks			WWF, MF	Add Tur ₁
3—Newtown Creek	Basin			Bucks			WWF, MF	Add Tur ₁
3—Core Creek	Basin, Source to Inlet of Lake Luxembourg			Bucks			CWF, MF	Add Tur ₂
		*	*	*	*	*		

§ 93.9g. Drainage List G.

Delaware River Basin in Pennsylvania

Delaware River

Stream	Zone	County					Water Uses Protected	Exceptions To Specific Criteria
		*	*	*	*	*		
4—East Branch Brandywine Creek	Main Stem, Shamona Creek to Confluence with West Branch			Chester			WWF, MF	None
5—Beaver Creek	Basin, East Brandywine-Caln Township Border to Mouth			Chester			TSF, MF	None
5—Valley Creek	Basin, Source to Broad Run			Chester			CWF, MF	None
		*	*	*	*	*		

§ 93.9l. Drainage List L.

Susquehanna River Basin in Pennsylvania
West Branch Susquehanna River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
4—Rogues Harbor Run	Basin	Clearfield	EV	None
3—Chest Creek	Basin, Rogues Harbor Run to Pine Run	Clearfield	CWF	None
4—Pine Run	Basin	Clearfield	EV	None
3—Chest Creek	Basin, Pine Run to Mouth	Clearfield	CWF	None
3—Miller Run	Basin	Clearfield	CWF	None
		* * * * *		
5—Cedar Run	Basin	Centre	CWF	None
5—UNT 23057 at RM 18.18 (locally Markles Gap Run)	Basin	Centre	HQ-CWF	None
5—Slab Cabin Run	Basin, Source to PA 26 at RM 9.0	Centre	HQ-CWF	None
		* * * * *		
4—Spring Creek	Main Stem, PA 550 Bridge to Mouth	Centre	HQ-CWF	None
5—UNTs to Spring Creek	Basins, PA 550 Bridge to Mouth	Centre	CWF	None
5—Logan Branch	Basin, Source to UNT 23007 at RM 7.16	Centre	CWF	None
6—UNT 23007 at RM 7.16 (locally McBrides Run)	Basin	Centre	HQ-CWF	None
5—Logan Branch	Basin, UNT 23007 to T 371 Bridge	Centre	CWF	None
5—Logan Branch	Main Stem, T-371 Bridge to Mouth	Centre	HQ-CWF	None
		* * * * *		

§ 93.9o. Drainage List O.

Susquehanna River Basin in Pennsylvania
Susquehanna River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
2—Pequea Creek	Main Stem, PA 897 to Mouth	Lancaster	WWF	None
		* * * * *		
3—Indian Spring Run	Basin, Source to SR 10 Bridge	Chester	EV	None
3—Indian Spring Run	Basin, SR10 to Confluence of UNT 07540 at RM 1.95	Lancaster	CWF	None
4—UNT 07540 at RM 1.95 to Indian Spring Run	Basin, Source to SR10 Bridge	Chester	HQ-CWF	None
4—UNT 07540 at RM 1.95 to Indian Spring Run	Basin, SR10 Bridge to Mouth	Lancaster	CWF	None
3—Indian Spring Run	Basin, UNT 07540 to Mouth	Lancaster	CWF	None
3—White Horse Run	Basin	Lancaster	WWF	None
		* * * * *		

§ 93.9q. Drainage List Q.

Ohio River Basin in Pennsylvania

Allegheny River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
4—Pell Run	Basin	Warren	CWF	None
4—Messenger Run	Basin	Warren	EV	None
4—Mead Run	Basin	Warren	CWF	None
		* * * * *		

§ 93.9v. Drainage List V.

Ohio River Basin in Pennsylvania

Monongahela River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
		* * * * *		
4—Indian Creek	Basin, Camp Run to Champion Creek	Fayette	HQ-CWF	None
5—Champion Creek	Basin	Fayette	CWF	None
4—Indian Creek	Main Stem, Champion Creek to Mouth	Fayette	CWF	None
5—UNTs to Indian Creek	Basins, Champion Creek to Mouth	Fayette	CWF	None
		* * * * *		

[Pa.B. Doc. No. 07-4. Filed for public inspection January 5, 2007, 9:00 a.m.]

Title 40—LIQUOR

LIQUOR CONTROL BOARD

[40 PA. CODE CHS. 5, 11, 13 AND 17]

Revisions to Codify Practices and Procedures Resulting from Legislative Amendments

The Liquor Control Board (Board), under the authority of section 207(i) of the Liquor Code (code) (47 P. S. § 2-207(i)), amends Chapters 5, 11, 13 and 17.

Summary

The final-form rulemaking codifies practices and procedures of the Board and further explains various legislative changes to the code.

The final-form rulemaking explains conditions under which minors without a parent, guardian or proper supervisor may be present in licensed premises that primarily serve food.

The final-form rulemaking prohibits purchases or redemption of the Board's gift cards by minors.

The final-form rulemaking establishes procedures for the Board to participate in wine events.

The final-form rulemaking codifies established practices regarding limits on point-of-sale incentive programs for malt or brewed beverages.

The final-form rulemaking explains the procedure for intervention by interested parties when a municipality has requested leave to enforce its own noise ordinance instead of the Board's regulations on amplified music.

Comments to Proposed Rulemaking

During the public comment period, comments were received on behalf of the Pennsylvania State Association of Township Supervisors (PSATS). These comments and the Board's responses are as follows:

Comment: The calculation of a licensee's eligibility for renewal of a Sunday sales permit (SSP) in § 11.176 (relating to renewal) allows inclusion of sales on Sunday of food and nonalcoholic beverages after an SSP expires. By doing so, it is suggested that the regulation allows artificial inflation of the licensee's ratio that is likely to decrease if the applicant receives an SSP.

Response: The act of July 6, 2005 (P. L. 135, No. 39) (Act 39) removed the ratio requirement for licensees to receive an SSP, except for licensees in a first class city (Philadelphia). See section 406(a)(3) of the code (47 P. S. § 4-406(a)(3)). As a result, further study of the SSP procedures as they apply to Philadelphia will be needed. Accordingly, the proposed amendments to this section have been withdrawn.

Comment: The qualification to be a petitioner in noise exemption proceedings under § 17.15 was questioned.

Neighbors petitioning as a group, or those who collectively have a direct interest, should be accepted as interveners.

Response: This section establishes procedures for parties to participate in a proceeding when a municipality is asking to enforce its own noise ordinances in the place of § 5.32(a). The regulation establishes a time limit for acceptance of petitions to intervene. This serves the interests of all parties in a fair and orderly hearing. The standards for a person or group of people to qualify as interveners are drawn from existing law and regulations, notably 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and *Application of Biester*, 487 Pa. 438, 409 A.2d 848 (1979). The Board proposed this regulation to clarify the procedure to be followed and to apply current legal standards. These standards would not preclude a collective or neighborhood petition to intervene under proper circumstances. Therefore, the section was adopted as proposed.

On June 8, 2005, the Independent Regulatory Review Commission (IRRC) provided comments to the proposed rulemaking. These comments and the Board's responses are as follows.

Comment: IRRC questioned the calculation of a licensee's eligibility for an SSP. Like the PSATS, IRRC asked for an explanation of the inclusion of Sunday sales of food and nonalcoholic beverages occurring outside of the effective date of an SSP. Also questioned was the 120-day waiting period for licensees to reapply after expiration of the previous SSP. IRRC suggested allowing reapplication as soon as a licensee can show 90-consecutive days of compliance with the 30% ratio in the most recent 12 months. Alternatively, an explanation of the 120-day waiting period was requested.

Response: Act 39 removed the ratio requirement for licensees to receive an SSP, except for licensees in a first class city (Philadelphia). See section 406(a)(3) of the code. As a result, further study of the SSP procedures as they apply to Philadelphia will be needed. Accordingly, the proposed amendments to this section have been withdrawn.

Comment: The Board's role with respect to wine events under section 215(e) of the code (47 P. S. § 2-215(e)) was questioned in two respects. First, the text of proposed § 13.27(c) and (d) (relating to Board participation in wine events) indicated the Board's approval of wine events, as contrasted to the statutory authority granted to the Board to participate in or sponsor wine events. Second, the provision of subsection (d) making the Board's decision not to approve a wine event a nonappealable decision is questioned in the context of 2 Pa.C.S. § 702 (relating to appeals).

Response: Because the intent of § 13.27 was to explain the conditions applicable to the Board's sponsorship of or participation in a wine event, reference to "approval" was meant to reflect action by the Board to sponsor or participate in a wine event. The Board's business decision to forego sponsorship or participation was intended to be made without the potential for judicial review. The text of this section has been amended to clarify the Board's role with respect to wine events.

Several clarity points were recommended. These comments are as follows:

Comment: Section 5.121(a) (relating to service in establishments primarily serving food) cross references "section

494(14) of the Liquor Code (47 P. S. § 4-494(a))." This reference should be corrected to section 493(14) of the code (47 P. S. § 4-493(14)).

Response: The cross reference was corrected in this final-form rulemaking.

Comment: Section 11.13 (relating to gift card transactions by minors prohibited) cross references all of section 305 of the code (47 P. S. § 3-305). It appears that only subsection (h) of the this section applies to gift cards. If so, the reference in the final-form rulemaking should be more specific by referencing section 305(h) of the code.

Response: The cross reference was corrected in this final-form rulemaking.

Comment: Section 11.172(a)(4) (relating to application for Sunday sales permit) was proposed to be amended to state "... at least 30%..." To be consistent with section 406(a)(3) of the code and § 11.171(b) (relating to statutory provisions), this subsection should be amended to state "equal to 30% or more."

Response: This section is being withdrawn for further consideration.

Comment: The example in § 11.176 does not specify which subsection it demonstrates. It is placed after subsection (c), but it appears to demonstrate subsection (b). The regulation should clearly state which provision is being demonstrated.

Response: This section is being withdrawn for further consideration.

Comment: The terms "wine event" and "event" are used interchangeably in § 13.27. The term "wine event" should be defined and used consistently.

Response: The term "wine event" is used in this final-form rulemaking.

Comment: The amendments to § 13.51(a) (relating to general prohibition) replace specific references to exceptions with general language. The Board should retain the specific reference to exceptions.

Response: This section has been withdrawn.

Comment: Section 17.15(a) stated when petitions to intervene may be filed. It should also include where they must be filed.

Response: This information has been added to this final-form rulemaking.

Affected Parties

This final-form rulemaking affects existing licensees and parties interested in municipal noise ordinance proceedings.

Paperwork Requirements

The final-form rulemaking will not significantly increase paperwork for the Board or the regulated community.

Fiscal Impact

Because the final-form rulemaking primarily codifies and organizes existing practices or obligations under the code, it will not have a fiscal impact on the licensees of the Board, applicants for licenses or the Board itself.

Effective Date

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

Contact Person

Additional information is available from James F. Maher, Assistant Counsel, Office of Chief Counsel, Liquor Control Board, Room 401, Northwest Office Building, Harrisburg, PA 17124-0001.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 16, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2112 (March 16, 2005), to IRRC and the Chairpersons of the House Committee on Liquor Control and Senate Committee on Law and Justice for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 18, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 19, 2006, and approved the final-form rulemaking.

Findings

The Commission finds that:

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

(2) The amendment of the Board's regulations in the manner provided in this order is necessary and appropriate for the administration of the code.

Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 40 Pa. Code Chapters 5, 11, 13 and 17, are amended by adding §§ 5.121, 11.13, 13.27, 13.54, 13.56 and 17.15 and by amending § 17.1 to read as set forth in Annex A.

(Editor's Note: The Board has withdrawn the proposals to amended § 11.172, 11.176 and 13.51, which were included in the proposed rulemaking at 35 Pa.B. 2112.)

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

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

JONATHAN H. NEWMAN,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 6742 (November 4, 2006).)

Fiscal Note: Fiscal Note 54-61 remains valid for the final adoption of the subject regulations.

Annex A**TITLE 40. LIQUOR****PART I. LIQUOR CONTROL BOARD****CHAPTER 5. DUTIES AND RIGHTS OF LICENSEES****Subchapter J. MINORS ON LICENSED PREMISES**

Sec.

5.121. Service in establishments primarily serving food.

§ 5.121. Service in establishments primarily serving food.

(a) Section 493(14) of the Liquor Code (47 P. S. § 4-493(14)) creates several exceptions to the general prohibition of minors being present in licensed premises. One of these exceptions, known as the "Pizza Hut" exception, permits a minor to be present in a restaurant, hotel or retail dispenser (but not a club) licensed premises that has gross sales of food and nonalcoholic beverages equal to at least 50% of its combined gross sales of both food and alcoholic beverages.

(b) Licensees qualifying for this exception will not be cited for unlawfully allowing minors to frequent the licensed premises.

(c) To qualify for this exception, a licensee will assure that:

(1) Minors are not permitted to sit at the bar counter of the premises.

(2) Alcoholic beverages are not served to any adult at the table or booth where the minor is seated, unless the minor is also there with a parent, legal guardian or proper supervisor.

(3) Sales of food and nonalcoholic beverages at the licensed premises during the preceding 12-month licensing year are at least 50% of the combined gross sales of both food and alcoholic beverages.

**CHAPTER 11. PURCHASES AND SALES
RETAIL AND WHOLESALE PURCHASE—GENERAL****§ 11.13. Gift card transactions by minors prohibited.**

Gift cards authorized by section 305(h) of the Liquor Code (47 P. S. § 3-305(h)) for sale and redemption by the Board may not be purchased or redeemed by minors.

CHAPTER 13. PROMOTION**Subchapter A. ADVERTISING****WINE****§ 13.27. Board participation in wine events.**

(a) Section 215(e) of the Liquor Code (47 P. S. § 2-215(e)) authorizes the Board to sponsor or participate in wine events. A "wine event" is a show, demonstration, exposition or festival that has a purpose of educating consumers about wine that is available in this Commonwealth.

(b) Persons seeking Board sponsorship or participation in a wine event shall submit a request in writing to the Board at least 60 days prior to the first day of the wine event.

(c) If the Board decides to sponsor or participate in the wine event, it will issue a letter of authority to the event organizer. The Board's letter will describe the premises upon which the wine event will be held.

(d) If the Board decides not to sponsor or participate in the wine event, the Board's decision is final, and may not be appealed.

(e) Wine to be used in a wine event that the Board sponsors or participates in may be acquired and possessed in accordance with the following:

(1) Wine donated for the wine event may be shipped directly to the wine event organizer or its agents.

(2) Records showing the amount, types and brands of all wine received, the identity of the donors and the dates received and documents evidencing payment of all necessary taxes shall be forwarded to the Board prior to the wine event.

(3) Wine obtained for the wine event that is not used at the wine event shall be returned to the donor, donated to a nonprofit, charitable organization registered with the Department of State or destroyed and may not be sold.

(4) Wine may also be obtained for the wine event through the Board's wine and spirits stores.

(f) The Board's letter of authority authorizes the wine event organizer or its agents to possess and transport wine for the wine event.

(g) Participation in the wine event, including the service and consumption of wine, may be conditioned on the purchase of a ticket to the wine event. The wine event organizer, its agents or the Board may sell tickets. Sale of tickets by the wine event organizer or its agents does not constitute the unlawful sale of alcohol.

(h) The wine event organizer shall appoint a manager who shall be present on the premises at all times during the wine event.

(i) The Board may sell wine for off-premises consumption in an area it designates at the wine event. The Board shall comply with the provisions of the Liquor Code governing retail sales at Wine and Spirits Stores, except that advance advertisement or notice posting by the Board of the location of the designated sales area is not required and provisions granting a right of protest will not be applicable.

(j) If the premises where the wine event is to occur is licensed by the Board, the licensee will not be cited under the Liquor Code for conduct occurring on the licensed premises during the wine event, so long as the licensee, its employees or agents are not directly involved in the violation and are not participating in the operation or management of the wine event.

GIVING AND ACCEPTING THINGS OF VALUE

§ 13.54. Point of sale (POS) incentive programs—defined.

A POS incentive program provides prizes for nonlicensed buyers to purchase and for distributors/importing distributors to promote the sale of a brand of malt or brewed beverages. These promotions feature displays or advertisements at the location where a sale is made.

§ 13.56. Permissible point of sale (POS) incentive programs.

(a) A POS incentive program must be sponsored by a manufacturer or importing distributor of malt or brewed beverages.

(b) The composite value of prizes available to nonlicensed buyers shall be at least three times the value of prizes available to distributors/importing distributors.

(c) Associated display and novelty items must be directed at and available for nonlicensed buyers.

(d) A prize may not be given to every participant.

(e) The value of a prize for a nonlicensed buyer may not exceed \$1,500.

(f) The POS incentive program may not incorporate a payment to licensees based on the number of cases displayed.

(g) The POS incentive program shall be approved in advance by the Office of Chief Counsel, Pennsylvania Liquor Control Board.

CHAPTER 17. SPECIAL RULES OF PRACTICE AND PROCEDURE FOR MATTERS BEFORE THE BOARD

Subchapter A. GENERAL

§ 17.1. Purpose.

This chapter supplements 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and governs the practice and procedure before the Board regarding license applications, appeals from ALJ decisions, applications for supersedeas, divestiture and noise exemption petitions.

Subchapter B. LICENSE APPLICATIONS

§ 17.15. Intervention in noise exemption petitions.

(a) Petitions to intervene may be filed with the Board when a municipality has petitioned the Board for exemption from the Board's regulation regarding the sound of amplified music or other entertainment, or the advertisement thereof, being heard outside of licensed premises.

(b) The deadline for filing a petition to intervene with the Board is 7 calendar days before the hearing. In extraordinary circumstances and for good cause, a petition to intervene may be accepted by the Board after the deadline, but not after the hearing begins.

(c) A petition to intervene must present proof that the petitioner has a substantial, direct and immediate interest in the outcome of the proceeding. For an interest to be substantial, it means that there is some discernible adverse effect to the petitioner's individual interest. For the petitioner to have a direct interest, it means that the person claiming to be aggrieved must show the harm to his interest would be caused by the municipality's enforcement of its own noise ordinance. An immediate interest means that there is a close causal connection between the alleged injury and the grant of the exemption.

(d) The Board may allow petitioners to become interveners if the petition also shows the petitioner has an interest of such a nature so that intervention is necessary or appropriate to administration of the Liquor Code and this title. The Board will also consider whether or not the interest asserted in the petition to intervene is adequately represented by existing parties.

[Pa.B. Doc. No. 07-5. Filed for public inspection January 5, 2007, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF COSMETOLOGY

[49 PA. CODE CH. 7]

Accreditation of Licensed Schools

The State Board of Cosmetology (Board) amends §§ 7.111 and 7.113a (relating to application for a school license; and accreditation by a Nationally recognized accrediting agency).

A. *Effective Date*

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

B. *Statutory Authority*

Section 11 of the act of May 3, 1933 (P. L. 242, No. 86) (Act 86) (63 P. S. § 517) authorizes the Board to promulgate regulations generally for the conduct of persons, copartnerships, associations or corporations affected by Act 86.

C. *Background and Purpose*

Since 1991, § 7.113a has required a cosmetology school, within 5 years of being licensed by the Board, to submit to the Board proof that it is accredited by a Nationally recognized accrediting agency. In the intervening period, the Board has encountered instances in which a school licensee, prior to submitting proof of accreditation, changes ownership, location or name, and then asserts that the 5-year clock for accreditation should begin running again. Because the regulation is not clear on this question, some school licensees have managed to avoid submitting proof of accreditation for periods exceeding 5 years. Additionally, confusion has occurred with regard to whether, and for how long, a school is required to maintain that accreditation after submitting proof of it to the Board. This final-form rulemaking resolves both the issue of maintenance of accreditation and the issue of change of ownership, name or location, thereby eliminating the related regulatory construction problems that exist under the current language and clarifying the accreditation requirement.

D. *Description of Amendments*

The final-form rulemaking adds a paragraph to § 7.111(a), makes a technical change to § 7.111(b), deletes an obsolete sentence from § 7.113a and adds three subsections to that provision. The additions amplify and clarify the requirement that a school licensed by the Board submit to the Board, within 5 years after the Board licenses it, proof that the school is accredited by a Nationally recognized accrediting agency. The final-form rulemaking also establishes the requirement that a licensed school maintain accreditation to renew its license biennially. And finally, in response to concerns expressed in comments by the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) during proposed rulemaking, the final form rulemaking adds a provision allowing the Board the discretion to grant a variance from the “accreditation within 5 years of licensure” requirement for good cause shown by a new owner. This is designed to cover a situation when a new owner, in good faith, takes over a school which a prior owner neglected to accredit,

but the new owner may only have a short period, such as 6 months or 1 year, remaining to obtain accreditation prior to the expiration of 5 years from initial licensure. In this case, the new owner could apply to the Board for an extension of the 5-year accreditation period for up to 5 additional years.

Section 7.111(a) is amended by adding paragraph (7) to establish the requirement that an owner-applicant for a school license shall include, with the license application to the Board, proof that the school is already accredited or that the school has made application for accreditation to comply with § 7.113a. The new paragraph also specifies that certification or approval by the Department of Education suffices as proof of accreditation for secondary vocational technical schools.

Section 7.111(b) is amended by insertion of the term “school” in the first line to make it clear that school licenses are the subject of the provision.

Section 7.113a is amended by deleting the now obsolete provision that a school licensed by the Board as of May 25, 1991, shall submit proof of accreditation by May 25, 1996.

Section 7.113a(b) is added to specify that the requirement that a school submit proof of accreditation within 5 years of initial licensure is not negated by a change of ownership, name or location of the school within or following the 5-year period after initial licensure.

Section 7.113a(c) is added to allow the Board the discretion to grant a variance from the “accreditation within 5 years of licensure” requirement for good cause shown by a new owner. In this case, the new owner could apply to the Board for an extension of the 5-year accreditation period for up to 5 additional years.

Section 7.113a(d) is added to establish the requirement that a school, after initial accreditation, shall maintain accreditation to renew its license biennially.

E. *Summary of Comments and Responses to Proposed Rulemaking*

Proposed rulemaking was published at 36 Pa.B. 1229 (March 18, 2006) followed by a 30-day public comment period. The Board did not receive any comments from the general public or from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). Both the HPLC and IRRC commented, expressing concern about there being no provision for the Board to grant extensions or the like to new owners, acting in good faith, who cannot meet the 5-year accreditation period because of a prior owner’s delay in initiating or obtaining accreditation. In response to those comments, the Board added § 7.113a(c) to allow the Board the discretion to grant a variance from the “accreditation within 5 years of licensure” requirement for good cause shown by a new owner. This is designed to cover the situation about which the comments expressed concern. Under the added subsection, the new owner could apply to the Board for an extension of the 5-year accreditation period for up to 5 additional years.

F. *Fiscal Impact and Paperwork Requirements*

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

G. *Sunset Date*

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

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 8, 2006, the Board submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 1229, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 21, 2006, the final-form rulemaking was approved by the HPLC. On November 29, 2006, the final-form rulemaking was deemed approved by the SPC/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 30, 2006, and approved the final-form rulemaking.

I. *Contact Person*

Further information may be obtained by contacting Hilarene Staller, Board Administrator, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7130.

J. *Findings*

The Board finds that:

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

(2) A public comment period was provided as required by law and no comments were received.

(3) The final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 36 Pa.B. 1229.

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

K. *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 7, are amended by amending § 7.111 to read as set forth at 36 Pa.B. 1229 and by amending § 7.113a to read as set forth in Annex A.

(b) The Board shall submit this order, 36 Pa.B. 1229 and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Board shall certify this order, 36 Pa.B. 1229 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

SUSAN E. RINEER,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 7777 (December 16, 2006).)

Fiscal Note: Fiscal Note 16A-4511 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 7. STATE BOARD OF COSMETOLOGY LICENSURE AND ADMINISTRATION OF SCHOOLS OF COSMETOLOGY

§ 7.113a. Accreditation by a Nationally recognized accrediting agency.

(a) *Accreditation required.* Within 5 years after being licensed by the Board, a school shall submit to the Board proof that it is accredited by a Nationally recognized accrediting agency.

(b) *Change of ownership, name or location.* Except as otherwise provided in subsection (c), a change of ownership, name or location of the school within or following the 5-year period after initial licensure does not negate or postpone the requirement for accreditation within 5 years of initial licensure.

(c) *Extension for good cause.* The Board, upon good cause shown by a new owner who has taken ownership of a school within the 5-year period after initial licensure, may extend the period for obtaining accreditation for up to an additional 5 years from the date the new owner takes ownership.

(d) *Biennial renewal.* After initial accreditation, a licensed cosmetology school shall maintain accreditation as a condition of biennial renewal of the school license.

[Pa.B. Doc. No. 07-6. Filed for public inspection January 5, 2007, 9:00 a.m.]

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401 AND 425]

Licensed Entity Representatives

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1203(a) (relating to temporary regulations), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71), as amended by the act of November 1, 2006 (P. L. 1243, No. 135) (Act 135). Chapter 425, entitled Licensed Entity Representatives, is added to Subpart B, entitled Licensing, Registering, Certifying and Permitting.

Additionally, under the Board's Resolution No. 2005-3-REG, the Board has the authority to amend the temporary regulations adopted on June 16, 2005, as it deems necessary in accordance with the purpose of Act 71 and to further the intent of Act 71. To respond to statutory changes in Act 135, the Board has decided to make editorial changes to the temporary regulation dated June 16, 2005, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 16, 2005).

Purpose and Background

Under 4 Pa.C.S. § 1203(a), the Board is authorized to promulgate temporary regulations to facilitate the prompt

implementation of Act 71. The regulations are necessary to establish the procedures for the registration of licensed entity representatives.

Under 4 Pa.C.S. § 1203(b), the temporary regulations adopted by the Board expire no later than 3 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201—1208), known as the Commonwealth Documents Law (CDL) or the Regulatory Review Act (71 P.S. §§ 745.1—745.15).

Financial Impact

Act 71 and the regulations provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the Gaming Fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing, registration, certification and permitting of individuals and other classes of applicants will be reimbursed by the applicants through fees established by the Board.

It is anticipated that the expenses of the Board and associated activities shall be reimbursed by the applicants and gaming entities as previously specified. Accordingly, this temporary regulation will have no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203(a) to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203(b), the Board's authority to adopt temporary regulations expires on April 15, 2007.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203(a), the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board acting under the authority of the Act 71 adopts the temporary regulation and the amendment to the temporary regulation adopted by resolution at the December 13, 2006, public meeting. The temporary regulation and amendment pertain to definitions and registration of licensed entity representatives.

(b) The regulations of the Board, 58 Pa. Code Chapters 401 and 451, are amended by adding § 425.1 and by

amending § 401.4 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(c) The temporary regulation and the amendment are effective December 13, 2006.

(d) The temporary regulation and amendment will be posted on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulation shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the temporary regulation and amendment with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-58. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401. PRELIMINARY PROVISIONS

§ 401.4. Definitions.

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

* * * * *

Licensed entity representative—A person acting on behalf of or representing the interest of an applicant, licensee, permittee or registrant, including an attorney, agent or lobbyist regarding any matter which may reasonably be expected to come before the Board.

* * * * *

Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

CHAPTER 425. LICENSED ENTITY REPRESENTATIVES

Sec.
425.1. Registration.

§ 425.1. Registration.

(a) A licensed entity representative shall file a completed Licensed Entity Registration Form with the Board, which includes the individual's name, employer or firm, address, telephone number and the licensed entity being represented.

(b) A licensed entity representative shall be required to update its registration information on an ongoing basis.

(c) The Board will maintain a list of licensed entity representatives. The registration list will be available for public inspection at the offices of the Board and on the Board's Internet website.

[Pa.B. Doc. No. 07-7. Filed for public inspection January 5, 2007, 9:00 a.m.]

PROPOSED RULEMAKING

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CH. 491a]
General Rules of Practice

The Pennsylvania Gaming Control Board (Board), under the general authority in 4 Pa.C.S. § 1202(b)(14) (relating to general and specific powers) and the specific authority in 4 Pa.C.S. § 1205 (relating to license or permit application hearing process; public input hearings), proposes to add Chapter 491a (relating to general rules of practice) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

Under the authority granted to the Board under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board adopted temporary regulations in Chapter 491 at 35 Pa.B. 4045 (July 16, 2005) and in Chapter 492 at 36 Pa.B. 1578 (April 1, 2006). Under 4 Pa.C.S. Part II (relating to gaming) (Act 71), the temporary regulations expire on July 5, 2007.

The Board is proposing to replace the temporary regulations with the permanent regulations in this proposed rulemaking. In this proposed rulemaking, Chapters 491 and 492 are merged into Chapter 491a.

Explanation of Chapter 491a

This chapter contains general rules of practice and procedure that apply to persons appearing before the Board in a hearing. This proposed rulemaking provides defined terms, general guidance as to the function of the Office of the Clerk, general requirements for filing pleadings and other documents with the Board, service requirements, procedure for hearings and prehearing conferences and the duties of hearing officers.

Amendments to the temporary regulations in this proposed rulemaking include a large number of editorial changes that improve the clarity of the language in the temporary regulations. Chapters 491 and 492 have been merged and renumbered to create one chapter on general rules of practice.

The definition of "ex parte communication" in temporary § 491.2 has been deleted. A new definition of this term is included in the recent amendments to Act 71, which the Board will add to § 401.3 (relating to definitions). See the proposed rulemaking published at 36 Pa.B. 5690 (September 9, 2006). Section 491a.5 (relating to service by the Board) has been amended to clarify the methods by which the Board may serve documents on individuals. Provisions regarding the structure of the Office of Hearings and Appeals have been deleted.

Affected Parties

This proposed rulemaking imposes requirements on individuals appearing before the Board in a hearing.

Fiscal Impact

Commonwealth. This proposed rulemaking will impose costs on the Board for the administration of a uniform filing, docketing and system of hearings and appeals, including compliance with practice and procedure requirements.

Political subdivisions. This proposed rulemaking will have no significant fiscal impact on political subdivisions of the Commonwealth.

Private sector. Applicants and holders of a license, permit, registration or certification appearing before the Board in a hearing will experience some costs to comply with the procedural requirements in Chapter 491a and the filing fees published by the Board.

General public. Individuals appearing before the Board in a hearing will experience some costs to comply with the procedural requirements in Chapter 491a and the filing fees published by the Board.

Paperwork Requirements

This proposed rulemaking does not impose new reporting or paperwork requirements on the affected parties under the Board's jurisdiction. This proposed rulemaking clarifies the form requirements for filings that are submitted to the Board by parties.

Effective Date

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

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking within 30 days after publication in the *Pennsylvania Bulletin* to Paul Resch, Secretary, Pennsylvania Gaming Control Board, P. O. Box 69060, Harrisburg, PA 17106-9060, Attention: Public Comment on Regulation #125-53.

Contact Person

The contact persons for questions about this proposed rulemaking are Richard Sandusky, Director of Regulatory Review, (717) 214-8111 and Michelle Afragola, Deputy Director of Regulatory Review, (610) 943-1338.

Regulatory Review

Under of section 5(a) and (f) of the Regulatory Review Act (71 P. S. § 745.5(a) and (f)), on December 19, 2006, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC). A copy of this material is available to the public upon request. In accordance with section 5(a) and (f) of the Regulatory Review Act, the Board will deliver copies of this proposed rulemaking and the Regulatory Analysis Form to the Chairpersons of the Senate Committee on Rules and Executive Nominations and the House Tourism and Recreational Development Committee by the second Monday after the date on which committee designations for the 2007-2008 session of the General Assembly are published in the *Pennsylvania Bulletin*.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days after the close of the public comment period, specifying the regulatory review criteria that have not been met. The Regulatory Review Act sets forth procedures that permit the Board, the General Assembly and the Governor to review IRRC's comments, recommendations or objections prior to final adoption of the proposed rulemaking.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-53. (1) State Gaming Fund; (2) Implementing Year 2006-07 is \$600,000; (3) 1st Succeeding Year 2007-08 is \$630,000; 2nd Succeeding Year 2008-09 is \$662,000; 3rd Succeeding Year 2009-10 is \$695,000; 4th Succeeding Year 2010-11 is \$730,000; 5th Succeeding Year 2011-12 is \$767,000; (4) 2005-06 Program—\$13,200,000; 2004-05 Program—\$2,900,000; 2003-04 Program—\$0; (7) Board Budget; (8) recommends adoption. Funds from the administrative accounts within the State Gaming Fund will be used to cover the costs of this regulation.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart H. PRACTICE AND PROCEDURE

CHAPTER 491a. GENERAL RULES OF PRACTICE

Sec.

- 491a.1. Generally.
- 491a.2. Definitions.
- 491a.3. Office of the Clerk.
- 491a.4. Filing generally.
- 491a.5. Service by the Board.
- 491a.6. Hearing officers.
- 491a.7. Presiding officers.
- 491a.8. Hearings generally.
- 491a.9. Prehearing and other conferences.
- 491a.10. Presentation and effect of stipulations.

§ 491a.1. Generally.

This subpart governs practice and procedure before the Board, and is intended to supplement 2 Pa.C.S. (relating to administrative law and procedure) and 1 Pa. Code, Part II (relating to General Rules of Administrative Practice and Procedure).

§ 491a.2. Definitions.

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

Adjudication—An order, decree, decision, determination or ruling by the Board affecting the personal or property rights, privileges, immunities, duties, liabilities or obligations of the parties to the proceeding in which the adjudication is made.

Complainant—The Bureau or other persons authorized by the Board to file a complaint.

Consent agreement—A voluntary agreement to an act or proposal based on specific terms which are entered into by all parties to a proceeding to resolve a disputed matter.

Documentary evidence—Any document or paper which is presented and accepted as evidence in a proceeding.

Documentary hearing—A proceeding limited to a review of documentary evidence submitted by the parties, including pleadings, documents, depositions, affidavits, interrogatories and transcripts.

Exception—A formal objection to a report or recommendation of a presiding officer.

Hearing—A proceeding, documentary or oral, initiated by the filing of a complaint, answer, petition, motion, exceptions or by order of the Board.

Hearing officer—An employee of the Board designated to conduct a hearing relating to a matter within the jurisdiction of the Board.

Intervener—A person who petitioned to intervene in a proceeding and who was admitted by the Board as a participant to the proceeding.

OHA—Office of Hearings and Appeals—A division of the Board charged with administrating and conducting hearings or other matters as the Board may direct.

Oral hearing—A proceeding wherein the parties may present sworn testimony, documents or other evidence, and of which a verbatim record is made.

Participant—A person admitted by the Board to limited participation in a proceeding.

Party—A person who is named in or admitted to a proceeding before the Board and who has a direct interest in the subject matter of the proceeding.

Prehearing conference—A proceeding to establish a schedule, discuss offers of settlement and identify other issues the Board or presiding officer may direct.

Presiding officer—

(i) A member of the Board, or other person designated by the Board to conduct a proceeding.

(ii) This definition supersedes 1 Pa. Code § 31.3 (relating to the definitions).

Respondent—A person subject to the jurisdiction of the Board to whom an order or notice is issued by the Board or the Bureau instituting a proceeding or investigation.

§ 491a.3. Office of the Clerk.

(a) The Board's Office of the Clerk (Clerk) will have the following duties:

(1) Provide information as to practice and procedure before the Board, under this subpart.

(2) Receive and docket pleadings and other documents required by the Board to be filed with the Clerk. Receipt and transmission of the information may be by electronic means, only under a policy established by the Board.

(b) Filings and requests for practice and procedure information should be directed to:

Office of the Clerk
 Pennsylvania Gaming Control Board
 Post Office Box 69060
 Harrisburg, Pennsylvania 17106-9060

(c) The Clerk will maintain a docket of proceedings. Each proceeding as initiated will be assigned a docket number. The docket will be available for inspection and copying by the public during the Board's office hours.

§ 491a.4. Filing generally.

(a) Pleadings and other documents required to be filed with the Board must clearly designate the docket number or similar identifying symbols, if any, employed by the Board, and set forth a short title. The identity of the individual making the submission, including name, mailing address and status (for example, party, or attorney for a party) must appear on the document.

(b) Pleadings, including documents filed under this chapter, must also comply with Chapter 495a (relating to documentary filings).

(c) If a pleading tendered for filing does not comply with this subpart, does not sufficiently set forth required material or is otherwise insufficient, the Board may decline to accept it for filing and may return it without filing, or the Board may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) The Board may require redundant, immaterial, obscene or otherwise inappropriate comments stricken from documents filed with it.

§ 491a.5. Service by the Board.

(a) *Applicability.* This section applies to service of an order, notice or other document originating with the Board and other documents designated by the Board, except when the Board specifically requires a different form of service.

(b) *Service of a document initiating a proceeding.*

(1) *Registered or certified mail.* Service may be made by registered or certified mail, return receipt requested, to the person to be served, addressed to the person designated in the initial pleading, submittal or notice of appearance at the person's residence, principal office or place of business.

(2) *Personal.* Service may be made personally by anyone authorized by the Board. Service will be made by personally delivering a copy:

(i) Directly to the person named in the notice, pleading, or order.

(ii) At the residence of the person named in the notice, pleading or order, to an adult member of the family with whom the person named resides. If no adult member of the family is found, then to an adult person in charge of the residence.

(iii) At the residence of the person named in the notice, pleading or order, to the clerk or manager of the hotel, inn, apartment house, boarding house or other place of lodging at which the person named resides.

(iv) At any office or usual place of business of the person named in the notice, pleading or order, to his agent or to the person for who the time being is in charge thereof. For purposes of this subsection, the phrase "any office or usual place of business of the person named in the notice, pleading, or order" includes the following locations:

(A) The licensed facility at which the person named is employed, licensed in connection therewith, or routinely performs his duties of employment.

(B) The office of the agent identified by the person named to receive service of process.

(c) *Proof of service.* Proof of service shall be evidenced by a return of service filed with the Office of the Clerk in the manner and form prescribed by the Board.

(d) *Subsequent service.* Service of any document made subsequent to the initial filing in a proceeding may be made by first class mail at the last known address of record of the person named in the notice, pleading or order.

(e) *Change of address.* It is the duty of a party to apprise the Board of changes to the party's current address.

(f) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code § 33.31 (relating to service by the agency).

§ 491a.6. Hearing officers.

(a) A hearing officer may be a presiding officer. Hearing officers shall be attorneys in good standing with the Supreme Court of Pennsylvania and shall be responsible for the timely disposition of assigned matters. Hearing officers are employed by the Board and may be discharged only for misconduct or good cause shown.

(b) Duties of the hearing officers may include:

(1) Conducting full and complete hearings, partial and bifurcated hearings.

(2) Taking testimony of witnesses.

(3) Presiding over or causing depositions to be taken.

(4) Submitting reports or recommendations to the Board.

(5) Other matters as the Board may direct.

(c) A hearing officer may withdraw when the hearing officer deems himself disqualified or a hearing officer may be withdrawn by the Board for good cause found after timely affidavits alleging personal bias or other disqualification have been filed and the matter has been heard by the Board or another presiding officer to whom the Board has delegated the matter for investigation and report.

(d) This section supersedes 1 Pa. Code § 35.186 (relating to disqualification of a presiding officer).

§ 491a.7. Presiding officers.

(a) When evidence is to be taken in a hearing, the Board or a presiding officer may conduct the hearing.

(b) The Board and presiding officers have the power and authority to:

(1) Regulate the course of hearings, including the scheduling thereof, and the recessing, reconvening and adjournment thereof, unless otherwise provided by the Board, as provided in § 494.1a(a) (relating to generally).

(2) Administer oaths and affirmations.

(3) Issue subpoenas.

(4) Rule upon offers of proof and receive evidence.

(5) Preside over or cause depositions to be taken.

(6) Hold conferences before or during hearings.

(7) Dispose of procedural matters, but not before a proposed report, if any, to dispose of motions made during hearings to dismiss proceedings or other motions which involve final determination of proceedings has been submitted to the Board.

(8) Certify any question to the Board for consideration and disposition, within the presiding officer's discretion, or upon direction of the Board.

(9) Submit proposed reports in accordance with this subpart.

(10) Take other action appropriate to the discharge of their duties as may be designated by the Board and authorized by the act.

(c) Except as authorized by law and by this subpart, a presiding officer may not, in a proceeding, consult with a person or party on a fact in issue unless notice and opportunity for parties to participate has been given.

(d) Presiding officers will conduct fair and impartial hearings and maintain order. Disregard by parties or counsel of rulings of the presiding officer on matters of order and procedure will be noted on the record, and if the presiding officer deems necessary, it will be made the subject of a special written report to the Board.

(e) If parties or counsel engage in disrespectful, disorderly or contumacious language or conduct in connection with any hearing, the presiding officer may immediately submit to the Board a report thereon, together with recommendations, and, in the presiding officer's discretion, suspend the hearing.

(f) Rulings of presiding officers may not be appealed during the course of a hearing or conference except in extraordinary circumstances when a prompt decision by the Board is necessary. In this instance, the matter shall be immediately referred by the presiding officer to the Board for determination.

(1) An offer of proof made in connection with an objection to a ruling of the presiding officer rejecting or excluding oral testimony must be a statement of the substance of the evidence which counsel contends would be adduced by the testimony. If the rejected or excluded evidence is in documentary or written form, a copy of the evidence shall be marked for identification and shall constitute the offer of proof.

(2) Unless the Board acts upon a question referred by a presiding officer for determination within 30 days, the referral will be deemed to have been denied.

(g) This section supersedes 1 Pa. Code §§ 35.185 — 35.190 (relating to presiding officers).

§ 491a.8. Hearings generally.

(a) Unless the Board hears the matter directly, the Board will refer all matters to the OHA. The Board may, in its discretion, designate a member of the Board, or other qualified person to serve as presiding officer in a particular matter.

(b) Hearings will be public, except as provided in section 1206 of the act (relating to Board minutes and records).

(c) Hearings, when constitutionally permissible, will be documentary unless otherwise designated by the Board or presiding officer and may provide for:

- (1) Receipt of sworn testimony.
- (2) Receipt of all relevant documentary evidence.
- (3) Opportunity for parties to be heard.
- (4) A complete evidentiary record.
- (5) Submission of a report or recommendations to the Board.

(d) Unless required by this part or authorized by law, a party may not communicate directly or indirectly, in connection with any issue of law or any matter of fact which is disputed, with the Board or presiding officer, unless notice and opportunity for all parties to participate has been given.

(e) Hearings will be conducted in Harrisburg, Pennsylvania, unless otherwise directed by the Board.

(f) Written notice of hearings will be provided to all parties, and served by the Office of the Clerk (Clerk) by first class mail.

(g) Motions shall be filed with the Clerk and will be docketed and referred to the Board or presiding officer for disposition.

(h) Hearings will be scheduled by the OHA, except for hearings under § 441.19 (relating to licensing hearings for slot machine licenses) which will be scheduled as the Board may direct. Hearings for violations of the act or this part will be scheduled within 60 days of the initiation of action by the Bureau.

(i) Parties may waive the right to a hearing in which case the Board or presiding officer may dispose of the matter without a hearing on the basis of submittals, consent agreements and proposed orders.

(j) Hearing transcripts will be available for public inspection.

(k) This section supplements 1 Pa. Code, Part II, Subchapter B, §§ 35.101—35.251 (relating to hearings and conferences).

§ 491a.9. Prehearing and other conferences.

(a) A prehearing conference may be scheduled by the Board or presiding officer at his discretion. The Board or a presiding officer may also schedule a prehearing conference at the request of one party or by agreement of the parties.

(b) When the Board or presiding officer directs that a prehearing conference be held, all parties shall appear at the time and place designated. Notice of the time and place of the conference will be given to all parties. At the discretion of the Board or presiding officer, the conferences may be conducted telephonically.

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

(1) The possibilities for settlement of the proceeding, subject to the approval of the Board.

(2) The amount of hearing time which will be required to dispose of the proceeding and the establishment of a schedule of hearing dates.

(3) Other matters that may aid in expediting the orderly conduct and disposition of the proceeding and the furtherance of the public interest, including, but not limited to:

(i) The simplification of the issues.

(ii) The exchange and acceptance of service of exhibits proposed to be offered in evidence.

(iii) The obtaining of admissions as to, or stipulations of, facts not remaining in dispute, or the authenticity of documents.

(iv) The number of witnesses and any limitation imposed thereon.

(v) The discovery or production of data.

(vi) Other matters as may properly be dealt with to aid in expediting the orderly conduct and disposition of the proceeding.

(d) This section supplements 1 Pa. Code §§ 35.111—35.116 (relating to prehearing conferences).

§ 491a.10. Presentation and effect of stipulations.

(a) Independently of the orders or rulings issued by the Board or presiding officer relating to prehearing and other conferences, the 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 received shall be binding on the parties with respect to the matters stipulated.

(b) This section supersedes 1 Pa. Code § 35.155 (relating to presentation and effect of stipulations).

[Pa.B. Doc. No. 07-8. Filed for public inspection January 5, 2007, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Conservation and Natural Resources

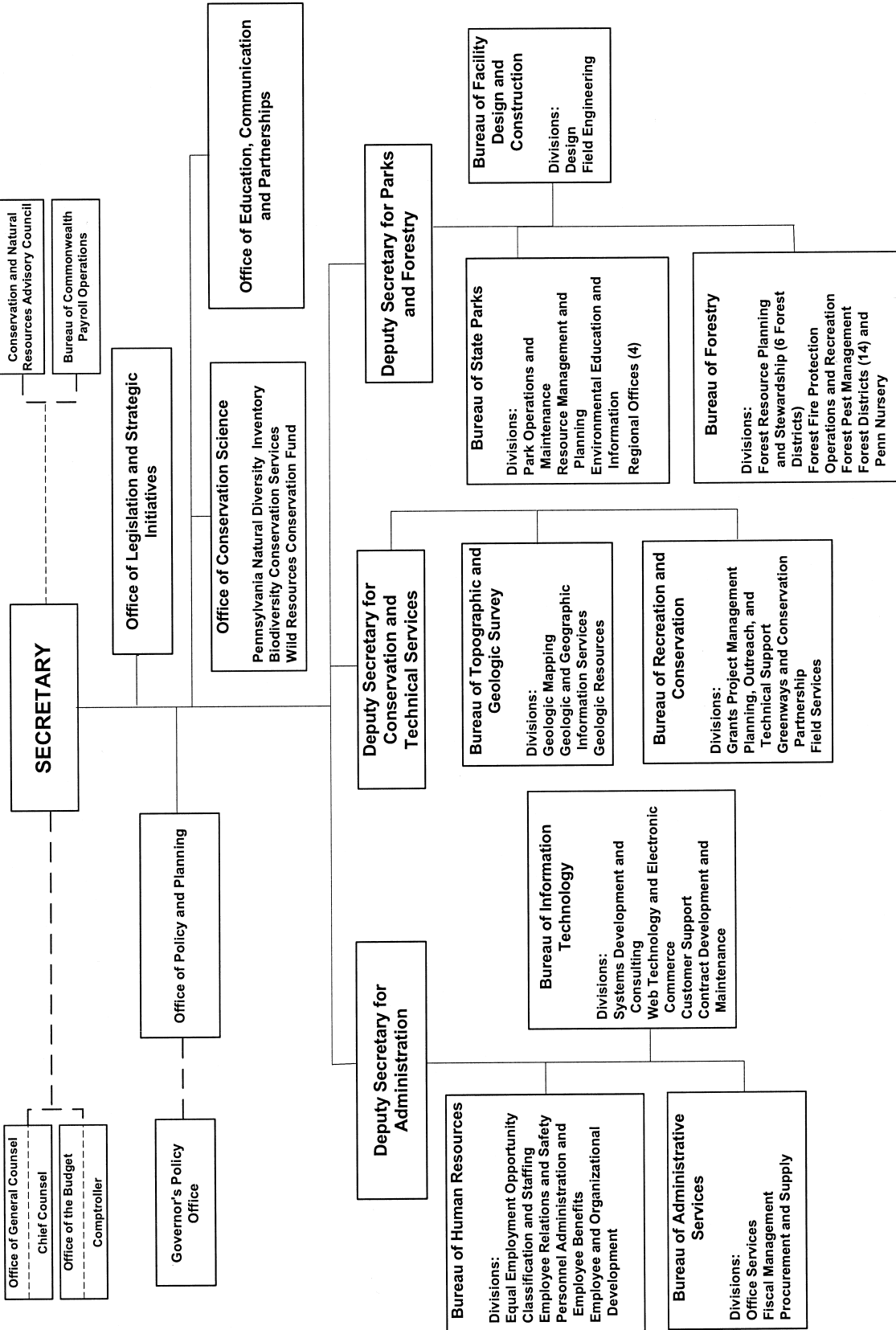
The Executive Board approved a reorganization of the Department of Conservation and Natural Resources effective November 28, 2006.

The organization chart at 37 Pa.B. 28 (January 6, 2007) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

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

[Pa.B. Doc. No. 07-9. Filed for public inspection January 5, 2007, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
November 28, 2006
OR-06-311



Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

[M-00051865]

Implementation of the Alternative Energy Portfolio Standards Act of 2004

The Pennsylvania Public Utility Commission, on November 30, 2006, adopted a final policy statement order which provides guidance to developers, regulated industries and the general public as to what types of projects the Commission believes fall outside the definition “public utility,” thus removing roadblocks to the development of viable alternative energy products in this Commonwealth.

Public Meeting held
November 30, 2006

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Kim Pizzingrilli; Terrance J. Fitzpatrick

Implementation of the Alternative Energy Portfolio Standards Act of 2004; Doc. No. M-00051865

Final Policy Statement

By the Commission:

On November 30, 2004, Governor Edward G. Rendell signed Act 213 of 2004, 73 P. S. §§ 1648.1—1648.8 (Purdon’s Supp. 2005) (“Act 213” or “the Act”) into law. Act 213, which took effect on February 28, 2005, established alternative energy portfolio standards for Pennsylvania. Generally, the Act requires that an annually increasing percentage of electricity sold to retail customers in Pennsylvania by Electric Distribution Companies (“EDCs”) and Electric Generation Suppliers (“EGSs”) be derived from alternative energy systems, as defined in the Act.

The Commission has been charged with implementing, executing and enforcing the provisions of the Act, 73 P. S. § 1648.7(a). The Pennsylvania Department of Environmental Protection (“DEP”) is to assist the Commission by verifying that qualified alternative energy systems comply with applicable environmental standards and the standards set forth in Section 2 of the Act, 73 P. S. §§ 1648.2, 1648.7(b). The Commission and DEP will monitor compliance with the Act and deliver an annual report to the Pennsylvania General Assembly on the status of compliance, the costs of alternative energy, and recommendations for program improvements, 73 P. S. § 1648.7(c).

Act 213’s directive to the Commonwealth’s electric distribution companies and suppliers reflects a strong policy goal of supporting and encouraging the development of alternative energy resources in Pennsylvania. The Act defines an alternative energy source as one of the following, for the production of electricity:¹

“Tier I alternative energy source.” Energy derived from:

- (1) Solar photovoltaic energy;
- (2) Wind power;
- (3) Low-impact hydropower;
- (4) Geothermal energy;
- (5) Biologically derived methane gas (including landfill gas);

- (6) Fuel cells;
- (7) Biomass energy;
- (8) Coal mine methane.

“Tier II alternative energy source.” Energy derived from:

- (1) Waste coal;
- (2) Distributed generation systems;
- (3) Demand-side management;
- (4) Large-scale hydropower;
- (5) Municipal solid waste;
- (6) Generation of electricity utilizing by-products of the pulping process and wood;
- (7) Integrated combined coal gasification technology.

73 P. S. § 1648.2 (relating to definitions).

On November 10, 2005, the Commission issued a proposed policy statement to provide guidance to developers, regulated industries and the public concerning the types of alternative energy projects the Commission believed fell outside the Public Utility Code’s definition of a “public utility.”² The purpose of the proposed policy statement was to support and encourage the development of alternative energy resources and the use of alternative energy by reducing uncertainty about the jurisdictional status of certain viable alternative energy projects that might be developed in the Commonwealth.

The proposed policy statement was written to be consistent with PUC and Pennsylvania court precedents regarding the criteria that should be considered in determining whether a particular utility service is being offered or provided “to or for the public.” As explained in *Waltman v. Pa. Pub. Util. Comm’n*, 596 A.2d 1221, 1224 (Pa. Cmwlth. 1991), *aff’d per curiam*, 533 Pa. 304, 621 A.2d 994 (1991), the fundamental principle is that the public or private character of an enterprise does not depend on the number of persons using the service but whether it is open to the use and service of all members of the public who may require it. *Borough of Ambridge*, 108 Pa. Super. 298, 304, 165 A. 47, 49 (1933), *allocatur denied*, 108 Pa. Super. xxiii (1933); *Drexelbrook Associates v. Pa. Pub. Util. Comm’n*, 418 Pa. 430, 434-435, 212 A.2d 237, 239 (1965) (“The public or private character of the enterprise [depends] . . . upon whether or not it is open to the use and service of all members of the public who may require it”) (quoting *Borough of Ambridge*) (emphasis in original).

Based on this fundamental principle and Pennsylvania case law, the policy statement identifies criteria that, if satisfied, would likely lead to a determination that the facility is not providing public utility service. The criteria and associated case law may be summarized as follows:

(1) The service being provided by the utility project is merely incidental to nonutility business with the customers which creates a nexus between the provider and customer. *Drexelbrook Associates v. Pa. Pub. Util. Comm’n* (a real estate owner/management company providing natural gas, electric and water utility service to its tenants in a garden-type apartment village containing 90 buildings is merely incidental to a nonutility business relationship and is not public utility service because “the corporation served only those who were selected as tenants—a special class of persons not open to the

¹ Act of November 30, 2004, P. L. 1672, No. 213, § 2, 73 P. S. § 1648.2.

² 66 Pa.C.S. § 102 (relating to definitions).

indefinite public"); *Brink's Express Co. v. Pub. Serv. Comm'n*, 117 Pa. Super. 268, 178 A. 346 (1935) (business of safeguarding money and securities and transportation of valuables is merely incidental to its business of guarding them); *Aronimink Transportation Co. v. Pub. Serv. Comm'n*, 111 Pa. Super. 414, 170 A. 375 (1934) (a landlord providing bus service to its tenants is not service to the public as the bus service is merely incidental to nonutility business relationship); *Erb v. Pub. Serv. Comm'n*, 93 Pa. Super. 421 (1928) (freight hauler is a common, not a contract, carrier when hauling is its only business and is not merely incidental to some other business or employment and performed by virtue of special contracts); *Protective Motor Service Co. v. Pa. Pub. Util. Comm'n*, 286 A.2d 30 (Pa. Cmwlth. 1972) (transportation of money from shipping offices or banks to vessels is incidental to the primary business of providing security services and thus outside PUC jurisdiction); *Society Hill Carriage v. Pa. Pub. Util. Comm'n*, 581 A.2d 702 (Pa. Cmwlth. 1990) (horse-drawn carriages are entertainment and so incidental transportation, not a public utility).

(2) The facility is designed and constructed only to serve a specific group of individuals or entities, and others cannot feasibly be served without a significant revision to the project. Borough of Ambridge (selling of excess water by a manufacturer to a neighboring manufacturer through a line designed solely for that purpose is not for the public); *Hazleton Associates Fluidized Energy, Inc.*, 62 Pa. P.U.C. 619 (1986) (the provider "physically would not be able to serve any significant, additional load without a major overhaul and upgrading of its system's capacity").

(3) The service is provided to a single customer or to a defined, privileged and limited group when the provider reserves its right to select its customers by contractual arrangement such that no one among the public, outside of the selected group, is privileged to demand service, and resale of the service is prohibited. *Bethlehem Steel Corp. v. Pa. Pub. Util. Comm'n*, 552 Pa. 134, 713 A.2d 1110 (1998) (*Bethlehem Steel*) (the pipeline facility "Bessie 8" was designed and constructed to serve only a specific group of customers, and others could not be served without a significant revision to the project); *Re Megargel's Golf, Inc.*, 59 Pa. P.U.C. 517, 521 (1985) ("[W]e conclude that the term, 'defined, privileged and limited' group does not mean 'the residents of a particular development' but connotes a situation where the purveyor of . . . service has control over the persons selected to be provided . . . service") (the important consideration being the ability to select and control who will be served through contractual arrangements or otherwise) (emphasis in original). *Compare Dunmire Gas Co. v. Pa. PUC*, 413 A. 2d 1221 (Pa. Cmwlth. 1980) (no special relationship with customer where company provided gas service to the extent of its capacity to an indefinitely open class of customers) and *UGI Utilities, Inc. v. Pa. PUC*, 684 A.2d 225 (Pa. Cmwlth. 1996) (a public utility may have only a few customers).

The scope of the proposed policy statement was not limited to Act 213 alternative energy systems, however, but was intended to be equally applicable to other alternative energy systems, even if the output was not used for electric generation. See Annex A, *Proposed Policy Statement re: Implementation of the Alternative Energy Portfolio Standards Act of 2004*, § 69.1401(b).

The proposed policy statement³ was published for comment on December 24, 2005, at 35 Pa.B. 6906. Comments were due within 30 days of publication.

Comments were filed to the proposed policy statement by UGI Utilities, Inc. ("UGI"), Energy Association of Pennsylvania ("EAPA"), DEP, Office of Consumer Advocate ("OCA"), Office of Small Business Advocate ("OSBA"), Industrial Energy Consumers of Pennsylvania ("IECPA"), the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the PP&L Industrial Customer Alliance ("PLICIA") (collectively, "IECPA") and the West Penn Power Industrial Intervenors ("WPPII"), Granger Energy of Honey Brook, LLC ("Granger Energy"), and Lawrence G. Spielvogel, Inc. ("Spielvogel"). Commentators also addressed questions posed by Commissioner Kim Pizzigrilli in a statement issued in connection with the order.

Discussion

The Commission's role in regard to the utility industry is established in the Public Utility Code.⁴ The Commission has the general authority to interpret the Code and to determine which entities fall within the definition of "public utility" in Section 102 of the Code and therefore those that will be subject to its jurisdiction. Determining the jurisdictional status of a utility service or project is necessarily fact-specific and each project must be evaluated individually.

The Commission's purpose in issuing this proposed policy statement was to provide guidance to alternative energy project developers regarding factors that would be considered by the Commission in deciding whether a particular project met the section 102 definition of "public utility," thus subjecting the project to regulation as a public utility. See 66 Pa.C.S. § 102. These factors are consistent with Pennsylvania legal precedent on issues relating to Commission jurisdiction over certain utility operations and service. The Commission expects that a project developer will consider these factors as guidance in designing an alternative energy project, including a business plan, so as to determine in advance the likelihood of the project being jurisdictional.

The comments submitted to this proposed policy statement represented two extremes. Either the commenter opposed the issuance of the policy statement in its entirety or the commenter argued in its favor and in fact, suggested revised language to broaden its scope and applicability. While we have not addressed all of the comments,⁵ we have carefully considered them all and have made appropriate revisions to the policy statement. Further, ministerial edits that do not have a substantive effect have been made to the final policy statement without specific discussion.

General Comments

In answer to those commentators who asserted that the Commission should not issue this proposed policy statement at all, an explanation as to the effect of a policy

³ A dissenting statement by Commissioner Fitzpatrick and a concurring statement by Commissioner Pizzigrilli were issued with the order. Commissioner Pizzigrilli's concurrence presented a number of questions she offered for consideration by interested parties in preparing their comments.

⁴ 66 Pa.C.S. § 101, et seq.

⁵ Comments related to matters not relevant to the finalization of this policy statement, such as providing natural gas distribution companies with cost recovery assurance for entering into long-term supply contracts for advanced coal gasification or liquifaction plant or with other alternative energy suppliers, implementation of rules related to the force majeure provision of Act 213, or the resolution of provider of last resort issues, have not been addressed here. See *UGI Comments*, pp. 9-10; *EAPA Comments*, pp. 13-14, 16. We note that these matters may be raised in other appropriate Commission proceedings.

statement may assuage their concerns. A policy statement is not a regulation, is not enforceable and has no binding effect on the agency, or on anyone else. The Pennsylvania Supreme Court in *Pa. Human Relations Comm'n v. Norristown Area School District*, 473 Pa. 334, 374 A.2d 671 (1977) ("*Norristown*"), distinguished the effect of a policy statement from a rule or regulation by adopting the "binding norm" test from Federal law:

An agency may establish binding policy through rulemaking procedures by which it promulgates substantive rules, or through adjudications which constitute binding precedents. A general statement of policy is the outcome of neither a rulemaking nor an adjudication; it is neither a rule nor a precedent but is merely an announcement to the public of the policy which the agency hopes to implement in future rulemakings or adjudications. A general statement of policy, like a press release, presages an upcoming rulemaking or announces the course which the agency intends to follow in future adjudications. . . .

The critical distinction between a substantive rule and a general statement of policy is the different practical effect that these two types of pronouncements have in subsequent administrative proceedings. . . . A properly adopted substantive rule establishes a standard of conduct which has the force of law. . . . The underlying policy embodied in the rule is not generally subject to challenge before the agency.

A general statement of policy, on the other hand, does not establish a 'binding norm'. . . . A policy statement announces the agency's tentative intentions for the future. When the agency applies the policy in a particular situation, it must be prepared to support the policy just as if the policy statement had never been issued.

Norristown, 473 Pa. at 349-350, 374 A.2d at 679 (quoting *Pacific Gas & Electric Co. v. FPC*, 506 F.2d 33, 38 (1974) (footnotes and citations omitted)).

Consistent with the above discussion, the Commission is not establishing a binding norm when it finalizes this policy statement. Instead, the Commission is issuing this policy statement to provide guidance regarding the criteria it will use to evaluate the jurisdictional status of a utility project or service that is brought to the Commission's attention by application, petition, or complaint. These criteria are drawn from Pennsylvania case law so that application of the policy statement criteria will yield the same result as the application of established legal precedent. As such, and consistent with *Norristown*, the policy statement provides guidance as to "the course which the agency intends to follow in future adjudications." *Id.*, 473 Pa. at 350, 374 A.2d at 679.

By using the criteria in the policy statement, the project developer can evaluate the specific facts of each utility project or service to determine whether or not the project satisfies prior legal precedent for non-jurisdictional status. Thus, the value of this policy statement to a developer of, for example, an alternative energy project is that it provides some predictability in regard to the criteria that will be used to evaluate the project's jurisdictional status so that, in the planning stage, the developer can design the project to be exempt from, or subject to Commission jurisdiction as is desired.

Some commentators charged that issuing this policy statement represented an abdication and/or delegation of the Commission's duty to determine jurisdictional utility status of an alternative energy project to the project's

developer.⁶ To be clear on this point, this policy statement is not a delegation of any kind, nor is it an abdication of Commission authority. The Commission has the legal authority to determine the jurisdictional status of any utility enterprise and is therefore acting within its authority in promulgating this policy statement.

Again, the purpose of this policy statement is to provide guidelines for determining nonpublic utility status that will permit potential developers of utility service projects and their legal advisers to make judgments on how to design their projects and devise their business plans so that they can avoid or invite regulation as a public utility as they see fit. The policy statement is only a tool for developers to use in planning such projects. However, in any application, petition, or complaint proceeding regarding such a project, the Commission will remain the final arbiter, subject to judicial review, in regard to the nature of utility facilities and service that will be subject to its jurisdiction, based on the facts in each case.

Other commentators urge the Commission to broaden the scope of its policy statement to include other non-AEPS energy projects based on arguments of equal protection and public policy.⁷

The primary focus of the proposed policy statement was on AEPS projects to encourage investment and development of AEPS projects by reducing uncertainties as to the possible regulation as a public utility of such projects. However, the Commission did address non-AEPS projects in the Proposed Policy Statement Order wherein we discussed the value to the Commonwealth of alternative energy systems whose output is not used for producing electricity. *Proposed Policy Statement Order* (Order entered November 16, 2005), pp. 3-4.

Nevertheless, the legal basis for the guidance provided in this policy statement is settled case law on the jurisdictional status of different types of utility service providers. Accordingly, this legal precedent is equally applicable to all utility projects and services including alternative energy projects, and will be followed in any Commission proceeding in which the jurisdictional status of any utility service project is at issue. Given the purpose of this policy statement and the Commission's commitment to adhere to the applicable legal precedent in determining the jurisdictional status of all utility projects and services, we have amended the policy statement to reflect this change, and have included all utility projects and services.

Informal Determination of Jurisdictional Status

The Department of Environmental Protection comments that the policy statement should be clarified as to how an alternative energy project developer can receive confirmation of its nonutility status without going through the declaratory order process. DEP suggests that the joint DEP/PUC resource certification process for qualifying AEPS eligible resources can be a first step in this process. *DEP Comments*, p. 3.

While the Commission understands the utility of DEP's suggestion, the Commission is unable to adopt it. A request for the Commission to determine the jurisdictional status of a utility project is made through a petition for declaratory order submitted pursuant to 66 Pa.C.S. § 331(f) (relating to declaratory orders).

⁶ *EAPA Comments*, p. 18 (the delegation of the Commission's power to determine public utility status to a private entity is a violation of the authority delegated to the commission by the Legislature).

⁷ *IECPA Comments*, pp. 5-6 (broad application of the policy to all projects will ensure that non-AEPS projects are not treated any differently than AEPS projects).

See, e.g., *Phila. Auth. Indus. Dev. Petition for Declaratory Order*, Docket No. P-00001827 (Order entered December 20, 2000). Because a declaratory order affects the rights, privileges, immunities, duties, liabilities or obligations of any or all of the parties involved, it is an adjudication under Section 101 of the Administrative Agency Law ("AAL"), 2 Pa.C.S. § 101 (relating to definitions). Under AAL Section 504, no adjudication is valid as to any party, unless the party has been provided with reasonable notice of a hearing and an opportunity to be heard. 2 Pa.C.S. § 504 (relating to hearing and record). Therefore, the Commission cannot adjudicate a final determination of an AEPS project's jurisdictional status without providing due process protection for all affected parties. Linking the AEPS certification process with this type of formal Commission proceeding would only serve to slow the process down.

Formal determinations of jurisdictional status are available from the Commission through several methods. These determinations have often been obtained through the filing of a Petition for Declaratory Order pursuant to 66 Pa.C.S. § 331(f). See, e.g., *Phila. Auth. Indus. Dev. Petition for Declaratory Order*. Jurisdictional determinations have also been made in proceedings initiated by formal complaints, filed either by Commission staff or private parties.

Moreover, an informal determination of the jurisdictional status of an alternative energy project, like any other utility project or service, can be obtained by requesting an opinion of counsel letter from the Commission's Chief Counsel. To request an opinion of counsel on the jurisdictional status of a particular utility project or service, a project developer may send a letter to the Commission's Chief Counsel describing the nature and scope of operations of its project including, inter alia, its location, capacity output and its projected number of customers, and explaining why it believes that the project does not constitute public utility service. The opinion of counsel would be provided based on the information provided.

While an opinion of counsel letter does not represent the final position of the Commission on the issue, 52 Pa. Code § 1.96 (relating to unofficial statements and opinions by Commission personnel), an opinion of counsel letter may be introduced into the record in any Commission proceeding in which the jurisdictional status of a utility project or service is at issue as evidence of the requestor's good faith in requesting and receiving such an opinion. See 52 Pa. Code § 5.408 (relating to official and judicial notice of fact); 66 Pa.C.S. § 331(g) (relating to official notice defined). This good faith may be taken into account as a mitigating factor persuading against the imposition of fines and penalties in future complaint proceedings alleging de facto public utility operations. See *Rossi v. Bell Atlantic-Pennsylvania, Inc.*, 94 Pa. P.U.C. 103 (Docket No. C-00992409, Order entered March 16, 2000).

A project developer may also demonstrate good faith by voluntarily filing with the Commission's Secretary a notice and disclosure statement asserting the non-jurisdictional status of its project or service. This voluntary notice and disclosure statement would provide constructive public notice of the project, its key parameters and its assertion of nonpublic utility status.⁸ Specifically, the project developer would file a statement describing

⁸ Note that the good faith value that can be claimed as a result of pursuing the opinion of counsel letter or by filing the notice and disclosure statement depends entirely on the project developer's candor in disclosing the facts of the project or service and its operation. For this reason, a project developer is advised to update

the nature and scope of operations of its project including, inter alia, its location, capacity output and its projected number of customers, and explain why, based on the criteria in the policy statement, it believes that the project does not constitute public utility service. The project developer would submit this statement to the Commission's Secretary for filing in a folder at this docket, thus providing for constructive notice to the public of the project. Public access to this folder, in which opinion of counsel letters also will be filed, will be provided upon request.

We believe that the constructive notice and public disclosure afforded by the opinion of counsel request or the voluntary notice and disclosure statement processes will provide a measure of comfort to project developers. Specifically, for alternative energy projects, this also will provide additional information to the DEP and this Commission about the activities of energy developers and the availability of such projects. This additional information may prove to be useful in the review of the "status of alternative energy technologies . . . and the capacity to add additional alternative energy resources" that the Commission is tasked with undertaking at the beginning of the 6th reporting year, approximately March 2011. See 73 P. S. § 1648.3(b)(3) (relating to alternative energy portfolio standards).

Finally, establishing these processes will address EAPA's comment that the Commission should not encourage the development of alternative energy systems without some regulatory oversight. EAPA *Comments*, p. 6 and fn 3. Information provided about alternative energy projects in opinion of counsel letters and voluntary notice and disclosure statements can be reviewed by staff from the Commission and other state agencies as well as the distribution companies and other interested parties. Where questions regarding Commission jurisdiction over the project or the safety of the project are raised, further investigation can be undertaken, and if warranted, enforcement and/or litigation as is appropriate may be pursued.

Accordingly, we have amended the policy statement to incorporate both the opinion of counsel letter request and the voluntary notice and disclosure statement filing described herein. See Annex A, Section 16.401(F) and (G). We also have incorporated into these subsections language explaining the potential value to project developers and service providers of the good faith demonstrated by observing these voluntary procedures.

Specific Comments

In its comments, IECPA states that the prohibition against resale of energy in Section 69.1401(a)(3) should be eliminated to be consistent with the exception in the definition of "electric distribution company" at 66 Pa.C.S. § 2803 (relating to definitions). The definition specifically exempts building and facility owner operators that manage an internal distribution system serving a building or other facility, such as malls, shopping centers and other facilities, from being regulated as a public utility. *IECPA Comments*, p. 4.

IECPA's point is well taken in regard to recognizing the exemption from the definition of "electric distribution company" in Section 2803, 66 Pa.C.S. § 2803, and also the exemption from the definition of "public utility" at Section 102, 66 Pa.C.S. § 102, of a building and facility owner/operator who holds ownership over and manages

notice and disclosure statements or to request a subsequent opinion of counsel where a material change in the nature or scope of operations of the project has taken place.

the internal distribution system serving occupants in a building or other facility. We will expressly recognize these exemptions in Section (C)(3) of the policy statement. We also recognize the exemption from the definition of "electric generation supplier" at 66 Pa.C.S. § 2803, for a building or facility owner/operator who manages the internal operating system of a building or facility and who supplies electric power and related services to its occupants.

IECPA also comments that the policy statement does not address additional circumstances that may arise. IECPA states that the Commission should revise the policy statement to address how an entity subject to a tariff that is in conflict with the policy statement would interpret the Commission's position. *IECPA Comments*, p. 5.

While the Commission acknowledges IECPA's concern, we cannot address the concern by revising the policy statement since policy statements are not regulations and cannot establish 'binding norms.' Instead, the Commission will advise project developers that a complaint may be filed with the Commission where a utility tariff's definition of "public utility" or "public utility service" is at odds with this policy statement or other applicable Pennsylvania case law. This legal precedent includes the case law discussed at pp. 9-13 of our proposed policy statement order (Order entered November 16, 2005). We also will paraphrase the advice that we gave to the established jurisdictional utilities in that November 16, 2005 Order at p. 7: given the clear legislative intent of Act 213 to promote alternative energy, we will look with particular disfavor on anti-competitive efforts⁹ to delay, discourage or prevent alternative energy system projects. Therefore, jurisdictional utilities should interpret their tariff provisions in light of this policy statement.

Granger Energy proposes the addition of language that it states will answer a concern expressed by Commissioner Fitzpatrick in his dissent: "that the alternative energy project needs to satisfy "any one" of the criteria to fall outside the definition of "public utility." *Granger Energy Comments*, p. 4. Granger Energy states that modifying the policy statement to provide that "an alternative energy system will not be considered to be a public utility if it satisfies, and is not inconsistent with, one or more of the criteria" will satisfy this concern. *Granger Energy Comments*, p. 4.

We decline to adopt this proposed revision because we believe that Granger Energy's specific proposed revision will create confusion in interpreting this policy statement. For example, the revision would allow the policy statement to be interpreted to mean that an alternative energy system would not be a public utility only if it would provide energy service that is merely incidental to a nonutility business relationship with its customers (Section (C)(1)) when it has already either designed its facilities to serve a specific group of individuals (Section (C)(2)) or has limited its supply service to a single customer or a defined, privileged or limited group (Section (C)(3)). Case law has identified any of these factors as being determinative of non-jurisdictional public utility status based upon the facts and circumstances of the specific project involved. Accordingly, we reject this proposed revision.

⁹ Note that this is not the first time that the Commission has warned parties against the use of litigation as a weapon against potential competitors. In both the electric generation supplier licensing regulations and the natural gas supplier licensing regulations, competitors were placed on notice that intentional misuse of competitive protests against supplier license applicants could result in sanctions against the protesters. See 52 Pa. Code § 54.36 (b) (relating to protests to applications) and § 62.108(b) (relating to protests to applications).

Granger Energy also suggests the addition of a provision that expressly rejects the criteria used by the Commonwealth Court in *C. E. Dunmire Gas Company v. Pa. Pub. Util. Comm'n*, 413 A.2d 473 (Pa. Cmwlth. 1980), "that one who offers to serve 'to the extent of its capacity' thereby becomes a public utility." *Granger Energy Comments*, p. 5. Other commentators who cited *Dunmire* in their comments for slightly different propositions were UGI at pp. 7-8 and EAPA at pp. 11-12.

Section 102 defines a "public utility" in terms of providing a utility service of some type "to or for the public for compensation." The exhaustion of capacity or supply is hardly determinative of whether a utility service provider is holding itself out to offer service to the public in general except under the unique circumstances that occurred in *Dunmire*. There must instead be a "holding out or readiness to serve the public," *Borough of Ambridge*, 108 Pa. Super. at 302, 165 A. at 48; "a public profession" as opposed to "private dealing" and "the readiness to serve all members of the public to the extent of capacity," *id.* at 304, 165 A. at 49; "[t]he test is whether he has invited the trade of the public." *Klawansky v. Pub. Serv. Comm'n ("Klawansky")*, 123 Pa. Super. 375, 382, 187 A. 248, 251 (1936).

The phrase "to the extent of capacity" describes the unlimited breadth of the provider's public profession: it will serve all comers as long as its supplies permit. The opposite is "private dealing" where, even if supplies are plentiful, the provider chooses to serve a privileged few, without "invit[ing] the trade of the public," even though many more could be served. In *Bethlehem Steel Corp. v. Pa. Pub. Util. Comm'n*, 552 Pa. 134, 713 A.2d 1110 (Pa. 1998), Justice Nigro explained in his concurring opinion that exhaustion of capacity was the only restriction that *Dunmire* had placed on its service: "[A]lthough *Dunmire* did not solicit residential customers, it provided gas service to the extent of its capacity to an indefinitely open class of customers. The company placed no restriction upon whom it served and thus was subject to regulation." 552 Pa. at 146, 713 A.2d at 1115-1116 (citations omitted).

Thus, the key element was *Dunmire's* unbridled willingness to serve all comers, not the extent of his supplies (they being only a measure of the extent of his willingness). As the Pennsylvania Superior Court said in *Klawansky*, "It follows that the use must be so extensive as to imply an offer to serve all of the public or that there be other circumstances from which it may be reasonably inferred that the carrier was undertaking to serve *all* to the limit of his capacity." 123 Pa. Super. at 381, 187 A. at 251 (emphasis original).

Granger Energy expresses agreement with the flexibility of the policy statement that permits a project to qualify as a nonpublic utility even though contractual provisions limiting service: (1) permit the developer to substitute customers if, for example, a customer goes out of business; or (2) permits the developer to rearrange the project or revise the customer group due to a material change in circumstances, such as if the actual output from the alternative energy system turns out to be materially less or greater than the projected levels. *Granger Energy Comments*, p. 6. On the other hand, commenter UGI objects to this flexibility stating that the Commission's proposed reliance on private, self-serving and easily amendable contractual agreements to determine public utility status creates a large loophole that would exempt all alternative energy facilities. *UGI Comments*, p. 6.

After careful consideration, we have revised the policy statement so that it is clear that the presence of the types of contingency contract provisions described will not make the project a public utility. However, implementation of such contract provisions whereby customers are actually added or substituted, or the project is rearranged due to a material change in circumstances, may cause the project to attain jurisdictional status as a de facto public utility under the law. This revision is consistent with legal precedent established by the Pennsylvania Supreme Court in *Bethlehem Steel* where the Court reversed a Commission decision that a joint venture that constructed a pipeline to provide natural gas service to one customer was not a public utility even though the president of one of the joint venturers, acting on his own behalf, began discussions with other potential customers to build similar pipelines. The Court determined that these negotiations did not constitute "an offer of utility service to the public." The Court stated that:

Until a specific contractual proposal is made or until the joint venturers altered their business in a way to engage in public utility activity, there is insufficient evidence to find that [one of the joint venturers] is or is not a public utility.

Bethlehem Steel, 552 Pa. at 144, 713 A.2d at 1114-1115.

This revision should eliminate the concerns expressed by some of the commentators who opposed the notion of Commission reliance on contract provisions to make a final determination of public utility status.¹⁰

Finally, the EAPA expresses concern about the broad language contained in the fourth element of the policy statement—other factors indicate an intention, expressed or implied, to serve private entities as opposed to the general public. *EAPA Comments*, p.17.

In light of the fine-tuning done to the other provisions of the proposed policy statement, the Commission agrees that proposed § 69.1401(a)(4) is so broad that it does not convey useful guidance regarding a specific factor that will be considered in making determinations about an entity's jurisdictional status as a public utility. We therefore will delete this subsection. We have also altered the policy statement to reflect that the Commission will consider the status of utility projects or services based on the specifics facts of each project or service and will take into consideration each of these criteria when rendering its opinions and decisions.

Policy Considerations

A number of commentators raised public policy concerns about the potential for the development of small, unsafe, and unreliable utility systems and about the patrons who utilize these types of energy systems. A few missteps in the beginning of the alternative energy marketplace could harm the public and potentially destroy the market before it has an opportunity to grow. *EAPA Comments*, pp. 3-4. EAPA also comments that in *Petition of Granger Energy of Honeybrook, LLC for a Declaratory Order*, Docket No. P-00032043, the Commission conditioned its finding concerning "service to or for the public" upon several limitations, including that Granger Energy provide the Commission's Bureau of Transportation and Safety with copies of its pipeline plans for review to confirm that the pipeline poses no danger to the public. *EAPA Comments*, p. 10.

UGI comments about pipeline safety and reliability issues for small unregulated pipeline projects. *UGI Com-*

ments, p. 9. Another commenter opposes the issuance of the policy statement in that it does not provide adequate and sufficient protection for customers of alternative energy project developers. *Spielvogel Comments*, p. 1.

The Commission believes that customers buying energy directly from an alternative energy system would be sophisticated enough to thoroughly investigate the developer and the system before contracting for its energy supply. This is especially true when the facility has been designed for and constructed to meet the customer's particular needs. It is also anticipated that such customers would secure back-up supply to ensure reliability of their energy supply.

As to safety concerns raised about unregulated energy projects by commentators, we are acutely aware that safety and reliability issues are important, but we cannot address these concerns in this proceeding. This policy statement is not a regulation, but an expression of intent by the Commission to look at specific criteria in making determinations about the jurisdictional status of an alternative energy supplier. We cannot impose duties or responsibilities in regard to safety or reliability concerns on an entity in finalizing this policy statement.

While it is true that the Commission must ensure public safety for public utility facilities and service, the Commission does not have the legal authority to evaluate, or the duty to ensure, the safety aspects of facilities or service of a nonjurisdictional utility service project.¹¹ This authority and duty do not attach until after the Commission makes a determination that the project is in fact a jurisdictional public utility. Moreover, public safety and other policy concerns have no bearing on the legal tests that have been established to determine whether a utility service or facility is in fact a public utility. This view is supported by the Pennsylvania Supreme Court's out-of-hand dismissal of policy concerns raised by the Commission in *Bethlehem Steel*.

The lower tribunals appear to be concerned that the business activity of Energy Production and Bessie 8 may undermine or in some way threaten the integrity of the public utility system in Pennsylvania. The concurring opinion in the PUC finds it ominous that the joint venturers attempted to avoid government regulation and that some of them are affiliated with public utilities in Pennsylvania and New Jersey. The PUC in its brief contends that it is not in the public interest to allow Bessie 8 to place its pipeline in public rights of way outside the regulatory purview of the PUC. These concerns are misplaced. It is for the legislature, not the PUC or this court to determine what business activity comes within the purview of the PUC. Because the legislature has determined that businesses which do not provide service to or for the public are not public utilities, and the businesses at issue in this case do not provide service to or for the public, we are constrained to determine that they are not subject to regulation by the PUC. If the legislature determines that such businesses should, in fact, be regulated by the PUC, it can always amend the Public Utility Code to that effect.

Bethlehem Steel, 552 Pa. at 144, 713 A.2d at 1115.

¹¹ Opinion of counsel letters and notice and disclosure statements that are filed for projects with the Commission Secretary will be available for Commission staff and other interested parties to review. If safety issues are identified, Commission staff or other agencies with jurisdiction may be contacted to conduct further investigation. See 73 P. S. § 1648.5 (relating to interconnection standards for customer-generator facilities; DEP and Department of Labor and Industry charged with developing health and safety standards for alternative energy systems).

¹⁰ *UGI Comments*, p. 6; *EAPA Comments*, p. 12.

Therefore, the Commission's analysis of whether a utility project or service is a public utility cannot turn on public safety concerns.

Conclusion

The purpose of this policy statement is to provide guidance to utility project developers and service providers and their investors regarding the criteria the Commission will use to evaluate whether a given project qualifies as a "public utility" under section 102 of the Public Utility Code. The policy statement criteria are firmly grounded upon Pennsylvania case law and provide a convenient road map to the factors that govern public utility status in Pennsylvania. By compiling and announcing the criteria to be used in the form of a policy statement, the Commission intends to reduce uncertainty regarding the public utility status of alternative energy projects and, thereby, create conditions that can encourage their development. However, any final determination must rest upon a Commission adjudication based on the facts of each case.

In addition, based on the comments received to the proposed-form policy statement and as described in the body of this order, we have made modifications to recognize the resale exception in section 2803 of the Public Utility Code to clarify applicability of the criteria identified in the policy statement to all utility projects, to remind developers that changes to contract provisions may change the jurisdictional status of the project, and to explain that good faith actions to follow the guidance provided in the policy statement can serve to mitigate the penalties that may otherwise occur if a project is subsequently adjudicated as jurisdictional. Each of these modifications further serve to make the policy statement consistent with Pennsylvania law and to encourage compliance with Pennsylvania law by utility project developers and service providers; *Therefore,*

It Is Ordered That:

1. The regulations of the Commission, 52 Pa. Code Chapter 69, are amended by adding § 69.1401 to read as set forth in Annex A.

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

3. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

4. A copy of this order and Annex A shall be posted on the Commission's website and served upon the Office of Consumer Advocate, the Office of Small Business Advocate and parties filing comments at this docket.

5. This statement of policy shall be come effective upon publication in the *Pennsylvania Bulletin*.

6. Alternative formats of this statement of policy are available to persons with disabilities and may be obtained by contacting Sherri DelBiondo, Regulatory Coordinator, (717) 772-4597.

JAMES J. MCNULTY,
Secretary

Fiscal Note: Fiscal Note 57-243 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

GUIDELINES FOR DETERMINING PUBLIC UTILITY STATUS

§ 69.1401. Guidelines for determining public utility status—statement of policy.

(a) *Coverage.* This section applies to all utility projects or services, including alternative energy systems.

(b) *Purpose.* This section provides guidance to developers of all utility projects or services, including developers of alternative energy systems under the Alternative Energy Portfolio Standards Act (73 P. S. §§ 1648.1—1648.8), in facilitating the design of projects and business plans.

(c) *Fact based determination.* The Commission will consider the status of a utility project or service based on the specific facts of the project or service and will take into consideration the following criteria in formulating its decision:

(1) The service being provided by the utility project is merely incidental to nonutility business with the customers which creates a nexus between the provider and customer.

(2) The facility is designed and constructed only to serve a specific group of individuals or entities, and others cannot feasibly be served without a significant revision to the project.

(3) The service is provided to a single customer or to a defined, privileged and limited group when the provider reserves its right to select its customers by contractual arrangement so that no one among the public, outside of the selected group, is privileged to demand service, and resale of the service is prohibited, except to the extent that a building or facility owner/operator that manages the internal distribution system serving the building or facility supplies electric power and related electric power services to occupants of the building or facility. See 66 Pa.C.S. §§ 102 and 2803 (relating to definitions).

(d) *Contractual language permitting modifications.* The Commission will not deem a utility project or service that satisfies the criteria under subsection (c) to be a public utility based solely on the fact that the relevant contractual provisions between the utility service provider or project developer and end-user customers permit:

(1) The utility service provider or project developer to substitute customers or to rearrange the project.

(2) The service provider or utility project developer to revise the customer group as a result of a material change in circumstances, including an instance when the actual output from the project proves to be materially less than or greater than projected levels.

(e) *Modification of project or service.* Implementation of contractual provisions that result in an actual increase in the original customer number, an actual alteration to the nature of the relationship between the project developer and the original customer group, an alteration to the select nature of the original customer group or other

material change in regard to the original customer group may result in a change to the nonpublic utility status of the utility project or service.

(f) *Chief Counsel opinion letter.* A project developer may request informal advice from the Chief Counsel regarding the jurisdictional status of a utility project or service. The opinion of counsel letter will be issued under § 1.96 (relating to unofficial statements and opinions by Commission personnel).

(1) A request for opinion of counsel letter must be directed to the Commission's Chief Counsel and contain the facts necessary to render an opinion as to the jurisdictional status of the utility project or service. The opinion will be based solely on the facts provided and limited to the facts stated in the request.

(2) The Chief Counsel will file a copy of the opinion of counsel letter with the Commission's Secretary. The copy of the opinion of counsel letter will be filed at Docket No. M-00051865 F.0002 and will constitute constructive notice of the utility project or service that is the subject of the opinion. The Commission will publish public notice of the issuance of the letter in the *Pennsylvania Bulletin*. Opinion of counsel letters filed at the previous docket number will be available for public access upon request.

(3) The act of requesting an opinion of counsel letter may be considered as evidence of a good faith effort to operate in accordance with the law by the project developer of a utility project or service and may be considered as a mitigating factor in imposition of fines and penalties in future complaint proceedings alleging de facto public utility operations.

(4) A change in the nature or scope of the operation of the utility project or service may result in a change in the informal advice rendered by an opinion of counsel letter. When a change occurs in the facts stated in the request, a project developer may not rely on the existing Chief Counsel opinion letter but the project developer may request a supplemental Chief Counsel opinion letter.

(g) *Notice and disclosure statement.* A utility service provider or project developer may voluntarily file with the

Commission's Secretary a notice and disclosure statement describing the nature and scope of the operation of a utility project or service with an assertion of its nonpublic utility status.

(1) Information that will allow for a determination to be made as to the jurisdictional status of the utility project or service, including its location, capacity output and the projected number of customers served, should be provided in the notice and disclosure statement. The reasons that the utility project or service does not constitute a public utility facility or provide public utility service should be explained with reference to the criteria presented in this section.

(2) The notice and disclosure statement will be filed at Docket No. M-00051865 F.0002 and will be available for public access upon request. The Commission will publish public notice of the filing in the *Pennsylvania Bulletin*. The filed notice and disclosure statement will constitute constructive notice of the asserted nonpublic utility status of the utility project or service.

(3) The act of voluntarily filing a notice and disclosure of nonpublic utility status may be considered as evidence of a good faith effort to operate in accordance with the law by the project developer of a utility service or utility service provider and may be considered as a mitigating factor in imposition of fines and penalties in future complaint proceedings alleging de facto public utility operations.

(4) A notice and disclosure statement of nonpublic utility status may be amended to report a change in the nature or operation of the utility project or service that may affect its jurisdictional status. An amended notice and disclosure statement should be filed with the Commission's secretary as soon as practicable after a change takes place.

[Pa.B. Doc. No. 07-10. Filed for public inspection January 5, 2007, 9:00 a.m.]

NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking (Department), under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending December 26, 2006.

BANKING INSTITUTIONS

Holding Company Acquisition

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
12-19-06	GSB Acquisition Corp., Bala Cynwyd, to acquire 100% of Guard Security Bank, Plains, under section 115 of the Banking Code of 1965	Bala Cynwyd	Filed

Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-19-06	Community Bank, National Association Carmichaels Greene County	100 North Market Street Carmichaels Greene County	Effective

To:

Community Bank
Carmichaels
Greene County

Represents conversion from Nationally-chartered banking association to a State-chartered bank and trust company. Community Bank is wholly-owned by CB Financial Services, Inc., an existing bank holding company.

Branches:

3730 Brownsville Road
Pittsburgh
Allegheny County

714 Brookline Boulevard
Pittsburgh
Allegheny County

1993 South Eighty Eight Road
Greensboro
Greene County

3241 W. Roy Furman Highway
Rogersville
Greene County

100 Miller Lane
Waynesburg
Greene County

30 West Greene Street
Waynesburg
Greene County

325 Southpointe Boulevard
Canonsburg
Washington County

200 Main Street
Claysville
Washington County

Waterdam Centre
4139 Washington Road
McMurray
Washington County

90 West Chestnut Street
Washington
Washington County

351 Oak Springs Road
Washington
Washington County

12-19-06	County National Bank Clearfield Clearfield County	Clearfield	Approved
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To:

CNB Bank
Clearfield
Clearfield County

Represents conversion from Nationally-chartered banking association to a State-chartered bank and trust company.

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-15-06	First Columbia Bank & Trust Co. Bloomsburg Columbia County	Bloomsburg	Effective
	Purchase of assets/assumption of liabilities of two branch offices of Keystone Nazareth Bank & Trust Co., Bethlehem, located at: 17 East Main Street Bloomsburg Columbia County		
		2691 Columbia Boulevard Bloomsburg Columbia County	
	Both branches will be consolidated with existing branches of First Columbia Bank & Trust Co. upon acquisition or as soon as possible thereafter.		

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-19-06	S & T Bank Indiana Indiana County	1077 Freeport Road O'Hara Township Allegheny County	Filed
12-18-06	Pennsylvania State Bank Camp Hill Cumberland County	715 Wertzville Road Enola Cumberland County	Filed
12-19-06	CommunityBanks Millersburg Dauphin County	1415 Ritner Highway Carlisle Cumberland County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

The Department's website at www.banking.state.pa.us includes public notices for more recently filed applications.

VICTORIA A REIDER,
Acting Secretary

[Pa.B. Doc. No. 07-11. Filed for public inspection January 5, 2007, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Pennsylvania Heritage Areas Program; Fiscal Year 2007-2008 Grant Application Announcement

The Department of Conservation and Natural Resources (Department) announces that applications are now being accepted for grants to be funded from the 2007-2008 Fiscal Year (FY) Pennsylvania Heritage Areas Program (Program). Funding is subject to an appropriation being made available to the Department for the Program in the upcoming 2007-2008 FY budget. The deadline for submission of applications is Friday, April 13, 2007. Applications must be received no later than 5 p.m. in the Harrisburg Central Office of the Department's Bureau of Recreation and Conservation. Applications received after this deadline will not be considered for funding. Faxed submissions are not acceptable.

It is the intent of the Program to create a system of State designated Heritage Areas that preserve and inter-

pret the significant contributions that various regions of this Commonwealth have made to the rich heritage of this Commonwealth and the United States. The historic, cultural, natural, scenic and recreational resources within a Heritage Area are inventoried, preserved, enhanced and promoted as a strategy to enhance regional economic development through the attraction of tourists, creation of new jobs, stimulation of small business growth and the promotion of public and private investment opportunities. There are currently 12 designated State Heritage Areas including the Allegheny Ridge Heritage Area, the Delaware and Lehigh National Heritage Corridor, the Endless Mountains Heritage Region, the Lackawanna Heritage Valley Authority, the Lancaster-York Heritage Region, the Lincoln Highway Heritage Corridor, the Lumber Heritage Region, the National Road Heritage Corridor, the Oil Heritage Region, Pennsylvania Route 6 Heritage Corridor, the Rivers of Steel Heritage Area and the Schuylkill River Heritage Corridor. More information about the designated areas can be found at www.dcnr.state.pa.us; select Heritage Areas.

Designated State Heritage Areas are eligible to apply for grants to undertake heritage area management activities, special purpose studies and implementation projects. Other regions wishing to participate in the Program may

apply for feasibility study grants if they meet the following criteria and are prequalified by the Department:

- Must have a strong industrial and other area-wide theme which significantly relates to this Commonwealth's rich heritage and serves core areas not currently covered by existing Heritage Areas.
- Must be multicounty in size.
- Must have natural, cultural, historic, recreational and scenic resources of State or National significance.
- Have a broad-based public and private partnership and regional coalition supporting the project.
- Must demonstrate a local commitment and leadership capacity to undertake the initiative.

Program Manual/Application Forms

The Program manual provides more specific information on funding levels, program requirements and the application process for this round of funding. The Program manual and application forms are available from the Department. Since each project type has a specific set of application forms, requirements and instructions, persons should specify the type of project when requesting application forms. The Program manual, application forms and additional information about the program can be obtained from C. Alan Chace, Chief, Greenways & Conservation Partnerships Division, Bureau of Recreation and Conservation, Pennsylvania Heritage Areas Program, Department of Conservation and Natural Resources, 6th Floor, Rachel Carson State Office Building, P. O. Box 8475, Harrisburg, PA 17105-8475, (717) 783-5877.

Persons with a disability who wish to submit an application for Program funding and require assistance

with the application should contact Darrel J. Siesholtz at (717) 783-2661 to discuss how the Department may best accommodate their needs. TTY or TDD users call (800) 654-5984.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 07-12. Filed for public inspection January 5, 2007, 9:00 a.m.]

Snowmobile and ATV Advisory Committee Meeting

The Snowmobile and ATV Advisory Committee of the Department of Conservation and Natural Resources (Department) will hold a meeting on Thursday, January 18, 2007, at 9 a.m. in Room 105, Rachel Carson State Office Building, Harrisburg, PA.

Questions concerning this meeting or agenda items should be directed to John Quigley at (717) 787-9632.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact John Quigley at (717) 787-9632 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 07-13. Filed for public inspection January 5, 2007, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PAS703501 (Ind SW)	SemMaterials, LP 6502 S. Yale Avenue Tulsa, OK 74136	Berks County Muhlenberg Township	UNT to Laurel Run Creek 3-C	Y
PA0084484 (SEW)	Salisbury Township 5581 Old Philadelphia Pike Gap, PA 17527	Lancaster County Salisbury Township	UNT Pequea Creek 7-K	Y
PA0087581 (SEW) w/transfer	Centre Township Municipal Authority-Jordan Crossing STP 449 Bucks Hill Road Mohrsville, PA 19541	Berks County Centre Township	UNT Irish Creek 3-C	Y

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

PA0026174, Sewage. The General Authority of the City of Franklin, 430 13th Street, Franklin, PA 16323. This facility is located in the City of Franklin, **Venango County**.

Description of Proposed Activity: This NPDES renewal adds three newly discovered CSO outfalls (008—010) to the permit and removes milestones from the previous CSO special condition. This renewal is being made in conjunction with a COA addressing CSO issues.

The proposed effluent limits for Outfall 001 based on a design flow of 5 mgd are:

<i>Parameter</i>	<i>Loadings</i>			<i>Concentrations</i>	
	<i>Average Monthly (lb/day)</i>	<i>Average Weekly (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow			XX		
CBOD ₅	1,042	1,668	25	40	50
Total Suspended Solids	1,251	1,876	30	45	60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)			200/100 ml as a geometric average 2,000/100 ml as a geometric average		
Total Residual Chlorine			0.5		1.6
pH			6.0 to 9.0 standard units at all times		

CSO **Outfall No.	Name of Outfall and/or Street Location	Location	Receiving Stream Name	
		Latitude	Longitude	
002	At the STP	41° 22' 27"	79° 49' 04"	Allegheny River
003	CSO-related bypass	41° 22' 27"	79° 49' 04"	Allegheny River
004 A	12th Street	41° 23' 55"	79° 49' 36"	French Creek
004 B	12th Street	41° 23' 55"	79° 49' 36"	French Creek
007	11th Street	41° 23' 44"	79° 49' 23"	French Creek
008	8th Street	41° 23' 20"	79° 49' 13"	Allegheny River
009	14th Street and Elk	41° 23' 57"	79° 50' 01"	Chub Run
010	14th Street and Liberty	41° 23' 54"	79° 50' 02"	Chub Run

** Refer to Combined Sewer Overflow Management Condition in Part C.

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 located on the Allegheny River and is approximately 30 miles below point of discharge.

The receiving streams, the Allegheny River and French Creek, are in watersheds 16-G and 16-D and classified for: WWF, aquatic life, water supply and recreation.

- Special Conditions:
1. CSO Management.
 2. CSO related bypass.
 3. TRC minimization.
 4. WETT for next renewal.
 5. SSO Condition.

The EPA waiver is not in effect.

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

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

Application No. PA 0036269, Sewage, **Stewartstown Borough Authority**, Six North Main Street, Stewartstown, PA 17363.

Description of activity: The application is for the renewal of an NPDES permit for an increased discharge of treated sewage from a publicly owned treatment works in Hopewell Township, **York County**.

The receiving water Ebaughs Creek is in Watershed 7-I, and is classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Aberdeen Proving Ground in Maryland is located on Deer Creek, approximately 43 miles downstream. The discharge is not expected to affect the water supply.

The proposed final effluent limits for Outfall 001 based on an annual average flow rate of 0.625 mgd, to become effective 2 years following permit issuance, are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅				
(5-1 to 10-31)	15	22		30
(11-1 to 4-30)	25	40		50
Total Suspended Solids	30	45		60
Total Phosphorus	2.0			4.0
NH ₃ -N				
(5-1 to 10-31)	3.5			7.0
(11-1 to 4-30)	8.5			17
Dissolved Oxygen		minimum of 5.0 at all times		
pH (Standard Unit)		from 6.0 to 9.0 inclusive		
Fecal Coliform				
(5-1 to 9-30)		200/100 ml as a geometric average		
(10-1 to 4-30)		5,300/100 ml as a geometric average		
Total Metals*			Monitor and Report	
Total Nitrogen	Monitor and Report			
Total Kjeldahl Nitrogen	Monitor and Report			
NO ₃ -N + NO ₂ -N	Monitor and Report			
Specific Conductance (µmhos/cm)		Monitor and Report		

* Total Metals include Total Copper, Total Lead, Total Zinc, Total Selenium, Total Silver, Total Mercury, Total Cadmium and Total Antimony.

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

The EPA waiver is in effect.

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

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

WQM Permit No. 0606409, Sewerage, **Township of Tilden**, 874 Hex Highway, Hamburg, PA 19526. This proposed facility is located in Tilden Township, **Berks County**.

Description of Proposed Action/Activity: Seeking approval for the construction/operation of a gravity sewage collection system and three pump stations.

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

WQM Permit No. 0471412-A1, Sewerage, **Economy Borough Municipal Authority**, 2860 Conway-Wallrose Road, Baden, PA 15005. The existing facility is located in Economy Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for permit amendment to increase the pump station flow to 400 gpm.

WQM Permit No. 6384416-T1-A2, Sewerage, **South Franklin Township**, 100 Municipal Road, Washington, PA 15301. This proposed facility is located in South Franklin Township, **Washington County**.

Description of Proposed Action/Activity: Application for permit amendment to increase size of flow equalization tank and relocate existing digester.

WQM Permit No. WQG016135, Sewerage, **Wesley Glass**, 256 Park Lane, Darlington, PA 16115. This proposed facility is located in Big Beaver Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for permit to construct and operate a small flow, single residence, sewage treatment plant.

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

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

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

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

NPDES Permit

<i>No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011506097	Vintage Development 63 Chestnut Road, Suite 2 Paoli, PA 19301	Chester	East Goshen Township	Hunters Run HQ
PAI012306008	David Greth 2314 Herb Road Temple, PA 19560	Delaware	Edgmont Township	Ridley Creek HQ-TSF
PAI012306009	Halcyon Construction Company P. O. Box 826 Concordville, PA 19331	Delaware	Edgmont Township	Rocky Run HQ-CWF-MF

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

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

NPDES Permit

<i>No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024006007	Williams Gas Pipeline— Transco Attn: Frank Canneto 2800 Post Oak Blvd. Houston, TX 77056	Luzerne	Salem and Huntington Townships	Susquehanna River CWF Little Shickshinny Creek HQ-CWF Huntingdon Creek CWF

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI024806035	Bushkill Preserve, LLC Attn: James Seitz, II 502 Red Barn Dr. Easton, PA 18040	Northampton	Bushkill Township	Bushkill Creek HQ-CWF
PAI024806036	Greenfield Industrial Park 6831 E. 32nd St. Suite 300 Indianapolis, IN 46226	Northampton	Bethlehem and Lower Nazareth Townships	Monocacy Creek HQ-CWF

Lackawanna County Conservation District: 1300 Old Plank Rd., Mayfield, PA 18433, (570) 281-9495.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI023506004	James Blumer R. D. No. 7, Box 7260 Moscow, PA 18444-8709	Lackawanna	Spring Brook Township	Spring Brook HQ-CWF

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

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

CAFO Notices of Intent Received

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

Application No. PA 0239933. Concentrated Animal Feeding Operation (CAFO), **Lakeland Dairy**, 272 Angel Road, New Wilmington, PA, 16142. Lakeland Dairy has submitted an application for an Individual NPDES permit for an expanded CAFO known as the Lakeland Dairy, located in Wilmington Township, **Mercer County**.

The CAFO is situated near a UNT to Neshannock Creek. The receiving stream is in State Water Plan 20-A and is classified as a TSF. The CAFO will be designed to maintain an animal population of approximately 1,274.4 animal equivalent units consisting of 600 milking cows, 70 dry cows, 120 maternity cows, 75 calves and 350 heifers. Manure will be stored in an existing earthen impoundment with a capacity of 824,805 gallons. A release or discharge to waters of this Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department of Environmental Protection (Department) has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and draft permit are on file at the Northwest Regional Office of the Department. Persons may make an appointment to review the files by calling the file review coordinator at (814) 332-6340.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination 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 the basis of the comment and the relevant facts upon which it is based.

Following the 30-day comment period, the Watershed Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time the determination may be appealed to the Environmental Hearing Board.

The Environmental Protection Agency permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

PUBLIC WATER SUPPLY (PWS) PERMIT

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

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

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

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

SAFE DRINKING WATER

Applications Received Under the Pennsylvania Safe Drinking Water Act

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

Application No. 5206505, Public Water Supply.

Applicant Lake Wallenpaupack Estates
Greene Township
Pike County

Responsible Official Richard A. Layer, VP
Lake Wallenpaupack Estates
104 Clubhouse Drive
Greentown, PA 18426
(570) 689-4385

Type of Facility Community Water System

Consulting Engineer Jacqueline A. Peleschak, P. E.
Alfred Benesch & Company
400 One Norwegian Plaza
P. O. Box 1090
Pottsville, PA 17901
(570) 622-4055

Application Received Date December 8, 2006

Description of Action Application for permitting the existing community water system serving the Lake Wallenpaupack Estates development.

Application No. 599877, Public Water Supply.

Applicant Niagara Bottling, LLC
Upper Macungie Township
Lehigh County

Responsible Official Brian Hess, Director of Operations
Niagara Bottling, LLC
5675 E. Concoors Street
Ontario, CA 91764

Type of Facility Bottled Water

Consulting Engineer Barry Isett & Associates, Inc.
85 S. Route 100 and Kressler Lane
Trexlerstown, PA 18087-0147

Application Received Date 11/16/06

Description of Action The construction of a 320,000 sq. ft. bottled water plant.

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

Permit No. 0106516, Public Water Supply.

Applicant Colbier Farms, LLC

Municipality Mt. Joy Township

County Adams

Responsible Official Charles T. Cole, Official President
7 Sunnysdale Way
Reisterstown, MD 21136-6118

Type of Facility Public Water Supply

Consulting Engineer Joseph M. McDowell, P. E.
Martin & Martin, Inc.
37 S. Main Street
Chambersburg, PA 17201

Application Received: 11/22/2006

Description of Action Construction of a new community water system with two wells, storage, disinfection, softening and uranium removal.

Permit No. 6705508, Public Water Supply.

Applicant Rutters Brothers Dairy, Inc

Municipality Manchester Borough

County York

Responsible Official Todd M. Rutter, President
2100 N. George St.
York, PA 17401

Type of Facility Public Water Supply

Consulting Engineer Paul K. Francis, P. E.
LSC Design Inc
1110 East Princess Street
York, PA 17403

Application Withdrawn: 12/20/2006

Description of Action Application to install and operate a water treatment and bottling facility in Manchester Township.

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

Permit No. 4906502, Construction Public Water Supply.

Applicant PA-American Water Company
(White Deer District)

Township or Borough Point Township

County Northumberland

Responsible Official Joel Mitchell, Project Manager
PA-American Water Company
(White Deer District)
800 West Hersheypark Drive
Hershey, PA 17033

Type of Facility Public Water Supply-Construction

Consulting Engineer Karl Shellenberger
Buchart-Horn, Inc.
1200 West College Avenue
State College, PA 16801

Permit Issued Date December 21, 2006

Description of Action Construction of a 750,000 gallon water storage tank and 5,200 feet of 12" diameter water pipe.

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

Permit No. 6306503, Public Water Supply.

Applicant **Pennsylvania-American Water Company**
800 Hersheypark Drive
Hershey, PA 17033

[Township or Borough] South Strabane Township

Responsible Official Paul A. Zielinski, Director
Environmental Management and Compliance
Pennsylvania-American Water Company
800 Hersheypark Drive
Hershey, PA 17033

Type of Facility Water booster station

Consulting Engineer

Application Received Date November 13, 2006

Description of Action Construction of the Strabane Manor booster station.

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act

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

Application Minor Amendment.

Applicant **Aqua Pennsylvania, Inc.**
South Whitehall and Salisbury Townships
Lehigh County

Responsible Official Mark J. Kropilak, VP Corp. Dev.
Aqua Pennsylvania, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010
(610) 645-1026

Type of Facility Community Water System

Consulting Engineer NA

Application Received Date December 4, 2006

Description of Action Application for transfer PWS Permit Nos. 8847W and P662W7 for the community water system serving Country Club Gardens Development from Country Club Gardens Water Company to Aqua Pennsylvania, Inc.

Application Minor Amendment.

Applicant **Aqua Pennsylvania, Inc.**
Lower Macungie Township
Lehigh County

Responsible Official Mark J. Kropilak, VP Corp. Dev.
Aqua Pennsylvania, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010
(610) 645-1026

Type of Facility Community Water System

Consulting Engineer NA

Application Received Date December 4, 2006

Description of Action Application for transfer PWS Permit Nos. 661W1 and 667W020 for the community water system serving Maple Hills Development from Country Club Gardens Water Company to Aqua Pennsylvania, Inc.

Application Minor Amendment.

Applicant **Aqua Pennsylvania, Inc.**
South Whitehall Township
Lehigh County

Responsible Official Mark J. Kropilak, VP Corp. Dev.
Aqua Pennsylvania, Inc.
762 West Lancaster Avenue
Bryn Mawr, PA 19010
(610) 645-1026

Type of Facility Community Water System

Consulting Engineer NA

Application Received Date December 4, 2006

Description of Action Application for transfer PWS Permit Nos. 3968501, 3971501 and 3975503 for the community water system serving Spring House Farms Development from Country Club Gardens Water Company to Aqua Pennsylvania, Inc.

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

Application No. 0206513MA, Minor Amendment.

Applicant **Harrison Township Water Authority**
1705 Rear Freeport Road
Natrona Heights, PA 15065

Township or Borough Harrison Township

Responsible Official Charles Craig, General Manager
Harrison Township Water Authority
1705 Rear Freeport Road
Natrona Heights, PA 15065

Type of Facility Water treatment plant

Consulting Engineer NIRA Consulting Engineers, Inc.
950 Fifth Avenue
Coraopolis, PA 15108

Application Received Date December 4, 2006

Description of Action	Replacement of one raw water/source pump at the raw water pumping station along the Allegheny River and installation of VFD; replacement of one distribution booster pump at the Mt. Airy Booster Station and installation of VFD.
Application No.	0406505MA, Minor Amendment.
Applicant	Brighton Township Municipal Authority 1300 Brighton Road Beaver, PA 15009
Township or Borough	Brighton Township
Responsible Official	Bryan Dehart, Authority Manager Brighton Township Municipal Authority 1300 Brighton Road Beaver, PA 15009
Type of Facility	Water treatment plant
Consulting Engineer	Lennon, Smith Souleret Engineering, Inc. 846 Fourth Avenue Coraopolis, PA 15108
Application Received Date	December 12, 2006
Description of Action	Renovation of the high school pump station, including replacement of existing pumps and addition of liquid hypochlorite feed system for rechlorination.

WATER ALLOCATIONS

Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of the Commonwealth

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

WA 01-1023, Water Allocations. **Mason Dixon Country Club Inc., Adams County.** The applicant is requesting the right to withdraw an average of 300,000 gpd from Marsh Creek in Freedom Township, Adams County. Consulting Engineer: Thomas S Ladue, Dewberry-Goodkind Inc. Application Returned: 11/3/2006.

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

WA2-1007, Water Allocations. **Borough of Aspinwall, 217 Commercial Avenue, Aspinwall, PA 15215, Allegheny County.** The applicant is requesting the right to withdraw 574,000 gpd, peak day, from their wells which are located near the Allegheny River. They are also requesting the right to purchase 450,000 gpd, on an emergency basis, from the Fox Chapel Authority and 574,000 gpd, on an emergency basis, from the Pittsburgh Water & Sewer Authority.

WA3-1007, Water Allocations. **Manor Township Joint Municipal Authority, 2310 Pleasant View Drive, Ford City, PA 16226, Allegheny County.** The applicant is

requesting the right to withdraw 600,000 gpd, peak day, from well No. 4 which is located near the Allegheny River.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

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

H. J. Tanner, Inc., Chambersburg Borough, **Franklin County**. B. L. Companies, Inc., 213 Market Street, 6th Floor, Harrisburg, PA 17101, on behalf of H. J. Tanner, Inc., 1120 Mount Rock Road, Shippensburg, PA 17257, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by petroleum hydrocarbons. The property is and will remain a bulk fuel oil and gasoline storage facility. The applicant is seeking to remediate to both the Statewide Health and Site-Specific Standards.

Woodland Retirement Center, Cromwell Township, **Huntingdon County**. Mountain Research LLC, 825 25th Street, Altoona, PA 16601, on behalf of Woodland Retirement Center, 18889 Croghen Pike, Orbisonia, PA 17243, submitted a Notice of Intent to Remediate site soils, groundwater and surface water contaminated with heating oil from a removed storage tank. The property is and will remain a retirement center. The applicant is seeking to remediate to the Statewide Health Standard.

Mutual Benefit Group—Huntingdon, Huntingdon Borough, **Huntingdon County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of Mutual Benefit Group, 409 Penn Street, Huntingdon, PA 16652, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with gasoline and heating oil from removed underground storage tanks. The property was a former gasoline station and will be used commercially for employee parking. The applicant is seeking to remediate to the Statewide Health Standard.

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

Ambridge Area Brownfields Multiple Properties (11th—19th Streets), Borough of Ambridge **Beaver County**. Frank W. Benacquista, P. G., CEI, KU Resources Inc., 22 South Linden Street, Duquesne, PA 15110 on behalf of Ambridge Borough, 600 11th Street, Ambridge, PA 15003 has submitted a Notice of Intent to Remediate. Soil and groundwater is from past industrial processes. Soils contain PCBs, lead, heavy metals, PAHs, SVOCs and VOCs above Act 2 Standards. Groundwater is contaminated with lead, heavy metals, SVOCs and VOCs. A Site-Specific Standard is proposed for both soils and groundwater. Remediation measures will include soil covering, paving and deed restrictions. The site is being redeveloped to support new uses including light industrial, commercial and residential.

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

ACCURIDE ERIE, City of Erie, **Erie County**, MACTEC Engineering and Consulting on behalf of Erie Land Holding, Inc. and Accuride-Erie LP 7140 Office Circle, Evansville, IN 47725 and Greater Erie Industrial Development Corporation 5240 Knowledge Parkway, Erie, PA 16510-4658 has submitted a Notice of Intent to Remediate the migration of benzene, aluminum, beryllium, cadmium, iron, manganese, nickel and lead in groundwater and to recap a former disposal pond. Past use of the property was for manufacturing and future use will continue to be nonresidential.

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.

39-399-059: GEO Specialty Chemicals, Inc. (2409 North Cedar Crest Boulevard, Allentown, PA 18104) for

installation of an air cleaning device in the formaldehyde processing area of their facility in South Whitehall Township, **Lehigh County**.

35-322-009: Keystone Sanitary Landfill, Inc. (249 Dunham Drive, Dunmore, PA 18512) for installation of an air cleaning device at their landfill in Dunmore and Throop Boroughs, **Lackawanna County**.

40-310-066: Barletta Materials and Construction, Inc. (P. O. Box 550, Tamaqua, PA 18252) for modification of a stone crushing operation and associated air cleaning device at the Nescopeck Sand and Gravel Pit in Nescopeck Township, **Luzerne County**.

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

36-03135D: Shared Mail Acquisitions, LLC (72 Industrial Circle, Lancaster, PA 17540) for installation of a Web 8 heatset press at their KAR Printing—East Division facility in Upper Leacock Township, **Lancaster County**.

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

62-150B: Superior Tire and Rubber Corp. (1818 Pennsylvania Ave West, Warren, PA 16365) plan approval for a waiver of VOC emission limitations at the Superior Tire and Rubber facility, in the City of Warren, **Warren County**. The increase will make the facility a Major Title V entity for HAPs.

25-025K: General Electric Transportation Systems—Erie Plant (2901 East Lake Road, Room 9-201, Erie, PA 16531) for modification of plan approval 25-318-106 condition with regards to the VOC content of the varnish coating in Lawrence Park Township, **Erie County**. This is a Title V facility.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

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

64-303-011: Hanson Aggregates PA, Inc. (1900 Sullivan Trail, Easton, PA 18040) for modification of a batch asphalt plant to utilize recycled asphalt at the Lake Township Asphalt Plant, on Keystone Road, Lake Township, **Wayne County**. PMs from the plant will be controlled by the installation of a new air-cleaning device. Expected particulate emission rate will be less than 0.02 grain/dscf. The company will operate the facility and maintain the equipment in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval will be incorporated into the company's State-only Operating Permit No. 64-00006 when operational. The operating permit will contain additional recordkeeping and operating restrictions that are designed to keep the facility operating within all applicable air quality requirements.

35-317-005: Polarized Meat Co., Inc. (107 Keystone Industrial Park, Dunmore, PA 18512) for installation of a wet scrubber, high efficiency demister and carbon absorber to replace the existing Quickdraft system to control emissions from the existing cooking lines at the site in the Keystone Industrial Park, Dunmore Borough,

Lackawanna County. This facility is a non-Title V facility. The system will be designed by the company to ensure that the malodorous emissions from the facility will not be detected past the property of the person on whose land the source is being operated, as stated in 25 Pa. Code § 123.31. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. Monitoring and recordkeeping requirements will be contained in the Plan Approval.

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

06-05025B: Morgan Corp. (35 Thousand Oaks Boulevard, Morgantown, PA 19543-8838) for construction of a drive-thru paint spray booth with High Volume Low Pressure spray guns at their existing facility in Caernarvon Township, **Berks County**. This facility is a Title V facility. This source will be controlled by the use of dry filters to control PM emissions. The operation of the paint booth at this facility will result in an emissions increase of approximately 12 tons per year of VOCs for a total of 52 tpy and an increase of 1.9 tpy of HAPs for a total combined HAPs emission of 9.2 tpy. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

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

60-318-012: Q-E Manufacturing Co., Inc. (805 Market Street, New Berlin, PA 17855) for construction of a spray booth and modification of a surface coating operation at 315 Cherry Street in New Berlin Borough, **Union County**. The facility in which the respective surface coating operation is located is not a major (Title V) facility for any air contaminant.

The surface coating operation previously consisted of one spray booth (No. 1) in which cast iron and aluminum wood pellet stove parts are coated with a solvent-containing coating, one spray booth (No. 2) in which powder coating occurs and a 1.5 million Btu per hour propane-fired drying/curing oven. Q-E Manufacturing Company, Inc. proposes to construct a third spray booth (No. 3) in which solvent-containing coatings will be applied and increase the amount of coating used in the surface coating operation such that the resultant VOC emissions will be in excess of the level (2.7 tons per year) which is considered to be of minor significance by the Department of Environmental Protection (Department).

The PM emissions from spray booth Nos. 1 and 3 will be controlled with spray booth filters and the PM emissions from spray booth No. 2 will be controlled with canister filters.

The air contaminant emissions from the modified surface coating operation are not expected to exceed 6.09 tons of VOCs, 2.01 tons of volatile HAPs, 44.8 tons of volatile solvents which are neither VOCs nor volatile HAPs, 1.01 tons of NO_x and negligible amounts of PM, CO and SO_x per year.

The Department's review of the information submitted by Q-E Manufacturing, Inc. indicates that the modified surface coating operation will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT 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 Spray Booth No. 3 and the modification of the surface coating operation.

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

1. The only coating that shall be applied in Spray Booth Nos. 1 and 3 is Forrest Paint Company High Temperature Satin Black Paint (Product Code 250H231) with a maximum VOC content of .74 pound per gallon of coating and a maximum volatile HAP content of .24 pound per gallon of coating (or alternate coating determined by the Department to have an equivalent, or lower, air contaminant emission potential). This coating shall be used as received from the vendor or supplier. Nothing shall be added to it onsite.

2. No more than 16,200 gallons of Forrest Paint Company High Temperature Satin Black Paint (and/or alternate coatings determined by the Department to have an equivalent, or lower, air contaminant emission potential) shall be used in any 12-consecutive month period.

3. No more than 15 gallons of cleanup solvent shall be used in, or in association with, the surface coating operation in any 12-consecutive month period.

4. The only coatings that shall be applied in spray booth No. 2 shall be powder coatings which contain no VOCs, volatile HAPs or other volatile solvents.

5. Only electrostatic air assisted airless spray guns (or alternate spray technology determined by the Department to have an equivalent, or better, transfer efficiency) shall be used to apply coating in spray booth Nos. 1 and 3.

6. Spray booth Nos. 1 and 3 shall be equipped with spray booth filters at any time coating is occurring in the booths. Spray booth No. 2 shall be equipped with canister filters at any time powder coating is occurring in the booth. Extra filters shall be kept onsite. No spray coating is to occur outside of a spray booth.

7. The PM emissions from the exhaust of spray booth Nos. 1—3 and the associated drying/curing oven shall not exceed .005 grain per dry standard cubic foot of effluent gas volume. Additionally, at no time shall there be any visible air contaminant emissions from the exhausts of any of the three spray booths or the oven (other than water vapor or steam).

8. The only fuel that shall be used in the drying/curing oven shall be propane or natural gas.

9. All containers of materials containing VOCs, volatile HAPs or volatile solvents other than VOCs and volatile HAPs (acetone, and the like) shall be closed except when adding material to, or removing material from, the containers. Spray guns and lines shall be cleaned by either flushing a solid stream of cleaning solvent through them into a closed container in a nonatomized manner or by soaking them in a container of cleaning solvent. At no time shall cleaning solvent be flushed or sprayed into the atmosphere or sprayed into a container as an atomized spray. Used cleaning rags shall be stored in closed containers when not in actual use. Use cleaning rags and coatings, cleaning solvents, and the like shall never be treated in any manner which would unnecessarily promote the evaporative loss of organic compounds, volatile HAPs or other volatile solvents to the atmosphere.

10. The surface coating operation shall comply with all applicable requirements of 25 Pa. Code § 129.52.

11. The total combined VOC emissions from the surface coating operation shall not exceed 6.09 tons in any 12-consecutive month period, the total combined volatile HAPs shall not exceed 2.01 tons in any 12-consecutive month period, the total combined amount of volatile solvents other than VOCs and volatile HAPs shall not exceed 44.8 tons in any 12-consecutive month period and the total combined NOx emissions shall not exceed 1.01 tons in any 12-consecutive month period.

12. Comprehensive, accurate records shall be maintained of the information needed to determine compliance with the limitations and requirements specified herein. Records shall be retained for at least 5 years and shall be made available to the Department upon request.

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

The plan approval was actually already issued for the construction of this facility on April 18, 2006, but because of numerous changes in facility design, the Department has determined that a new plan approval should be issued.

The facility is as described in the notice of the Department's intent to issue the original plan approval (also numbered 14-399-016) which was published in the 36 Pa.B. 1263 (March 18, 2006), except for the following changes:

- The addition of two ball mills.
- The addition of two scales.
- The addition of one solvent dip tank.
- The addition of four solvent cleaning hoods.
- The addition of eight drying ovens.
- The addition of three kilns.
- The addition of one manual termination machine.
- The addition of one solvent dispensing hood.
- The addition of one epoxy mold curing hood.
- The addition of two screen printers.
- The addition of one wheel cleaning hood.
- The addition of one printing hood.
- The addition of a cyanide destruct system.
- The addition of an ultrasonic machine.
- The addition of a sensitizing line.
- The addition of a gold/electroless nickel line.
- The addition of two wastewater vents.
- The addition of two lab testing hoods.
- The removal of one spray dryer.
- The removal of one solvent hood.
- The removal of one pan bake oven.
- The removal of two banding machines.
- The removal of three drying ovens.

Additionally, the natural gas-fired burner incorporated in a regenerative thermal oxidizer (an air cleaning device) is 1.3 million Btu/hour rather than the originally-approved 1.2 million Btu/hour and the amount of solvent used in a batch vapor degreaser will be greater than originally proposed and approved (250 gallons per year instead of 106 gallons per year).

The air contaminant emissions from the ceramic capacitor manufacturing facility are not expected to exceed 23.2 tons of VOCs per year, of which no more than 5.3 tons are expected to be volatile HAPs, and 8.1 tons of PM (including PM10), .6 ton of NOx, .5 ton of CO and .003 ton of SOx per year. This constitutes an increase of .7 tons of VOCs, .1 ton of NOx and .1 ton of CO per year from the emission rates originally approved and a decrease of 1.2 tons per year of PM (including PM10). The volatile HAPs and SOx emission rates remain unchanged.

The facility is not a major (Title V) facility for any air contaminant.

The Department's review of the information submitted by Spectrum Control, Inc. indicates that the ceramic capacitor manufacturing facility should comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the BAT requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue a new plan approval for the construction of the respective ceramic capacitor manufacturing facility.

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 requirements:

1. Conditions contained in the plan approval issued on April 18, 2006, remain unchanged and in effect unless superseded or modified by a condition contained herein.

2. The total combined VOC emissions from the entire facility, excluding those from the batch vapor degreaser, shall not exceed 21.9 tons in any 12-consecutive month period.

3. The total volatile HAPs emissions from the entire facility, excluding those from the batch vapor degreaser, shall not exceed 5.3 tons in any 12-consecutive month period, of which no more than 3.7 tons in any 12-consecutive month period shall be of any single volatile HAP.

4. The total combined PM (including PM10) emissions from the entire facility shall not exceed 8.1 tons in any 12-consecutive month period, the total combined NOx emissions shall not exceed .6 ton in any 12-consecutive month period, the total combined CO emissions shall not exceed .5 ton in any 12-consecutive month period and the total combined SOx emissions shall not exceed .003 ton in any 12-consecutive month period.

5. The batch vapor degreaser shall use no more than 250 gallons of solvent in any 12-consecutive month period.

35-317-005: Polarized Meat Co., Inc. (107 Keystone Industrial Park, Dunmore, PA 18512) for installation of a wet scrubber, high efficiency demister and carbon absorber to replace the existing Quickdraft system to control emissions from the existing cooking lines at the site in the Keystone Industrial Park, Dunmore Borough, **Lackawanna County**. This facility is a non-Title V facility. The system will be designed by the company to ensure that the malodorous emissions from the facility will not be detected past the property of the person on whose land the source is being operated, as stated in 25 Pa. Code § 123.31. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. Monitoring and recordkeeping requirements will be contained in the Plan Approval.

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

20-296A: Homerwood Hardwood Flooring (1026 Industrial Drive, Titusville, PA 16354) for construction of the surface coating operations in City of Titusville, **Crawford County**. This is a State-only V facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the State-only 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 BAT for the source:

- The facility VOC emissions shall not exceed 49.0 tpy based on a consecutive 12-month period.

- The permittee shall maintain the following records:

- Monthly facility VOC emissions

- Yearly facility VOC emissions based on a consecutive 12-month period

- Sources 101, 102 and 104—108 shall comply with the following:

- Subject to 25 Pa. Code § 123.13 for PM emissions.

- Subject to 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions, respectively.

- The VOC emissions from all surface coating operations shall not exceed 35.25 tpy based on a consecutive 12-month period.

- Subject to 25 Pa. Code § 129.52 for Surface Coating processes.

1. The permittee shall maintain records of the following:

- a. Monthly VOC emissions

- b. Monthly maintain records of the VOC emissions based on a consecutive 12-month period

2. Shall be maintained and operated in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

- Source 103 shall comply with the following:

1. Subject to 25 Pa. Code §§ 123.13 and 123.21 for PM and Sulfur emissions.

2. Shall be maintained and operated in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

PLAN APPROVAL

PUBLIC HEARINGS

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

PA No. 54-399-040: Green Renewable Energy, Ethanol and Nutrition-Holding, LLC (1904 Tollgate Road, Palm, PA 18070) for the proposed bio fuel storage and distribution terminal in Porter and Frailey Townships, **Schuylkill County**.

Under 25 Pa. Code § 127.44 and 40 CFR 52.21, the Department is soliciting comments on the proposed Air Quality Plan Approval for Green Renewable Energy, Ethanol and Nutrition-Holding, LLC (the Permittee), 1904

Tollgate Road, Palm, PA 18070, for the proposed Bio Fuel Storage & Distribution Terminal in Porter and Frailey Townships, Schuylkill County as described in the Permittee's September 21, 2006 Plan Approval Application and subsequent supplemental submissions.

The terminal consists of four 500,000-gallon capacity storage tanks, two 3,000,000-gallon capacity storage tanks, one 28,000-gallon capacity storage tank, one 12,000-gallon capacity storage tank and transfer systems for storage and distribution of ethanol and bio fuel. Four 500,000 gallons capacity tanks will be used to store neat ethanol (200 proof or 190 proof), denatured ethanol (a mixture of ethanol denatured with 5% gasoline, by weight), E85 ethanol (a mixture of ethanol denatured with 15% gasoline, by weight), gasoline or biodiesel. Two 3,000,000 gallons capacity tanks will be used to store neat ethanol, denatured ethanol or biodiesel. The facility will also include two loading systems for shipping products to markets by means of tank truck and rail cars and one unloading system for railcars. The facility will include equipment to receive and unload ethanol, biodiesel and gasoline from railcars or tank trucks. The company will ship ethanol, biodiesel and E85 (a fuel blend consists of 85% ethanol and 15 % gasoline).

VOC emissions for the sources will be controlled by three high efficiency vapor destruction units. These units will be capable of controlling 99.9% of VOC emissions. The Plan Approval will required the facility to demonstrate compliance with the emission limitations set by the Department through stack testing.

The proposed project is subject to the various State and Federal New Source Performance Standard (NSPS) requirements.

A review of the information submitted by Green Renewable Energy, Ethanol, & Nutrition-Holding, LLC indicates that the proposed project will meet all applicable State and Federal NSPS air quality requirements. Based upon these findings, Department plans to approve the application and issue a permit for the facility.

The following table summarizes the potential emissions from maximum operation of the terminal according to the application submitted and the Department's own analysis;

<i>Pollutant</i>	<i>Tons Per Year</i>
VOCs	8.17
PM	20.43
PM10	3.99

The emissions of these pollutants are within all applicable emissions limitations and will not cause an exceedance of the National Ambient Air Quality Standards.

To assure compliance with the applicable standards, the Department will place the conditions in the plan approval.

Persons wishing to provide the Department with additional information, which they believe should be considered prior to the issuance of the Plan Approval, may submit the information to the address shown as follows. The Department will consider any written comments received within 30 days of the publication of this notice. Each written comment must contain the following: name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval No. 54-399-040 and a concise statement regarding the relevancy of the information or any objections to the issuance of the Plan Approval.

A public hearing will be held for the purpose of receiving comments on the proposed air quality plan approval. The hearing will be held on February 8, 2007, at 7 p.m. at the Williams Valley High School Auditorium, located at Route 209, Tower City, PA 17980. Persons interested in commenting are invited to appear at the public hearing.

Copies of the application, the Department's technical review and other supporting documents are available for public inspection between the hours of 8 a.m. and 4 p.m. at the Department's Wilkes-Barre Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790. Appointments for scheduling a review may be made by calling (570) 826-2511.

The general procedures for the hearing are as follows:

To develop an agenda for the hearing, the Department requests that individuals wishing to testify at the hearing submit a written notice of their intent. The notice should be sent to Thomas A. DiLazaro, Hearing Examiner, Department of Environmental Protection, Air Quality Program, Wilkes-Barre Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790. The Department will accept notices up to the day of the public hearing.

This written notice should include the person's name, address, telephone number and a brief description as to the nature of the testimony. Individuals who submit a notice of intent to testify will be given priority on the agenda. If time permits, the Department will allow individuals who have not submitted a notice of intent to testify to present their comments.

Each individual will have up to 10 minutes to present testimony. The Department requests that individuals present written copies of their testimony in addition to their oral presentations.

To insure that all speakers have a fair and equal opportunity to present their testimony, relinquishing of time will be prohibited. Further details relating to the procedures to be followed at the hearing will be outlined at the beginning of the hearing.

Persons unable to attend the hearing can submit written testimony to the Department through February 18th, 2007.

The Department will address comments from the public before a final action is taken on the proposal. A summary report addressing the concerns raised by the public will be released should the Department decide to issue the Plan Approval. Send written comments to Thomas A. DiLazaro, Regional Air Quality Program Manager, Wilkes-Barre Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations should contact the Department at the address shown above, or the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may address their needs.

For additional information regarding the above, contact Thomas A. DiLazaro at (570) 826-2511 or write to the Department at the Wilkes-Barre address given previously.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001-4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

23-00084: FPL Energy MH50, LP (100 Green Street, Marcus Hook, PA 19061-0426) to renew the Title V Operating Permit in the Borough of Marcus Hook, **Delaware County**. The initial permit was issued on November 7, 2001. The facility is primarily used for providing steam to processes at the Sunoco Refinery and electrical energy to the grid. As a result of potential emissions of Nox, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Renewal does not adopt any new regulations and does not reflect any change in air emissions from the facility. The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

56-00166: PBS Coals, Inc. (1576 Stoystown Road, P. O. Box 260, Friedens, PA 15541) for renewal of their Title V Operating Permit for the Shade Creek Coal Preparation Plant in Shade Township, **Somerset County**. The facility has emissions from coal breaking, screening, handling, drying, transfer and storage. The primary source of emissions is the thermal dryer. The facility is subject to Title V requirements because of its potential to emit NOx, SOx, CO, PM and VOCs exceeds Title V thresholds.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

09-00190: Transcontinental Direct (75 Hawk Road, Warminster, PA 18974-5102) for a Non-Title V Facility, State-only, Synthetic Minor Permit in Warminster Township, **Bucks County**. Transcontinental Direct, is a printing facility. The sources of emissions include six nonheatset web UV lithographic printing presses. The facility has a potential to emit 30 tons per year of VOCs. The company took an emission limit of 24 tons per year of VOCs. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

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

54-00069: Papetti's Hygrade Egg Products (68 Spain Road, Klingerstown, PA 17941) for operation of a boiler and a spray dryer with associated air cleaning device at their facility in Hubley Township, **Schuylkill County**. This action is an issuance of a State-only (Synthetic Minor) operating permit for this facility. This facility is currently operating under Plan Approval 54-317-003. All requirements of the current Plan Approval will be incorporated into the new State-only (Synthetic Minor) operating permit. This operating permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

35-00062: Wells Cargo, Inc.—PA Division (50 Enterprise Drive, Carbondale, PA 18407) for operation of a paint spray booth and associated air cleaning device at their facility in the City of Carbondale, **Lackawanna County**. This action is an issuance of a State-only (Synthetic Minor) operating permit for this facility. This facility is currently operating under Plan Approval 35-318-083. All requirements of the current Plan Approval will be incorporated into the new State-only (Synthetic Minor) operating permit. This operating permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

58-00008: Pennfield Corp. (Box 222 Mill Street, South Montrose, PA 18843) for operation of a boiler and grain processing mill and associated air cleaning devices at their facility in Bridgewater Township, **Susquehanna County**. This action is an issuance of a State-only (Natural Minor) operating permit for this facility. This facility is currently operating under Plan Approval 58-317-001. All requirements of the current Plan Approval will be incorporated into the new State-only (Natural Minor) operating permit. This operating permit shall include emission restrictions, monitoring, recordkeeping and reporting requirements designed to ensure this facility complies with all applicable air quality regulations.

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

06-03007: O-Z/Gedney, LLC (150 Birch Hill Road, Shoemakersville, PA 19555) for operation of their gray iron foundry in Perry Township, **Berks County**. 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.

07-05031: Union Tank Car Co. (6th Street and Chestnut Avenue, P. O. Box 2003, Altoona, PA 16603) for a facility wide State-only operating permit for the rail tank car abrasive blast, cleaning, coating and flare operations at Altoona Township, **Blair County**. The sources primary emissions are VOCs. The synthetic minor operating permit will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within the applicable air quality requirements.

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

17-00027: River Hill Coal Company, Inc. (P. O. Box 141, Kylertown, PA 16847) for operation of a coal processing facility (Belford Siding) in Karthaus Township, **Clearfield County**.

The facility incorporates a coal preparation plant and associated coal stockpiling and truck and railcar loading operations, a 90 horsepower diesel generator and five small (340,000 Btu per hour each) No. 2 fuel oil-fired heaters.

The air contaminant emissions from the facility are not expected to exceed 13.44 tons of PM (including PM10), 13.17 tons of NOx, 4.59 tons of SOx, 2.89 tons of CO and 1.08 tons of VOCs per year.

The facility is not a major (Title V) facility for any air contaminant.

The Department proposes to incorporate into the operating permit to be issued conditions requiring compliance

with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously contained in Operating Permit 17-305-007B, issued on October 6, 1998.

The conditions previously contained in Operating Permit 17-305-007B include:

1. Condition requiring an operable water truck to be kept onsite and used for fugitive dust control on facility roadways, and the like.

2. A condition requiring an operable truck wash station to be maintained onsite to remove dirt and mud from truck wheels and undercarriages before trucks exit the site.

3. A condition limiting the onsite speed of front end loaders to 5 miles per hour and the speed of trucks to 10 miles per hour.

4. A condition requiring all trucks loaded with coal entering or exiting the facility by means of public roadways to have their loads tarped or otherwise covered.

5. A condition requiring the front end loader bucket-to-truck and bucket-to-railcar freefall distance to be kept to a minimum during loading.

6. A condition requiring the facility's rotary breakers to be completely enclosed except for the points of material entry and exit.

The Department additionally proposes to incorporate several new conditions into the operating permit to be issued.

7. Conditions prohibiting the use of No. 2 fuel oil and diesel fuel to which reclaimed or waste oil or other waste materials have been added.

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

20-00031: Recmix Of Pa. Inc. (359 North Pike Road, Sarver, PA 16055-8633) for reissuance of a Natural Minor Permit to operate a stainless steel screening process from slag and synthetic cement manufacturing facility. The major sources included: hy-way thermal fluid treatment system, truck travel, materials handling, front end loaders travel, slag crushing, wind erosion from storage piles, slag skull screening and holo-flight aggregate dryer in Windfield Township and **Butler 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)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0;	less than 9.0

Alkalinity greater than acidity*

* The parameter is applicable at all times.

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

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

Permit No. 32040104 and NPDES No. PA0249629. KMP Associates, Inc. (1094 Lantz Road, Avonmore, PA 15618). Permit revision of an existing bituminous surface and coal refuse reprocessing mine to mine through and reconstruct Township Road 332 in Young Township, **Indiana County**, affecting 40.5 acres. Receiving streams: UNT to Whiskey Run to Blackleggs Creek classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: November 30, 2006.

Permit No. 32960103 and NPDES No. PA021331. Kraynak Coal Company (3124 Firetower Road, Mahaffey, PA 15757-9501). Permit renewal for the continued operation and restoration of a bituminous surface and auger mine in Grant and Green Townships, **Indiana County**, affecting 329.7 acres. Receiving streams: UNT to East Run and Little Mahoning Creek and UNT to North Branch of Two Lick Creek classified for the following uses: HW-CWF and CWF. There are no potable water supply intakes within 10 miles downstream. Application received: December 14, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17803108 and NPDES No. PA0127906. SRP Coal Company, Inc. (5510 State Park Road, Penfield, PA 15849). Renewal of NPDES permit in Lawrence Township, **Clearfield County**. Receiving stream: Montgomery Creek. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: December 6, 2006.

45A76SM16 and NPDES No. PA0256455. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849). Renewal of NPDES permit in Brady Township, **Clearfield County**. Receiving stream: UT to East Branch Mahoning Creek. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: December 6, 2006.

17800124 and NPDES No. PA0128023. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849). Renewal of NPDES permit in Decatur Township, **Clearfield County**. Receiving stream: Upper Morgan Run/Clearfield Creek. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: December 6, 2006.

17800147 and NPDES No. PA0256463. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849). Renewal of NPDES permit in Lawrence Township, **Clearfield County**. Receiving stream: Moose Creek. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: December 6, 2006.

17020902 and NPDES No. PA0242918. Swisher Contracting, Inc. (P. O. Box 1223, Clearfield, PA 16830). Transfer of an existing bituminous surface mine from Johnson Brothers Coal Company (1390 Lee Run Road, Mahaffey, PA 15767), located in Lawrence Township, **Clearfield County**, affecting 16.9 acres. Receiving streams: Laurel Run to Little Clearfield Creek, classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Transfer application received: December 12, 2006.

17060113 and NPDES No. PA0256471. Allegheny Enterprises, Inc. (3563 Roller Coaster Road, Corsica, PA 15829). Commencement, operation and restoration of a bituminous surface mine in Brady Township, **Clearfield County**, affecting 60.9 acres. Receiving streams: Stump Creek and Limestone Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: December 15, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

54060202. Cruz Bay Trading, Inc. (P. O. Box 30256, Elkins Park, PA 19027). Commencement, operation and restoration of an anthracite coal refuse reprocessing, refuse disposal and coal processing facility in Frailey Township, **Schuylkill County** affecting 25 acres, receiving stream: none. Application received: December 15, 2006.

Noncoal Applications Received

Effluent Limits

The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹ pH ¹	greater than 6.0; less than 9.0		

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 mg/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Knox District Mining Office: P. O. Box 669, 310 Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

20870305. Hillside Stone, LLC (9397 Fauncetown Road, Titusville, PA 16354-2727). Transfer of an existing sand and gravel operation in Troy Township, **Crawford County** affecting 33.5 acres. Receiving streams: UNT to

Sugar Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Transfer from IA Construction Corporation. Application received: December 18, 2006.

3776SM20. Hillside Stone, LLC (9397 Fauncetown Road, Titusville, PA 16354-2727). Transfer of an existing sand and gravel operation in Plum and Troy Townships, **Venango and Crawford Counties** affecting 13.7 acres. Receiving streams: UNT to Sugar Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Transfer from IA Construction Corporation. Application received: December 18, 2006.

20940304. Hillside Stone, LLC (9397 Fauncetown Road, Titusville, PA 16354-2727). Transfer of an existing sand and gravel operation in Plum and Troy Townships, **Venango and Crawford Counties** affecting 44.0 acres. Receiving streams: UNT to Sugar Creek, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Transfer from IA Construction Corporation. Application received: December 18, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

4775SM18 and NPDES No. PA0116459. Hanson Aggregates (1900 Sullivan Train, Easton, PA 18040). Renewal of NPDES Permit in Marion Township, **Centre County**. Receiving streams: Nittany Creek to Bald Eagle Creek to West Branch Susquehanna River to Susquehanna River. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received: December 14, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

7175SM1A1C10 and NPDES Permit No. PA0613827. Penny Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17105). Renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in South Hanover Township, **Dauphin County**, receiving stream: Swatara Creek, classified for the following use: WWF. Application received: December 20, 2006.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person

commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E17-420. Mid-East Oil Company, P. O. Box 1378, Indiana, PA 15701, Bark Camp Run-South Road Crossing, in Huston Township, **Clearfield County**, ACOE Baltimore District (Penfield, PA Quadrangle Latitude: 41° 10' 44"; Longitude: 78° 34' 50").

An after-the-fact application to operate and maintain a private road crossing Bark Camp Run (CWF) that will provide access for natural gas exploration and extraction. The road crossing shall be operated and maintained with a minimum of three corrugated plastic culvert pipes with the central culvert pipe having a minimum diameter of 60-inches and the pipes on either side having a minimum diameter of 36-inches. All rock used for maintenance on the road crossing and its approaches shall be clean, nonpolluting rock free of fines. As constructed the road crossing did not impact any wetlands while impacting a maximum of 30-feet of waterway. The project is located along the southern right-of-way of SR 0255, approximately 1.44-miles east of Bark Camp Run Road and SR 0255 intersection.

E17-425. Department of Transportation-Engineering District 2-0, P. O. Box 342, 1924-30 Daisy Street, PA 16830. SR 0879, Section A01 Lick Run Bridge Project, Goshen and Lawrence Townships, **Clearfield County**, ACOE Baltimore District (Clearfield, PA Quadrangle Latitude: 41° 02' 52"; Longitude: 78° 22' 57").

The applicant proposes to remove an existing structure and construct, operate and maintain a five span prestressed concrete I-beam bridge across and its piers with associate rock fill within the 100-year floodplain of Lick Run (HQ-CWF) for improved highway safety. The five span bridge shall be constructed with each span measuring 122 feet for a length of 640 feet, a minimum

underclearance of 30 feet at Lick Run and skew of 90°. The project will not permanently impact wetlands or stream channel while temporarily impacting 20 feet of Lick Run located along the northern right-of-way of I-80 approximately 1.4 miles north of SR 0879 and I-80 intersection. This permit also authorizes temporary construction road crossings, cofferdams, causeways and/or bridges necessary for constructing the five span bridge. Temporary structures shall be constructed of clean stone free of fines. Upon completion of the project, all temporary construction shall be removed, with all disturbed areas being fully restored to original contours, elevations and vegetative cover.

E18-417. Clinton County Commissioners, 232 East Main Street, Lock Haven, PA 17745. Tangascootack No.1 Treatment System. Beech Creek Township, **Clinton County**. ACOE Baltimore District, Howard North West USGS Topographical Quadrangle 410 08' 39"; 770 38' 48". Tangascootack Creek watershed (CWF).

The purpose of the project is to rehabilitate an existing passive mine drainage treatment system and to construct a self-flushing limestone treatment cell. Construction of the treatment cell will require an encroachment into 0.05 acre of palustrine emergent wetland. Wetlands will be replaced at a 1:1 ratio.

E41-572. RB Montoursville, LLC, c/o RD Management, 810 Seventh Ave., 28th Floor, New York, NY 10019. Application for Montour Crossing, Development Project, in Fairfield Township, **Lycoming County**, ACOE Susquehanna River Basin District (Montoursville North, PA Quadrangle N: 41° 16' 9.38"; W: 76° 55' 0.26").

To construct and maintain a 42-acre removal of fill from the floodway of the Loyalsock Creek, 12 inch water line under Loyalsock Creek, stormwater outfall along Mill Creek (East), 4 inch sanitary sewer line under Mill Creek (East) and widening of SR 0087 bridge over Mill Creek (East) in Fairfield Township, Lycoming County. This project proposes to have impacts to the floodways of both the Loyalsock Creek and Mill Creek (East), which are designated a TSF and CWF, respectively. This project does not propose to impact any jurisdictional wetlands.

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

E63-592. Chartiers Township, 2 Buccaneer Drive, Houston, PA 15432. To construct a box culvert in Chartiers Township, **Washington County**, Pittsburgh ACOE District. (Washington East, PA Quadrangle N: 17.9 inches; W: 13.1 inches and Latitude: 40° 13' 25"—Longitude: 80° 13' 8"). The applicant proposes to construct and maintain a 250 ft. long stream relocation; a

165 ft. long, 16.5 ft. wide by 6 ft. concrete box culvert, depressed 1 ft.; a 200 ft. long, 16.5 ft. wide by 6 ft. concrete box culvert depressed 1 ft. to replace a 5 ft. diameter cmp culvert; and stormwater outfalls in an UNT to Chartiers Creek (WWF) with a drainage area of 2.36 square miles. This project is to be coordinated with the adjoining the Department of Transportation (E63-593) culvert replacement project. Both projects provide for road and safety improvements to the intersections of Racetrack Road (SR 1041), Pike Street (SR 1009) and Allison Hollow Road (T 641).

E63-593. Department of Transportation, District 12-0, North Gallatin Avenue Extension, Uniontown, PA 15401. To construct a box culvert in Chartiers Township, **Washington County**, Pittsburgh ACOE District. (Washington East, PA Quadrangle N: 17.9 inches; W: 13 inches and Latitude: 40° 13' 25"—Longitude: 80° 13'08"). The applicant proposes to construct and maintain a 127 ft. long, 16.5 ft. wide by 6 ft. concrete box culvert, depressed 1 ft. in an UNT to Chartiers Creek (WWF) with a drainage area of 2.36 square miles to replace the existing 5 ft. diameter culvert lined Pike Street (SR 1009) bridge. This project is to be coordinated with the proposed adjoining Chartiers Township (E63-592) stream relocation and culvert replacement project. Both projects provide for road and safety improvements to the intersections of Racetrack Road (SR 1041), Pike Street (SR 1009) and Allison Hollow Road (T 641).

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E14-487. Robert S. McGrail-Peasley, 2045 Runville Road, Bellefonte, PA 16823, Berm/bridge/culvert, in Boggs Township, **Centre County**, ACOE Baltimore District (Bellefonte, PA Quadrangle N: 21.07 inches; W: 13.35 inches).

To construct and maintain: 1) 340 foot long by 2 foot wide by 2 foot high earthen berm on the top of the right bank of an UNT to Wild Cat Run for the purpose of protecting an earthen road from flood waters; 2) a wooden pedestrian bridge with a 19-foot clear span and 4-foot underclearance across Wild Cat Run for private use; 3) a 24-inch diameter HDPE culvert with a rock headwall to make a new road crossing near the upstream limit of the earthen berm, located 3,100 feet upstream of the intersection of Gum Stump Road and Runville Road (SR 144) (Bellefonte, PA Quadrangle N: 21.07 inches; W: 13.35 inches) in Boggs Township, Centre County. This project proposes to impact 340 linear feet of the UNT to Wild Cat Run and 5 linear feet of Wild Cat Run that are tributaries to Wallace Run, which is classified as a HQ-CWF and proposes no wetland impacts.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAS232209	Jeld-Wen, Inc. P. O. Box 1547 Klamath Falls, OR 97601	Ringtown Borough Schuylkill County	UNT to Dark Run and UNT to Little Catawissa Creek 3A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0085430 (SEW)	Robin Hill Camping Resort 149 Robin Hill Road Lenhartsville, PA 19534	Berks County	UNT Maiden Creek 3-B	Y
PA0087165 (IW)	Bleyer Gift Packs, LLC 500 Walnut Street Extension Mount Union, PA 17066	Huntingdon County Mount Union Borough	Juniata River 12-C	Y
PA0084450 Amendment No. 2 (IW)	Washington Headquarters Service Raven Rock Mountain Complex Site R 201 Beasley Drive, Suite 100 Frederick, MD 21702	Adams County Liberty Township	Miney Branch and UNT Miney Branch 13-D	Y
PA0080314 (IW)	Hampden Township Roth Lane STP 230 South Sporting Hill Road Mechanicsburg, PA 17050-3097	Cumberland County Hampden Township	Sears Run and Conodoguinet Creek 7-B	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0094706	Economy Development Company, Inc. 1259 Freedom Crider Road Freedom, PA 15042	Beaver County New Sewickley Township	UNT of North Fork big Sewickley Creek	Y
PA0217514	Honeywell Electronic Materials, Inc. 105 Hartzell School Road Fombell, PA 16123-9518	Beaver County Marion Township	Connoquenessing Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0091189	Slippery Rock Campground Association 1150 West Park Road Slippery Rock, PA 16057	Worth Township Butler County	Slippery Rock Creek 20-C	Y

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

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

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

WQM Permit No. WQ01050601, Sewerage, **Richard Riley**, 167 Village Road, Osterburg, PA 16667-8441. This proposed facility is located in West Providence Township, **Bedford County**.

Description of Proposed Action/Activity: Construction/Operation of a small flow treatment system to serve their single family residence at 14336 Lincoln Highway, Everett, PA 15537.

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

WQM Permit WQG016131, Sewerage, **Delbert F. Coy**, 2330 Manor road, Clymer, PA 15728. This proposed facility is located in Cherryhill Township, **Indiana County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a small flow sewage treatment plant.

WQM Permit WQG026110, Sewerage, **Beaver County Corporation for Economic Development**, 250 Insurance Street, Beaver, PA 15009. This proposed facility is located in Big Beaver Borough, **Beaver County**.

Description of Proposed Action/Activity: Permit issuance for the construction and operation of a pump station.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010906018	Park Ten Group 21337 Valley Forge Circle King of Prussia, PA 19406	Bucks	Sellersville Borough	East Branch Perkiomen Creek (TSF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023905024	Heritage Building Group, Inc. 2500 York Road Jamison, PA 18929	Lehigh	Upper Macungie Township	Spring Creek (HQ-CWF)
PAI025206004	Spring Valley Builders, Inc. 107 Hern Road Greentown, PA 18426	Pike	Greene Township	Wallenpaupack Creek (HQ-CWF)

VII. Approvals to Use NPDES and/or Other General Permits

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

General Permit Type—PAG-02

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Brookhaven Borough Delaware County	PAG2002306051	Wawa, Inc. 360 West Baltimore Pike Wawa, PA 19063	Ridley Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015106043	School District of Philadelphia 440 North Broad Street Philadelphia, PA 19130-4015	Delaware River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Scranton Lackawanna County	PAG2003506019	Gerald Raymond 801 Monroe Ave. Scranton, PA 18510	Leggetts Creek TSF	Lackawanna Co. Cons. Dist. (570) 281-9495
City of Wilkes-Barre Luzerne County	PAG2004006038	Comfort Design Realty Co. Attn: Colin Keefer 1167 N. Washington St. Wilkes-Barre, PA 18705-3738	Mill Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Plains Township Luzerne County	PAG2004006040	Plains Animal Hospital Attn: Douglas Ayers 198 Carverton Rd. Trucksville, PA 18708-1710	Susquehanna River WWF	Luzerne Co. Cons. Dist. (570) 674-7991
Washington Township Schuylkill County	PAG2005406011	Deerview Estates Attn: Brian Romeo 120 W. Drehersville Rd. Orwigsburg, PA 17961	Swatara Creek CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Allen Township Northampton County	PAG2004806001	B & S Investment Co. 3000 Cabot Blvd., Suite 200 Langhorne, PA 19047	Hokendauqua Creek CWF	Northampton Co. Cons. Dist. (610) 746-1971

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Whitehall Township Lehigh County	PAG2003906023	Daniel McNeill Whitehall Township 3219 MacArthur Rd. Whitehall, PA 18052	Coplay Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Lycoming County Wolf and Muncy Townships	PAG2044106020	Williams Gas Pipeline Transco 2800 Post Oak Blvd. Houston, TX 77056	Carpenters Run and Tribes WWF Oak Run and Tribes CWF Wolf Run and Tribes CWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Union County Kelly Township	PAG2006006016	Levi Beachy 2076 Little Mexico Rd. Winfield, PA 17889	West Branch Susquehanna River WWF	Union County Conservation District Union County Government Center, 155 North 15th Street, Lewisburg, PA 17837 (570) 524-3860
Cambria County Cresson Township	PAG2001106017	Joseph Cyran Cycor Development, Inc. 6856 Admiral Perry Hwy. Loretto, PA 15940	UNT Clearfield Creek (CWF)	Cambria County CD (814) 472-2120
Greene County Franklin Township	PAG2003006012	Department of Transportation Engineering District 12-0 825 Gallatin Avenue Uniontown, PA 15401	South Fork Ten Mile Creek (WWF)	Greene County CD (724) 852-5278
Washington County Chartiers Township	PAG20063060261	Villas of Arden Mills Hawthorne Partners, Inc. 102 W. Pike St. Suite 200 Houston, PA 15342	Chartiers Creek (WWF)	Washington County CD (724) 228-6774
Washington County Somerset Township and Bentleyville Borough.	PAG2006306034	Bentworth School District 150 Bearcat Drive Bentleyville, PA 15314	UNT to Pigeon Creek (WWF)	Washington County CD (724) 228-6774
Butler County Adams Township	PAG2001006028	Breakneck Creek Regional Authority P. O. Box 1180 Mars, PA 16045	UNT Kaufman Run WWF	Butler County Conservation District (724) 284-5270

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Berks County Union Township	PAR803695	Richland Partners, LLC d/b/a Dampman Sturges Vally Oil P. O. Box 659 Douglassville, PA 19518	UNT Schuylkill River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County York City	PAR203585	New York Wire Company (Weaving Facility) P. O. Box 0866 Mt. Wolf, PA 17347-0866	UNT Codorus Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Mt. Wolf Facility	PAR133509	New York Wire Company (Textile Facility) P. O. Box 0866 Mt. Wolf, PA 17347-0866	Hartman Run WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Spring Garden Township	PAR503586	New York Wire Company (Textile Facility) P. O. Box 0866 Mt. Wolf, PA 17347-0866	Mill Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
East Deer Township Allegheny County	PAR236112	Air Products and Chemicals, Inc. 7201 Hamilton Blvd. A11B1 Allentown, PA 18195-1501	Allegheny River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Marshall Township Allegheny County	PAR116123	Mitsubishi Electric Power Products, Inc. 530 Keystone Drive Warrendale, PA 15086-7537	Brush Creek Basin	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Marion Township Beaver County	PAR226103	TSO of Ohio 115 West Street Fombell, PA 16123	Connoquenessing Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Springhill Township Fayette County	PAR806211	Gallatin Fuels, Inc. 250 West Main Street Uniontown, PA 15401	Monongahela River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department 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

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

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

Permit No. Minor Amendment Public Water Supply.

Applicant	Pennsylvania American Water Company (PAWC) 800 West Hersheypark Dr. Hershey, PA 17033 Bridgewater Township
County	Susquehanna
Type of Facility	PWS
Consulting Engineer	Scott Thomas, P. E. PAWC 852 Wesley Dr. Mechanicsburg, PA 17055
Permit to Construct Issued	12/18/2006

Permit No. Minor Amendment Public Water Supply.

Applicant	Pennsylvania American Water Company (PAWC) 800 West Hersheypark Dr. Hershey, PA 17033 Coolbaugh Township
County	Monroe

Type of Facility PWS
 Consulting Engineer Scott Thomas, P. E.
 PAWC
 852 Wesley Dr.
 Mechanicsburg, PA 17055

Permit to Construct 12/18/2006
 Issued

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

Permit No. 3605502, Public Water Supply.

Applicant **Manheim Borough Authority**
 Municipality Manheim Borough
 County **Lancaster**
 Type of Facility The addition of Well No. 6 to augment the existing sources of supply.

Consulting Engineer George H. Wagner Jr.
 Rettew Assoc., Inc.
 3020 Columbia Ave.
 Lancaster, PA 17603

Permit to Construct 12/14/2006
 Issued:

Permit No. 2806501, Public Water Supply.

Applicant **Waynesboro Borough Authority**
 Municipality Waynesboro Borough
 County **Franklin**
 Type of Facility The addition of Well No. 2 to augment the existing sources of supply and treatment. Treatment will consist of nanofiltration and disinfection.

Consulting Engineer James C. Elliot, P. E.
 Gannett Fleming, Inc.
 P. O. Box 67100
 Harrisburg, PA 17106-7100

Permit to Construct 11/30/2006
 Issued:

Permit No. 3606503, Minor Amendment, Public Water Supply.

Applicant **Taylor's Mobile Home Park**
 Municipality Eden Township
 County **Lancaster**
 Type of Facility Project proposes to install anion exchange to remove elevated levels of nitrate in the sources of supply.

Consulting Engineer Charles A. Kehew II, P. E.
 James R. Holley & Assoc., Inc.
 18 South George St.
 York, PA 17401

Permit to Construct 11/29/2006
 Issued:

Operations Permit issued to **Warwick Township Municipal Authority**, Warwick Township, **Lancaster County** on 12/8/2006 for the operation of facilities approved under Construction Permit No. 3604512.

Operations Permit issued to **Kauffman Community Center**, Antrim Township, **Franklin County** on 12/4/2006 for the operation of facilities approved under Construction Permit No. 2805510.

Operations Permit issued to **Altoona City Authority**, Antis Township, **Blair County** on 11/30/2006 for the operation of facilities approved under Construction Permit No. 0706501 MA.

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

Permit No. M.A.—Operation Public Water Supply.

Applicant **Wellsboro Municipal Authority**
 Township or Borough Delmar Township
 County **Tioga**

Responsible Official Thomas Rudy, Chairperson
 Wellsboro Municipal Authority
 28 Crafton Street
 Wellsboro, PA 16901

Type of Facility Public Water Supply—Operation
 Consulting Engineer N/A
 Permit Issued Date December 19, 2006
 Description of Action Operation of the new transmission line.

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

Operations Permit issued to **Tri-County Joint Municipal Authority**, P. O. Box 758, 26 Monongahela Avenue, Fredericktown, PA 15333, (PWS ID 5630045) Centerville Borough, **Washington County** on December 5, 2006, for the operation of facilities approved under Construction Permit No. 6302503.

Permit No. 6306502MA, Minor Amendment. Public Water Supply.

Applicant **Pennsylvania-American Water Company**
 800 Hersheypark Drive
 Hershey, PA 17033

Borough or Township Jefferson Township
 County **Washington**
 Type of Facility Avella water storage tank
 Consulting Engineer
 Permit to Construct December 5, 2006
 Issued

Permit No. 3206501MA, Minor Amendment. Public Water Supply.

Applicant **Pennsylvania-American Water Company**
 800 Hersheypark Drive
 Hershey, PA 17033

Borough or Township White Township
 County **Indiana**
 Type of Facility Pleasant Hills water storage tank

Consulting Engineer

Permit to Construct December 5, 2006
Issued

Permit No. 5650053T1, Minor Amendment. Public Water Supply.

Applicant **Chip Shirey**
Rock Springs Court
P. O. Box 64
Greensburg, PA 15401

Borough or Township Salem Township
County **Westmoreland**
Type of Facility Mobile Home Court

Consulting Engineer
Permit to Operate December 12, 2006
Issued

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

Operations Permit issued to: **Reynolds Water Company**, (PWS ID 6430057) Pymatuning Township, **Mercer County**. Permit No. 4303502, issued December 14, 2006, for the operation of ammonia and potassium permanganate feed systems, as permitted under the construction permit issued October 5, 2006.

Transfer of Operations Permit issued to: **Jeffrey Davenport, Lake Properties Holdings, LLC**, (PWS ID 6200012) Summit Township, **Crawford County**. Permit No. 2089501-T1, issued December 14, 2006, for the operation of Well No. 1 and Well No. 2 for Jo-Winn Mobile Home Park as permitted under the construction/operations permit issued March 27, 1991.

Transfer of Operations Permit issued to: **Brady Hills Mobile Home Park**, (PWS ID 5100869) Brady Township, **Butler County**. Permit No. 1001502-T1, issued December 14, 2006, for the operation of Wells No. 1 through No. 4 for the former Peter Rabbit Campground, Inc. d/b/a Brady Hills Mobile Home Park, as permitted under the construction/operations permit issued April 13, 2004. This transfer includes the consolidation and cancellation of permits 1094505 and 1097508, as no longer applicable.

Permit No. 8771-W-T1-MA2, Public Water Supply

Applicant **Pennsylvania American Water Company**
Township or Borough Clarion Township
County **Clarion**
Type of Facility Public Water Supply
Permit to Construct 12/14/2006
Issued

Permit No. 3789504-T1-MA2, Public Water Supply

Applicant **Pennsylvania American Water Company**
Township or Borough Neshannock Township
County **Lawrence**
Type of Facility Public Water Supply
Permit to Construct 12/14/2006
Issued

WATER ALLOCATIONS

Actions taken on 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

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

WA 06-1024, Water Allocations. Morgantown Properties, LP.

Morgantown Properties, LP, Berks County. This application is to withdraw 288,000 gpd on a peak daily basis from Back Creek/Mill Pond. This application is being republished in the *Pennsylvania Bulletin* because the permittee's name has changed from New Morgan Properties, LP to Morgantown Properties, LP. No other changes have been made to the previous application that was published in the *Pennsylvania Bulletin* on 2/18/06. Consulting Engineer: R. Scott Hughes, P. E., Gannett Fleming, Inc. Permit Issued: 12/14/2006.

STORMWATER MANAGEMENT

Action on plans submitted under the Stormwater Management Act of October 4, 1978 (32 P. S., Section 680.9)

Bureau of Watershed Management, P. O. Box 8555, Harrisburg, PA 17105-8555.

Updates for Plan Numbers 030:45 and 188:45, Brodhead Creek and McMichaels Creek Watershed Act 167 Stormwater Management Plan Update, as submitted by **Monroe County**, was approved on December 12, 2006.

HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988

Proposed Consent Order and Agreement

Trinity North and South Site, Greenville Borough and Hempfield Township, Mercer County

Under section 1113 of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. § 6020.1113), notice is hereby provided that the Department of Environmental Protection (Department) has entered into an agreement with Trinity Industries, Inc. (Trinity) to remediate the Trinity Greenville North Plant and South Plant (site). The site is located in Greenville Borough and Hempfield Township, Mercer County, PA and consists of two portions of a former industrial facility that historically manufactured railroad cars. The approximate center of the site is located at 41° 24' 4.60" N latitude and 80° 23' 8.18" W longitude on the United States Geological Survey (U.S.G.S.) Greenville West, PA, 7.5 minute topographic quadrangle map.

In the past, hazardous substances, including at least, xylenes, naphthalene and 1,2,4-trimethylbenzene were released and contaminated the environment at the site. Under the terms of the settlement, Trinity will conduct an environmental investigation to fully identify the nature and extent of the release of hazardous substances at the site. Following that investigation, Trinity will propose, for the Department's review and approval, response actions to obtain one or a combination of Cleanup Standards under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—

6026.908. Following Department approval, Trinity will implement its proposed response actions to obtain the proposed Cleanup Standards under Act 2.

The specific terms of this settlement are set forth in the Consent Order and Agreement (Agreement) with Trinity. The Department will receive and consider comments relating to the Agreement for 60 days from the date of this public notice. The Department has the right to withdraw its consent to the Agreement if the comments concerning the Agreement disclose facts or considerations that indicate that the Agreement is inappropriate, improper or not in the public interest.

After the public comment period, the Department's settlement with Trinity shall be effective upon the date that the Department notifies Trinity, in writing, that this Agreement is final and effective in its present form and that the Department has filed a response to significant written comments to the Agreement, or that no such comments were received.

The Agreement is available for inspection and copying at the Department's office at 230 Chestnut Street, Meadville, PA. Comments may be submitted in writing to James W. Weaver, Project Manager, Department of Environmental Protection, Hazardous Sites Cleanup, 230 Chestnut Street, Meadville, PA 16335. Further information may be obtained by contacting James W. Weaver at (814) 332-6648. TDD users should contact the Department through the Pennsylvania Relay Service at (800) 645-5984.

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.

313 Old Mine Road, West Cornwall Township, **Lebanon County**. Alternative Environmental Solutions, 930 Pointview Avenue, Suite B, Ephrata, PA 17522, on behalf of Paul Clifford, 313 Old Mine Road, Mount Gretna, PA 17064, and Elizabeth Werth, c/o Mary Bercheck, 525 South 8th Street, Lebanon, PA 17042 submitted a Final Report concerning soils contaminated with benzene from a removed gasoline underground storage tank. The report is intended to document remediation of the site to the residential Statewide Health Standard.

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

U. S. Steel Carrie Furnace Property, Swissvale, Rankin, Whitaker, Munhall and City of Pittsburgh, **Allegheny County**. Michael R. Dowling, KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110 (on behalf of Redevelopment Authority of Allegheny County, 425 Sixth Avenue, Suite 800, Pittsburgh, PA 15219) has submitted a Final Report concerning remediation of site soil contaminated with lead, heavy metals and PAHs. Heavy metals also found in groundwater. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

Calumet and Former Wolf's Head Refinery South Parcel, Sugar creek Borough, **Venango County**. Rybricon Environmental Consulting Inc. on behalf of Pennzoil-Quaker State dba SOPUS has submitted a Site Characterization and Remedial Investigation Report concerning remediation of site soils and groundwater contaminated with SPL, VOC, SVOC and Inorganic Compounds. The report is intended to document remediation of the site to meet the Site Specific Standards of Act 2.

Long Hallow Creek (P-47), Liberty Township, **McKean County**. PPL Gas Utilities Corp, 2 North 9th Street, Allentown, PA 18101 on their behalf has submitted a Final Report concerning remediation of site soils contaminated with small amounts of mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard of Act 2.

P.C. Meter & Regulator (P-43), Port Allegany Borough, **McKean County**. PPL Gas Utilities Corp, 2 North 9th Street, Allentown, PA 18101 on their behalf has submitted a Final Report concerning remediation of site soils contaminated with small amounts of mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard of Act 2.

Scherer Farm Check (P-48) Port Allegany Borough, **McKean County**. PPL Gas Utilities Corp, 2 North 9th Street, Allentown, PA 18101 on their behalf has submitted a Final Report concerning remediation of site soils

contaminated with small amounts of mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard of Act 2.

Wright Check (P-149), Liberty Township, **McKean County**. PPL Gas Utilities Corp, 2 North 9th Street, Allentown, PA 18101 on their behalf has submitted a Final Report concerning remediation of site soils contaminated with small amounts of mercury. The report is intended to document remediation of the site to meet the Statewide Health Standard of Act 2.

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:

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

Kelly Residence Linden Street, Reading City, **Berks County**. Patriot Environmental Management, LLC, P. O. Box 629, Douglassville, PA 19518, on behalf of Joseph Kelly, 1520 Linden Street, Reading, PA 19601 and Tropical Oil Company, 418-436 Moss Street, Reading, PA 19604, submitted a final report concerning remediation of site soils contaminated with No. 2 heating oil. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department of Environmental Protection on December 12, 2006.

Estate of Arthur F. Walters, Russ's Auto Repair Shop, Manheim Township, **Lancaster County**. ARM Group, Inc., 1129 West Governor Road, P. O. Box 797, Hershey, PA 17033-0797, on behalf of the Estate of Arthur F. Walters, c/o Vance E. Antonacci, Esquire, Chester and Miller, LLP, 150 North Queen Street, Lancaster, PA 17603, submitted a Final Report concerning remediation of site soils and groundwater contaminated with gasoline from two underground storage tanks removed in 1999. The final report demonstrated attainment of the residential Statewide Health Standard and was approved by the Department of Environmental Protection on December 12, 2006.

Turbine Airfoil Design, City of Harrisburg, **Dauphin County**. Alliance Environmental Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of Turbine Airfoil Design, 1400 North Cameron Street, Harrisburg, PA 17103-1095, submitted a Baseline Remedial Investigation Work Plan investigating site soil and groundwater contamination. The plan was approved by the Department of Environmental Protection on December 13, 2006.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Giant Foods, LLC, Lamar Township, **Clinton County**. Northridge Group, Inc., 1172 Ridge Road, Northumberland, PA 17857 on behalf of Giant Foods, LLC, 1604 Industrial Dr., Carlisle, PA 17013 has submitted a Final Report within 90 days of release concerning remediation of site soil contaminated with diesel fuel. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 18, 2006.

Dominion Transmission, Inc—Sabinsville Compressor Station, Clymer Township, **Tioga County**. Groundwater & Environmental Services, Inc., 800 Commonwealth Drive, Suite 201, Warrendale, PA 15086 on behalf of Dominion Resources Services, Inc., 1201 Pitt Street, Pittsburgh, PA 15221 has submitted a Final Report concerning remediation of soil and groundwater contaminated with VOCs and metals. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 21, 2006.

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

Dyna Craft Industries, Inc., Borough of Murrysville, **Westmoreland County**. Joyce M. O'Connor, P. G., Cardinal Resources, Inc., 4326 Northern Pike, Suite 200,

Monroeville, PA 15146 on behalf of Dyna Craft Industries, Inc., c/o Carsem Incorporated, 17700 Castleton, Suite 383, City of Industry, CA 91748 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with trichloroethene. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on December 4, 2006.

Nu-Brite Chemical Company, Haysville Borough **Allegheny County**. Steve McGuire, Veolia Water/NA Water Systems, 250 Airside Drive, Moon Township, PA 15108 on behalf of Andrzej Bernat, Nu-Brite Chemical Company, 2505 Rue de la Metropole, Longueuil, Quebec J4G 1E5 has submitted a Revised Remedial Investigation Report, Risk Assessment Report, Cleanup Plan and a Final Report concerning the remediation of site soil and groundwater contaminated with organic solvents, lead and arsenic. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on November 30, 2006.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Permits Issued under the Solid Waste Management (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.

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

PAD00738849. Safety Kleen Systems, Inc., 5400 Legacy Dr., Cluster 2, Building 3, Plano, TX 75024, West Goshen Township, **Chester County**. Permit renewed for the continued operation of the West Chester Service Center's hazardous waste storage facility. The renewal permit was issued by the Southeast Regional Office on December 18, 2006.

PAD987266715. Safety Kleen Systems, Inc., 5400 Legacy Dr., Cluster 2, Building 3, Plano, TX 75024, Falls Township, **Bucks County**. Permit renewed for the continued operation of the Fairless Hills Service Center's hazardous waste storage facility. The renewal permit was issued by the Southeast Regional Office on December 18, 2006.

PAD980550594. Sunoco, Inc., 100 Green St, Marcus Hook, PA 19061, Marcus Hook Borough, **Delaware County**. Permit issued for a Class 3 modification to incorporate additional waste streams and other minor facility updates to the Marcus Hook Refinery's hazardous waste container storage permit. Permit was issued by the Southeast Regional Office on December 12, 2006.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Beneficial Use of Coal Ash. 1515 Limited Partners, LP, 1515 Garnet Mine Road, Bethel Township, **Delaware County**. Notice received regarding intent to beneficially use coal ash as structural fill pursuant to 25 Pa. Code

§ 287.661. The notice was acknowledged by the Southeast Regional Office on December 7, 2006.

AIR QUALITY

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

06-05094A: Reading Alloys, Inc. (Old West Penn Avenue, P. O. Box 53, Robeson, PA 19551) on December 15, 2006, to install a wet scrubber to control the Crushing and Sizing Operation in Building No. 5 at their facility in South Heidelberg Township, **Berks County**.

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

AMS 06107: The Children's Hospital of Philadelphia (34th and Civic Center Boulevard, Philadelphia, PA 19104) on December 19, 2006, to install four 800 HP boilers and two 2,080 kW emergency generators in the City of Philadelphia, **Philadelphia County**. The units combined will be limited to 50 tons of NOx emissions per rolling 12-month period. The entire facility will be limited to less than 100 tons of SO₂ and 100 tons of CO emissions per rolling 12-month period. The plan approval will contain monitoring and recordkeeping requirements to ensure operation within all applicable requirements.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

46-0037X: Cabot Supermetals (P. O. Box 1608, County Line Road, Boyertown, PA 19512) on December 15, 2006, to operate a powder packaging unit in Douglass Township, **Montgomery County**.

09-0015F: Rohm and Haas Co. (200 Route 413, P. O. Box 219, Bristol, PA 19007-0219) on December 19, 2006, to operate four boilers in Bristol Township, **Bucks County**.

09-0124B: Fairless Energy, LLC (5000 Dominion Boulevard, Glen Allen, VA 23060) on December 21, 2006, to operate combined cycle combustion turbines in Falls Township, **Bucks County**.

09-0124E: Fairless Energy, LLC (5000 Dominion Boulevard, Glen Allen, VA 23060) on December 15, 2006, to operate a 31.9 mmBtu/hr gas fired preheater in Falls Township, **Bucks County**.

09-0177: North Penn Polishing and Plating, Inc. (40 West Park Avenue, Sellersville, PA 18960) On December 19, 2006, to operate an ultra kool degreaser in Sellersville Borough, **Bucks County**.

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

18-315-001: First Quality Tissue, LLC (904 Woods Avenue, Lock Haven, PA 17745) on December 8, 2006, to delete a source, a virgin pulper and associated conditions and to extend the authorization to operate a paper machine (Paper Machine No. 1) and associated equipment on a temporary basis until April 7, 2007, in Castanea Township, **Clinton County**. The plan approval has been extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

32-00375A: Britt Energies, Inc. (2450 Philadelphia Street, Indiana, PA 15701) on December 22, 2006, to install a new coal crusher/screen (rated at 300 tons/hr) powered by a diesel engine (rated at 150 hp) and assorted supporting equipment at the mouth of the Lowry Deep Mine in White Township, **Indiana County**. Plant will be used to crush and screen run-of-mine coal, as well as to blend coal that will be trucked in from outside sources. This is a Plan Approval Extension.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

46-00027: Johnson and Johnson Pharmaceutical Research and Development LLC (Welsh and McKean Roads, Spring House, PA 19477) on December 20, 2006, to renew the Title V Operating Permit in Lower Gwynedd Township, **Montgomery County**. The initial permit was issued on June 27, 2001. A change of ownership was issued on March 30, 2005. The facility is primarily a research and development plant, with various manufacturing equipment, including boilers, emergency generators, laboratory hoods, manufacturing and packaging equipment and a synthesis center. The facility is major for VOCs and NOx emissions. No changes have taken place at this facility that were not previously permitted. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting. The sources at this facility are not subject to Compliance Assurance Monitoring under 40 CFR Part 64.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Michael Safko, Facilities Permitting Chief, (570) 826-2531

48-00021: Northampton Generating Company, LP (1 Horwith Drive, Northampton, PA 18067) on November 31, 2006, for a power generating facility in Northampton Borough, **Northampton County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

03-00027: Reliant Energy Northeast Management Co. (121 Champion Way, Canonsburg, PA 15317) on December 18, 2006, to renew their Title V Operating Permit for the Keystone Power Plant in Plumcreek Township, **Armstrong County**. The facility includes two 850-MW steam turbine generators, two oil-fired auxiliary boilers and four oil-fired diesel generators. The facility is subject to Title V requirements because its potential to emit NOx, SOx, CO, PM and HAPs exceeds Title V thresholds.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

15-00042: Southeastern Veterans Center (1 Veterans Drive, Spring City, PA 19475) on December 20, 2006, to operate two boilers, two emergency generators, one chiller and various small natural gas heaters at the care center for retired veterans of war in East Vincent Township, **Chester County**. The permit is for a non-Title V (State-only) facility. The facility has elected to cap NOx to less than 25 tons per year; therefore the facility is a Synthetic Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

39-00064: Howmet Aluminum Castings (2175 Avenue C, Bethlehem, PA 18017-2119) on November 30, 2006, for an aluminum casting facility in Bethlehem City, **Lehigh County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

26-00472: Assad Iron and Metals, Inc. (P. O. Box 76, Brownsville, PA 15417) on December 14, 2006, for operation of two aluminum sweat furnaces, a rotary dryer and a torch cutting operation, all including their associated air pollution control devices for their facility in Jefferson Township, **Fayette County**.

65-00858: Commonwealth Renewable Energy, Inc. (777 Technology Drive, Mt. Pleasant, PA, 15666-2715) on December 14, 2006 in East Huntingdon Township, **Westmoreland County**. Emission sources at this facility include two hot water boilers, miscellaneous combustion sources and an emergency generating engine.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

46-00047: Mueller Streamline Company—Precision Tube Co. (287 Wissahickon Avenue, North Wales, PA 19454) on December 20, 2006, to operate a Title V manufacturing plant in North Wales, **Montgomery County**. The Title V Facility's major emission points include a general cleaning and degreasing unit, two batch vapor solvent degreasers, two annealing furnaces, each with a CO atmosphere generator, boilers, numerous space heaters, two emergency generators and a dryer, which emit major levels of VOCs. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amendment contains testing, monitoring and recordkeeping conditions to address carbon monoxide emissions associated with Source ID 702 and Source ID

703. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

23-00056: Honeywell International, Inc. (6100 Philadelphia Pike, Claymont, DE 19703) on December 20, 2006, to incorporate changes approved under Plan Approval PA-23-00056 for Fluorosulfonic Acid Manufacturing Process in Marcus Hook Borough, **Delaware County** for an administrative amendment to State-only Operating Permit 23-00056. The amended State-only Operating Permit will contain additional monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

09-00087: Air Products and Chemicals, Inc. (351 Philadelphia Avenue, Morrisville, PA 19067) on December 20, 2006, to operate an industrial gas processing facility in Falls Township, **Bucks County**. This amendment is to incorporate Plan Approval 09-0087D into the facility permit. Administrative Amendment of State-only Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

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

22-05044: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17104-1645) on December 15, 2006, to operate a stone crushing plant and a concrete plant at the Hummelstown Quarry in South Hanover Township, **Dauphin County**. This operating permit was administratively amended to incorporate a recordkeeping condition for maintaining a 12 month rolling total for emissions of certain pollutants from the asphalt plant and a combined total of the asphalt plant and crushing operation which was omitted. This is revision No. 1.

29-03007: Mellott Wood Preserving Co., Inc. (1398 Sawmill Road, P. O. Box 209, Needmore, PA 17238-0209) on December 18, 2006, to renew the State-only operating permit for their wood-fired boilers located at their facility in Belfast Township, **Fulton County**. This operating permit was administratively amended to incorporate Plan Approval 29-03007A. This is revision No. 1.

36-03021: J. Walter Miller Co. (411 East Chestnut Street, Lancaster, PA 17602-3016) on December 18, 2006, to operate their foundry in the City of Lancaster, **Lancaster County**. This operating permit was administratively amended to incorporate Plan Approval 36-03021A. This is revision No. 1.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

42-00004: American Refining Group, Inc. (77 North Kendall Avenue, Bradford, PA 16701) on December 15, 2006, the Department modified Title V Operating Permit Number 42-004 in the City of Bradford, **McKean County**. This modification is to incorporate synthetic minor emission limits for three date eligible sources, so that the facility will fall under the Best Available Retrofit Technology applicability threshold. The combined NOx, PM10 and SOx emissions from Source ID: 033-Boiler No. 3, Source ID: 034-Boiler No. 4 and Source ID: C301-Refinery Gas Flare, have been limited to no more than 250 tons per year for each pollutant.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

Permit No. 56860104 and NPDES No. PA0597601. Action Mining, Inc. (1117 Shaw Mines Road, Meyersdale, PA 15552-7228). Permit renewal for reclamation only of a bituminous surface mine and maintain passive water treatment in Brothersvalley and Summit Townships, **Somerset County**, affecting 507 acres. Receiving streams: UNT to/and Blue Lick Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: October 30, 2006. Permit issued: December 18, 2006.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17030102 and NPDES No. PA0243426. River Hill Coal Company, Inc. (P. O. Box 141, Kylertown, PA 16847). Commencement, operation and restoration of a bituminous surface mine in Decatur Township, **Clearfield County**, affecting 104.0 acres. Receiving streams: UNTs to Little Laurel Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: January 24, 2003. Permit issued: December 13, 2006.

17010111 and NPDES No. PA0243141. W. Ruskin Dressler (Box 39, Rockton, PA 15856). Permit renewal for reclamation only of a bituminous surface mine in Brady Township, **Clearfield County**, affecting 58.7 acres. Receiving streams: East Branch of Mahoning Creek and Beech Run to the West Branch of the Susquehanna River. There are no potable water supply intakes within 10 miles downstream. Application received: December 11, 2006. Permit renewal issued: December 12, 2006.

17060103 and NPDES No. PA0256340. Waroquier Coal Co. (P. O. Box 128, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface mine in Goshen Township, **Clearfield County**, affecting 17.5 acres. Receiving streams: UNT to Bloody Run and UNT to Trout Run, classified for the following uses: CWF, HQF. There are no potable water supply intakes within 10 miles downstream. Application received: April 10, 2006. Permit issued: December 13, 2006.

17060111 and NPDES No. PA0256439. Hilltop Coal Company (12 Dutchtown Road, Houtzdale, PA 16651). Commencement, operation and restoration of a bituminous surface mine in Bigler and Gulich Townships, **Clearfield County**, affecting 361.0 acres. Receiving streams: UNT to Little Muddy Run and Muddy Run, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: October 4, 2006. Application returned: December 18, 2006.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

28064182. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201-9655). Blasting activity permit issued for chicken barn development in Washington Township, **Franklin County**. Blasting activity permit end date is June 8, 2009. Permit issued: December 12, 2006.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

06064145. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507). Construction blasting for Stone Croft Village in Marion Township, **Berks County** with an expiration date of December 31, 2007. Permit issued: December 15, 2006.

06064146. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507). Construction blasting for Stone Croft Village in Marion Township, **Berks County** with an expiration date of December 15, 2007. Permit issued: December 15, 2006.

360641122. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543). Construction blasting for a single dwelling in East Lampeter Township, **Lancaster County** with an expiration date of December 30, 2006. Permit issued: December 15, 2006.

09064136. Rock Work, Inc. (1257 DeKalb Pike, Blue Bell, PA 19422). Construction blasting for the Thompson Tract in Bedminster Township, **Bucks County** with an expiration date of January 1, 2008. Permit issued: December 18, 2006.

52064133. Ed Wean Drilling & Blasting, Inc. (112 Ravine Road, Stewartsville, NJ 08886). Construction blasting for a single dwelling in Penn Wood III in Palmyra Township, **Pike County** with an expiration date of December 13, 2007. Permit issued: December 18, 2006.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the con-

struction and operation described will comply with the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501–508 and 701–704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1–693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1–691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E17-424. Department of Transportation, Engineering District 2-0, 1924 Daisy Street Extension, Clearfield, PA 16830. Water Obstruction and Encroachment Joint Permit Application in Morris Township, **Clearfield County**, ACOE Susquehanna River Basin District (Philipsburg, PA Quadrangle N: 10.1 inches; W: 10.4 inches).

To remove five existing 36-inch diameter culverts and construct and maintain a concrete box culvert with a span of 21.0 feet and an underclearance of 4.0 feet on a skew of 90° over Hawk Run (CWF). The project is located along SR 1009, Segment 30, Offset 1577, in Morris Township, Clearfield County. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

E10-414, Bobbie Mikita, 501 Rollingridge Drive Suite 200, State College, PA 16801. Brookstone Residential

Development, in Adams Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 17.6 inches; W: 4.6 inches).

To fill 0.65 acres of Scrub-Shrub wetlands and 1,111 feet of a UNT to Breakneck Creek (WWF) during construction of the Brookstone Residential Subdivision along Forsythe Road located approximately 0.25 miles south of the intersection of Forsythe and Myoma Roads.

The permittee is required to provide 0.65 acres of replacement wetlands.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D65-108EA Tim Grantz, Chairperson Borough, of West Leechburg 1015 Plaza Street, West Leechburg, PA 15656, West Leechburg Borough, **Westmoreland County**, ACOE Pittsburgh District.

Project proposes to breach and remove West Leechburg Reservoir across Penn Run (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 1,500 linear feet of stream channel. The dam is located approximately 1,000 feet north of the intersection of Sixth Street and Main Street. (Leechburg, PA Quadrangle N: 2.7 inches; W: 16.3 inches).

D36-003EA. Green Hill Sportsmens Association, 6111 River Road, P. O. Box 68, Conestoga, PA 17516, Conestoga Township, ACOE Baltimore District.

Project proposes to repair and maintain Green Hill Sportsmens Association Dam located across a tributary to Little Conestoga Creek (WWF) for recreational purposes. The project involves repairing a partially breached section of the dam, dredging the impoundment, modifying and dredging the East Sediment Basin and constructing a sediment basin at the North end of the Pond. The project will involve the filling of approximately 0.014 acre of open water and dredging approximately 0.56 acre of accumulated silts and sediments. The dam is located approximately 2,000 feet northeast of the intersection of Spring Run Road (T432) and River Road (T440) (Conestoga, West, PA Quadrangle, N: 9.5", W: 15.9").

SPECIAL NOTICES

Intent to Reissue Pennsylvania General NPDES Permit for Wastewater Discharges from Stripper Oil Well Facilities

(PAG310001)

In compliance with the provisions of the Federal Clean Water Act, The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-17 and 510-20), the Department of Environmental Protection (Department) by this notice announces its intent to review and reissue the Pennsylvania General NPDES Permit for Discharges from Stripper Oil Well Facilities (PAG310001) for a 5-year period. The general permit was initially issued on October 4, 1991, renewed on October 4, 1996, and October 19, 2001. The current general permit is valid until revised and issued in final after reviewing and addressing comments from this public notice.

The Department has reviewed and updated the general permit and related documents. The changes include minor editorial changes. A pollution prevention permit condition was added that requires the operator to minimize the amount of produced water being generated while operating the oil wells.

The documents can also be obtained by writing or contacting the Division of Surface Activities, Bureau of Oil and Gas Management, Rachel Carson State Office Building, 5th Floor, Harrisburg, PA 17105-8765, (717) 772-2199, fax: (717) 772-2291.

By this notice, the Department is requesting public comments on the proposed permit documents. Comments must be received no later than 30 days from the date of this notice. Written comments and suggestions on the proposed documents can also be sent to Melissa Hamsher at the address previously noted or mhamsher@state.pa.us.

Persons with a disability with questions regarding the general permit or seeking information about the general permit or copy of the general permit and associated materials may use the AT&T Relay Service by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (voice users).

Following the comment period, the Department will consider all comments received and prepare the final set of permit documents. The final availability of the documents will be announced through a public notice in the *Pennsylvania Bulletin*.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Coon Run Watershed in Crawford County

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the Coon Run watershed in Crawford County. The meeting will be held on February 1, 2007, beginning at 9 a.m. at the Northwest Regional Office in Meadville, Crawford County, PA. Individuals who wish to make a presentation should contact Erin Stuart, Northwest Regional Office at (814) 332-6984 no later than 4 p.m. on January 25, 2007. The Department will consider all comments in developing the final TMDL for the Coon Run Watershed, which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the Coon Run Watershed was established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the Coon Run Watershed has been identified as impaired on the 1996 Pennsylvania 303(d) list due to high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code (seg ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
54551 (7751)	Coon Run	2.52

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	30 day average; Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is metals impairments caused by nonpoint source pollution.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the Coon Run watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected during 2006 were used to develop the TMDL. 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 Coon Run Watershed. Written comments must be postmarked by March 6, 2007, and sent to Erin Stuart, Department of Environmental Protection, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, fax (814) 332-6117, or estuart@state.pa.us.

To request a copy of the proposed TMDL and an information sheet or to obtain directions to the meeting location, contact Erin Stuart at (814) 332-6984, estuart@state.pa.us.

The proposed TMDL for the Coon Run watershed can be accessed through the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

[Pa.B. Doc. No. 07-14. Filed for public inspection January 5, 2007, 9:00 a.m.]

DEPARTMENT OF HEALTH

Notice of Intent to Request Release of Funds

On or about January 15, 2007, the Department of Health (Department) will submit a request to the United States Department of Housing and Urban Development (HUD) for the release of Lead-Based Paint Hazard Control Grant Program funds for the following program/project: Lead Hazard Control Program for the purpose of assisting income-eligible occupants in receiving lead hazard control on owner-occupied and rental units with a priority on units occupied by families with children under 6 years of age. The Department is requesting the release of \$3 million in Federal assistance and \$979,959 in matching contributions for the period of performance of November 1, 2006, through October 31, 2009.

The proposed hazard control activities to be funded under this program is categorically excluded from the National Environmental Policy Act requirements but subject to compliance with some of the environmental laws and authorities listed at section 58.5 of 24 CFR Part 58. In accordance with section 58.15, a tiered review process has been structured, whereby some environmental laws and authorities have been reviewed and studied for the intended target areas listed previously. Other applicable environmental laws and authorities will be complied with when individual projects are ripe for review. Specifically, the target areas have been studied and compliance with the following laws and authorities has been established in this first tier: Floodplain Management, Coastal Barriers Resource Act, Coastal Zone Management Act. Compliance with the following environmental laws and authorities will take place for proposed projects funded under the programs listed previously: Historic Preservation, National Flood Insurance Program requirements, Explosive and Flammable Operations, toxics/hazardous materials. Should individual aggregate projects exceed the threshold for categorical exclusion detailed at section 58.35(a), an Environmental Assessment will be completed and a separate Finding of No Significant Impact and Request For Release of Funds published. Copies of the compliance documentation worksheets are available at the following address.

An Environmental Review Record (ERR) that documents the environmental determinations for this project and more fully describes the tiered review process cited previously is on file at Department of Health, Bureau of Family Health, Division of Child and Adult Health Services, Health and Welfare Building, 7th Floor, East Wing, 7th and Forster Streets, Harrisburg, PA 17120 and may be examined or copied weekdays from 9 a.m. to 5 p.m.

Public Comments

Any individual, group or agency may submit written comments on the ERR to the Department. Comments received by January 12, 2007, will be considered by the Department prior to authorizing submission of a Request for Release of Funds and Certification to HUD.

Release of Funds

The Department certifies to HUD that Terri A. Matio, in her official capacity as Director, Bureau of Administrative and Financial Services, consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the Department to utilize Federal funds and implement the Program.

Objections to Release of Funds

HUD will consider objections to its release of funds and the Department certification for a period of 15 days following either the anticipated submission date (cited previously) or HUD's actual receipt of the request (whichever is later) only if the objections are on one of the following bases: (a) that the certification was not executed by the certifying officer of the Department; (b) the Department has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the Department has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by HUD; (d) another Federal agency acting under 40 CFR Part 1504 has submitted a written finding that the project is unsatisfac-

tory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and may be addressed to HUD as follows: United States Department of Housing and Urban Development, Ed Thomas, Environmental Clearance Officer, The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107-3380. Potential objectors may contact HUD at (215) 656-0500 to verify the actual last day of the objection period.

Persons with a disability who require an alternative format of this document (for example, large print, audiotape, Braille) or who wish to comment in an alternative format and seek assistance to do so should contact Faith Blough or Cynthia Dundas, Public Health Program Administrators, at the address listed previously, (717) 772-2762 or for speech and/or hearing impaired persons, V/TT (717) 783-6514.

OHHLHC Programs Requiring A RROF (as applicable)

- *Lead-Based Paint Hazard Control Grant Program*, authorized by Sec. 1011 of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, and funded through the Consolidated Appropriations Act of 2006, Pub. L. No. 108-477

- *Lead Hazard Reduction Demonstration Grant Program*, authorized by Sec. 1011 of the Housing and Community Development Act of 1992, Pub. L. No. 102-550, and funded through the Consolidated Appropriations Act of 2006, Pub. L. No. 108-477

- *Healthy Homes Demonstration Grant Program*, with funding authorized by the Consolidated Appropriations Act of 2006, Pub. L. No. 108-477

- *Operation Lead Elimination Action Program*, with funding authorized by the Consolidated Appropriations Act of 2006, Pub. L. No. 108-477

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-15. Filed for public inspection January 5, 2007, 9:00 a.m.]

Notice to Public of Action Located Within Floodplain

A notice was published at 36 Pa.B. 7691 (December 16, 2006) inviting participation in the floodplain management decisionmaking process. Persons were invited to comment on the program being proposed by the Department of Health (Department).

Program: Lead Hazard Control Program, Grant No. PALHB0338-06, \$3 million award, Period of Performance: November 1, 2006—October 31, 2009.

Purpose: Funds will be used to provide assistance to income-eligible occupants to make units, which includes privately owned rental units as well as owner-occupied units, lead safe, with a priority on units occupied by families with children under age six. Units will be made lead-safe through lead inspections, risk assessments and lead hazard control, including temporary relocation during hazard control work. Lead hazard control work will be completed through the use of interim controls and/or hazard abatement.

Location: The legal boundaries of the target areas are within the city limits of Johnstown, Harrisburg and the County of Fayette.

The Department completed an evaluation concerning potential impacts on the floodplain and possible alternative actions. The proposed program could involve projects located within a 100-year floodplain. The conclusion was that there is no practicable alternative to the possibility of potential projects being located within the following Flood Zones 4203800001A, 4203800002A, 4202310005C, 4202310010C, 4204580001C, 4216210001B, 4204570001C, 42116220001-0015, 4216230001-0010, 4204600001B, 4204610001B, 4216240001-0020, 4204620001C, 4204630001B, 4204640001C, 4216250001-0020, 4216260001-0030, 4216270006C, 4216270007C, 4216270008C, 4216280001-0004, 4216290001-0010, 4216300005A, 4216310001-0009, 422606A, 42225720001B, 4216320001-0007, 4204650001B, 422400010B, 4216330001-0025, 421615A, 4216340001-0008, 4216160001B, 426170001B, 4216350001-0006, 4216360001-0035, H01-02, 4216370001-0010, 4216380001-0035, 4216390010C, 4216390015C, 4216400001-0004, 4204670005B, Map H, 4216410001-0004, and 4216420001-0006. It has been determined that the program must occur within the intended target area/areas, as described.

The alternatives considered included: 1) Funding the proposed program in other areas of the jurisdiction; 2) relocation of housing units and families; 3) no action.

These alternatives were rejected for the following reasons: 1) the greatest need for the intended program was found to be in the designated target area/areas and those units/families in need of the housing services exist in all areas of the target area/areas; 2) it is cost prohibitive and not feasible to physically move or raise structures out of the floodplain; 3) a no action alternative would certainly not serve to maintain affordable, safe (from lead-based paint hazards) housing for families.

To minimize risk and potential loss (to life, health and financial investment), owners and tenants will be notified that their units are located in the floodplain and flood insurance will be a required contingency to participation in the grant program. The amount and period of coverage will conform to the National Flood Insurance Program requirements.

An Environmental Review Record (ERR) respecting the subject program has been made by the previously named jurisdiction which documents floodplain information and contains a full description of the proposed actions. The ERR is on file at the address listed previously and is available for public examination and copying upon request between 9 a.m. and 4 p.m.

Final approval of the Lead-Based Paint Hazard Control Program will not be made until/unless interested groups, individuals or agencies have had an opportunity to comment. Comments will be accepted by Faith Blough or Cynthia Dundas, Department of Health, Bureau of Family Health, Division of Child and Adult Health Services, Health and Welfare Building, 7th Floor, East Wing, 7th and Forster Streets, Harrisburg, PA 17120 until January 12, 2007.

Information regarding the United States Department of Housing and Urban Development's regulations concerning floodplain management may be obtained by contacting: Edward Thomas, Environmental Clearance Officer, U.S. Department of HUD, The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107-3380, (215) 656-0500, ext. 3223 (this is not a toll-free number).

Persons with a disability who require an alternative format of this document (for example, large print,

audiotape, Braille) or who wish to comment in an alternative format and seek assistance to do so should contact Faith Blough or Cynthia Dundas, Public Health Program Administrators, at the address listed previously (717) 772-2762 or for speech and/or hearing impaired persons, V/TT (717) 783-6514.

CALVIN B. JOHNSON, M. D., M.P.H.,
Secretary

[Pa.B. Doc. No. 07-16. Filed for public inspection January 5, 2007, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Majestic Jewels Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of a temporary withdrawal of the instant lottery game Pennsylvania Majestic Jewels published at 36 Pa.B. 7774 (December 16, 2006). Notice of the Pennsylvania Majestic Jewels instant lottery game will be published in the future.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 07-17. Filed for public inspection January 5, 2007, 9:00 a.m.]

Pennsylvania mix & match Terminal-Based Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 875.4 (relating to notice of terminal-based lottery game rules), the Secretary of Revenue hereby provides public notice of the rules for the following terminal-based lottery game:

1. *Name:* The name of the terminal-based lottery game is Pennsylvania mix & match. The game will commence at the discretion of the Secretary, and will continue until the Secretary publicly announces a suspension or termination date.

2. *Price:* The price of a Pennsylvania mix & match ticket is \$2 per game or play. Additional games or plays may be purchased at the discretion of the player. A ticket will contain one game or play.

3. *Description of the Pennsylvania mix & match lottery game:*

(a) Pennsylvania mix & match is designed to give players the opportunity to win up to two prizes in each game or play.

(b) For a \$2 purchase, the player gets a ticket containing five different numbers ranging from 1 to 19. Players can win one or two prizes by matching winning numbers randomly selected by the Lottery twice a week or as determined and publicly announced by the Secretary.

(1) Correctly matching one or more of the five winning numbers randomly selected by the Lottery, with the matching numbers appearing on the ticket in the same

position in which they were selected by the Lottery, and meeting all other validation criteria, entitles the ticket holder to a prize identified in Section 6(a) (relating to prizes available to be won and determination of prize winners).

(2) Correctly matching three or more of the five winning numbers randomly selected by the Lottery, the matching numbers appearing on the ticket in any position, and meeting all other validation criteria, entitles the ticket holder to a prize identified in Section 6(b) (relating to prizes available to be won and determination of prize winners).

4. *Pennsylvania mix & match bet slip and ticket characteristics:*

(a) To purchase a ticket, the player shall remit to an on-line retailer the purchase price, submit the completed Pennsylvania mix & match bet slip or request the number selection through quick pick or manual terminal entry. The ticket shall consist of one game or play containing one five-number selection, which five numbers shall appear on the ticket in the same order in which they were submitted, requested or selected using the quick pick option. The numbers appearing on the ticket shall be ordered as follows: the first number under the P1 header; the second number under the P2 header; the third number under the P3 header; the fourth number under the P4 header; and the fifth number under the P5 header. The ticket will also contain the drawing date, amount bet, and validation number data. This ticket shall be the only valid proof of the bet placed, and the only valid receipt for claiming a prize. The ticket shall only be valid for the drawing date printed on the ticket.

(b) Pennsylvania mix & match bet slips shall be available at no cost to the player. The minimum wager is \$2. For \$2, play game A; for \$4, play games A and B; for \$6, play games A, B, and C; for \$8, play games A, B, C and D, in accordance with the instructions printed on the Pennsylvania mix & match bet slip. A Pennsylvania mix & match bet slip has no pecuniary or prize value and does not constitute evidence of the purchase of a ticket or the numbers selected.

(c) If Pennsylvania mix & match bet slips are unavailable, number selections may be given to an on-line retailer in groups of five-number selections, for each game or play and for each \$2 wagered. The retailer shall manually enter the selections into the Lottery terminal in the same order in which they were requested.

(d) A player may also request number selection using the quick pick option by indication on the bet slip or making the request to an on-line retailer.

5. *Time, place and manner of conducting drawings.*

(a) *Time of drawing.* A Pennsylvania mix & match drawing will be held twice a week or as determined and publicly announced by the Secretary.

(b) *Place of drawing.* A Pennsylvania mix & match drawing will be conducted in the Harrisburg, Pennsylvania area unless the Secretary directs that a drawing or part of the drawing procedure be conducted at some other location.

(c) *Manner of conducting drawings.* The Lottery will select, at random, five numbers from 1 through 19, with the aid of mechanical devices or any other selection methodology as authorized by the Secretary. The five numbers selected and the order of their selection will be used in determining winners for each individual drawing. The validity of a drawing will be determined solely by the Lottery.

6. *Prizes available to be won and determination of prize winners:*

(a) Determination of Pennsylvania mix & match prize winners for tickets correctly matching the winning numbers selected by the Lottery, with the matching numbers appearing on the ticket in the same position in which they were selected by the Lottery are:

(1) Holders of tickets upon which the player's five numbers match the five winning numbers selected by the Lottery, with the matching numbers appearing on the ticket in the same position in which they were selected by the Lottery, shall be the winner of the jackpot category prize.

(i) The minimum jackpot category prize will be \$50,000 divided equally by the number of tickets determined by the Lottery to be entitled to claim a jackpot category prize. The Lottery will estimate and announce the projected amount of the upcoming jackpot prior to the drawing. Payment will be made in the amount estimated and announced as the projected jackpot, or in the actual amount of the jackpot, whichever is greater, divided equally by the number of plays on tickets determined by the Lottery to be entitled to claim a jackpot category prize.

(ii) Prize money allocated to the jackpot category will be paid on a pari-mutuel basis. If more than one winning jackpot prize play is determined, each, upon meeting the requirements of 61 Pa. Code §§ 875.10 and 875.11 (relating to terminal-based lottery game ticket validation and requirements; and procedures for claiming and payment of prizes), is entitled to a prorated payment share of the total jackpot prize category.

(iii) If, in a Pennsylvania mix & match drawing, there are no winning jackpot prize plays, prize money allocated to that prize category will be carried forward and added to the amount allocated for the jackpot prize category money in the next Pennsylvania mix & match drawing (4.5% of sales).

(2) Holders of tickets upon which four of the player's numbers match four of the winning numbers selected by the Lottery, with the matching numbers appearing on the ticket in the same position in which they were selected by the Lottery, shall be entitled to a prize of \$1,000.

(3) Holders of tickets upon which three of the player's numbers match three of the winning numbers selected by the Lottery, with the matching numbers appearing on the ticket in the same position in which they were selected by the Lottery, shall be entitled to a prize of \$100.

(4) Holders of tickets upon which two of the player's numbers match two of the winning numbers selected by the Lottery, with the matching numbers appearing on the ticket in the same position in which they were selected by the Lottery, shall be entitled to a prize of \$4.

(5) Holders of tickets upon which one of the player's numbers matches one of the winning numbers selected by the Lottery, with the matching numbers appearing on the ticket in the same position in which they were selected by

the Lottery, shall be entitled to a prize of one Pennsylvania mix & match game play for an upcoming game drawing. The prize of a free ticket cannot be redeemed for cash.

(b) Determination of Pennsylvania mix & match prize winners for tickets correctly matching the winning numbers selected by the Lottery, with the matching numbers appearing on the ticket in any order, is as follows:

(1) Holders of tickets upon which all five of the player's numbers match the five winning numbers selected by the Lottery, shall be entitled to a prize of \$2,000.

(2) Holders of tickets upon which four of the player's numbers match four of the winning numbers selected by the Lottery, shall be entitled to a prize of \$20.

(3) Holders of tickets upon which three of the player's numbers match three of the winning numbers selected by the Lottery, shall be entitled to a prize of \$2.

(c) All Pennsylvania mix & match cash prize payments, including the jackpot prize, will be made as a one-time, lump-sum cash payment.

(d) The Pennsylvania mix & match free ticket prize may be claimed through a licensed on-line retailer or by filing a claim directly with the Lottery.

(1) A free ticket issued by a licensed on-line retailer representing a claimed free ticket prize, will be valid only for the next Pennsylvania mix & match game drawing scheduled after the free ticket prize has been redeemed by the retailer.

(2) A unique serialized single-use barcode coupon redeemable for one quick pick Pennsylvania mix & match ticket will be issued by the Lottery for a mix & match game ticket prize claimed directly through the Lottery. The serialized barcode coupon will be valid for 1 year from the date of issue or the final drawing of mix & match game as announced by the Secretary, whichever occurs sooner, and may be redeemed through any licensed on-line retailer. The resulting Pennsylvania mix & match ticket issued will be valid only for the next Pennsylvania mix & match drawing scheduled.

(e) A winning Pennsylvania mix & match ticket is entitled only to the highest prize won by those numbers appearing on the ticket in the same position in which they were selected by the Lottery, plus the highest prize won by those numbers appearing on the ticket in any position.

(f) The number of prize categories, the allocation of prize money among the prize categories, and the minimum jackpot category amount may be changed at the discretion of the Secretary and the change will be announced by public notice. The changes will only apply prospectively to Pennsylvania mix & match drawings as of the date specified in the public notice.

7. *Probability of winning.* The following table sets forth all possible ways that a prize or combination of prizes can be won on a single ticket; corresponding prize or prizes won and probability of winning each prize or combination of prizes:

<i>Tickets Containing The Number Of Winning Numbers Designated Below, With The Matching Numbers Appearing On The Ticket In The Same Position Drawn</i>	<i>Tickets Containing The Number Of Winning Numbers Designated Below, With The Matching Numbers Appearing In Any Position</i>	<i>Prize Or Combination Of Prizes That Can Be Won By Matching Numbers In The Same Position + Matching Numbers In Any Position</i>	<i>Probability Of Winning Each Prize Or Combination Of Prizes Per Ticket</i>
5	5	Jackpot + \$2,000	1:1,395,360
3	5	\$100 + \$2,000	1:139,536
2	5	\$4 + \$2,000	1:69,768
1	5	Free Ticket + \$2,000	1:31,008
0	5	\$0 + \$2,000	1:31,712.73
4	4	\$1,000 + \$20	1:19,933.71
3	4	\$100 + \$20	1:4,983.43
2	4	\$4 + \$20	1:1,107.43
1	4	Free Ticket + \$20	1:453.04
0	4	\$0 + \$20	1:376.11
3	3	\$100 + \$2	1:766.68
2	3	\$4 + \$2	1:127.78
1	3	Free Ticket + \$2	1:36.51
0	3	\$0 + \$2	1:23.96
2	2	\$4 + \$0	1:63.89
1	2	Free Ticket + \$0	1:10.65
1	1	Free Ticket + \$0	1:11.62

8. Retailer Incentive and Marketing Promotion Programs.

(a) The Lottery may conduct a separate Retailer Incentive Program for retailers who sell Pennsylvania mix & match lottery tickets. The conduct of the Program will be governed by 61 Pa. Code § 811.41 (relating to promotional prizes).

(b) Retailer Incentive and Marketing Promotion Programs, including the use of unfunded free tickets, may be implemented at the discretion of the Secretary. If needed, funds for the programs, including the payment of prizes resulting from the programs, will be drawn from the Lottery Fund.

9. Unclaimed Prize Money. For a period of 1 year from the announced close of Pennsylvania mix & match game, prize money from winning Pennsylvania mix & match lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the anniversary date of the drawing in which the ticket or chance was entered, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. Governing Law. In purchasing a ticket, the player agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

GREGORY C. FAJT
Secretary

[Pa.B. Doc. No. 07-18. Filed for public inspection January 5, 2007, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The Health Care Cost Containment Council has scheduled the following meetings: Wednesday, January 10, 2007, Data Systems Committee Meeting—10 a.m., Education Committee Meeting—1 p.m.; Thursday, January 11, 2007, 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. Persons who need accommodation due to a disability and want to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101 or call (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 07-19. Filed for public inspection January 5, 2007, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these

comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of

the close of the public comment period or it will be deemed withdrawn.

<i>Reg No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-4618	State Board of Dentistry Sexual Misconduct 36 Pa.B. 6409 (October 21, 2006)	11/20/06	12/20/06
10-182	Department of Health Sexual Assault Victim Emergency Services 36 Pa.B. 6403 (October 21, 2006)	11/20/06	12/20/06

**State Board of Dentistry Regulation #16A-4618
(IRRC #2573)**

Sexual Misconduct

December 20, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the October 21, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the State Board of Dentistry (Board) to respond to all comments received from us or any other source.

Section 33.211a. Sexual misconduct.—Protection of the public health and safety; Reasonableness; Clarity.

We have four concerns with the regulation.

First, this section should not include both definitions and substantive regulatory provisions. In order to be consistent with the regulatory framework in Chapter 33, the Board should create two separate sections or move the definitions to Section 33.1 (relating to Definitions).

Second, the definition of "Sexual misconduct" contains two variations of the same word. "Sexual misconduct" is defined as "sexual conduct." For clarity, we suggest that the body of the definition be revised to refer to actions of a sexual nature or sexual behavior instead of sexual conduct.

Third, the term "practitioner" is used throughout this regulation instead of "board regulated practitioner" as defined in 49 Pa. Code § 33.1 (relating to Definitions). We recommend that the Board use the defined term in the final-form regulation.

Finally, we question whether these provisions apply to "auxiliary personnel." We note that "auxiliary personnel" are included under the definition of "board regulated practitioner." The final-form regulation should clearly indicate whether "auxiliary personnel" must comply with this regulation. If the Board intends to exclude "auxiliary personnel," it needs to explain how excluding these practitioners protects the public health and safety.

**Department of Health Regulation #10-182
(IRRC #2577)**

Sexual Assault Victim Emergency Services

December 20, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the October 21, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Health (Department) to respond to all comments received from us or any other source.

1. Information provided by a hospital to a sexual assault victim.—Protection of the public health, safety and welfare; Reasonableness; Implementation procedures; Clarity.

Several different subsections of the regulation require a hospital to provide information to sexual assault victims. Commentators suggested that the Department either provide or approve the information that is disseminated to victims. The commentators note that this would ensure that the information provides accurate and consistent information to all sexual assault victims. We believe this suggestion would further protect the health, safety and welfare of sexual assault victims and recommend that the Department incorporate it in the final-form regulation. In addition, the informational provisions should be unified into one or two sections of the regulation. Subsections that require hospitals to provide information to sexual assault victims and hospital personnel are:

- § 117.52(a)(2),
- § 117.52(a)(3),
- § 117.52(a)(6), and
- § 117.52 (a)(7),
- § 117.53(a)(1),
- § 117.53(a)(2).
- § 117.55,
- § 117.58(b)(1),

2. Section 101.4. Definitions.—Consistency with other statutes; Reasonableness; Clarity.

Sexual assault

The intent of this definition is unclear. As set forth in this proposed regulation, the definition of this term reads: "An offense specified in 18 Pa.C.S. Chapter 31, Subchapter B (relating to definition of offenses)." The term "sexual assault" is defined in Section 3124.1 of

Subchapter B (18 Pa.C.S.A. §§ 3121—3129). However, Subchapter B includes definitions for several other related terms including “rape, aggravated indecent assault, statutory sexual assault, involuntary deviate sexual intercourse, indecent assault, and indecent exposure.” Since the definition of “sexual assault” in this section refers to all of Subchapter B in Title 18, it is not clear whether it is referencing just the definition of “sexual assault” at 18 Pa.C.S.A. § 3124.1, or if the intent is to include all the other terms defined in Subchapter B. The Department needs to explain its intent and identify the types of crime that will be covered by this proposed regulation.

Sexual assault counselor

This definition identifies a “sexual assault counselor” as someone “who has undergone at least 40 hours of sexual assault training.” Should this be described as “training in counseling sexual assault victims”? What is the basis for the minimum of 40 hours of training? How is completion of this training to be certified or documented? In addition, the Pennsylvania State Nurses Association suggested changing the last word of this definition from “assault” to “crimes.” Depending on how the Department responds to questions concerning its definition of “sexual assault,” it may want to consider adopting this suggestion.

Sexual assault victim or victim

This definition raises a similar question concerning the Department’s definition of “sexual assault.” Depending on its response to questions on the definition of “sexual assault,” the Department may want to consider revising this definition to include a victim of sex crimes rather than “a person who has been sexually assaulted.”

3. Section 117.52. Minimum requirements for sexual assault emergency services.—Fiscal impact; Protection of the public health, safety and welfare; Reasonableness; Implementation procedures; Clarity.

Subsection (a) Medical exams, tests and information

This subsection includes a list of things that hospitals are to “promptly” provide to a sexual assault victim. This list of items is primarily tests, examinations, information, and medications related to sexually transmitted diseases (STDs). One commentator, the Ambulance Association of Pennsylvania (AAP), expressed concerns over victims who may also have severe physical injuries. This subsection appears to focus on issues related to STDs and unwanted pregnancies. How are these requirements to be balanced with a need for acute care when a hospital is treating a victim who exhibits severe, perhaps life-threatening, injuries and trauma resulting from a violent physical attack?

Subsection (a)(1) Evidence in a criminal proceeding

Commentators from the Sexual Assault Response Team of Allegheny County and Forensic Graduate Program in the School of Nursing at Duquesne University expressed concerns with staffing in emergency departments in hospitals or medical centers. They recommended that hospitals hire certified Sexual Assault Nurse Examiners (SANE). In addition, one of the commentators indicated that the regulation should set forth specific standards and procedures for the collection of evidence or include the requirement that hospitals supply sexual assault evidence collection kits to emergency rooms. We agree.

Subsection (b) Maintenance of records

This subsection requires hospitals to maintain records pertaining to the results of examinations, tests and services provided to a sexual assault victim. It also

requires the hospital to make those records available to law enforcement officials upon the request and with the consent of the victim. We have several questions.

First, Pennsylvania National Organization for Women, Inc., (PA NOW) noted that victims and SANEs may be reluctant to perform a full risk assessment for fear that the results could be used against the victim in a court of law. PA NOW also commented that the information pertaining to a victim’s past sexual history gathered by hospital staff when they provide sexual assault emergency services is confidential under the “Rape Shield Law” (18 Pa.C.S.A. § 3104(a)). Would the information gathered via the risk assessment required by Section 117.54, relating to the prevention of STDs, be included in the records kept by the hospital? Who would have access? Would consent of the victim be required before assessments were released to law enforcement agencies? The policy and procedures for protecting confidentiality and controlling release of this information should be clearly stated in the final-form regulation.

Second, how long will a hospital have to maintain the records? The final-form regulation should include a time frame for keeping the records.

4. Section 117.53. Emergency contraception.—Need; Clarity.

Subsection (b) allows hospitals to require a sexual assault victim to submit to a pregnancy test before providing emergency contraception. PA NOW and the Pennsylvania American Civil Liberties Union (PA ACLU) questioned the reason for this provision. They noted that because emergency contraception has no effect on eliminating an existing pregnancy, the test is not needed. In the Preamble to this proposed rulemaking, the Department confirms that “emergency contraception will not have an effect on eliminating an already existing pregnancy.” The Department should explain whether emergency contraception is contraindicated in cases where there is an existing pregnancy.

5. Section 117.54. Prevention of sexually transmitted diseases.—Fiscal impact; Protection of public health; Reasonableness.

Subsections (b)(1) and (d) reference risk assessment standards of the United States Department of Health and Human Services Center for Disease Control and Prevention. The final-form regulation should include a more specific citation to these standards.

Subsection (d) requires a hospital to provide a victim with postexposure prophylactic treatment when requested by that victim. PA NOW has noted that hospitals typically provide a victim with a three to five day supply of the medication, but the entire course of treatment may include a month’s worth of medication. Is a hospital required to supply a victim with the necessary medication for the entire postexposure prophylactic treatment? This issue should be addressed in the final-form regulation.

6. Section 117.56. Information regarding payment for sexual assault emergency services.—Fiscal impact; Need; Reasonableness.

PA NOW noted that Pennsylvania law at 42 Pa.C.S.A. § 1726.1 states that a victim may not be charged for medications prescribed during an examination related to any crime under 18 Pa.C.S.A. Chapter 31 (relating to sexual offenses). In addition, the Hospital and Healthsystem Association of Pennsylvania (HAP) noted that this section is not necessary because hospitals already provide this information and suggested that

financial resources information should be included in the informational materials developed and provided by the Department.

The Department should strive to insure that victims and health care facilities are not unduly burdened by the financial costs that result from these crimes. The Department should explain how costs for emergency services and medications are covered. The regulation should require that victims receive comprehensive information on their financial responsibility and all resources available to them for covering the costs of their treatment.

7. Section 117.57. Religious and moral exemptions.—Fiscal impact; Protection of public health, safety and welfare; Consistency with other statutes; Reasonableness; Implementation procedures; Clarity.

This section gives an exemption to a hospital that does not provide emergency contraception because this service is contrary to its stated religious and moral beliefs. Under Paragraph (1), if a hospital does not provide emergency contraception, it must provide notice to the victim that the service is not provided because it is contrary to its stated beliefs. Paragraph (2) requires the hospital to arrange, upon the request of the victim, “for the immediate transfer of the victim, at no cost, to a hospital in this Commonwealth in close proximity that does provide those services.” We have eight concerns and questions

First, this section presents two distinct legal issues. The Pennsylvania Catholic Conference and Pennsylvania Catholic Health Association (PCC/PCHA) believe that the transportation requirement violates Pennsylvania’s Religious Freedom Protection Act (71 P.S. § 2407), the Abortion Control Act (18 Pa.C.S.A § 3213) and the Health Care Facilities Act (35 P.S. § 448.902(a)) because it imposes requirements that would violate its beliefs. In contrast, PA NOW believes this section violates Pennsylvania’s Human Relations Act (43 P.S. §§ 951—963) because it discriminates against women. In the Preamble to the final-form regulation, the Department should explain how this section is consistent with Pennsylvania law.

Second, as we noted above, Section 117.52 does not address the prompt assessment of other physical injuries that may be associated with a sexual assault. This assessment is even more critical when the victim may be transferred to another facility. For example, the AAP and PA ACLU question what will be done with a victim that requests or is in need of sexual assault emergency services but has other injuries that require immediate attention. The Department should explain how a victim’s request for sexual assault emergency services will be met by a hospital that does not provide those services if the victim has other injuries that require immediate attention.

Third, the phrase “religious or moral beliefs” is not defined. What criteria will the Department use to determine if a particular religious or moral belief qualifies a hospital for the exemption?

Fourth, what sort of documentation must a hospital provide to prove that it qualifies for the exemption? Must the stated beliefs make reference to a hospital’s views on providing sexual assault emergency services and emergency contraception? This should be specified in the final-form regulation.

Fifth, under Paragraph (2), the AAP questioned if it is the Department’s intent to mandate transfer by ambulance to another hospital and if so, what is the Depart-

ment’s statutory authority for this provision. This should also be explained in the Preamble to the final-form regulation.

Sixth, commentators representing ambulances and hospitals question who is ultimately responsible for paying for the transfer of the victim. We share this concern and ask the Department to quantify the actual costs of transferring the victims to a hospital that provides the necessary services. We have a similar concern with Section 117.58(b)(1), which also relates to the transfer of victims.

Seventh, we question the phrase “close proximity.” Both the Department of Aging and PA ACLU believe it would benefit the victim more if that person was transferred to the “closest” hospital that provides the necessary services. We agree and note that the “closest” hospital should also have the availability to serve the victim. We have a similar concern with Section 117.58 (b)(2).

Eighth, we agree with the Department of Aging that hospitals be required to prominently display public notices to inform the public of the type of emergency services provided to sexual assault victims.

8. Section 117.58. Hospitals not providing sexual assault emergency services.—Reasonableness; Clarity.

This section imposes notification requirements on hospitals that elect not to provide sexual assault emergency services to victims.

The delineation of different types of emergency services is unclear. The final-form regulation should clarify that this section pertains to two types of hospitals. First, it applies to hospitals that do not provide any sexual assault emergency services. Second, it applies to hospitals that provide sexual assault emergency services but do not provide emergency contraception.

Subsection (a) pertains to notification to the Department. It states that the Department will compile a list of hospitals that have chosen not to provide sexual assault emergency services and publish this list in the *Pennsylvania Bulletin*. However, this subsection does not state when or how often the Department will publish this list. We recommend that the list be published annually and updated whenever a hospital decides to not provide sexual assault emergency services. This would provide the regulated community with necessary information to make informed decisions.

Under Subsection (a)(3), hospitals are required to notify ambulance and emergency care services that the hospital will not provide sexual assault emergency services. When a victim is being transported to a hospital by an ambulance or emergency medical services (EMS) vehicle for initial treatment after the assault, should the regulation require the ambulance or EMS personnel to inform the victim of their hospital choices and whether emergency contraception is available at the hospitals? This provision could allow the victim to avoid another ride to a different hospital if they want access to emergency contraception.

9. General.—Consistency with other existing regulations; Implementation procedures; Need; Clarity; Duplication.

Sexual assault, rape and other similar crimes

This proposed regulation introduces the term “sexual assault” into 28 Pa. Code Chapters 101 and 117. However, the existing regulations in Chapter 117 already contain the related term “rape” which is included in the defini-

tions set forth in 18 Pa.C.S.A. Chapter 31, Subchapter B (18 Pa.C.S.A. §§ 3121—3129). The term “rape” is used in the Department’s existing regulations at 28 Pa. Code §§ 117.15 and 117.41. It also appears in 28 Pa. Code §§ 29.38, 51.3, 709.43 and 711.42.

The Department should review its use of the terms “rape” and “sexual assault” in this proposed regulation and its existing regulations to be sure that these terms are used consistently and do not cause confusion. For example, Section 117.41(b)(9) requires that hospitals do the following:

Plan for communication with police, local or State health or welfare authorities as appropriate, regarding accident victims and patients whose condition or its cause is reportable, for example, persons having contagious diseases or victims of suspected criminal acts such as *rape* or gunshot wounds, see 18 Pa.C.S.A. § 5106 (relating to failure to report injuries by firearm or criminal act), and child abuse, see 11 P. S. §§ 2201—2224. (Emphasis added.)

At a minimum, the Department needs to explain how the implementation of the proposed regulation will interface with its existing regulations. In addition, the Department should consider revising its regulations to bring greater consistency to the use of the terms “rape” and “sexual assault.” Revisions for consistency in Chapter 117 could be accomplished via this rulemaking. Provisions in other chapters could be updated in a separate rulemaking.

Section 117.51. Principle.—Need; Clarity.

The need and purpose of this section is not apparent. It does not provide any information or discussion of policy or requirements that is not already set forth in the other substantive provisions of the proposed regulation. This section reads more as a “table of contents” rather than a regulatory provision. It is duplicative of other sections in the proposed regulation and it should be deleted.

Purpose of the regulation—Clarity.

Both the Regulatory Analysis Form and the Preamble note the number of rapes and sexual assaults that have occurred in Pennsylvania. However, the Department did not quantify the number of victims that did not receive appropriate and necessary emergency services and/or emergency contraception, or incidents where there were problems with communication between hospitals and law enforcement officials or other authorities. The Department should provide more background information on these areas when it submits the final-form regulation.

ARTHUR COCCODRILLI,
Chairperson

[Pa.B. Doc. No. 07-20. Filed for public inspection January 5, 2007, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

Filing and Copying Fees

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1208 (relating to collection of fees and fines), is authorized to levy and collect fees to fund the operations of the Board.

To cover the majority of the costs associated with filing various documents and making copies, the Board adopted the following fees at its December 20 public meeting. The fees are effective immediately.

Fee Schedule

First filings (Complaints and Petitions)	\$ 225.00
Response to initial pleading	\$ 100.00
Additional Parties	\$ 50.00
Second and subsequent filings	\$ 50.00
Motions	\$ 100.00
Exceptions	\$ 125.00
Appeals	\$ 150.00
Copies (per page)	\$ 1.50
Certified copies (per page)	\$ 5.00

THOMAS A. DECKER,
Chairperson

[Pa.B. Doc. No. 07-21. Filed for public inspection January 5, 2007, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Comment and Reply Comment Schedule for M-00011468F0011—PMO II; Proposed Revisions to PA Performance Assurance Plan (PA PAP) Based on Footprint PAP Changes Stemming from NY PSC September 25, 2006 PAP Changes Order¹

*To all Entities Affected by the Metrics and Remedies
Established in M-00011468*

This Secretarial Letter sets forth a comment period ending January 12, 2007, and a reply comment period ending February 13, 2007, for addressing proposed changes to the Pennsylvania Performance Assurance Plan (PA PAP).

Verizon PA filed and electronically served the proposed changes on November 21, 2006, and has posted them at www22.verizon.com/wholesale/clecsupport/content/1,,east-performancemeasures-pa,00.html. The proposed changes were reviewed at the regularly scheduled, public session of the PA Carrier Working Group (CWG) on December 5, 2006, at which time, the previously referenced comment and reply periods were agreed upon.

Verizon PA’s overview presentation to the PA CWG on December 5, 2006, indicates that changes to the following aspects, inter alia, of the PA PAP have been proposed:

¹ The October 23, 2006 NY PSC order is posted at [www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/Web/294DA3851330E57085257209006C14E0/\\$File/97c0139_10_23_06.pdf?OpenElement](http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/Web/294DA3851330E57085257209006C14E0/$File/97c0139_10_23_06.pdf?OpenElement). The complete docket may be viewed by accessing this link [www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/Web?SearchView&View=Web&Query=\[CaseNumber\]=97-C-0139&SearchOrder=4&Count=All](http://www3.dps.state.ny.us/pscweb/WebFileRoom.nsf/Web?SearchView&View=Web&Query=[CaseNumber]=97-C-0139&SearchOrder=4&Count=All).

- Remove UNE-P, Line Sharing & Line Splitting Products and Services from the PA PAP²
- Change Modes of Entry
- Change Critical Measures
 - Change the Individual Rule Scoring
 - Reduce from 105 to 50 measures
- Remove Special Provisions and Change Control Assurance Plan but move On-Time Change Management Notice metric to Critical Measures
- Reduce Dollars at risk by 65%
- Change Scoring Mechanisms
 - Eliminate recapture
 - Double the Z-Score to determine miss for aggregate parity metrics
 - Increase by factor of 6 the Z-Score to determine Individual Rule parity misses
 - Establish that typical benchmark metrics are missed only if performance is 10% below standard
- Reorganize the PA PAP
- Require ASCII-like reports

As outlined previously, comments regarding the proposed PA PAP changes are due January 12, 2007; reply comments are due February 13, 2007. Consistent with the procedures at this docket, you must file your pleadings in hard copy with the Office of the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 and serve the parties with electronic copies on or before the due dates. Persons who have any questions should contact Ted Farrar, Bureau of Fixed Utility Services, (717) 783-5941 or Louise Fink Smith, Law Bureau, (717) 787-8866.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-22. Filed for public inspection January 5, 2007, 9:00 a.m.]

Natural Gas Service

A-123100F0037. UGI Utilities, Inc. Application of UGI Utilities, Inc. for approval to begin to offer, render, furnish or supply gas utility service to the public in the additional territories of the Borough of Mount Pocono and the Townships of Paradise and Pocono in Monroe County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before January 22, 2007. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

² This would allow previously approved changes to remove UNE-P-related metrics from the Pa Guidelines to be implemented. See M-00011468F0009 (March 3, 2006) www.puc.state.pa.us/PcDocs/595390.doc.

Applicant: UGI Utilities, Inc.

Through and By Counsel: Marc C. Morrow, Esquire,
460 North Gulph Road, King of Prussia, PA 19406

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-23. Filed for public inspection January 5, 2007, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by January 29, 2007. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

A-00123344 American Medical Response Mid-Atlantic, Inc. (6200 South Syracuse Way, Suite 200, Greenwood Village, CO 80111), a corporation of the Commonwealth, common carrier—persons in paratransit service, between points in the Counties of Washington, Beaver, Butler, Fayette, Lawrence and Mercer and from points in the said counties and the County of Allegheny, to points in Pennsylvania, and return. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

A-00123344, F.2 American Medical Response Mid-Atlantic, Inc. (6200 South Syracuse Way, Suite 200, Greenwood Village, CO 80111), a corporation of the Commonwealth, common carrier—persons in paratransit service, between points in the City and County of Philadelphia and the Counties of Delaware, Montgomery and Bucks, and from points in the said city and counties, to points in Pennsylvania, and return. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

A-00123345 La Vie Medical Transportation, Inc. (3927 Mary Street, Drexel Hill, Delaware County, PA 19026), a corporation of the Commonwealth, common carrier—persons in paratransit service, in the City and County of Philadelphia and the Counties of Bucks, Delaware, Chester and Montgomery. *Attorney:* Vincent Carosella, Jr., 882 South Matlack Street, Suite 101, West Chester, PA 19382.

A-00123348 Philadelphia Historic African American Tours, LLC (28 Green Valley Road, Wallingford, Delaware County, PA 19086), a corporation of the Commonwealth—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the City of Philadelphia to points in the Counties of Bucks, Chester, Delaware, Lancaster and Montgomery, and return.

A-00123351 903 Rentals, Inc. (1358 SR 903, Jim Thorpe, Carbon County, PA 18229), a corporation of the Commonwealth, common carrier—persons in limousine service, in the County of Carbon, to points in Pennsylvania, and return.

A-00123357 Gloria Jean Boll (147 Sheaffer School Road, Ephrata, Lancaster County, PA 17522)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster to points in Pennsylvania, and return.

A-00123358 The Jonathan Connection, LLC. (P. O. Box 1213, Erie, Erie County, PA 16512), a Pennsylvania Limited Liability Company—persons, in paratransit service, in the County of Erie, and from said county to points in Pennsylvania, and return.

Application of the following for approval to begin operating as a broker for transportation of persons as described under the application.

A-00123355 Daydream Tours, LLC (4997 Wampum Mt. Air Road, New Galilee, Lawrence County, PA 16141), a limited liability company of the Commonwealth of Pennsylvania—brokerage license—to arrange for the transportation of persons between points in Pennsylvania.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Ray A. George t/a George Courier Service; Doc. No. A-00119266C0601

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Ray A. George, t/a George Courier Service, respondent, maintains his principal place of business at 611 A South 17th Street, Harrisburg, PA 17104.

2. That respondent was issued a certificate of public convenience by this Commission on December 13, 2002, at Application Docket No. A-00119266.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 2003, 2004 and 2005.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, failed to comply with the January 11, 1999 Commission Decision at P-981458 and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00119266.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Wendy J. Keezel, Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at 717-787-1168.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-24. Filed for public inspection January 5, 2007, 9:00 a.m.]

Telecommunications

A-311401F7001. Verizon North, Inc. and CBB Carrier Services, Inc. Joint petition of Verizon North, Inc. and CBB Carrier Services, Inc. for approval of amendment no. 2 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North, Inc. and CBB Carrier Services, Inc., by its counsel, filed on December 15, 2006, at the

Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 2 to an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North, Inc. and CBB Carrier Services, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-25. Filed for public inspection January 5, 2007, 9:00 a.m.]

Telecommunications

A-311281F7001. Verizon North Inc. and Citynet Pennsylvania, LLC. Joint petition of Verizon North Inc. and Citynet Pennsylvania, LLC for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon North Inc. and Citynet Pennsylvania, LLC, by its counsel, filed on December 19, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and Citynet Pennsylvania, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-26. Filed for public inspection January 5, 2007, 9:00 a.m.]

Telecommunications

A-311401F7000. Verizon Pennsylvania, Inc. and CBB Carrier Services, Inc. Joint petition of Verizon Pennsylvania, Inc. and CBB Carrier Services, Inc. for approval of amendment no. 2 to the interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania, Inc. and CBB Carrier Services, Inc., by its counsel, filed on December 15, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 2 to the interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania, Inc. and CBB Carrier Services, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-27. Filed for public inspection January 5, 2007, 9:00 a.m.]

Telecommunications

A-311014F7004. Windstream Pennsylvania Inc. and Armstrong Telecommunications Inc. Joint petition of Windstream Pennsylvania Inc. and Armstrong Telecommunications Inc. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Windstream Pennsylvania Inc. and Armstrong Telecommunications Inc., by its counsel, filed on December 20, 2006, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Windstream Pennsylvania Inc. and Armstrong Telecommunications Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-28. Filed for public inspection January 5, 2007, 9:00 a.m.]

Wastewater Service

A-230109. Eagleview Environmental Enterprises, Inc. t/a Eagleview Environmental. Application of Eagleview Environmental Enterprises, Inc. t/a Eagleview Environmental for a certificate of public convenience authorizing it to commence wastewater service in portions of Upper Uwchlan and Uwchlan Township, Chester County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before January 22, 2007. The documents filed in support of the application are available for inspection and

copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Eagleview Environmental Enterprises, Inc., t/a Eagleview Environmental

Through and By Counsel: Louise A. Knight, Esquire, David P. Zambito, Esquire, Saul Ewing, LLP, 2 North Second Street, 7th Floor, Harrisburg, PA 17101

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-29. Filed for public inspection January 5, 2007, 9:00 a.m.]

Water Service

A-210300F2000. Philip M. Buss Water Company, Inc. Application of Philip M. Buss Water Company, Inc., for approval of the abandonment of water service in Upper Milford Township, Lehigh County, PA.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before January 22, 2007. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Philip M. Buss Water Company, Inc.

Through and By Counsel: John E. Freund, III, Esquire, King Spry Herman Freund Faul, LLC, One West Broad Street, Suite 700, Bethlehem, PA 18018

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 07-30. Filed for public inspection January 5, 2007, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Project #06-182.P, Printing of PRPA Port Services Directory, until 2 p.m. on Thursday, January 25, 2007. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available January 9, 2007. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, JR.
Executive Director

[Pa.B. Doc. No. 07-31. Filed for public inspection January 5, 2007, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.


Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:
 The payment date specified in the contract.
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
 PA Department of Community and Economic Development
 374 Forum Building
 Harrisburg, PA 17120
 800-280-3801 or (717) 783-5700

Reader's Guide



26
Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department:	General Services	③ Contract Information
Location:	Harrisburg, Pa.	④ Department
Duration:	12/1/93-12/30/93	⑤ Location
Contact:	Procurement Division 787-0000	⑥ Duration

⑦ (For Commodities: Contact: Vendor Services Section
717-787-2199 or 717-787-4705)

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

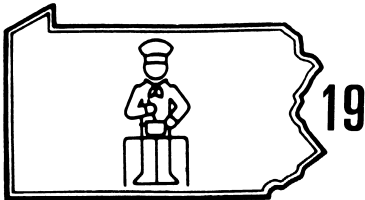
DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at www.patreaury.org.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ANTHONY E. WAGNER,
Acting Treasurer
Deputy State Treasurer for Investments and Programs

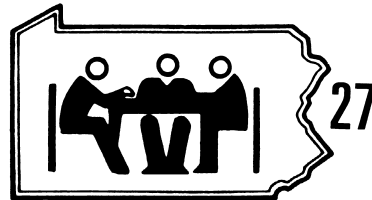
SERVICES



19

Food

CN#00024274. Meat, Chicken, Leg Quarters, Frz. 10-12 oz.
Department: Corrections
Location: SCI Huntingdon, 1100 Pike Street, Huntingdon, PA 16654
Duration: January 31, 2007
Contact: Susan Barben, Purchasing Agent, 814-643-2400 ext. 305

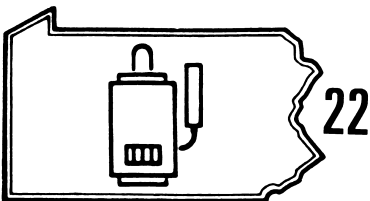


27

Lodging/Meeting Facilities

CN00024274. The Pennsylvania Emergency Management Agency, an agency representing the Commonwealth of Pennsylvania, intends to conduct an Eastern Area Quarterly Training Session within Luzerne, Berks, or Northampton County, on February 13-14, 2007. The facilities needed for this Training Session are for up to 100 single lodging rooms for the night of February 13, 2007. A meeting room, large projector and screen, podium, registration table, equipment and panel discussion tables, wireless microphone/amplifier and internet access all available for 2 days. Breakfast, AM and PM refreshment breaks and a buffet lunch for 150 students available both days. Sealed proposal must be received by 1 PM on Friday, December 29, 2006, referencing CN00024274 on the outside of the envelope. Please include name, title, phone number, fax number, complete company address, Federal ID number and reference CN00024274. If not already registered with the Commonwealth, please register by logging onto www.vendorregistration.state.pa.us or by calling Central Vendor Management Unit (CMVU) toll free at 1-866-775-CVMU (2868).

Department: PA Emergency Management Agency
Location: Luzerne, Berks, or Northampton County
Duration: February 13-14, 2007
Contact: Jamie Smolen, 717-651-2191

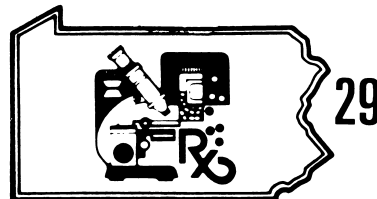


22

HVAC Services

CN#00024322. The contractor shall provide all labor, equipment, tools and parts required to inspect, service, maintain and repair the high voltage electrical system to include the electrical sub-stations, main switchgear and related components at the Hamburg Center, Hamburg, PA 19526. Contractor must be an authorized manufacturer representative of the Siemens Company. Bid opening 1/12/07 at 1:00 pm. To receive detailed specifications, submit fax request on company letterhead to the Hamburg Center Purchasing Office, FAX: 610/562-6025. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendorregistration.state.pa.us. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

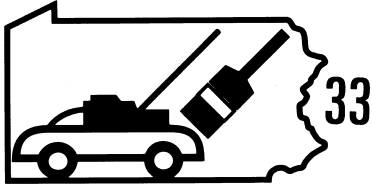
Department: Public Welfare
Location: DPW Hamburg Center, 3560 Old Route 22, Hamburg, PA 19526
Duration: Anticipated contract period 1/1/07-12/31/09.
Contact: Beverly O. Epting, PA, 610/562-6034



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Medical Services

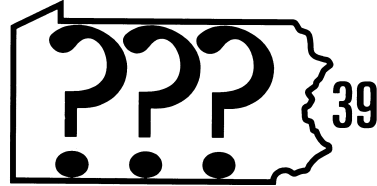
CN00024287. Certified Occupational Therapy Assistant
Department: Public Welfare
Location: POLK CENTER, P. O. Box 94, Main Street, Polk, PA 16342
Duration: February 1, 2007 thru April 30, 2007
Contact: Marty DuPont, Purchasing Agent, 814-432-0326



Property Maintenance

SSHE 401-BL-862 Rebuild Boiler #6. Work consists of supplying all labor, tools, materials, equipment, services and appurtenances to rebuild boiler #6 to include a new grate stoker, stoker support frame, new brick walls and internal baffles. To obtain a copy of the bid documents submit a \$25.00 (non-refundable) check to Bloomsburg University, Waller Admin. Bldg., Room 38, 400 E. Second Street, Bloomsburg, PA 17815, ATTN: Diann Shamburg, phone #570-389-4312, fax #570-389-2017. This will be a one prime contract (\$425,000 - \$450,000). Specifications will be available January 3, 2007. The pre-bid conference will be held on January 11, 2007 at 10:15 am, Bloomsburg University, Waller Admin. Room 38A, will bids due January 26, 2007 at 1:00 pm, Bloomsburg University.

Department: State System of Higher Education
Location: Bloomsburg University, 400 E. Second Street, Bloomsburg, PA 17815
Duration: 180 calendar days
Contact: Diann Shamburg, 570-389-4312



Miscellaneous

RFP#06-PRS&G-(MIDAS) Life Skills Program-60. The Department of Corrections is conducting a pilot inmate life skills program for parole violators entitled Making Intelligent Decisions and Succeeding (MIDAS). The program will involve an intense curriculum of life skills based educational and treatment programming, with the goal of reducing recidivism rates and increasing employability and life skills among high risk parole violators. The evaluator selected under this RFP will be required to conduct a process and outcome evaluation of the MIDAS program. When this RFP is released it will be available to download on the DGS website <http://www.dgsweb.state.pa.us/comod/main.asp> Bid due date and time: 01-31-2007 4:00 p.m.

Department: Corrections
Location: Department of Corrections, 2520 Lisburn Road, Camp Hill, PA 17011
Duration: 2 years
Contact: Russ Ilgenfritz, 717-975-4988

[Pa.B. Doc. No. 07-32. Filed for public inspection January 5, 2007, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,
Secretary

