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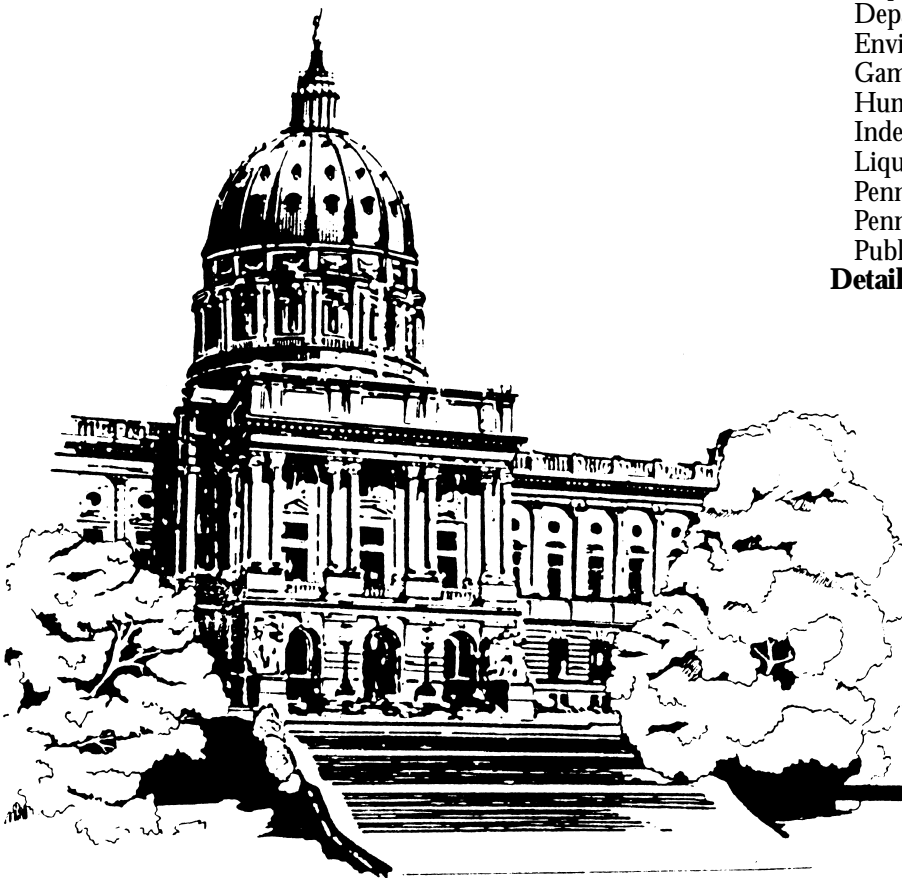
# PENNSYLVANIA BULLETIN

Volume 36  
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Number 2  
Pages 165—264

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The Courts  
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Department of Banking  
Department of Conservation and Natural Resources  
Department of Environmental Protection  
Department of General Services  
Department of Labor and Industry  
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Game Commission  
Human Relations Commission  
Independent Regulatory Review Commission  
Liquor Control Board  
Pennsylvania Municipal Retirement Board  
Pennsylvania Public Utility Commission  
Public School Employees' Retirement Board

**Detailed list of contents appears inside.**



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

**No. 374, January 2006**

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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

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

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

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

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

## **Adoption, Amendment or Repeal of Regulations**

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

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

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

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

## **Citation to the *Pennsylvania Bulletin***

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

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

<b>4 Pa. Code (Administration)</b>		<b>204 Pa. Code (Judicial System General Provisions)</b>	
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# THE GENERAL ASSEMBLY

## Recent Actions during the 2005 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2005 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2005 VETOES OF BILLS—VETO 001 through 002</b>					
001	Dec 23	HB0515	PN3173	Jan. 1, 2007	Tax Reform Code of 1971—sales and use tax, personal income tax and corporate net income
002	Dec 23	HB0603	PN0676	Immediately	State Government (71 Pa.C.S.)—"enforcement officer" to include certain Pennsylvania Game Commission employees

\*denotes an effective date with exceptions

### Effective Dates of Statutes

The effective dates specified above for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

### Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the *Laws of Pennsylvania* are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services shall distribute advance sheets of the *Laws of Pennsylvania* to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, PHMC, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

ROBERT W. ZECH, Jr.,  
Director  
Legislative Reference Bureau

[Pa.B. Doc. No. 06-50. Filed for public inspection January 13, 2006, 9:00 a.m.]

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 81]

#### Amendment of Pennsylvania Rule of Professional Conduct 1.4; No. 50 Disciplinary Rules; Doc. No. 1

#### Order

*Per Curiam:*

*And Now*, this 30th day of December, 2005, Pennsylvania Rule of Professional Conduct 1.4 is amended to read as set forth in Annex A.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration. The amendments adopted hereby shall take effect on July 1, 2006.

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart A. PROFESSIONAL RESPONSIBILITY

#### CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

##### Subchapter A. RULES OF PROFESSIONAL CONDUCT

#### § 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

#### CLIENT-LAWYER RELATIONSHIP

##### Rule 1.4. Communication.

\* \* \* \* \*

(c) A lawyer in private practice shall inform a new client in writing if the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year, subject to commercially reasonable deductibles, retention or co-insurance, and shall inform existing clients in writing at any time the lawyer's professional liability insurance drops below either of those amounts or the lawyer's professional liability insurance is terminated. A lawyer shall maintain a record of these disclosures for six years after the termination of the representation of a client.

#### Comment:

\* \* \* \* \*

#### *Disclosures Regarding Insurance*

(8) Paragraph (c) does not apply to lawyers in full-time government practice or full-time lawyers employed as in-house counsel and who do not have any private clients.

(9) Lawyers may use the following language in making the disclosures required by this rule:

(i) No insurance or insurance below required amounts when retained: "Pennsylvania Rule of Professional Conduct 1.4(c) requires that you, as the client, be informed in writing if a lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year and if, at any time, a lawyer's professional liability insurance drops below either of those amounts or a lawyer's professional liability insurance coverage is terminated. You are therefore advised that (name of attorney or firm) does not have professional liability insurance coverage of at least \$100,000 per occurrence and \$300,000 in the aggregate per year."

(ii) Insurance drops below required amounts: "Pennsylvania Rule of Professional Conduct 1.4(c) requires that you, as the client, be informed in writing if a lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year and if, at any time, a lawyer's professional liability insurance drops below either of those amounts or a lawyer's professional liability insurance coverage is terminated. You are therefore advised that (name of attorney or firm)'s professional liability insurance dropped below at least \$100,000 per occurrence and \$300,000 in the aggregate per year as of (date)."

(iii) Insurance terminated: "Pennsylvania Rule of Professional Conduct 1.4(c) requires that you, as the client, be informed in writing if a lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year and if, at any time, a lawyer's professional liability insurance drops below either of those amounts or a lawyer's professional liability insurance coverage is terminated. You are therefore advised that (name of attorney or firm)'s professional liability insurance has been terminated as of (date)."

(10) A lawyer or firm maintaining professional liability insurance coverage in at least the minimum amounts provided in paragraph (c) is not subject to the disclosure obligations mandated by the rule if such coverage is subject to commercially reasonable deductibles, retention or co-insurance. Deductibles, retentions or co-insurance offered, from time to time, in the marketplace for professional liability insurance for the size of firm and coverage limits purchased will be deemed to be commercially reasonable.

[Pa.B. Doc. No. 06-51. Filed for public inspection January 13, 2006, 9:00 a.m.]

# Title 231—RULES OF CIVIL PROCEDURE

## PART I. GENERAL

### [231 PA. CODE CH. 1300]

#### Promulgation of New Rules 1326 through 1331 Governing a Proceeding to Compel Arbitration and Confirm an Arbitration Award in a Consumer Credit Transaction; No. 447 Civil Procedural Rules; Doc. No. 5

#### Amended Order

*Per Curiam:*

And Now, this 28th day of December, 2005, new Rules of Civil Procedure 1326 through 1331 are promulgated to read as follows.

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

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

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1300. COMPULSORY ARBITRATION

#### Subchapter A. RULES

#### PROCEEDING TO COMPEL ARBITRATION AND CONFIRM AN ARBITRATION AWARD IN A CONSUMER CREDIT TRANSACTION

#### Rule 1326. Definitions. Scope.

(a) As used in this chapter,

“arbitration” means statutory arbitration pursuant to Section 7301 et seq. of the Judicial Code, 42 Pa.C.S. § 7301 et seq., known as the Uniform Arbitration Act, or common law arbitration pursuant to Section 7341 et seq. of the Judicial Code, 42 Pa.C.S. § 7341 et seq;

“arbitrator” includes a board of arbitrators;

“consumer credit transaction” means a credit transaction in which the party to whom credit is offered or extended is a natural person and the money, property or services which are the subject of the transaction are primarily for personal, family or household purposes.

(b) The rules of this chapter shall govern proceedings to compel arbitration and confirm an arbitration award entered in a claim arising from a consumer credit transaction.

#### Rule 1327. Confirming Arbitration Award.

Any party may file a motion to confirm an arbitration award which was entered by an arbitrator only if

(1) the party against whom an arbitration award is sought to be confirmed either

(i) attended a hearing before the arbitrator, or

(ii) signed a writing after the claim that is the basis for the arbitration award was filed with the arbitrator, agreeing to submit the claim to the arbitrator, or

**Official Note:** The writing under subparagraph (1)(ii) may provide for the arbitrator to decide the claim in a proceeding that does not involve a personal appearance before the arbitrator, such as a proceeding in which the hearing before the arbitrator involves only a review of documents submitted by the parties.

See Rule 1328 for the procedure to confirm an arbitration award entered as provided by either subparagraph (1)(i) or (ii).

(2) the arbitration award was entered following a court order or docket entry staying proceedings pending arbitration as provided by Rule 1329.

**Official Note:** See Rule 1329 for the procedure to compel arbitration and to confirm the arbitration award.

#### Rule 1328. Motion to Confirm Arbitration Award as an Original Proceeding.

(a) Any party may file as an original proceeding a motion to confirm an arbitration award if the arbitration award was entered pursuant to Rule 1327(1). The motion to confirm such an award shall be filed in the county in which the defendant resides or has a place of business or, if there is no such county, then in the county in which the arbitration hearing was held.

(b) The motion shall begin with a notice substantially in the form prescribed by Rule 1331 and shall be served in the manner provided for service of original process in a civil action.

**Official Note:** Section 7317 of the Judicial Code, 42 Pa.C.S. § 7317, provides that, unless the parties otherwise agree, notice of an initial application for an order of court shall be served in the manner provided by law for the service of a writ of summons in a civil action.

(c) The motion shall contain factual allegations establishing that the arbitration award was entered pursuant to Rule 1327(1).

(d) A responding party who opposes the motion shall file an answer to the motion within thirty days after service of the motion.

(e) If the responding party does not file an answer, the prothonotary, upon praecipe of the moving party filed after the answer was due, shall enter judgment upon the arbitration award.

(f) If the responding party files an answer, the motion shall be decided pursuant to the court’s procedures for deciding motions.

#### Rule 1329. Civil Action to Compel Arbitration. Motion to Confirm Arbitration Award as Ancillary to a Civil Action.

(a)(1) A plaintiff seeking to compel arbitration of a claim shall commence a civil action against the defendant. Except as otherwise provided by this rule, the procedure in the action shall be in accordance with the rules governing a civil action, including service of original process and venue.

**Official Note:** A defendant who seeks to compel arbitration of a claim for which a plaintiff is not seeking arbitration shall proceed by preliminary objection or a motion to compel arbitration.

(2) The complaint shall include an allegation that the claims raised in the complaint are subject to an agreement to submit these claims to arbitration.

(b) If the defendant fails to file a responsive pleading, the plaintiff may obtain a default judgment pursuant to Rules 237.1 and 1037.

(c)(1) If the defendant files an answer admitting that the claims are subject to arbitration, either party, within twenty days, may file a praecipe directing the prothonotary to enter on the docket a stay of proceedings pending arbitration.

(2) If the defendant files either preliminary objections or an answer denying that the claims are subject to arbitration, the plaintiff may within twenty days file a motion for a rule to show cause why arbitration should not be compelled. Except as otherwise provided by subdivision (d), the motion shall be governed by Rule 208.1 et seq.

**Official Note:** Rule 208.1 et seq. governs motion practice.

(d)(1) The motion for a rule to show cause why arbitration should not be compelled shall begin with a notice substantially in the form prescribed by Rule 1330 and shall be served pursuant to Rule 440. In the absence of a court order otherwise, the timely filing of the motion stays proceedings pending resolution of the motion.

(2) A defendant shall file an answer to the motion within twenty days after service of the motion. The answer shall set forth all of the defendant's objections to the arbitration including absence of a valid agreement to arbitrate the claims, lack of jurisdiction over the person of the defendant, improper venue or improper service of original process.

(3) If the defendant does not file an answer to the motion, the plaintiff, after the answer was due, may file a praecipe directing the prothonotary to enter on the docket a stay of proceedings pending arbitration.

(4) If the defendant files an answer, the motion shall be decided pursuant to the court's procedures for deciding motions. If the court grants the motion to compel arbitration, the court shall enter an order compelling the parties to proceed with arbitration and staying proceedings pending arbitration.

(e)(1) Any party may file a motion to confirm an arbitration award entered following a court order or docket entry staying proceedings pending arbitration. The motion to confirm shall be filed as an ancillary proceeding to the pending civil action.

**Official Note:** The motion to confirm will be filed with the court at the number of the action required by Rule 1329.

(2) The motion shall begin with a notice substantially in the form prescribed by Rule 1331 and shall be served pursuant to Rule 440.

(3) A responding party who opposes the motion shall file an answer to the motion within thirty days after service of the motion.

(4) If the responding party does not file an answer, the prothonotary, upon praecipe of the moving party filed after the answer was due, shall enter judgment upon the arbitration award.

(5) If the responding party files an answer, the motion shall be decided pursuant to the court's procedures for deciding motions.

**Rule 1330. Notice Required by Rule 1329(d)(1). Form.**

The notice required by Rule 1329(d)(1) shall be substantially in the following form:

**(Caption)**

**Notice to File Answer**

The motion attached to this notice asks the court to enforce an agreement to submit claims to arbitration. If you oppose submission of this claim to arbitration, you must file an answer to the motion with the Prothonotary within thirty (30) days of mailing or other service of this notice. If you fail to respond, this case will proceed to arbitration and may result in the entry of a money judgment against you.

**Official Note:** A court may by local rule require the notice to be repeated in one or more designated languages other than English.

**Rule 1331. Notice Required by Rules 1328(b) and 1329(e)(2). Form.**

The notice required by Rules 1328(b) and 1329(e)(2) shall be substantially in the following form:

**(Caption)**

**Notice to File Answer**

A party to these proceedings has filed a motion to confirm an arbitration award. If you oppose the motion, you are required to file an answer to the motion within thirty (30) days from the date below setting forth your objections to the motion. If you fail to file an answer, a money judgment based on the arbitration award may be entered against you without further notice. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)

Date of mailing or other service:

\_\_\_\_\_  
Party Filing Motion

**Official Note:** A court may by local rule require the notice to be repeated in one or more designated languages other than English.

**Explanatory Comment**

The Supreme Court of Pennsylvania has promulgated new Rule of Civil Procedure 1326 et seq. to govern proceedings to compel arbitration and to confirm arbitration awards in consumer credit transactions.

Prior to the promulgation of these new rules, practice was based solely on the provisions of the Judicial Code governing statutory arbitration and common law arbitration which provide for the filing of an initial application to the court to compel arbitration (42 Pa.C.S. § 7304(a)) and a second application to the court to confirm an arbitration award (42 Pa.C.S. § 7313). These new rules create procedures that minimize court involvement and provide quicker and cheaper relief to the litigants. The rules are promulgated in response to the inclusion of an arbitration clause governing collection claims in consumer credit transactions.

There is no reason for a claim to be heard by an arbitrator pursuant to a motion to compel arbitration and to be returned to the court through a motion to confirm arbitration if the defendant will not be contesting the claim of the plaintiff. Thus, (1) new Rule 1329(a) provides for the plaintiff seeking to compel arbitration of a claim to commence a civil action against the defendant and to include in the complaint an allegation that the claims raised in the complaint are subject to an agreement to submit these claims to arbitration and (2) new Rule 1329(b) permits the plaintiff to obtain a default judgment pursuant to Rules 237.1 and 1037 if defendant fails to file a responsive pleading to the complaint.

If the defendant files an answer to the complaint admitting that the claims are subject to arbitration, new Rule 1329(c)(1) permits either party to file a praecipe directing the prothonotary to enter on the docket a stay of proceedings pending arbitration.

If the defendant files preliminary objections or an answer which does not admit that the claims are subject to arbitration, new Rule 1329(c)(2) provides for the plaintiff to file a motion for a rule to show cause why arbitration should not be compelled. New Rule 1329(d)(2) requires the defendant to file within twenty days an answer to the plaintiff's motion, and new Rule 1329(d)(3) provides that if the defendant does not file an answer to the motion, the plaintiff may file a praecipe directing the prothonotary to enter on the docket a stay of proceedings pending arbitration.

New Rules 1328(d) and (e) and 1329(e)(3) and (4) adopt similar procedures for the entry of a judgment based on an arbitration award by providing for the filing of a motion to confirm an award. A responding party who opposes the motion must file an answer within thirty days. If the responding party does not file an answer, the prothonotary, upon praecipe of the moving party filed after the answer was due, shall enter judgment upon the arbitration award.

New Rule 1326 et seq. applies only to consumer credit transactions because it is not anticipated that there will be an increasing number of other cases raising arbitration issues in which the courts will be involved. In addition, procedures that work for consumer credit transactions may not work for all types of matters involving statutory and common law arbitration.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 06-52. Filed for public inspection January 13, 2006, 9:00 a.m.]

**PART I. GENERAL**

**[231 PA. CODE CH. 3000]**

**Promulgation of Rules 3301 et seq. Governing Attachment of Wages under Section 8127(a)(3.1) of the Judicial Code and Amendment of Rules 3101 and 3140; No. 446 Civil Procedural Rules; Doc. No. 5**

**Order**

*Per Curiam:*

And Now, this 21st day of December, 2005, the Pennsylvania Rules of Civil Procedure are amended as follows:

I. Rule 3101 and the Note to Rule 3140 are amended to read as follows.

II. New Rules 3301, 3302, 3303, 3304, 3311, 3312 and 3313 are promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective one month after the date of this Order.

Mr. Justice Castille dissents.

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 3000. JUDGMENTS**

**Subchapter D. ENFORCEMENT OF MONEY JUDGMENTS FOR THE PAYMENT OF MONEY**

**Rule 3101. Definitions[; garnishee]. Garnishee. Scope.**

\* \* \* \* \*

**(c) The rules of this chapter shall not apply to the attachment of wages, salary or commissions to satisfy a money judgment arising from a residential lease pursuant to Section 8127(a)(3.1) of the Judicial Code.**

**Official Note: For the attachment of wages under Section 8127(a)(3.1) of the Judicial Code, see Rule 3301 et seq.**

**Rule 3140. Notice by garnishee.**

\* \* \* \* \*

**Official Note: Registered mail includes certified mail. See Definition Rule 76.**

**Attachment of wages, salary and commissions to satisfy a money judgment arising from a residential lease pursuant to Section 8127(a)(3.1) of the Judicial Code is governed by Rule 3301 et seq.**

**Subchapter F. ATTACHMENT OF WAGES, SALARY AND COMMISSIONS UNDER SECTION 8127(A)(3.1) OF THE JUDICIAL CODE**

- Rule 3301. Scope. Definitions.
- 3302. Commencement. Notice.
- 3303. Exemption from Attachment. Procedure.
- 3304. Writ for the Attachment of Wages. Issuance. Service.

**FORMS**

- 3311. Praecipe for Notice of Intent to Attach Wages. Form.
- 3312. Notice of Intent to Attach Wages. Claim for Exemption from Wage Attachment. Notice of Claim for Exemption of Wages from Attachment. Forms.
- 3313. Writ of Attachment of Wages. Form.

**Rule 3301. Scope. Definitions.**

(a) The rules of this chapter govern an attachment of wages to satisfy a judgment pursuant to Section 8127(a)(3.1) of the Judicial Code.

**Official Note:** Section 8127(a)(3.1) of the Judicial Code provides for the attachment of wages for amounts awarded to a judgment creditor-landlord arising out of a residential lease upon which the court has rendered judgment which is final.

See subdivision (b) for the definition of "judgment."

Rule 3101 et seq. governing the enforcement of money judgments is not applicable to the attachment of wages under this chapter.

(b) As used in this chapter,

"defendant" means a judgment debtor-tenant,

"garnishee" means the employer of the defendant,

"judgment" means a judgment for amounts awarded to a plaintiff arising out of a residential lease, which has been entered in the court of common pleas or the Philadelphia Municipal Court and which shall have been entered originally in

(1) any civil action brought in the court of common pleas,

(2) the following actions brought before a magisterial district judge:

(i) a civil action pursuant to Pa.R.C.P.M.D.J. 301 et seq., or

(ii) an action for the recovery of possession of real property pursuant to Pa.R.C.P.M.D.J. 501 et seq. in which the defendant appeared or filed papers or in which the complaint was served by handing a copy to the defendant,

(3) the following actions brought in the Philadelphia Municipal Court:

(i) a civil action in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(A) or (C), or

(ii) an action in which the defendant was served pursuant to Phila. M.C.R.Civ.P. No. 111(B) and in which the defendant appeared or filed papers,

"plaintiff" means a judgment creditor-landlord, and

"wages" includes salary and commissions.

**Rule 3302. Commencement. Notice.**

(a) The plaintiff shall commence an execution to attach wages by filing a praecipe with the prothonotary of a county in which judgment has been entered and in which the defendant resides, the defendant works or the residential real property which is the subject of the action is located. The praecipe shall be filed within five years of the date of the original judgment. The praecipe shall be in the form prescribed by Rule 3311.

(b) Upon the filing of the praecipe, the prothonotary shall issue a Notice of Intent to Attach Wages in the form prescribed by Rule 3312(a). The prothonotary shall attach to the notice a copy of both (1) the praecipe filed with the prothonotary for issuance of the Notice of Intent to Attach Wages and (2) the most recent poverty income guidelines issued by the Federal Department of Health and Human Services as they appear on the web site of the Civil Procedural Rules Committee.

**Official Note:** The web site of the Civil Procedural Rules Committee is part of the home page of the Administrative Office of Pennsylvania Courts at [www.aopc.org](http://www.aopc.org).

The poverty income guidelines set forth on the Committee web site which are to be attached to the Notice of Intent to Attach Wages are stated in monthly amounts.

(c) The Notice of Intent to Attach Wages shall be served upon the defendant in the manner provided by Rule 400 et seq. for service of original process in a civil action.

**Official Note:** The notice shall be served

(1) by the sheriff in the manner prescribed by Rule 402(a) for the service of original process upon a defendant, or

(2) pursuant to special order of court as prescribed by Rule 430 if service cannot be made as provided in paragraph (1) of this note.

**Rule 3303. Exemption from Attachment. Procedure.**

(a) A defendant claiming an exemption from attachment based upon the federal poverty income guidelines shall file the claim for exemption with the prothonotary within thirty days of service of the Notice of Intent to Attach Wages.

**Official Note:** For the form of the claim for exemption, see Rule 3312(b).

(b)(1) If the defendant files a claim for exemption of wages from attachment either within thirty days as required by subdivision (a) of this rule or prior to the issuance of the writ of attachment, the prothonotary shall not issue the writ of attachment and shall send a notice of the claim for exemption of wages from attachment to the plaintiff or, if represented, to the plaintiff's attorney. The prothonotary shall attach a copy of the claim to the notice.

**Official Note:** For the form of the notice for exemption, see Rule 3312(c).

(2) If the defendant files a claim for exemption after the writ of attachment has been issued, the attachment of the defendant's wages shall continue unless the defendant obtains a court order staying or vacating the attachment.

(c) A plaintiff who wishes to challenge the claim of exemption shall file a motion requesting the court to direct the prothonotary to issue a writ for the attachment of wages. The motion shall set forth facts which establish that the plaintiff is entitled to attach wages pursuant to Section 8127(a)(3.1) of the Judicial Code. If the motion on its face sets forth such facts, the court shall set a hearing date or set forth another procedure provided by Rule 208.4 as may be appropriate.

**Rule 3304. Writ for the Attachment of Wages. Issuance. Service.**

(a) The prothonotary shall issue a writ for the attachment of wages upon

(1) praecipe of the plaintiff where the defendant has not timely filed a claim for exemption of wages from attachment, or

(2) order of the court entered upon motion pursuant to Rule 3303(c).

(b) The prothonotary shall by ordinary mail send the writ to the garnishee and to the defendant.

(c) The writ of attachment of wages shall be substantially in the form provided by Rule 3313.

**Official Note:** Section 8127(c)(1) of the Judicial Code provides that the employer shall send the attached wages to the prothonotary of the court of common pleas within

15 days from the close of the last pay period in each month. Upon receipt of the attached wages, the prothonotary of the court of common pleas shall record and send said wages to the judgment creditor-landlord.

**FORMS**

**Rule 3311. Praecept for Notice of Intent to Attach Wages. Form.**

The Praecept for Notice of Intent to Attach Wages shall be substantially in the following form:

**(Caption)**

**Praecept for Notice of Intent to Attach Wages**

To the Prothonotary:

Issue a Notice of Intent to Attach Wages in the above matter

- (1) against \_\_\_\_\_, defendant,
- (2) against \_\_\_\_\_, employer of the defendant.

Date: \_\_\_\_\_

\_\_\_\_\_  
 Attorney for Judgment  
 Creditor-Landlord or  
 Judgment  
 Creditor-Landlord if  
 unrepresented

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone number

**Certification by Judgment Creditor—Landlord**

I certify that

- 1. The plaintiff judgment-creditor is \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

- 2. The defendant judgment-debtor is \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

- 3. The employer garnishee is \_\_\_\_\_

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

- 4. The judgment arises out of a residential lease for the premises at \_\_\_\_\_ (address).

- 5. (a) The amount of the judgment is \$ \_\_\_\_\_ .

(b) A security deposit in the amount of \$ \_\_\_\_\_ is being held by the judgment creditor-landlord. This security deposit \_\_\_\_\_ has been applied \_\_\_\_\_ has not been applied to payment of rent due on the same premises for which the judgment has been entered. (Any security deposit that has not already been applied to rent will be deducted by the Prothonotary from the amount of the judgment in determining the amount to be attached.)

(c) The amount of \$ \_\_\_\_\_ has been paid toward satisfaction of the judgment. (Do not include the security deposit.)

- 6. This praecipe is filed within five years of the date of the original judgment upon which execution is sought.

- 7. The judgment was entered (check one):

\_\_\_\_\_ in a civil action commenced in the court of common pleas.

\_\_\_\_\_ in an action brought before a magisterial district judge.

\_\_\_\_\_ in an action commenced in the Philadelphia Municipal Court.

- 8. Check the appropriate paragraph and attach the required documents:

— (a) If the judgment was entered in a civil action (Pa.R.C.P.M.D.J. 301 et seq.) before a magisterial district judge, a copy of the complaint filed with the magisterial district judge is attached to this Notice, showing that the action arose from a residential lease.

— (b) If the judgment was entered in an action for the recovery of possession of real property (Pa.R.C.P.M.D.J. 501 et seq.) before a magisterial district judge, copies of the appropriate magisterial district judge records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action or that the complaint was served by handing a copy to the defendant.

— (c) If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(A) or (C), a copy of the complaint filed with the Philadelphia Municipal Court is attached to this Notice, showing that the action arose from a residential lease.

— (d) If the judgment was entered in an action in the Philadelphia Municipal Court in which the defendant was served pursuant to Phila.M.C.R.Civ.P. No. 111(B), copies of the appropriate Philadelphia Municipal Court records are attached showing that the action arose from a residential lease and that the defendant appeared or filed papers in the action.

I certify that the statements made in this Certification are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_

\_\_\_\_\_  
Judgment Creditor-Landlord

**Rule 3312. Notice of Intent to Attach Wages. Claim for Exemption from Wage Attachment. Notice of Claim for Exemption of Wages from Attachment. Forms.**

- (a) The notice of attachment of wages required by Rule 3302(b) shall be substantially in the following form:

(CAPTION)

**NOTICE OF INTENT TO ATTACH WAGES, SALARY OR COMMISSIONS**

Date of service of this Notice: \_\_\_\_\_ (Date to be inserted by the Sheriff)

A judgment has been entered against you in court for nonpayment of rent for, or damage to, residential property that you rented. The judgment creditor-landlord has begun proceedings to attach 10% of your net wages, salary or commissions for each pay period until the judgment is satisfied.

The following exception will prevent your wages from being attached:

*Poverty Guidelines*—Your wages may not be attached if your net income is below the poverty income guidelines as provided annually by the Federal Department of Health and Human Services or if the amount of the attachment would cause your net income to fall below the poverty income guidelines. A copy of the guidelines is attached to this notice.

If this exemption is applicable to you, you must return the claim for exemption of wages which is attached to the prothonotary within 30 days of the date of service of this notice upon you. The date of service of this notice is set forth above. If you return the form claiming this exemption within 30 days, your wages will not be attached without subsequent court proceedings.

There may be other legal grounds for opposing the wage attachment that you may be able to raise by filing a motion with the court. For example, your wages may not be attached if you are an abused person or victim as set forth in Section 8127(f) of the Judicial Code when the attachment is to satisfy a judgment for physical damages to the leased premises.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone Number)

(b) The claim for exemption from wage attachment shall be substantially in the following form:

(CAPTION)

**CLAIM FOR EXEMPTION FROM WAGE ATTACHMENT**

**Notice**

This Claim for Exemption must be filed with the Prothonotary of the Court within 30 days of service upon you of the Notice of Intent to Attach Wages.

To the Prothonotary:

I, the above-named defendant, claim exemption of my wages, salary or commissions from attachment on the following ground:

\_\_\_\_\_ My net monthly income is below the poverty income guidelines as provided by the Federal Department of Health and Human Services.

OR

\_\_\_\_\_ The amount of wages to be attached would place my net income below the poverty income guidelines as provided annually by the Federal Department of Health and Human Services.

I have \_\_\_\_\_ dependents.  
(Number)

My net monthly income is \$ \_\_\_\_\_ .

(Net monthly income is your total monthly wages less (1) any support payments made to the court, (2) federal, state and local income taxes, (3) F.I.C.A. payments and nonvoluntary retirement payments, (4) union dues and (5) health insurance premiums.)

I certify that the statements made in this Claim for Exemption are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_  
Defendant

This claim shall be delivered or mailed to

Office of the Prothonotary  
Court of Common Pleas

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

(c) The notice of claim of exemption required by Rule 3303(b) shall be substantially in the following form:

(CAPTION)

**NOTICE OF CLAIM OF EXEMPTION OF WAGES FROM ATTACHMENT**

To the above-named plaintiff:

The defendant in the above-captioned matter has filed a claim for exemption from attachment of his or her wages, salary or commissions. A copy of the claim is attached. If you wish to challenge the claim for exemption, you should file with the court a motion setting forth facts which show that the defendant's net income is not below the Federal Department of Health and Human Services poverty income guidelines or that the attachment will not cause the defendant's net income to fall below those poverty income guidelines.

Date: \_\_\_\_\_  
Prothonotary



**Rule 3313. Writ of Attachment of Wages. Form.**

The writ of attachment of wages shall be substantially in the following form:

**(Caption)**

**Writ of Attachment of Wages, Salary or Commissions**

Commonwealth of Pennsylvania :  
County of \_\_\_\_\_ :  
To \_\_\_\_\_  
Employer of Defendant \_\_\_\_\_  
Name

You have been identified as the employer of the above-named defendant.

You are directed to withhold the wages, salary and commissions of the defendant in your possession to satisfy the judgment against the defendant.

You are notified that

1. an attachment of wages, salary and commissions has been issued;
2. you are ordered to withhold from the wages, salary and commissions of the defendant an amount per pay period which does not exceed ten (10) percent of the defendant's net wages, salary and commissions; Net wages are all wages paid less only the following items: (1) any support payments made to the court, (2) federal, state and local income taxes, (3) F.I.C.A. payments and nonvoluntary retirement payments, (4) union dues and (5) health insurance premiums.
3. the total amount attached is \$ \_\_\_\_\_ and the withholding must continue until the amount of the attachment is satisfied;
4. the attached wages shall be sent to the prothonotary of the court of common pleas within 15 days from the close of the last pay period in each month. The check must
  - a. contain the name of the employee whose wages are being withheld,
  - b. be made payable to the Prothonotary, and
  - c. be sent to  
 Prothonotary  
 Court of Common Pleas  
 Wage Attachment Remittance  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 Telephone Number  
 \_\_\_\_\_
5. you are entitled to deduct each pay period from the money collected from the defendant employee the costs incurred from the extra bookkeeping necessary to record the transaction, not exceeding \$5.00 of the amount of money so collected.
6. by law, you may not take any adverse action against the defendant because his or her wages, salary or commissions have been attached.
7. you shall send the following notice to the prothonotary if the defendant has never been or is no longer an employee:

I have received a Writ of Attachment in the following case:

\_\_\_\_\_ v. \_\_\_\_\_, No. \_\_\_\_\_ of \_\_\_\_\_.  
Plaintiff Defendant Year

The following person, \_\_\_\_\_, has never been  
Name

(\_\_\_) or is no longer an employee (\_\_\_).

Date: \_\_\_\_\_  
Employer  
\_\_\_\_\_  
Prothonotary

\* \* \* \* \*

Seal of the Court

By \_\_\_\_\_  
Deputy

**Explanatory Comment**

The Supreme Court of Pennsylvania has promulgated a new chapter of rules, Rule 3301 et seq., to govern the attachment of wages, salary and commissions pursuant to Section 8127(a)(3.1) of the Judicial Code in actions or proceedings for "amounts awarded to a judgment creditor-landlord arising out of a residential lease." Rule 3101 et seq. governing the enforcement of judgments for the payment of money will not apply to a wage attachment under this provision of the Judicial Code.

Pursuant to the definition of the term "judgment" in Rule 3301(b), wages may be attached to satisfy a judgment for rent or physical damage to a leased premises entered in a "civil action" whether in a court of common pleas or before a magisterial district judge or in the Philadelphia Municipal Court. However, if the money judgment sought to be enforced is entered in an action for recovery of possession of real property before a magisterial district judge pursuant to Pa.R.C.P.M.D.J. 501 et seq. or in an action in the Philadelphia Municipal Court in which service is made pursuant to Phila.M.C.R.Civ.P. 111(B), a writ of attachment of wages may issue only if the defendant appeared or filed papers in the action or if the complaint was handed to the defendant (judgment debtor-tenant). In addition, the courts of common pleas and the Philadelphia Municipal Court may issue a writ of attachment of wages to enforce a judgment entered in those courts. However, a judgment entered by a magisterial district judge must be entered in the court of common pleas for the writ of attachment to issue on that judgment.

Section 8127 of the Judicial Code imposes certain requirements upon the attachment of wages.

*Security Deposit.—*

Section 8127(a)(3.1) provides for the deduction of a security deposit from the attachment under circumstances set forth in the Code. Rule 3311 prescribes a form of Praeceptum for Notice of Intent to Attach Wages which requires the plaintiff (judgment creditor-landlord) to execute a Certification as to the status of the security deposit.

*Exemptions from Attachment.—*

1. Poverty Guidelines. Section 8127(a)(3.1) requires that the "sum attached shall be no more than 10% of the net wages per pay period of the judgment debtor-tenant or a sum not to place the debtor's net income below the poverty income guidelines as provided annually by the Federal Office of Management and Budget, whichever is less." First, the employer-garnishee will determine the ten

percent limit of the net wages to be attached. Second, since the defendant (judgment debtor-tenant) is the only person who has knowledge whether the attachment will bring his or her net income below the poverty level, the rules require the defendant to assert this objection to the attachment by filing a claim for exemption which is attached to the Notice of Intent to Attach Wages served upon the defendant. Third, Rule 3302(b) requires the prothonotary to attach to the Notice a copy of the most recent federal poverty income guidelines of the Federal Department of Health and Human Services as set forth on the web site of the Civil Procedural Rules Committee.

2. Other Exemptions. The Notice of Intent to Attach Wages advises the defendant that there may be other exemptions available, giving the example of an abused person or victim, and that these exemptions are to be claimed by filing a motion with the court.

*Withholding of Wages.—*

Section 8127(c) sets forth duties of the employer-garnishee with respect to the withholding of wages. The form of the writ of attachment set forth in Rule 3313 advises the employer of these statutory duties.

*Prohibition against Discharge.—*

Section 8127(e) provides that the “employer shall not take any adverse action against any individual solely because his wages, salaries or commissions have been attached.” The form of the writ of attachment advises the employer of this obligation as well.

The new rules require the intervention of the court in two circumstances. First, if the defendant files a claim for exemption on the ground that his or her income is below the federal poverty income guidelines or that the attachment will bring his or her income below the federal poverty income guidelines, the plaintiff may dispute the claim by filing a motion requesting the court to direct the prothonotary to issue a writ of attachment of wages. The motion must set forth facts which establish that the plaintiff is entitled to attach wages pursuant to Section 8127(a)(3.1) of the Judicial Code. Second, the defendant may file a motion to stay or vacate the attachment on other grounds of exemption from attachment, including the ground of being an abused person or victim.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 06-53. Filed for public inspection January 13, 2006, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 5]

**Order Promulgating New Rule 150 and Amending  
Rules 536 and 543; No. 335 Criminal Procedural  
Rules; Doc. No. 2**

The Criminal Procedural Rules Committee has prepared a Final Report explaining the December 30, 2005 promulgation of new Rule of Criminal Procedure 150 and the amendments to Rules of Criminal Procedure 536 and 543. The changes, which will be effective August 1, 2006,

establish the procedures to be followed after a bench warrant is executed in a court case. The Final Report follows the Court's Order.

### Order

*Per Curiam:*

Now, this 30th day of December, 2005, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 34 Pa.B. 1429 (March 13, 2004) and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 841), and a Final Report to be published with this *Order*:

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

(1) New Rule of Criminal Procedure 150 is promulgated; and

(2) Rules of Criminal Procedure 536 and 543 are amended, all in the following form.

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

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

### Annex A

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

##### PART E. Miscellaneous Warrants

##### Rule 150. Bench Warrants.

(A) In a court case when a bench warrant is executed, the case is to proceed in accordance with the following procedures.

(1) When a defendant or witness is arrested pursuant to a bench warrant, he or she shall be taken without unnecessary delay for a hearing on the bench warrant. The hearing shall be conducted by the judicial officer who issued the bench warrant, or, another judicial officer designated by the president judge or by the president judge's designee to conduct bench warrant hearings.

(2) In the discretion of the judicial officer, the bench warrant hearing may be conducted using two-way simultaneous audio-visual communication.

(3) When the individual is arrested in the county of issuance, if the bench warrant hearing cannot be conducted promptly after the arrest, the defendant or witness shall be lodged in the county jail pending the hearing. The authority in charge of the county jail promptly shall notify the court that the individual is being held pursuant to the bench warrant.

(4) When the individual is arrested outside the county of issuance, the authority in charge of the county jail promptly shall notify the proper authorities in the county of issuance that the individual is being held pursuant to the bench warrant.

(5) The bench warrant hearing shall be conducted without unnecessary delay after the individual is lodged in the jail of the county of issuance on that bench warrant.

(a) When the bench warrant is issued by the supervising judge of a “multi-county” investigating grand jury, the individual shall be detained only until the supervising judge is available to conduct the bench warrant hearing.

(b) In all other cases, the individual shall not be detained without a bench warrant hearing on that bench warrant longer than 72 hours, or the close of the next business day if the 72 hours expires on a non-business day.

(6) At the conclusion of the bench warrant hearing following the disposition of the matter, the judicial officer immediately shall vacate the bench warrant.

(7) If a bench warrant hearing is not held within the time limits in paragraph (A)(5)(b), the bench warrant shall expire by operation of law.

(B) As used in this rule, "judicial officer" is limited to the magisterial district judge or common pleas court judge who issued the bench warrant, or the magisterial district judge or common pleas court judge designated by the president judge or by the president judge's designee to conduct bench warrant hearings, or in Philadelphia, trial commissioners.

**Comment**

This rule addresses only the procedures to be followed after a bench warrant is executed, and does not apply to execution of bench warrants outside the Commonwealth, which are governed by the extradition procedures in 42 Pa.C.S. § 9101 et seq., or to warrants issued in connection with probation or parole proceedings.

Paragraph (A)(2) permits the bench warrant hearing to be conducted using two-way simultaneous audio-visual communication, which is a form of advanced communication technology. See Rule 103. Utilizing this technology will aid the court in complying with this rule, and in ensuring individuals arrested on bench warrants are not detained unnecessarily.

Once a bench warrant is executed and the defendant is taken into custody, the bench warrant no longer is valid.

To ensure compliance with the prompt bench warrant hearing requirement, the president judge or the president judge's designee may designate only a magisterial district judge to cover for magisterial district judges or a common pleas court judge to cover for common pleas court judges. See also Rule 132 for the temporary assignment of magisterial district judges. In Philadelphia, the current practice of designating trial commissioners to conduct bench warrant hearings is acknowledged in paragraph (B).

It is expected that the practices in some judicial districts of a common pleas court judge (1) indicating on a bench warrant the judge has issued that the bench warrant is a "judge only" bench warrant, or (2) who knows he or she will be unavailable asking another common pleas court judge to handle his or her cases during the common pleas court judge's absence, would continue.

Paragraph (A)(5)(a) recognizes the procedural and substantive differences between "multi-county" investigating grand jury proceedings and all other proceedings in the court of common pleas, including a county investigating grand jury, by eliminating the time limit for conducting the bench warrant hearing when the bench warrant is issued by the multi-county investigating grand jury supervising judge. See Rules 240—244 and 42 Pa.C.S. § 4544. When the supervising judge issues a bench warrant, the bench warrant hearing must be conducted expeditiously when the supervising judge is available.

Paragraph (A)(6) requires the judicial officer to vacate the bench warrant at the conclusion of the bench warrant hearing. The current practice in some judicial districts of having the clerk of courts cancel the bench warrant upon receipt of a return of service is consistent with this paragraph, as long as the clerk of courts promptly provides notice of the return of service to the issuing judge.

It is incumbent upon the president judge or the president judge's designee to establish procedures for the monitoring of the time individuals are detained pending their bench warrant hearing.

For the procedures concerning violation of the conditions of bail, see Chapter 5 Part C.

As used in this rule, "court" includes magisterial district judge courts.

For the bench warrant procedures in summary cases, see Rules 430(B) and 431(C).

For the arrest warrants that initiate proceedings in court cases, see Chapter 5, Part B(3)(a), Rules 513, 514, 515, 516, 517, and 518. For the arrest warrants that initiate proceedings in summary cases, see Chapter 4, Part D(1), Rules 430(A) and 431(B).

**Official Note:** Adopted December 30, 2005, effective August 1, 2006.

*Committee Explanatory Reports:*

Final Report explaining new Rule 150 providing procedures for bench warrants published with the Court's Order at 36 Pa.B. 184, 2006 (January 14, 2006).

**CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES**

**PART C(2). General Procedures in all Bail Cases**

**Rule 536. Procedures Upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety.**

(A) SANCTIONS

(1) Revocation of Release

\* \* \* \* \*

(b) When a violation of a condition occurs, the bail authority may issue a **bench warrant** for the defendant's arrest. **When the bench warrant is executed, the bench warrant proceedings shall be conducted pursuant to Rule 150.**

\* \* \* \* \*

(d) [ **When the arrest warrant issued pursuant to paragraph (A)(1)(b) is executed, the defendant shall not be released except upon order of the person who issued the warrant, or, if that person is unavailable, upon order of the president judge of the judicial district or a judge designated by the president judge.**

(e) ] When the bail authority changes the conditions of the bail bond and/or revokes the defendant's release, the bail authority shall state in writing or on the record the reasons for so doing.

(2) Forfeiture

\* \* \* \* \*

(e) When a [ **district justice** ] **magisterial district judge** orders bail forfeited pursuant to this rule, the [ **district justice** ] **magisterial district judge** shall generate a check in the amount of the bail monies he or she has on deposit in the case, and shall send the check and a copy of the docket transcript to the clerk of courts for processing and disbursement as provided by law.

\* \* \* \* \*

**Comment**

\* \* \* \* \*

**Paragraph (A)(1)(b) was amended and paragraph (A)(1)(d) was deleted in 2005 to make it clear that a warrant for the arrest of the defendant for failure to comply with a condition of bail is a bench warrant. For the procedures when a paragraph (A)(1)(b) bench warrant is executed, see Rule 150 (Bench Warrants).**

Once bail has been modified by a common pleas judge pursuant to Rule 529, only the common pleas judge subsequently may change the conditions of release, even in cases that are pending before a [ **district justice** ] **magisterial district judge**. See Rules 543 and 529.

\* \* \* \* \*

**Official Note:** Former Rule 4016 adopted July 23, 1973, effective 60 days hence, replacing prior Rule 4012; Comment revised January 28, 1983, effective July 1, 1983; rescinded September 13, 1995, effective January 1, 1996, and replaced by Rule 4016. Present Rule 4016 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 536 and Comment revised March 1, 2000, effective April 1, 2001; amended March 3, 2004, effective July 1, 2004; Comment revised August 24, 2004, effective August 1, 2005; **amended December 30, 2005, effective August 1, 2006.**

*Committee Explanatory Reports:*

\* \* \* \* \*

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

\* \* \* \* \*

**Final Report explaining the December 30, 2005 amendments concerning bench warrants published with the Court's Order at 36 Pa.B. 184 (January 14, 2006).**

**PART D. Proceedings in Court Cases Before Issuing Authorities**

**Rule 543. Disposition of Case at Preliminary Hearing.**

\* \* \* \* \*

(D) In any case in which the defendant fails to appear for the preliminary hearing:

\* \* \* \* \*

(2) If the issuing authority finds that the defendant's absence is without good cause and after notice, the absence shall be deemed a waiver by the defendant of the right to be present at any further proceedings before the issuing authority. In these cases, the issuing authority shall:

\* \* \* \* \*

(c) if the case is held for court or if the preliminary hearing is continued, issue a **bench** warrant for the arrest of the defendant.

(3) When the issuing authority issues a **bench** warrant pursuant to paragraph (D)(2)(C), the issuing authority retains jurisdiction to dispose of the warrant until:

\* \* \* \* \*

Upon receipt of notice that the arraignment has occurred or a bench warrant has been issued, the issuing authority promptly shall recall and cancel the issuing authority's **bench** warrant.

**Comment**

\* \* \* \* \*

When a defendant fails to appear for the preliminary hearing, before proceeding with the case as provided in paragraph (D), the issuing authority must determine (1) whether the defendant received notice of the time, date, and place of the preliminary hearing either in person at a preliminary arraignment as provided in Rule 540 [ **(E)** ] **(F)(2)** or in a summons served as provided in Rule 511, and (2) whether the defendant had good cause explaining the absence.

\* \* \* \* \*

Paragraph (D)(2)(c) requires the issuing authority to issue [ **an arrest** ] a **bench** warrant if the case is held for court or when the preliminary hearing is continued.

Pursuant to paragraph (D)(3), the defendant must be taken before the issuing authority for resolution of the **bench** warrant, counsel, and bail in those cases in which a defendant is apprehended on the issuing authority's **bench** warrant prior to the arraignment or the issuance of a common pleas judge's bench warrant. **See Rule 150 for the procedures in a court case after a bench warrant is executed.**

\* \* \* \* \*

**Official Note:** Original Rule 123, adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 123 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 143 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 142 October 8, 1999, effective January 1, 2000; renumbered Rule 543 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; **amended December 30, 2005, effective August 1, 2006.**

*Committee Explanatory Reports:*

\* \* \* \* \*

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

\* \* \* \* \*

**Final Report explaining the December 30, 2005 changes adding references to bench warrants published with the Court's Order at 36 Pa.B. 184 (January 14, 2006).**

**FINAL REPORT<sup>1</sup>*****New Pa.R.Crim.P. 150, Amendments to Pa.Rs.Crim.P. 536 and 543*****Procedures when Bench Warrant is Issued**

On December 30, 2005, effective August 1, 2006, upon the recommendation of the Criminal Procedural Rules Committee, the Court adopted new Pa.R.Crim.P. 150 (Bench Warrants) and amended Pa.Rs.Crim.P. 536 (Procedures Upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety) and 543 (Disposition of Case at Preliminary Hearing). The changes establish the procedures to be followed after a bench warrant is executed in a court case.

**I. INTRODUCTION**

The Criminal Procedural Rules Committee undertook consideration of a separate bench warrant rule in response to the Committee's review of the bench warrant and arrest warrant forms being developed for use by the Common Pleas Case Management System (CPCMS) and some questions from the CPCMS Staff concerning bench warrants. In particular, they asked whether there should be a time limit on how long a defendant may be confined after being arrested on the bench warrant before being brought before a judge for a bench warrant hearing similar to what is occurring in some judicial districts. During this consideration, the members opined, based on their own experiences representing clients who have been the subject of bench warrants, that bench warrant practice is one area of criminal practice that is fraught with abuses, particularly with regard to the time the arrested individual spends in custody pending a bench warrant hearing. They have found that frequently the judge who issues the bench warrant is not given notice that the individual has been arrested on that bench warrant, there does not appear to be a procedure for scheduling the bench warrant hearing, and if there is a scheduling procedure, rarely does it provide for a prompt hearing. The members also noted because there are no statewide bench warrant rules, there has been a proliferation of local bench warrant rules and practices.<sup>2</sup>

The Committee also researched other states' rules and statutes to see whether there are any "model" bench warrant rules and what provisions these rules or statutes include. We found very few rules or statutes governing bench warrants specifically, with most only providing procedures for arrest warrants in general. The Committee also reviewed all the Pennsylvania Rules of Procedure and found that only Pa.R.C.P. 1910.13-1 (Failure or Refusal to Appear Pursuant to Order of Court. Bench Warrant) sets forth procedures following the issuance of a bench warrant.<sup>3</sup>

After completing our review and thoroughly discussing the issue, the Committee agreed there should be a new Rule of Criminal Procedure governing the procedures

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

<sup>2</sup> In many of these cases, in implementing the local rules and practices, the judicial districts have not complied with Rule 105 (Local Rules) making the local rules difficult to find and monitor.

<sup>3</sup> Rule 1910.13-1 provides, *inter alia*,

(c) Upon appearance in court by a party on the matter underlying the bench warrant, the bench warrant shall be vacated forthwith and the notice shall be given to all computer networks into which the bench warrant has been entered.

(d) The bench warrant shall direct that if the court is unavailable at the time of the party's arrest, the party shall be lodged in the county jail until such time as court is opened for business. The authority in charge of the county jail must promptly notify the sheriff's office and the director of the domestic relations section that defendant is being held pursuant to the bench warrant. Under no circumstances shall the party remain in the county jail longer than seventy-two hours prior to hearing.

following the issuance of a bench warrant. The members also agreed the proposed new rule, as more fully explained below, should:

- apply both to defendants and witnesses, including investigating grand jury witnesses;
- make clear that magisterial district judges would proceed under this new rule only when handling court cases, otherwise they would proceed under the summary case bench warrant rule procedures, Rules 430 and 431;
- ensure the court receives notice when an individual is arrested on a bench warrant;
- require that the magisterial district judge or common pleas court judge who issued the bench warrant is the judicial officer before whom the defendant or witness should be taken when arrested;
- provide a procedure for coverage when these "issuing authorities" are unavailable, and that should be accomplished by the president judge or the president judge's designee designating another magisterial district judge or common pleas court judge to provide coverage;
- make clear that only another magisterial district judge may cover for a magisterial district judge and only another common pleas court judge may cover for a common pleas court judge;
- require that individuals arrested on a bench warrant must be brought before the issuing magisterial district judge or common pleas court judge or designated magisterial district judge or common pleas court judge as soon as reasonably possible following the arrest and establish time limits on the detention of an individual without a bench warrant hearing;
- encourage the use of advanced communication technology for the bench warrant hearing, a tool that will be helpful in ensuring prompt bench warrant hearings;
- provide that the bench warrant be vacated at the conclusion of the bench warrant hearing;
- not address when bench warrants may be issued.<sup>4</sup>

**II. DISCUSSION****A. Placement**

The new bench warrant rule was placed in the general provisions section of the rules, Chapter 1, because the rule applies to bench warrants issued by both judges of the common pleas court in court cases and magisterial district judges when handling a court case. In order to accommodate warrants in this Chapter, a new subsection, Part E, has been created. This new subsection is titled "Miscellaneous Warrants." The Committee reasoned the new section should not be limited to bench warrants, but should be broad enough in scope to address procedures related to other types of warrants that are not for instituting proceedings,<sup>5</sup> if such other rule procedures become necessary or desirable. The new bench warrant rule is the first rule in this new subsection, numbered Rule 150.

<sup>4</sup> In discussing this issue, the members noted there are so many instances when the judiciary issue bench warrants that it would be impossible to adequately address this in a rule. At the same time, some members expressed concerns that in some cases, bench warrants are being issued in inappropriate situations. Ultimately, after concluding that with the time limits being built into the new rule, judges will pay more attention to when they issue bench warrants, the Committee agreed the new rule should cover only the procedures once a bench warrant has been executed.

<sup>5</sup> The procedures for instituting criminal proceedings by arrest warrant are governed by Rules 430 and 431 in summary cases and Rules 513-518 in court cases.

## B. *New Pa.R.Crim.P. 150*

### 1. *Scope*

New Rule 150 applies to warrants in court cases that do not institute proceedings, called “bench warrants,” and sets forth the procedures to follow after a bench warrant is executed.<sup>6</sup> In addition, the rule applies to bench warrants for both defendants and witnesses, including investigating grand jury witnesses. The rule, however, does not apply to bench warrants executed outside the Commonwealth, which are covered by the extradition procedures in 42 Pa.C.S. § 9101 et seq., or to warrants issued in probation and parole proceedings.

### 2. *Terminology*

The Committee discussed, in the context of a bench warrant proceeding, how to refer to the magisterial district judges and common pleas court judges who would issue bench warrants and preside at bench warrant hearings. We considered and rejected using “issuing authority,” because this term has a long history in the rules as being applicable to the judicial officer who either issues process to institute proceedings, issues search warrants, or presides over summary proceedings. Because some members expressed concern about the potential confusion using “issuing authority” in the Rule 150 bench warrant context would cause, the Committee agreed instead to use “judicial officer” to encompass the presiding magisterial district judge or common pleas court judge who issued the bench warrant or the magisterial district judge or common pleas court judge designated by the president judge to conduct the bench warrant hearings when either the presiding magisterial district judge or the presiding common pleas court judge is unavailable. The use of “judicial officer” in Rule 150 is explained in paragraph (B).

### 3. *Paragraph (A)*

Paragraph (A) establishes the scope of the rule “when a bench warrant is executed,” and enumerates the procedures to follow after the execution of the bench warrant.

Paragraph (A)(1) requires that the individual arrested on a bench warrant be taken without unnecessary delay for a bench warrant hearing before the judicial officer who issued the bench warrant. To ensure there are prompt bench warrant hearings, paragraph (A)(1) also includes the requirement that the president judge, or the president judge’s designee, designate a “replacement” judicial officer to conduct the hearing if the issuing judicial officer is unavailable. The fifth paragraph of the Comment favorably acknowledges the practice in some judicial districts of permitting a judge who will be unavailable to make arrangements with another judge to handle his or her cases while the judge is unavailable.

Paragraph (A)(2) encourages the use of “two-way simultaneous audio-visual communication” to conduct the bench warrant hearing. This technology is another means of ensuring prompt bench warrant hearings, especially in situations in which an individual is arrested on a bench warrant in another county. The second paragraph of the Comment explains the two-way simultaneous audio-visual communication is a form of “advanced communication technology” as defined in Rule 103.

Paragraphs (A)(3) and (A)(4) set forth procedures when the individual is arrested on the bench warrant. When the arrest is made in the county of issuance, paragraph (A)(3) requires that the arrested individual be lodged in

the county jail pending the hearing and the authority in charge of the jail promptly must notify the court of the arrest and detention. If the individual is arrested outside the county of issuance, paragraph (A)(4) requires that the authority in charge of the county jail in which the individual is lodged promptly notify the proper authorities in the county of issuance. Although ideally all bench warrant hearings should be conducted promptly after the individual is arrested, the Committee recognized the demands on the courts do not always afford this opportunity. At the same time, the Committee noted that, under current practices, frequently, when a hearing cannot be conducted “promptly after the arrest,” arrested individuals remain incarcerated for long periods of time without receiving a bench warrant hearing. Based on our research, the members’ own experiences in practice, and the other information we gathered, the Committee concluded that some time limits on the post-bench warrant arrest detention should be established. In considering what kind of time limits to establish, the Committee extensively debated the impact of any time limits on these cases, noting in particular the differences between cases in which the individual is arrested within the county of issuance and cases in which the individual is arrested outside the county of issuance. Taking note of the scheduling demands in the judicial districts, as well as the fact that the 72-hour time limit in Pa.R.C.P. 1910.13-1(d), to our knowledge, has not created an undue burden on the judicial districts, the Committee agreed this time limit is reasonable in the cases in which the individual is arrested within the county of issuance. The Committee also discussed at length whether to accommodate the scenario in which the 72 hours ends on a holiday or weekend. Although concerned about building into the rule any unnecessary delay, the Committee realized judicial resources would not be able to provide adequate coverage during these time periods, and ultimately agreed the 72-hour limit would be extended to the next business day when the 72 hours expires on a non-business day. See paragraph (A)(5)(b).

A more complicated issue concerned the situation when the individual is arrested outside the judicial district of issuance. The members expressed concern that the 72-hour time limit was unrealistic given the difficulties in some cases of retrieving an individual from another judicial district, particularly when the judicial district of arrest is a great distance away from the judicial district of issuance. Initially, the Committee considered a 144-hour time limit would be reasonable and would provide sufficient time for the judicial district of issuance to make arrangements for the individual’s return without unnecessarily prolonging the individual’s detention. Ultimately, after a lengthy debate and after reviewing the publication responses questioning the practicality of such a provision, the Committee determined that the 72-hour time-limit should apply to both in-county and out-of-county bench warrant arrests, but in out-of-county bench warrant arrests, the time would begin to run from the time the individual is lodged in the jail of the county of issuance. See paragraph (A)(5)(b).

In response to some publication comments, the Committee examined the practices of the multi-county and statewide investigating grand juries. The correspondents had noted that the supervising judge is rarely available when the grand jury is not in session and rarely is from the judicial district in which the grand jury is convened. In addition, given the nature of the investigating grand jury and the confidentiality of its proceedings, it would be inappropriate to have a substitute judge designated the

<sup>6</sup> See Rules 430(B) and 431(C) for the procedures for bench warrants in summary cases.

judge to conduct these bench warrant hearings. In view of these considerations, the Committee agreed to exempt the multi-county and statewide investigating grand juries from the 72-hour time limit in Rule 150, but to require that the bench warrant hearing be conducted expeditiously after the supervising judge is available. See paragraph (A)(5)(a). Further elaboration concerning grand juries and bench warrants is set forth in the sixth paragraph of the Comment.

Paragraph (A)(6) is taken from Civil Rule 1910.13-1(c), and requires that the bench warrant be vacated at the conclusion of the bench warrant hearing following the disposition of the matter. The Committee agreed a comparable provision in the Criminal Rules' bench warrant rule that would require the judicial officer to dispose of the bench warrant proceeding as well as vacate the warrant makes sense in view of the ongoing problems concerning adequate warrant controls and ensuring defunct warrants are removed from the national computer systems. The Comment reiterates that once the bench warrant is executed and the individual is taken into custody, the bench warrant is no longer valid. In addition, the Comment recognizes the existing practice in some judicial districts of having the clerk of courts cancel the bench warrant when he or she receives a return of service, but cautions in these circumstances, the clerk promptly must provide notice of the return of service to the judge who issued the warrant.

Another issue the Committee had some difficulty with concerned what should occur when the time limits in paragraph (A)(5)(b) expire. The Committee majority agreed that, to have any "teeth," the rule should include an automatic release from custody at the expiration of the time limit, and to accomplish this, the rule should provide that the bench warrant expires by operation of law. See paragraph (A)(7). A related issue that concerned the members was how to ensure the court knows the individual is eligible for release and is released promptly when the time limit expires. The Committee agreed it is the responsibility of someone in the court system—judge, court administrator, clerk of courts, or even counsel—to monitor the time and make sure the jail is told to release the individual. This point is emphasized in the eighth paragraph of the Comment.

Finally, the Comment also includes (1) cross-references to the summary case bench warrant rules, Rules 430(B) and 431(C); to the summary case and court case rules governing arrest warrants that initiate proceedings to clearly distinguish those procedures from the new bench warrant procedures; and to Chapter 5 Part B concerning violation of the conditions of bail; and (2) an explanation that "court" as used in Rule 150 is not limited to courts of record but also includes magisterial district judge courts.

### III. CORRELATIVE CHANGES

#### A. Rule 536

As the Committee was working on Rule 150, the issue of bail frequently arose, with the members concerned about how Rule 150 would work in conjunction with Rule 536 (Procedures Upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety). Of particular concern was Rule 536(A)(1)(b) and (d), which provide, inter alia, that the bail authority may issue a warrant for the defendant's arrest and the defendant would not be released except upon order of the issuing bail authority or, if unavailable, the order of the president judge or the president judge's designee. The

Committee reviewed the rule history. In the January 1973 Submission Statement to the Court, the Committee explained

Rule 4016 [now 536] authorizes the issuing authority or court to issue "appropriate process" e.g.; a warrant, to bring the defendant before it, an aspect of procedure entirely overlooked by the present Rules. The term "bench warrant" was explicitly avoided by your Committee and use made of "appropriate process" because it was felt that the term "bench warrant" might be thought by some as applicable only to the power of judges of courts of record. This is only a point of nomenclature, however, and there is no question that the effect of any such warrant or process would be the same.

In view of this rule history and the fact that Rule 150 makes it clear the bench warrant may be issued by both magisterial district judges and judges of the courts of common pleas in court cases, Rule 536(A)(1)(b) has been amended to make it clear that the warrant being issued is a bench warrant. In addition, a second sentence has been added to paragraph (A)(1)(b) explaining that "when the bench warrant is executed, the bench warrant proceedings shall be pursuant to Rule 150."

Because Rule 150(A)(1) sets forth the requirements that the issuing judge or a designated issuing judge must conduct the bench warrant hearing, Rule 536(A)(1)(d) has been deleted as no longer necessary.

#### B. Rule 543

Rule 543 provides the procedures when a defendant fails to appear for a preliminary hearing. Paragraph (D)(2)(c) requires the issuing authority to "issue a warrant for the arrest of the defendant." This warrant is a bench warrant within the context of Rule 150. Accordingly, all the references to "warrants" in Rule 543 have been changed to "bench warrants." In addition, a cross-reference to Rule 150 has been added to the Rule 543 Comment.

[Pa.B. Doc. No. 06-54. Filed for public inspection January 13, 2006. 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

#### [237 PA. CODE CHS. 1, 3, 6 AND 8]

#### Order Approving Changes to Rules of Juvenile Court Procedure, Rules 120, 160, 373, 610, and 800; No. 381 Supreme Court Rules; Doc. No. 1

The Supreme Court of Pennsylvania has adopted a few minor technical changes to the Rules of Juvenile Court Procedure—Delinquency Matters. These changes are explained in the Explanatory Report, which follows the Court's Order.

#### Order

*Per Curiam:*

*And Now,* this 30th day of December, 2005, upon the recommendation of the Juvenile Court Procedural Rules Committee and an Explanatory Report to be published with this *Order*:

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

Rules of Juvenile Court Procedure, Rules 120, 160, 373, 610, and 800 are approved in the following form.

To the extent that prior distribution and publication of these amendments would otherwise be required, it has been determined that immediate promulgation of the amendments is required in the interests of justice and efficient administration.

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

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 120. Definitions.

\* \* \* \* \*

VERIFICATION is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

\* \* \* \* \*

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

Rule 160. Inspection of Juvenile File/Records.

All files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166, are open to inspection only by:

\* \* \* \* \*

10) the State Sexual Offenders Assessment Board for use in completing assessments; and

11) with leave of court, any other person, agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

\* \* \* \* \*

CHAPTER 3. PRE-ADJUDICATORY PROCEDURES

PART E. CONSENT DECREE

Rule 373. Conditions of Consent Decree.

\* \* \* \* \*

Comment

\* \* \* \* \*

Paragraph (B) [ departs from the Juvenile Act, 42 Pa.C.S. § 6340(c), in that an agreement for a consent decree of less than six months is allowed ] requires a motion to be filed for early dismissal from consent decree. The procedures of Rule 344 are to be followed to ensure all parties are properly notified of the request and appropriate objections can be made. Rule 800 suspends 42 Pa.C.S. § 6340(c) only to the extent that there is an additional requirement that a motion is to be filed. See Rule 800.

\* \* \* \* \*

CHAPTER 6. POST-DISPOSITIONAL PROCEDURES

PART B. MODIFICATIONS, REVIEWS, AND APPEALS

Rule 610. Dispositional and Commitment Review.

\* \* \* \* \*

Comment

Under paragraph (A), the court may hold a review hearing at any time; however, if the juvenile is removed from the home, the court is to conduct a hearing at least every six months. See Rule 800.

\* \* \* \* \*

CHAPTER 8. SUSPENSIONS

Rule 800. Suspensions of Acts of Assembly.

This rule provides for the suspension of the following Acts of Assembly that apply to delinquency proceedings only:

\* \* \* \* \*

13) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6340(c), which provides consent decree shall remain in force for six months unless the child is discharged sooner by probation services with the approval of the court, is suspended only insofar as the Act is inconsistent with the requirement of Rule 373 that a motion for early discharge is to be made to the court.

14) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335, which provides for a hearing within ten days of the juvenile's detention unless the exceptions of (a)(1) & (2) or (f) are met, is suspended only insofar as the Act is inconsistent with Rule 391, which provides for an additional ten days of detention if a notice of intent for transfer to criminal proceedings has been filed.

15) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6353(a), which requires dispositional review hearings to be held at least every nine months, is suspended only insofar as it is inconsistent with the requirement of Rule 610, which requires dispositional review hearings to be held at least every six months when a juvenile is removed from the home.

\* \* \* \* \*

Recommendation No. 1 Juvenile Rules 2005 Explanatory Report

The following changes to the Rules of Juvenile Court Procedure are technical or were unintentional omissions.

I. RULE 120 ADDITION

In Rules 232(10) and 330(10), the Committee uses the term "verification." Once the Rules were published, the Committee was asked by several practitioners and organizations what was meant by verification. The Committee has now defined verification in Rule 120.

II. RULE 160 ADDITION

After the Committee had sent its initial recommendation to the Court for the Rules of Juvenile Court Procedure, the Juvenile Act was amended in 2004 to allow the State Sexual Offenders Assessment Board access to juvenile records. Because the Committee followed the Juvenile Act in determining who has access to juvenile records, the Committee has now added this Board to the list of enumerated persons having access to juvenile records.



### III. RULES 373 AND 800 CHANGES

The Committee unintentionally left out a suspension of Act of Assembly which was the result of Rule 373. The Committee has clarified the suspension in the Comment to this Rule. The Committee also has added this suspension to Rule 800.

### IV. RULES 610 AND 800 CHANGES

The Committee unintentionally left out a suspension of Act of Assembly which was the result of Rule 610. The Committee has added the additional suspension to Rule 800 and a reference to the suspension was added to the Comment of Rule 610.

[Pa.B. Doc. No. 06-55. Filed for public inspection January 13, 2006, 9:00 a.m.]

## Title 249—PHILADELPHIA RULES

### PHILADELPHIA COUNTY

#### Adoption of Philadelphia Traffic Court Local Rule No. 1036; Administrative Order 01 of 2006

##### Order

*And Now*, this 3rd day of January, 2006, pursuant to Pa.R.Crim.P. 105 and Pa.R.Crim.P. 1030 et seq., Philadelphia Traffic Court Local Rule No. 1036, which follows this order, is adopted, and shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The original Administrative Order shall be filed with the Prothonotary in a docket maintained for Administrative Orders issued by the Administrative Judge of the Philadelphia Traffic Court, and copies shall be submitted to the Administrative Office of Pennsylvania Courts, the Legislative Reference Bureau, the Criminal Procedures Rules Committee, and the Minor Court Rules Committee. Copies of the Order shall also be submitted to American Lawyer Media, *The Legal Intelligencer*, Jenkins Memorial Law Library, and the Law Library for the First Judicial District of Pennsylvania.

*By the Court*

BERNICE DEANGELIS,  
*Administrative Judge  
Traffic Court*

#### LOCAL RULE 1036. TRAFFIC COURT HEARING OFFICERS

**(a) Qualifications.** Traffic Court Hearing Officers shall be knowledgeable with the Pennsylvania Motor Vehicle Code and the Pennsylvania Rules of Criminal Procedure, and any other rules or laws which control the issuance, processing and disposition of citations issued pursuant to the Motor Vehicle Code, including these Local Rules, shall complete an initial course of training and instruction of not less than thirty-five (35) hours as may be established from time to time by the Administrative Judge of the Traffic Court, shall possess such experience and educational requirements as may be established from time to time by the Administrative Judge of the Traffic Court, and must pass a written examination and be certified by the Administrative Office of Pennsylvania Courts prior to assuming office. Attendance at training courses conducted by or on behalf of the Minor Judiciary Education Board may satisfy the training and instructional requirements.

**(b) Continuing Education.** Traffic Court Hearing Officer shall complete a continuing education program each year equivalent to not less than twenty (20) hours per year in such courses or programs as may be established from time to time by the Administrative Judge of the Traffic Court. Attendance of continuing education courses conducted by or on behalf of the Minor Judiciary Education Board may satisfy the continuing education requirement. Failure to meet the continuing education requirements on a yearly basis shall result in the Hearing Officer being suspended, without pay, until such time as the continuing education requirements are met.

**(c) Duties.** As authorized by Pa.R.Crim.P. 1036 (A), Traffic Court Hearing Officers are authorized to perform the following duties:

(1) set collateral consistent with Pa.R.Crim.P. 452 and 1034;

(2) establish or re-establish payment plans consistent with Pa.R.Crim.P. 456;

(3) conduct warrant hearings as provided in Local Rule 1033. At the conclusion of the warrant hearing, the Hearing Officer shall:

(i) if it appears that a summary trial can be held immediately, forward the case to a Traffic Court judge for an immediate summary trial;

(ii) if it appears that a summary trial cannot be held immediately, schedule a summary trial date and serve the notice on the defendant and determine whether collateral must be posted by the defendant to secure defendant's release pending the summary trial. The Scheduling Orders shall be substantially as set forth in Local Rule 1033;

(iii) release the defendant unless collateral has been ordered and is not posted. If collateral is ordered and is not posted, the defendant shall be brought to the county prison and held pending the summary trial or hearing. However, the defendant shall be released at any time before the summary trial or hearing when the collateral is posted; and

(iv) direct that all outstanding Traffic Court warrants against the defendant be withdrawn.

(4) such other duties as may, from time to time, be designed by the Administrative Judge of the Philadelphia Traffic Court through an amendment to this Local Rule.

*COMMENT: The Traffic Court Hearing Officer shall set collateral, pursuant to Pa.R.Crim.P. 1034, in a reasonable amount, i.e. an amount which upon consideration of the defendant's income and the defendant's expenses may be reasonably posted by the defendant. It is the intention of the court that most, if not all, defendants arrested pursuant to Traffic Court warrants will be released pending the date of the summary trial or hearing. However, should Traffic Court records disclose that the defendant has a history of failure to appear for Traffic Court summary trials or hearings, especially after personal service of the notice of trial or scheduling order, the defendant may be held until the summary trial or hearing date and may be released only upon payment of the full amount of collateral or outstanding fines. Should the defendant be ordered held until the date of the summary trial or hearing, the summary trial or hearing should be scheduled as soon as practical.*

[Pa.B. Doc. No. 06-56. Filed for public inspection January 13, 2006, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## SCHUYLKILL COUNTY

### Amended/Adopted Civil Rules of Procedure; S-2555 2005

#### Order of Court

And Now, this 27th day of December, 2005 at 1:15 p.m., the Court hereby approves and adopts Schuylkill County Civil Rules of Procedure No. 1915.4; hereby amends Schuylkill County Rules of Civil Procedure Nos. 1915.3, 1915.5, 1915.7, 1915.8, 1915.15; and hereby rescinds Schuylkill County Rules of Civil Procedure Nos. 1915.3A and 1915.3B. The rules are adopted and amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania (21st Judicial District) and shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

It is further *Ordered* that said rules as they existed prior to the amendment are hereby repealed and annulled on the effective date of said rules as amended, but no right acquired thereunder shall be disturbed.

*By the Court*

WILLIAM E. BALDWIN,  
*President Judge*

#### Rule 1915.3 Commencement of Action. Complaint. Order.

(a) The moving party shall file in the office of the Prothonotary an original and one (1) copy of all pleadings involving custody issues, including complaints, petitions for modifications, special relief or contempt and preliminary objections. The Prothonotary shall immediately transmit the original and copy to the Civil Court Administrator for assignment and scheduling. The Court Administrator will return the original to the Prothonotary and give the copy to the Conciliation Office, which will send to the moving party a copy of the scheduling order and a conciliation questionnaire. The moving party shall be responsible for service of a copy of the pleading, scheduling order and conciliation questionnaire upon all other parties pursuant to Pa.R.C.P. 402.

(b) If a custody claim is asserted in a divorce complaint, the moving party shall, after filing the divorce with the Prothonotary, provide two (2) copies, with the appropriate order attached as per Sch.R.C.P. 1915.15, to the Civil Court Administrator for assignment and scheduling. Thereafter the pleading will be processed and served as in subsection (a) hereof.

#### Rule 1915.4 Prompt Disposition of Custody Cases.

(a) The Court shall appoint one or more person(s) as Court Conciliation Officer(s) to:

- (1) conciliate custody cases filed with the Court;
- (2) recommend to the Court interim Orders in appropriate custody cases which shall be in the best interest of the child;
- (3) recommend appointment of counsel for the child;
- (4) recommend the ordering of home studies, psychologicals, or other evaluations by expert witnesses.

(b) All custody matters not specifically reserved to the Court shall be promptly scheduled for a conference before the Custody Conciliation Officer. All parties shall complete the Court's custody conciliation questionnaire and attend such conference. Failure of a party to appear at the conference may provide grounds for the entry of an Interim Order.

(c) To facilitate the conciliation process and encourage frank, open, and meaningful exchanges between the parties and their respective counsel, statements made by the parties, or their witnesses shall not be admissible as evidence in Court. The Custody Conciliation Officer may not be a witness for any party.

(d) More than one (1) conciliation conference may be scheduled by the Custody Conciliation Officer, as that Officer deems necessary to conciliate the matter.

(e) If the parties are able to reach an agreement during the conciliation conference, the Conciliation Officer will prepare a stipulation and submit it to the parties for their signature. Upon execution of the stipulation by all parties, the Conciliation Officer will also sign indicating his or her review and shall transmit the stipulation and a proposed order to the Court for approval.

(f) If at the conclusion of the conciliation process the case remains contested, the Custody Conciliation Officer shall transfer the case to the Court for assignment to a Judge. As part of that transfer, the Custody Conciliation Officer shall prepare and file a report to the Court, with copies to the parties. The report shall include such information about the case as shall be directed by the Court. Any report by the Conciliation Officer will be filed with the Prothonotary, who shall seal the report to all except the Court and the parties.

(g) If after receiving the Conciliation Officer's report, the Court orders the parties to submit to evaluations and/or studies, the parties shall promptly comply with the Court's direction regarding the payment for and scheduling of the evaluations and studies. Following receipt of the report(s) from the expert(s), the Court will promptly schedule another conference for the parties with the Conciliation Officer. If the parties reach an agreement at this conference, they may proceed in accordance with subsection (e) hereof. If no agreement is achieved, the Conciliation Officer will proceed pursuant to subsection (f) hereof and provide the Court and parties with a supplemental report.

(h) Unless the Conciliation Officer's report is recommending further expert evaluations, within twenty (20) days after receiving a copy of the Conciliation Officer's report to the Court, each party shall file a pretrial memorandum, which shall include the following:

- (1) a list of all fact witnesses;
- (2) a list of all expert witnesses;
- (3) issues for resolution;

- (4) estimated length of trial;
- (5) documentary reports from appropriate agencies;
- (6) reports of experts intended to be called as witnesses which the Custody Conciliation Officer did not previously have in Officer's possession; and
- (7) the manner to be utilized in presentation of expert witnesses or expert reports (i.e. stipulation of parties or presentation of testimony).

If the Conciliation Officer's report recommends further expert evaluations, the parties' pretrial memoranda shall be filed within twenty (20) days after receiving a copy of the Conciliation Officer's supplemental report. Failure to provide the information requested timely and completely prior to trial may be grounds for excluding the evidence or witnesses at trial.

(i) The Court will notify the parties of the time and date for trial or may elect to first schedule a pretrial conference.

**Rule 1915.5 Question of Jurisdiction or Venue. No Responsive Pleading by Defendant Required. Counterclaim.**

(a) Only the issues set forth in Pa.R.C.P. 1915.5(a) may be raised by way of preliminary objections. Filing of preliminary objections shall be as set forth in Sch.R.C.P. 1915.3, and thereafter shall be governed by Sch.R.C.P. 1028(c).

(b) If a question of jurisdiction or venue is raised prior to the conciliation conference, such objections shall be referred by the Custody Conciliation Officer to the Court for disposition.

(c) Counterclaims, crossclaims or answers shall be filed with the Prothonotary prior to the conciliation conference, and a copy provided to the Custody Conciliation Officer.

**Rule 1915.7 Consent Order.**

(a) If the parties are able to reach an agreement prior to the conciliation conference, they may file a petition requesting that a consent order be entered and include a proposed order. The order shall be substantially in the form of the custody stipulation utilized pursuant to Sch.R.C.P. 1915.4. The parties may be required to complete a questionnaire. The Court may, in its discretion, enter an order without taking testimony.

**Rule 1915.8 Physical and Mental Examination of Persons.**

(a) The Custody Conciliation Officer shall maintain and, on request, provide counsel and the parties with a list of psychiatrists, psychologists, social workers, counselors, and the like, who are available for consultation, evaluation, and testimony in custody matters.

(b) In the event that psychological studies, home studies or other evaluations are deemed necessary to a proper disposition of the matter and ordered by the Court, the cost of such studies may be assessed against the parties in a manner as determined by the Court after reviewing the report of the Custody Conciliation Officer following the conciliation conference. Such assessment will be based on what the Court believes to be in the best interest of the child and what will best facilitate the timely resolution of the matter, taking into consideration the parties' ability to pay.

**Rule 1915.15 Form of Complaint. Caption. Order. Petition to Modify a Partial Custody or Visitation Order.**

(a) In addition to the information required by Pa.R.C.P. 1915.15(a) and (b), each complaint or petition relating to

child custody or visitation shall have attached to its front an order in substantially the following form:

COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY  
TWENTY-FIRST JUDICIAL DISTRICT OF PENNSYLVANIA

Plaintiff : S \_\_\_\_\_  
: CIVIL ACTION - LAW  
vs. :  
:  
Defendant : CUSTODY

ORDER OF COURT

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_, at \_\_ m., it is hereby ORDERED as follows:

You have been sued in Court to obtain Custody, Partial Custody or Visitation of the child(ren) named in the Complaint. You are ordered to appear in person at the *Custody Conciliation Office*, Schuylkill County Courthouse, on \_\_\_\_\_ at \_\_\_\_\_ o'clock .m. for a Custody Conciliation Conference.

You are further ordered to bring with you the fully completed conciliation questionnaire provided by the Court.

If you fail to appear as provided by this Order, an Order of Custody, Partial Custody or Visitation may be entered against you or the Court may issue a Warrant for your arrest.

YOU SHOULD TAKE THIS PAPER (and the attached papers) TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Pennsylvania Bar Association Lawyer Referral Service  
100 South Street, P. O. Box 186, Harrisburg PA 17108  
1-800-692-7375

Counsel and litigants without counsel are ORDERED to *immediately* consult their schedules for conflicts and to promptly request a continuance where necessary because of a prior attachment or emergency situation. All requests for a continuance of a Custody Conciliation Conference must be made on the APPLICATION FOR CONTINUANCE form available from the offices of the Court Administrator, Custody Conciliator or Prothonotary in the Schuylkill County Courthouse. The application must be filed in the Custody Conciliation Office. A continuance will be granted only upon good cause shown.

The moving party shall immediately serve on all interested parties a copy of the original pleading, this order and a custody conciliation questionnaire; and shall further file an affidavit verifying service.

Americans With Disabilities Act of 1990: The Court of Common Pleas of Schuylkill County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference or hearing.

BY THE COURT  
\_\_\_\_\_ J.

[Pa.B. Doc. No. 06-57. Filed for public inspection January 13, 2006, 9:00 a.m.]

# DISCIPLINARY BOARD OF THE SUPREME COURT

## Notice of Disbarment

Notice is hereby given that Alan Lee Gallagher, having been disbarred from the practice of law in the State of Oregon by Order of the Supreme Court of the State of Oregon dated October 14, 2004, the Supreme Court of Pennsylvania issued an Order on December 22, 2005, disbaring Alan Lee Gallagher from the Bar of this Commonwealth, effective January 21, 2006. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 06-58. Filed for public inspection January 13, 2006, 9:00 a.m.]

## Notice of Suspension

Notice is hereby given that Merri R. Lane having been suspended from the practice of law in the State of New Jersey for a period of three months by Order of the Supreme Court of New Jersey dated April 5, 2005, the Supreme Court of Pennsylvania issued an Order dated December 29, 2005, suspending Merri R. Lane from the practice of law in this Commonwealth for a period of three months. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 06-59. Filed for public inspection January 13, 2006, 9:00 a.m.]

## Notice of Suspension

Notice is hereby given that Joel D. Tenenbaum having been suspended from the practice of law in the State of Delaware for a period of three years by Opinion and Order of the Supreme Court of the State of Delaware decided August 5, 2005, the Supreme Court of Pennsylvania issued an Order dated December 22, 2005, suspending Joel D. Tenenbaum from the practice of law in this Commonwealth for a period of three years, effective January 21, 2006. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 06-60. Filed for public inspection January 13, 2006, 9:00 a.m.]

## Notice of Suspension

Notice is hereby given that Richard R. Thomas, II, having been suspended from the practice of law in the State of New Jersey for a period of three years by Order of the Supreme Court of New Jersey dated May 3, 2005, the Supreme Court of Pennsylvania issued an Order dated December 29, 2005, suspending Richard R. Thomas, II, from the practice of law in this Commonwealth consistent with the Order of the Supreme Court of New Jersey dated May 3, 2005, to run concurrent with the suspension imposed by this Court on April 27, 2005. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 06-61. Filed for public inspection January 13, 2006, 9:00 a.m.]

## 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 29, 2005, 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 29, 2005 for Compliance Group 1 due April 30, 2005.

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.

Abbingtion, Brian  
Las Vegas, NV  
Amidon, Daniel W.  
Wheeling, WV  
Damaso, Ivan V.  
Long Island City, NY  
DeFranceschi, Gary M.  
Bridgewater, NJ  
Duncan, Michael  
Houston, TX  
Fleisig, Brian Elliot  
Pine Brook, NJ  
Gosse, Thomas J.  
Haddon Heights, NJ  
Healey-Smith, Lizanne  
Jackson, NJ  
Hitson, Charles Peter  
Hartford, Ct  
Houser, Janet Phinney  
Endicott, NY  
Howe, Patricia L.  
Phoenix, AZ

Kauffman, Richard Scott  
Whitehouse Station, NJ

Kaufman, James Benjamin  
Greenwood Village, CO

Kincaid, Brian W.  
Parsippany, NJ

Koury, Kristy Kathleen  
Wellington, FL

Lane, Merri R.  
Washington, DC

Malatesta Jr., David Charles  
Wilmington, DE

Matos-Manon, Dinorah  
New York, NY

Maziarz, Jeffrey C.  
Hamilton, NJ

Nwamu, Fidel D.  
Berkeley, CA

Parker, Phillip G.  
Cherry Hill, NJ

Perez, Elayne Marie  
Celebration, FL

Plivelic, Karyn Lynn  
San Marcos, CA

Purtell, Thomas W. J.  
San Francisco, CA

Sadler, Linda Carol  
Arlington, VA

Schrader, Patricia L.  
St. Croix, USVI

Shahan, Steven C.  
Syracuse, NY

Shuster, Scott Lawrence  
Cherry Hill, NJ

Simpson Jr., Edward Bell  
San Francisco, CA

Stahl, Caroline Krastek  
Medford, NJ

Tarpine III, Joseph Charles  
Baltimore, MD

Trachtman, Gary Stewart  
Linwood, NJ

Waitz-Moskowitz, Rachelle  
Cherry Hill, NJ

Weber, Andrew  
Mount Laurel, NJ

Wheatcroft, Melissa  
Cherry Hill, NJ

Wright, Lynn  
New York, NY

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

[Pa.B. Doc. No. 06-62. Filed for public inspection January 13, 2006, 9:00 a.m.]

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## SUPREME COURT

### Schedule of Holidays for Year 2007 for Staffs of the Appellate Courts and the Administrative Of- fice of Pennsylvania Courts; No. 281 Judicial Administration; Doc. No. 1

#### Order

*Per Curiam:*

*And Now*, this 28th day of December, 2005 it is hereby ordered that the following paid holidays for calendar year 2007 will be observed on the dates specified below by all employees of the appellate courts and the Administrative Office of Pennsylvania Courts:

January 1, 2007	New Year's Day
January 15, 2007	Martin Luther King, Jr. Day
February 19, 2007	Presidents' Day
April 6, 2007	Good Friday
May 28, 2007	Memorial Day (Observed)
July 4, 2007	Independence Day
September 3, 2007	Labor Day
October 8, 2007	Columbus Day (Observed)
November 6, 2007	Election Day
November 12, 2007	Veterans Day (Observed)
November 22, 2007	Thanksgiving Day
November 23, 2007	Day After Thanksgiving
December 25, 2007	Christmas Day

[Pa.B. Doc. No. 06-63. Filed for public inspection January 13, 2006, 9:00 a.m.]

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### Sessions of the Supreme Court of Pennsylvania for the Year 2007; No. 171 Appellate Court Rules; Doc. No. 1

#### Order

*Per Curiam:*

*And Now*, this 28th day of December, 2005 it is ordered that the argument/administrative sessions of the Supreme Court of Pennsylvania shall be held in the year 2007 as follows:

Pittsburgh (Administrative Session)	January 10
Philadelphia (Administrative Session)	February 7
Pittsburgh	March 5 through March 9
Philadelphia	April 16 through April 20
Harrisburg	May 14 through May 18
Pittsburgh (Administrative Session)	June 6
Pittsburgh	September 10 through September 14
Philadelphia	October 15 through October 19
Harrisburg	November 27 through November 30

Additional argument/administrative sessions may be scheduled as the Court deems necessary.

[Pa.B. Doc. No. 06-64. Filed for public inspection January 13, 2006, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 4—ADMINISTRATION

### DEPARTMENT OF STATE [4 PA. CODE CH. 161]

#### Corrective Amendment to 4 Pa. Code § 161.1

The Department of State has discovered a discrepancy between the agency text of 4 Pa. Code § 161.1 (relating to fees), as deposited with the Legislative Reference Bureau and published at 35 Pa.B. 3143 (May 28, 2005), and the text codified in the August 2005 *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 369), and as currently appearing in the *Pennsylvania Code*. Amendments to this section adopted as proposed at 34 Pa.B. 3136 (June 19, 2004) were not codified in MTS 369.

Therefore, under 45 Pa.C.S. § 901: The Department of State has deposited with the Legislative Reference Bureau a corrective amendment to 4 Pa. Code § 161.1. The corrective amendment to 4 Pa. Code § 161.1 is effective as of August 6, 2005, the date the defective text was announced in the *Pennsylvania Bulletin*.

The correct version of 4 Pa. Code § 161.1 appears in Annex A.

#### Annex A

#### TITLE 4. ADMINISTRATION

#### PART VIII. BUREAU OF LEGISLATION, COMMISSIONS AND ELECTIONS

#### Subchapter C. COMMISSIONS

#### CHAPTER 161. FEES

#### § 161.1. Schedule of fees.

The Bureau of Commissions fee schedule shall conform with the following table:

<i>Description</i>	<i>Fees (in dollars)</i>
<b>COMMISSIONS</b>	
Commissioner of Deeds	\$25
Notary Public Commission	\$25
Railroad Police or Institutional Police Commission	\$5
Notice of Election of Sheriff (called Sheriff's Writ)	\$5
Treasures Commission	\$5
District Justices	\$3
Register of Wills Bond	\$2
Recorder of Deeds Bond	\$2
<b>CERTIFICATES</b>	
Great Seal Certificate	\$10
Certificate requiring Secretary's Seal	\$7
<b>MISCELLANEOUS</b>	
Writs including Great Seal	\$5
Filing Bond for any Public Office	\$2

<i>Description</i>	<i>Fees (in dollars)</i>
Filing Recognizance for any Public Office	\$2
Photocopies	\$1
Department of State may charge equivalent fees for any service not specified.	
<b>NOTARY PUBLIC FEE SCHEDULE</b>	
Executing affidavits (no matter how many signatures)	\$5
Executing acknowledgments	\$5
In executing acknowledgments each additional name	\$2
Executing certificates (per certified copy)	\$5
Administering oaths (per individual taking an oath)	\$5
Taking depositions, per page	\$3
Executing verifications	\$5
Executing protests, per page	\$3

[Pa.B. Doc. No. 06-65. Filed for public inspection January 13, 2006, 9:00 a.m.]

## Title 58—RECREATION

### PART III. GAME COMMISSION [58 PA. CODE CH. 147]

#### Corrective Amendment to 58 Pa. Code § 147.142

The Game Commission has discovered a discrepancy between the agency text of 58 Pa. Code § 147.142 (relating to possession of deer accidentally killed by a motor vehicle), as deposited with the Legislative Reference Bureau and the text published at 35 Pa.B. 2306 (April 16, 2005), and codified in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 367) and as currently appearing in the *Pennsylvania Code*. Upon codification of the amendments, subsection (c) was inadvertently dropped.

Therefore, under 45 Pa.C.S. § 901: The Game Commission has deposited with the Legislative Reference Bureau a corrective amendment to 58 Pa. Code § 147.142. The corrective amendment to 58 Pa. Code § 147.142 is effective as of June 4, 2005, the date the defective text was announced in the *Pennsylvania Bulletin*.

The correct version of 58 Pa. Code § 147.142(c) appears in Annex A, with ellipses referring to the existing text of the regulation.

#### Annex A

#### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 147. SPECIAL PERMITS

#### Subchapter H. PROTECTED SPECIMEN

#### § 147.142. Possession of deer accidentally killed by a motor vehicle.

\* \* \* \* \*

(c) This section is not applicable under circumstances when a person is charged with violating another statute or regulation involving deer. This section may not be used nor will it be accepted as a defense in a legal proceeding involving these cases.

[Pa.B. Doc. No. 06-66. Filed for public inspection January 13, 2006, 9:00 a.m.]

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# STATEMENTS OF POLICY

## Title 7—AGRICULTURE

### DEPARTMENT OF AGRICULTURE

#### [7 PA. CODE CH. 130e]

#### Interim Commercial Manure Hauler and Broker Certification and Enforcement

This statement of policy applies to the regulation and certification of commercial manure haulers and commercial manure brokers by the Department of Agriculture (Department) between the effective date of section 4(a) of the Commercial Manure Hauler and Broker Certification Act (act) (3 P.S. § 2010.4(a)) and the promulgation of a final-form rulemaking establishing the Department's certification and training criteria.

#### *Purpose*

The Department is adopting this statement of policy to set forth and delineate its policy with regard to interim enforcement of the act and the establishment of an interim certification program developed under section 3 of the act (3 P.S. § 2010.3) prior to the Department's final-form rulemaking implementing the Department's certification program.

#### *Authority*

This statement of policy is adopted under authority of the act.

#### *Need for this Statement of Policy*

This statement of policy is necessary to establish and provide notice of the Department's position regarding the enforcement of the act and the certification program that the Department is required to develop under section 3 of the act. The statement of policy will also provide guidance with regard to the specific terms and conditions for temporary certification.

This statement of policy only applies to sections 3 and 4(a) of the act and does not constitute a rule or regulation, does not have the force and effect of law and is not intended to circumscribe the Department's authority or administrative discretion to enforce other provisions of the act.

#### *Certification*

Individuals interested in obtaining certification as a commercial manure hauler or broker are advised to review the Department's information at [www.agriculture.state.pa.us](http://www.agriculture.state.pa.us) and the proposed rulemaking published at 35 Pa.B. 6751 (December 17, 2005). Individuals without access to the Internet may request information from the Department by calling the contact person listed in this preamble.

#### *Persons Likely to be Affected*

This statement of policy will impact commercial manure haulers and brokers who are required by the act to be certified to haul or apply, or both, manure. The act requires that all manure haulers and brokers stop transporting or spreading manure without being certified by the Department within 18 months of the enactment date of the act. The Governor signed the act on June 28, 2004. Therefore, all commercial manure haulers and dealers that are not certified by the Department were prohibited from transporting or spreading without being certified by December 28, 2005, even though the Department has not

yet instituted a certification program since the deadline for the Department's implementation of a certification program is not until February 27, 2006, and the Department is currently in the process of enacting regulations implementing the certification program. The temporary certification program established by the Department and set forth in this statement of policy is required by the act and will provide commercial manure haulers and dealers the ability to comply with the certification mandates of the act.

#### *Fiscal Impact*

#### *Commonwealth*

This statement of policy will have no appreciable fiscal impact upon the Commonwealth. While the Department will incur costs in implementing the testing the Department has calculated the projected cost of administering the certification program and will recoup the administrative costs through fees that will ultimately be charged for certification and testing under a final-form rulemaking that will be promulgated by the Department.

#### *Political subdivisions, private sector and the general public*

This statement of policy will have no appreciable fiscal impact upon political subdivisions, the private sector or the general public.

#### *Paperwork Requirements*

This statement of policy will result in an appreciable increase in the paperwork handled by the Department. The Department will be required to draft application forms, test manuals, test questions and certification papers.

#### *Contact Person*

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Johan E. Berger, (717) 772-4189, [joberger@state.pa.us](mailto:joberger@state.pa.us).

#### *Effective Date*

This statement of policy will take effect upon publication in the *Pennsylvania Bulletin*.

#### *Applicability*

This statement of policy will apply to commercial manure haulers and brokers transporting or land-applying manure in this Commonwealth from December 28, 2005, through the Department's promulgation of the final-form rulemaking implementing the act.

#### *Sunset/Expiration Date*

This statement of policy will be deleted upon the Department's promulgation of final regulations implementing the act.

*(Editor's Note: The regulations of the Department 7 Pa. Code, are amended by adding a statement of policy in §§ 130e.1 and 130e.2 to read as set forth in Annex A.)*

DENNIS C WOLFF,  
*Secretary*

**Fiscal Note:** 2-153. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 7. AGRICULTURE

## PART V. BUREAU OF PLANT INDUSTRY

CHAPTER 130e. INTERIM COMMERCIAL MANURE  
HAULER AND BROKER CERTIFICATION AND  
ENFORCEMENT—STATEMENT OF POLICY

Sec.

130e.1. Enforcement.

130e.2. Temporary certification.

**§ 130e.1. Enforcement.**

(a) The Commercial Manure Hauler and Broker Certification Act (act) (3 P. S. §§ 2010.1—2010.12) requires that after December 28, 2005, commercial manure haulers and commercial manure brokers shall be certified under the Department's program prior to transporting or land-applying manure in this Commonwealth on behalf of an agricultural operation, regardless of where the manure is generated.

(b) If a commercial manure hauler or commercial manure broker is not certified prior to transporting or land-applying manure in this Commonwealth on behalf of an agricultural operation, the hauler or broker is subject to administrative penalties imposed by the Department and civil remedies sought on behalf of the Department.

(c) As of December 28, 2005, the Department has not established a commercial manure hauler and broker certification program that would enable commercial manure haulers and commercial manure brokers to be certified by the Department. Therefore, the Department will not impose administrative penalties or ask the Office of General Counsel to seek civil remedies if a commercial manure hauler or broker transporting or land-applying manure in this Commonwealth on behalf of an agricultural operation between the effective date of section 4(a) of the act (3 P. S. § 2010.4(a)) and the Department's promulgation of final regulations implementing the act if the Department believes that the commercial manure

hauler or broker is making a good faith effort to seek temporary certification by the Department.

**§ 130e.2. Temporary certification.**

(a) The Department will implement a temporary certification program that will allow the Department to provide training and testing to commercial manure haulers and brokers prior to the February 27, 2006, deadline for promulgating regulations established in section 3 of the Commercial Manure Hauler and Broker Certification Act (act) (3 P. S. § 2010.3). This temporary certification program will occur prior to the promulgation of the final regulations authorizing the Department to collect fees, and will therefore be offered at no initial cost to the applicants. The Department will not take any enforcement action prior to the offering of training and testing for certification. Also, the Department will deem that individuals who attend the training and take the test have made a good faith effort to seek temporary certification by the Department and the Department will not enforce violations of section 4(a) of the act (3 P. S. § 2010.4(a)) against these individuals prior to the promulgation of the final regulations under the act.

(b) The Department will train and test individuals participating in the temporary certification program in accordance with the act. An individual who participates in the temporary certification program and successfully passes the required test for the individual's respective certification level will be issued a temporary certification that will expire 30 days after the Department's promulgation of the final regulations under the act. An individual who receives temporary certification shall be able to convert the temporary certification into a multi-year certification upon payment of the required fees within 30 days after the promulgation of the final regulations under the act.

[Pa.B. Doc. No. 06-67. Filed for public inspection January 13, 2006, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF AGRICULTURE

### Interstate/International Quarantine Order

The Department of Agriculture hereby rescinds the interstate/international quarantine order issued on October 1, 2005, as published at 35 Pa.B. 5693 (October 15, 2005). The rescinded order prohibited the importation of certain high risk animal parts from hunter-harvested cervids originating from the following designated states

and Canadian provinces: Alberta, Saskatchewan, Colorado, Illinois, Nebraska, New Mexico, South Dakota, Utah, West Virginia (Hampshire County only), Wisconsin and Wyoming.

These are all states/provinces where chronic wasting disease has been found in free-ranging cervid species.

This order takes effect as of December 20, 2005.

DENNIS C WOLFF,  
*Secretary*

[Pa.B. Doc. No. 06-68. Filed for public inspection January 13, 2006, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending January 3, 2006.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
12-28-05	National Penn Bancshares, Inc., Boyertown, to acquire 100% of the voting shares of Nittany Financial Corp., State College, and thereby indirectly acquiring Nittany Bank, State College	Boyertown	Approved
12-29-05	Parke Bancorp, Inc., Washington Township, NJ, to acquire 100% of the shares of Parke Interim Bank, Philadelphia, PA	Washington Township, NJ	Approved

##### New Bank Charters

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-29-05	Parke Interim Bank Philadelphia Philadelphia County	Philadelphia	Approved
12-29-05	Conestoga Bank Uwchlan Township Chester County  <i>Correspondent:</i> David R. Payne, Esq. Stevens & Lee 620 Freedom Business Center Suite 200 P. O. Box 62330 King of Prussia, PA 19406	Uwchlan Township	Filed

The interim bank is being formed for the sole purpose of serving as a temporary charter to facilitate the expansion of the branch operations of Parke Bank, Washington Township, NJ, into this Commonwealth.

**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
1-1-06	First Commonwealth Bank, Indiana, First Commonwealth Trust Company, Indiana, First Commonwealth Professional Resources, Inc., Indiana, and First Commonwealth Systems Corporation, Indiana Surviving Institution— First Commonwealth Bank, Indiana	Indiana	Effective

First Commonwealth Professional Resources, Inc. and First Commonwealth Systems Corporation were nonbank subsidiaries of First Commonwealth Financial Corporation, the parent holding company of the merger proponents.

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-27-05	Orrstown Bank Shippensburg Cumberland County	201 South Cleveland Avenue Hagerstown Washington County, MD	Approved

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-27-05	Lafayette Ambassador Bank Easton Northampton County	<i>To:</i> One East Broad Street Bethlehem Northampton County  <i>From:</i> 60 West Broad Street Bethlehem Northampton County	Approved

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-27-05	Pennsylvania Business Bank Philadelphia Philadelphia County	1401 Walnut Street Philadelphia Philadelphia County	Approved
12-27-05	CSB Bank Curwensville Clearfield County	BILO Supermarket Route 255 Million Dollar Highway St. Marys Elk County	Approved

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Conversions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
12-29-05	Franklin-Oil Region Credit Union Franklin Venango County	Franklin	Approved
12-30-05	K of C Federal Credit Union Philadelphia Philadelphia County  <i>To:</i> K of C Credit Union Philadelphia Philadelphia County	Philadelphia	Filed

Application represents conversion from an occupational-based credit union to a community charter with a proposed field of membership consisting of those who live, work, worship, volunteer, attend school in and businesses and other legal entities in Venango County.

Application represents conversion from a Federal credit union to a State-chartered credit union.

**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
12-31-05	Tri County Area Federal Credit Union, Pottstown, and KCC Credit Union, Boyertown Surviving Institution— Tri County Area Federal Credit Union, Pottstown	Pottstown	Effective

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 06-69. Filed for public inspection January 13, 2006, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, January 25, 2006, at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

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

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

MICHAEL F. DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 06-70. Filed for public inspection January 13, 2006, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

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

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

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

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

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

### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0062031 (Minor Sewage)	Twin Cedars, Inc. 364 Little Walker Road Shohola, PA 18358	Pike County Shohola Township	UNT to Little Walker Lake (1D)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0083704 (IW)	Shippensburg Borough Authority P. O. Box 129 111 North Fayette Street Shippensburg, PA 17257-0129	Franklin County Lurgan Township	Trout Run 7-B	Y
PA0088650 (Sew)	Capital Area Christian Church 1825 Good Hope Road Enola, PA 17025	Cumberland County Hampden Township	UNT to Conodoguinet Creek 7-B	Y
PA0033553 (Sew)	Gehman's Mennonite School 650 Gehman School Road Denver, PA 17517-8921	Lancaster County Brecknock Township	Little Muddy Creek 7-J	Y
PA0080454 (IW)	Carlisle Borough 53 West South Street Carlisle, PA 17013	Cumberland County North Middleton Township	Conodoguinet Creek 7-B	Y
PA0087009 (IW)	Hanover Cold Storage, Inc. 1301 Carlisle Pike P. O. Box 152 Hanover, PA 17331-9473	York County Adams County Penn Township	Slagle Run Conewago Creek 7-F	Y
PA0027596 (IW)	New Enterprise Stone & Lime Co., Inc. P. O. Box 77 New Enterprise, PA 16664	Blair County Taylor Township	Halter Creek 11-A	Y

## NOTICES

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0008150 (IW)	MH Technologies, LLC 1 Mountain Street Mount Holly Springs, PA 17065-1406	Cumberland County Mt Holly Springs Borough	UNT to Mountain Creek 7-E	Y
PA0080756 Amendment No. 1 (Sew)	Hershey Farm, Inc. P. O. Box 159 240 Hartman Bridge Road Strasburg, PA 17579	Lancaster County Strasburg Township	Pequea Creek 7-K	Y
PA0038733 (Sew)	East Providence Township Municipal Authority P. O. Box 83 244 Municipal Road Breezewood, PA 15533-0083	Bedford County East Providence Township	UNT to Tub Mill Run 11-D	Y
PA0028592 (Sew)	Bonneauville Borough 46 East Hanover Street Gettysburg, PA 17325	Adams County Bonneauville Broough	Chicken Run 13-D	Y
PA0022233 (Sew)	Arendtsville Municipal Authority P. O. Box 181 Arendtsville, PA 17303-0181	Adams County Arendtsville Borough	Conewago Creek 7-F	Y
PA0083852 (Sew)	Ferryboat Campsites Inc. 32 Ferry Lane Liverpool, PA 17045	Perry County Buffalo Township	Susquehanna River 6-C	Y
PA0081043 (Sew)	Guardian Elder Care Box 240 Brockway, PA 15824	Juniata County Fermanagh Township	Big Run 12-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0032468	Department of Conservation and Natural Resources—Cook Forest State Park P. O. Box 120 River Road Cooksburg, PA 16217-0120	Barnett Township Forest County	Clarion River 17-B	Y
PA0036587	Allegheny Forest Resort 1370 Sharon-Hogue Road Masury, OH 44438	Howe Township Forest County	UNT to Blue Jay Creek 16-F	Y
PA0100935	Maple Winds Mobile Home Park 89 Gill Road Grove City, PA 16127	Pine Township Mercer County	UNT to Wolf Creek	Y
PA0028398	Fairview Sanitation Co.—Whitehall Village P. O. Box 927 Fairview, PA 16415-0827	Fairview Township Erie County	UNT to Trout Run	Y
PA0223131	Living Church International, Inc. 1087 Pine Run Road Fairmount City, PA 16224	Redbank Township Clarion County	UNT to Pine Creek	Y
PA0104078	Anderson Mobile Home Park 128 North Maysville Road Greenville, PA 16125	West Salem Township Mercer County	UNT to Big Run	Y

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

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

**Application No. PA 0247847**, Sewage, **Rodger Petrone**, 4076 Market Street, Camp Hill, PA 17011. This facility is located in Carroll Township, **York County**.

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

The receiving stream, Yellow Breeches Creek is in Watershed 7-E and classified for CWFs, water supply, recreation and fish consumption. The nearest downstream public water supply intake for United Water Company is located on the Yellow Breeches Creek, approximately 12.6 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0005 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
Total Residual Chlorine	Monitor and Report		
pH	Upon Request		
Fecal Coliform	200/100 ml as a geometric average		
(5-1 to 9-30)	100,000/100 ml as a geometric average		
(10-1 to 4-30)			

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

The EPA waiver is in effect.

**Application No. PA 0086754**, Industrial Waste, SIC Code 3691, **East Penn Manufacturing Company, Inc.**, Deka Road, Lyon Station, PA 19536-0147. This facility is located in Maxatawny and Richmond Townships, **Berks County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated industrial waste.

The receiving stream, Sacony Creek, is in Watershed 3-B, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is the City of Reading located on Maiden Creek, approximately 20 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.005 mgd are:

<i>Parameter</i>	<i>Mass (lb/day)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>
pH	6.0 to 9.0 at all times	
Total Suspended Solids	30	60
NH <sub>3</sub> -N	5	10
Total Dissolved Solids	1,000	2,000
Total Antimony	0.06	0.12
Total Arsenic	0.22	0.44
Total Copper	0.07	0.14
Total Lead	0.03	0.06
Total Iron	Monitor and Report	
Total Zinc	0.57	1.14
Total Phosphorus	1.0	2.0

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

The EPA waiver is in effect.

*Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

**PA0024171**, Sewage, **Cambria Township Sewer Authority**, P. O. Box 247, Revloc, PA 15948. This application is for renewal of an NPDES permit to discharge treated sewage from Colver Wastewater Treatment Plant in Cambria Township, **Cambria County**.



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

*Outfall 001:* existing discharge, design flow of 0.275 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 9-30)	2.0	3.0		4.0
(10-1 to 4-30)	4.0	6.0		8.0
Fecal Coliform	200/100 ml as a geometric mean			
	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0218600**, Sewage, **Arthur J. Leonard**, 310 Spang Road, Baden, PA 15005. This application is for renewal of an NPDES permit to discharge treated sewage from Leonard Single Residence STP in Middlecreek Township, **Somerset County**.

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

*Outfall 001:* existing discharge, design flow of 0.0004 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	3.0			6.0
Fecal Coliform	200/100 ml as a geometric mean			
(5-1 to 9-30)	2,000/100 ml as a geometric mean			
(10-1 to 4-30)				
Total Residual Chlorine	0.5			1.0
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA0239674**, Sewage, **Cooper Lake Farms, Inc.**, 205 Currie Road, Slippery Rock, PA 16057. This proposed facility is located in Worth Township, **Butler County**.

Description of Proposed Activity: A new discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Camp Allegheny intake on Slippery Rock Creek is located in Wayne Township, Lawrence County and is approximately 11 miles below point of discharge.

The receiving stream, the Muddy Creek, is in watershed 20-C and classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0275 mgd.

Parameter	Concentrations		
	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	XX		
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
NH <sub>3</sub> -N (5-1 to 10-31)	12		24
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)		200/100ml as a geometric average 2,000/100ml as a geometric average	
Total Residual Chlorine	1.4		3.3
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

**PA0239666**, Sewage. **Tracey Inc.—Cromwell Estates Mobile Home Park**, P. O. Box 55, Valencia, PA 16059. This proposed facility is located in Clinton Township, **Butler County**.

Description of Proposed Activity: Renewal of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the New Kensington Municipal Water Company is located on the Allegheny River and is approximately 12 miles below point of discharge.

The receiving stream, the UNT to Bull Creek, is in watershed 18-A and classified for: TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0168 mgd.

<i>Parameters</i>	<i>Loadings</i>		<i>Concentrations</i>		<i>Instantaneous Maximum (mg/l)</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>	
Flow	XX				
CBOD <sub>5</sub>			25		50
Total Suspended Solids			30		60
NH <sub>3</sub> -N (5-1 to 10-31)			4		8
(11-1 to 4-30)			12		24
Dissolved Oxygen			minimum of 4 mg/l at all times		
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)			200/100ml as a geometric average 2,000/100ml as a geometric average		
Total Residual Chlorine			0.35		0.83
pH			6.0 to 9.0 standard units at all times		

XX—Monitor and report on monthly DMRs.

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)

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

**WQM Permit 6505202**, Industrial Waste, **Allegheny Ludlum Corporation**, 100 River Road, Brackenridge, PA 15014-1597. This proposed facility is located in Leechburg Borough, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of additions to existing treatment plant.

**WQM Permit No. 5690405-A2**, Sewerage, **Borough of Rockwood**, 358 Market Street, Rockwood, PA 15557. This proposed facility is located in Rockwood Borough, **Somerset County**.

Description of Proposed Action/Activity: Application for the construction and operation of sewer system improvements.

**WQM Permit No. 6505411**, Sewerage, **Greater Greensburg Sewage Authority**, P. O. Box 248, Greensburg, PA 15601. This proposed facility is located in the City of Greensburg, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of a combined sewer overflow equalization facility to include a 300,000-gallon underground EQ tank with pump station.

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

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

**WQM Permit No. 5405405, Tremont Municipal Authority**, 423 West Main Street, Tremont, PA 17981. This proposed facility is located in Tremont Township, **Schuylkill County**.

Description of Proposed Action/Activity: This project involves expansion and upgrades to the Tremont Wastewater Treatment Plant and capacity increases to the Maple Street Pump Station.

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAI132246	City of Carbondale 1 North Main St. Carbondale, PA 18407-2356	Lackawanna	Carbondale City	Lackawanna River HQ-CWF	Y

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024505029	William Applegate R. R. 4, Box 4302 Rolling Pine Dr. Saylorsburg, PA 18353	Monroe	Chestnuthill Township	Poplar Creek EV

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032805012	Bayside Homes, LLC 574 Middle Neck Road Great Neck, NY 11023	Franklin	Washington Township	UNT Waynesboro Reservoir HQ-CWF

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

*Allegheny County Conservation District: Lexington Technology Park, Building 1, Suite 102, 400 North Lexington Avenue, Pittsburgh, PA 15208, (412) 241-7645.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050205009	Sports and Exhibition Authority of the City of Pittsburgh and Allegheny County Regional Ent. Tower Suite 2750 Pittsburgh, PA 15219	Allegheny	City of Pittsburgh	Allegheny River (WWF)

*Westmoreland County Conservation District: 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056505006	Bridges Investment Company 1300 Brighton Road Pittsburgh, PA 15233	Westmoreland	North Huntingdon Township	UNT to Long Run (HQ)

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

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI064205003	Rustick, LLC 26 Tall Oaks Drive Pottsville, PA 17901	McKean	Sergeant Township	Sevenmile Run CWF

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

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

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

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

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

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

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

**SAFE DRINKING WATER  
MINOR AMENDMENT**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

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

<b>Application No.</b>	Minor Amendment.
<b>Applicant</b>	<b>Pennsylvania American Water Company</b>

Township or Borough	Dalton Borough <b>Lackawanna County</b>
Responsible Official	Paul A. Zielinski Pennsylvania American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	PWS
Consulting Engineer	Scott M. Thomas, P. E. Pennsylvania American Water Company 852 Wesley Drive Mechanicsburg, PA 17055
Application Received Date	December 20, 2005
Description of Action	This application concerns the Pennsylvania American Water Company's Dalton Tank Rehabilitation Project which includes interior/exterior painting and minor sanitary and safety modifications.

**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 demon-

strates 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:

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**L. B. Smith—Bellefonte—Spring Township, Centre County.** Advantage Engineering, 20 South 36th Street, Camp Hill, PA 17011 has submitted a Final Report concerning remediation of groundwater contaminated with No. 2 fuel oil. This report is intended to document remediation of the site to meet the Statewide Health Standard requirements.

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

**Greenville Metals, Pymatuning Township, Mercer County.** Bradley Chapman, Chapman & Lewis Environmental Services, Inc., 158 S. Main Street, Slippery Rock, PA 16057 on behalf of Donald Huber, Greenville Metals, 99 Crestview Drive Extension, Transfer, PA 16154 has submitted a Notice of Intent to Remediate. Greenville Metals, facility property is party of the Reynolds Industrial Complex, which has a documented historical chemical contamination. Historical contamination from industrial entities not including GMI is mainly from past use of trichloroethene. Intended future use of the property in the industrial complex, including GMI property, is for industrial purposes.

## OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Application for permit renewal deemed complete 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.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit Application No. 301283. Graymont PA Inc.,** 965 E. College Ave., Bellefonte, PA 16823-6823, located in Benner Township, **Centre County.** The application for permit renewal was deemed complete by the Williamsport Regional Office on December 28, 2005.

Comments concerning the application should be directed to David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the general permit application may contact the Williamsport Regional Office, (570) 327-3653. TDD users may contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to, and approval or denial of the application.

## 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

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**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.**

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

**19-317-022C: Melick Aquafeed, Inc.** (139 South First Street, Catawissa, PA 17820) for construction of a pellet dryer/cooler at their facility in Catawissa Borough, **Columbia County**.

**14-00002G: Graymont (PA) Inc.** (965 East College Avenue, Pleasant Gap, PA 16823) for construction of a lime hydrator system at the Pleasant Gap facility in Spring Township, **Centre County**.

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**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.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**46-0005Z: Merck and Co., Inc.** (770 Sumneytown Pike, P. O. Box 4, West Point, PA 19486) for installation of a steam injection system in boiler No. 10 at Upper Gwynedd Township, **Montgomery County**. Boiler No. 10 was installed along with boiler No. 8 and Cogen III (combustion turbine) under Plan Approval No. PA-46-0005M issued on July 7, 2000. The steam injection system is to be installed to control emissions of CO while combusting natural gas. There will be no other modification of the boiler. The boiler is also permitted to combust No. 2 fuel oil, which is limited to 3.250 million gallons per year (on a 12-month rolling basis). The boiler has a rated heat input rate of 249 mmBtu/hr. Emissions of NOx are controlled by low NOx burners, flue gas recirculation and selective catalytic reduction system. The boiler is equipped with continuous emission monitors for NOx, oxygen, opacity and temperature. There will be no increase in emission of any pollutants due to the installation of the steam injection system. Merck is a major facility. The CO emission rate shall remain 0.37 lb/mmBtu averaged daily while combusting natural gas; and 55.40 tons/year on a 12-month rolling basis. The NOx emission rate shall remain 0.012 lb/mmBtu averaged

daily while combusting natural gas and 32.90 tons/year on a 12-month rolling basis. Appropriate monitoring and recordkeeping requirements will be included in the Plan Approval.

**15-0122: Kennett Square Specialties, LLC** (556 East South Street, P. O. Box 652, Kennett Square, PA 19348) for installation of a spent shiitake mushroom growth media fired boiler rated at 9.6 mmBtu/hr (boiler) at the Kennett Square Specialties mushroom substrate and spawn production new facility at 556 East South Street, Kennett Township, **Chester County**. The installation of the boiler may result in the emissions of: 9.21 tons per year of NOx; 25.1 tons per year of CO; 1.05 tons per year of SOx; 8.37 tons per year of PM; 0.71 ton per year of VOCs; and 1.63 tons per year of HAPs. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

**21-05040B: Valley Quarries, Inc.** (P. O. Box J, Chambersburg, PA 17201) for construction of a triple deck screen to replace a double deck screen for the Shippenburg in Southampton Township, **Cumberland County**. Plan Approval No. 21-05040B will be incorporated into facility's Synthetic Minor operating permit No. 21-05040 by administrative amendment to the permit in accordance with 25 Pa. Code § 127.450. The facility's major sources of emissions include rock crushing operations and a portable asphalt plant, which primarily emit PM and VOCs. The Synthetic Minor operating permit will contain restrictions, work practice standards, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**22-05012B: ISG Steelton LLC** (215 South Front Street, Steelton, PA 17113) for construction of a natural gas fired boiler, capacity 27.7 mmBtu/hr in the Borough of Steelton, **Dauphin County**. The primary emissions from this source is NOx. The facility currently has Title V Operating Permit No. 22-05012. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The facility's major sources of emissions include arc furnaces and other heating furnaces and boilers, which primarily emit NOx and sulfur and VOCs.

**28-03043A: CAM Superline, Inc.** (4763 Zane A. Miller Drive, Waynesboro, PA 17268) for construction of a spray paint booth with a dry panel filter for control of PM emissions at their utility trailer manufacturing facility in Washington Township, **Franklin County**. The source will emit approximately 15 tons of VOC per year. The plan approval and subsequent State-only operating permit administrative amendment will include emission restrictions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**36-05136A: Granger Energy of Honeybrook, LLC** (481 South Churchtown Road, Narvon, PA 17555) for construction of a landfill gas-fired engine. The landfill gas-fired engine will be at the Granger landfill gas treatment plant at the Lanchester Landfill in Caernarvon Township, **Lancaster County**. The proposed engine will have the potential to emit 53.9 tpy of CO, 21.5 tpy of NOx, 0.87 tpy of SO<sub>2</sub>, 2.66 tpy of PM<sub>10</sub> and 43.1 tpy of

VOCs. The plan approval will include restrictions, testing, monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**36-05144: Lancaster Leaf Tobacco Co. of PA, Inc.** (198 West Liberty Street, P. O. Box 897, Lancaster, PA 17608-0897) for use of Nos. 4—6 fuel oils in boilers in their plant at 207 Pitney Road, City of Lancaster, **Lancaster County**. In keeping with their Synthetic Minor Plan Approval Application, the facility emissions shall be less than 100 tons per year of SOx. 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.

#### 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.**

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

**38-05011: Plain N Fancy Kitchens—Schaefferstown** (Oak Street and Route 501, Schaefferstown, PA 17088-0519) for a Title V Operating Permit Renewal in Heidelberg Township, **Lebanon County**. The facility's major sources of emissions include wood furniture coating booths, woodworking area and other sources which primarily emit VOCs. The Title V operating permit will contain emissions limits, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

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

**36-05128: Compass Quarries, Inc. d/b/a Independence Construction Materials** (P. O. Box 130, 47 McIlvaine Road, Paradise, PA 17562-0130) for operation of their stone crushing and limestone pulverizing plants in Paradise Township, **Lancaster County**. This is a non-Title V (State-only) facility. The operating permit will contain appropriate conditions designed to keep the facility operating below Title V thresholds for criteria pollutants and within all other applicable air quality requirements.

**67-03078: Snyder's of Hanover, Inc.** (P. O. Box 917, Hanover, PA 17331-7949) for a natural minor operating permit renewal in Penn Township, **York County**. The facility's sources include potato and tortilla chip fryers, which primarily emit VOC. This permit renewal will include Plan Approval No. 67-03078A for a Pellet Fryer.

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

**49-00035: Warrior Run School District** (4800 Susquehanna Trail, Turbotville, PA 17772) for their Middle/High School building in Lewis Township, Elementary School building in Watsontown Borough and Elementary School Building in Turbotville Borough, **Northum-**

**berland County**. The facility's main sources include three coal-fired boilers, two No. 2 oil-fired boilers, two natural gas-fired boilers, four emergency generators, two cold cleaning parts washers and two woodworking shops. The facility has the potential to emit major quantities of SOx. The facility has taken a synthetic minor restriction to limit its SOx emissions below the major emission threshold. The facility has the potential to emit NOx, CO, PM (PM10), VOCs and HAPs below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

#### COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

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

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

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor

at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

#### *Coal Applications Received*

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

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

\* The parameter is applicable at all times.

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

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

**Permit No. 32950109 and NPDES No. 0213250. Britt Energies, Inc.**, 2450 Philadelphia Street, Indiana, PA 15701, permit renewal for reclamation only of a bituminous surface auger mine in White Township, **Indiana County**, affecting 83.3 acres. Receiving streams: UNTs to/and Yellow Creek, classified for the following use: TSF. There are no potable water supply intakes within 10 miles downstream. Application received December 23, 2005.

**56900112 and NPDES No. PA058976. Future Industries, Inc.**, P. O. Box 157, Meyersdale, PA 15552, permit renewal for the continued operation and restoration of a bituminous surface mine in Summit Township, **Somerset County**, affecting 650.0 acres. Receiving stream: Stony Batter Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received December 27, 2005.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Best Avenue, Knox, PA 16232-0669, (824) 797-1191.*

**16050113 and NPDES Permit No. PA0258075. Timothy A. Keck** (93 Carrier Street, Summerville, PA 15864). Commencement, operation, and restoration of a bituminous surface strip and sandstone operation in Monroe Township, **Clarion County** affecting 18.0 acres. Receiving streams: one UNT to Sloan Run; Sloan Run to Piney Creek; one UNT to Reids Run and Reids Run to Piney Creek, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application to include a postmining land use change from forestland to unmanaged natural habitat. Application received: December 22, 2005.

**33950102 and NPDES Permit No. PA0226904. Leonard Yenzi** (P. O. Box 62, Anita, PA 15711). Renewal of an existing bituminous surface strip operation in Knox Township, **Jefferson County** affecting 68.0 acres. Receiving stream: Fuller Run, classified for the following use: CWF and Sandy Lick Creek, classified for the following use: TSF. There are no potable surface water supply intakes within 10 miles downstream. Application received December 27, 2005.

**61050102 and NPDES Permit No. PA0258083. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Commencement, operation and restoration of a bituminous surface strip operation in Scrubgrass Township, **Venango County** affecting 92.0 acres. Receiving streams: three UNTs to Little Scrubgrass Creek, classified for the following uses: CWF; three UNTs to Allegheny River, classified for the following use: WWF. There are no potable surface water supply intakes within 10 miles downstream. Application received: December 27, 2005.

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

**54663021C10. Reading Anthracite Company** (P. O. Box 1200, Pottsville, PA 17901) correction to an existing surface mine operation for the utilization of biosolids, paper sludge and coal ash for reclamation in New Castle Township, **Schuylkill County** affecting 693.0 acres. Receiving stream: none. Application received December 20, 2005.

**54851325R4. B & B Anthracite Company** (225 Main Street, Joliett, PA 17981), renewal of an existing anthracite underground mine operation in Tremont Township, **Schuylkill County** affecting 8.0 acres, receiving stream: Lorberry Creek. Application received December 21, 2005.

#### *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 <sup>1</sup>			
pH <sup>1</sup>		greater than 6.0; less than 9.0	

<sup>1</sup> The parameter is applicable at all times.

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

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

**06910301C3 and NPDES Permit PA0595420. Berks Products Corporation** (726 Spring Street, P. O. Box 421, Reading, PA 19603), correction to update NPDES Permit for discharge of treated mine drainage from a quarry operation in Maxatawny Township, **Berks County** affecting 160.8 acres. Receiving stream is Maiden Creek. Application received December 21, 2005.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

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

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

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

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

## WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E15-750. Tredyffrin Township Public Works Department**, 1100 Duportail Road, Berwyn, PA 19312-1079, Tredyffrin Township, **Chester County**, ACOE Philadelphia District.

To remove an existing stone arch culvert and to construct and maintain, in its place, an open-bottom reinforced concrete arch culvert across Trout Creek (WWF). The proposed culvert will have a clear span of 22' 9" and a minimum underclearance of approximately 5' 6". This work also includes stabilization of the stream banks in the vicinity of the proposed culvert, modification of an existing outfall structure, and construction and maintenance of a temporary cofferdam. The site is located just southeast of the intersection of Glenhardie Road and Richards Road (Valley Forge, PA USGS Quadrangle N: 16.2 inches; W: 6.8 inches).

**E23-457. Chadds Ford Township**, P. O. Box 181, Chadds Ford, PA 19317-0181, Chadds Ford Township, **Delaware County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the proposed Turner's Mill Wastewater Treatment Plant, within the 100-year floodplain of Harvey's Run, a tributary to the Brandywine Creek:

1. To construct and maintain a 0.15 mgd wastewater treatment plant. Work will include associated fill to raise the first floor elevation of the building 1 1/2 feet above the base flood elevation and for the construction of an adjacent parking lot. Future plans also include an undischarged outfall structure discharging treated effluent.
2. To construct and maintain one 24-inch RCP stormwater outfall and an associated level spreader device.
3. To construct and maintain an access road to Ring Road (SR 3027). Work will include the placement of fill, a 24-inch RCP stormwater basin outfall and an associated level spreader device.

The site is located on the southwest corner of Baltimore Pike (SR 0001) and Ring Road (SR 3027) (Wilmington North USGS Quadrangle Lat: 39° 52' 22.5" Long: 75° 34' 48.1").

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E58-268. Tennessee Gas Pipeline Company**, 1001 Louisiana Street, Houston, TX 77002, in Springville Township, Lathrop Township and Lenox Township, **Susquehanna County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain approximately 13 utility line crossings of streams and wetlands, including tributaries to Horton Creek (CWF), Horton Creek (CWF) and Hop Bottom Creek (CWF), for the purpose of installing a 4-mile, 30-inch gas pipeline known as the "Northeast ConneXion Project—NY/NJ—Susquehanna County Loop." The project will permanently impact 0.01 acre of wetlands and will temporarily impact 1.60 acre of wetlands, including temporary road crossings. The project extends eastward from a point beginning approximately 532 feet west of T-392 (Russer Road) in the northeastern corner of Springville Township and will run parallel to the existing line 300. (Hop Bottom, PA Quadrangle N: 15.9 inches; W: 14.3 inches).

**EA13-002NE. Nesquehoning Water Authority Attention: Stephen Yurchak, Chairperson**, 114 West Catawissa Street, Nesquehoning, PA 18240, in Nesquehoning Borough, **Carbon County**, United States Army Corps of Engineers, Philadelphia District.

To remove an abandoned water obstruction consisting of three 15-inch CMP culverts located in First Hollow Run (EV) and restore the channel to its natural condition. The project will be constructed under Waiver 11, 25 Pa. Code § 105.12a(11) and is located approximately 3,000 feet upstream of the confluence of First Hollow Run and Nesquehoning Creek (Nesquehoning, PA Quadrangle N: 21.5 inches; W: 10.5 inches).

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

**E21-376: Department of Transportation, District 8-0**, 2140 Herr Street, Harrisburg, PA 17103 in Hampden and Silver Spring Townships, **Cumberland County**, ACOE Baltimore District.

To place and maintain approximately 2,284 cubic yards of fill material within the floodplain of Conodoguinet Creek (WWF) for the purpose of constructing approximately 900 lineal feet of roadway connecting North Salem Church Road with Lambs Gap Road beginning at a point immediately south of the Lambs Gap Road bridge (Wertzville, PA Quadrangle Latitude: 40° 15' 05"; Longitude: 77° 00' 12") in Silver Spring Township, Cumberland County.

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

**E08-432. Thomas D. Hinckley**, R. R. 5, Box 150, Towanda, PA 18848, in Monroe Township, **Bradford County**, ACOE Baltimore District (Monroeton PA Quadrangle N: 9.2 inches; W: 11.15 inches).

To construct and maintain streambed paving about 1 foot thick by 18 feet wide by 22 feet long under a private driveway bridge in Kent Run off T-397 (Kent Run Road) about 500 feet upstream of the intersection of Kent Run with SR 220 in Monroe Township, Bradford County. The project will not impact wetlands while impacting about 25 feet of waterway with no earth disturbance. Kent Run is a CWF stream.

**E55-204. Department of Transportation, District 3-0**, 715 Jordan Ave, Montoursville, PA 17754. Selinsgrove Center Mitigation, in Penn Township, **Snyder County**, ACOE Baltimore District (Freeburg, PA Quadrangle N: 13.6 inches; W: 2.5 inches).

The Department of Transportation proposes to create 7.9 acres of new wetland habitat and to enhance an existing wetland by adding 2.7 acres of forested habitat. This project also proposes to complete 6,123 linear feet of stream stabilization/revitalization. The permit application is independent of the Central Susquehanna Valley Transportation Project although is mitigation for the unavoidable impacts that will occur from the project. The project is within a UNT to Penn's Creek (local name Selinsgrove Creek), which carries a water quality designation of CWF.

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

**E02-1515. Riverlife Task Force**, 425 Sixth Avenue, Suite 1340, Pittsburgh, PA 15219. To construct a new pedestrian/bicycle path in the City of Pittsburgh, **Allegheny County**, Pittsburgh ACOE District. (Pittsburgh West, PA Quadrangle N: 11.35 inches; W: 0.70 inch and Latitude: 40° 26' 15"—Longitude: 80° 01' 17"). The applicant proposes to construct and maintain improvements to the Monongahela Wharf landing consisting of a new pedestrian/bicycle path, concrete box planters and bulkhead repairs along the right bank of the Monongahela River (WWF) located approximately 1,500.0 feet upstream from the Fort Pitt Bridge and will impact 2,017.0 linear feet of stream channel.

**E26-333. Homer L. Yeardie, Chairperson, Brownsville Township Supervisors**, 103 Barnett Avenue, Brownsville, PA 15417. To construct a 55 foot long box culvert in Brownsville Township, **Fayette County**, Pittsburgh ACOE District. (Fayette City, PA Quadrangle N: 4.1 inches; W: 15.6 inches and Latitude: 40° 01' 21"—Longitude: 79° 51' 41"). The applicant proposes to remove the existing structure and to construct and maintain a 55 foot long box culvert having a waterway opening of 15 feet wide by 7 feet high (invert depressed 1 foot) in a UNT to Redstone Creek located on T-655 (Lynn/Braznell Road).

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

**E20-542, Nye's Marina Service, Ltd.**, 12318 Conneaut Lake Road, Conneaut Lake, PA 16316. Nye's Marina Expansion, in Sadsbury Township, **Crawford County**, ACOE Pittsburgh District (Conneaut Lake, PA Quadrangle N: 19.2 inches; W: 5.7 inches).

The applicant proposes the following activities at Nye's Marina facility adjacent to and in Conneaut Lake approximately 0.2 mile west of the intersection of SR 18 and SR 322: 1) to conduct maintenance dredging of sediment to an approximate normal water depth of 7 feet in the west marina area (approximately 1.7 acres and 6,458 cubic yards), east marina area (approximately 0.52 acre and 3,565 cubic yards) and eastern lakeshore area (approximately 0.46 acre and 2,052 cubic yards); 2) to expand the east marina area by excavating an approximately 0.54 acre area to a depth 10 feet east (7,761 cubic yards) east of and adjacent to the existing east marina area; and 3) to operate and maintain existing and proposed marina areas. The project includes future maintenance dredging, creation of spoil areas on the marina property, operation and maintenance of existing docks in the marina and installation, operation and maintenance

of docks in the east marina portion of the marina. Conneaut Lake is a perennial body of water classified as a HQ-WWF. The project proposes to temporarily impact 3.2 acres of Conneaut Lake and adjacent excavated areas.

**E25-602, Millcreek Township**, 3608 West 26th Street, Erie, PA 16506. Heidler Road Drainage Improvement Project, in Millcreek Township, **Erie County**, ACOE Pittsburgh District (Swanville, PA Quadrangle N: 8.0 inches; W: 6.9 inches).

On August 12, 2005, The Department of Environmental Protection of received a request to extend the time limit on the referenced permit which authorized Millcreek Township to conduct activities associated with the Heidler Road Drainage Improvement Project in a tributary to Walnut Creek downstream of Heidler Road northwest of Sterrettania Road (SR 832) in Millcreek Township, Erie County. The permitted project includes:

1. Realign approximately 800 feet of stream channel beginning at Heidler Road and extending downstream (Swanville, PA Quadrangle N: 8.0 inches; W: 6.9 inches).

2. Remove the existing structure and to install and maintain three 60-inch diameter HDPE pipe culverts having a length of 50 feet on a private driveway approximately 850 feet downstream of Heidler Road (Swanville, PA Quadrangle N: 8.1 inches; W: 6.85 inches).

3. Remove the existing structure and to install and maintain three 60-inch diameter HDPE pipe culverts having a length of 50 feet on a private driveway approximately 1,700 feet downstream of Heidler Road (Swanville, PA Quadrangle N: 8.5 inches; W: 6.45 inches).

Install and maintain concrete block stream bank walls along both banks for a distance of approximately 100 feet extending upstream from a private driveway approximately 2,600 feet downstream of Heidler Road (Swanville, PA Quadrangle N: 8.9 inches; W: 6.1 inches).

**E37-165, LCK Enterprises**, 310 Central Building, 101 South Mercer Street, New Castle, PA 16101, Camelot Woods II, in Neshannock Township, **Lawrence County**, ACOE Pittsburgh District (New Castle North, PA Quadrangle N: 41°, 02', 54"; W: 80°, 21' 48").

To permanently fill 0.34 acre of wetland (PEM/ PSS) for the construction of 17 single-family residential units, known as Camelot Woods II, at the terminus of Whitney Drive within Camelot Woods I, south of Chapin Road and west of Wilmington Road in Neshannock Township, Lawrence County. The wetland impacts will be mitigated through the creation of 0.68 acre of PEM/PSS wetland within the Camelot Wood II development.

**E43-328, Department of Transportation, District 1-0**, 255 Elm Street, P. O. Box 398, Oil City, PA 16301. SR 2004, Section B00 Across Neshannock Creek, in Springfield Township, **Mercer County**, ACOE Pittsburgh District (Mercer, PA Quadrangle N: 7.88 inches; W: 13.94 inches).

To remove the existing structure and to construct and maintain a 50-foot long precast concrete box culvert having a 8.0-foot wide by 5.0-foot high waterway opening in UNT to Neshannock Creek on SR 2004. To remove the existing structure and to construct and maintain a single span prestressed concrete spread box beam bridge having a clear span of 84.48 feet and an underclearance of 11.59 feet on a 80° skew across Neshannock Creek on SR 2004, Section B00, approximately 3.5 miles south of Mercer. This project includes placement of fill in 0.038 acre of PEM/PSS/PFO wetland.

According to 25 Pa. Code Chapter 93, Neshannock Creek is listed as a TSF.

#### ENVIRONMENTAL ASSESSMENTS

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D64-166EA, Department of the Army, Philadelphia District, Corps of Engineers**, Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107-3390. Borough of Prompton, **Wayne County**, ACOE Philadelphia District.

Project proposes to modify an existing dam across West Branch Lackawaxen River (HQ-TSF, MF) to address hydrologic deficiencies. The project will directly impact approximately 220 linear feet of stream channel by constructing a rip-rapped extension to the dam spillway. The dam is located approximately 2,700 feet northeast of the intersection of SR 170 and US Route 6. (Honesdale, PA Quadrangle, N: 16.15", W: 10.65").

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D66-009A, Harry H. Sharpe**, P. O. Box L, Tunkhannock, PA 18657. To modify, operate and maintain Sharpe's Pond Dam across a tributary to Little Mehoopany Creek, (CWF), impacting 0.14 acre of wetlands (Palustrine Emergent (PEM) and providing 0.429 acre of wetland mitigation, for the purpose of restoring the partially breached dam in (Jenningsville, PA Quadrangle N: 15.7 inches; W: 8.5 inches) Windham Township, **Wyoming County**.

## 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

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
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 &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0062537	East Union Township Sewer Authority P. O. Box 245 Sheppton, PA 18248	East Union Township Schuylkill County	Little Tomhicken Creek 5E	Y
PA0060216	Sterling Sewer and Water Company, LLC P. O. Box 125 Lake Ariel, PA 18436	Wayne County Sterling Township	Uban Creek 1C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0080195 (IW)	Walter Industries, Inc. 3300 First Avenue North Birmingham, AL 35222	Lancaster County Columbia Borough	Trib of Shawnee Run 7-G	Y
PAR100492R	Martin Murray P. O. Box 332 Lemoyne, PA 17055	West Donegal Township Lancaster County	Conewago Creek TSF	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0217085 Industrial Waste	Gautier Steel, Ltd. 80 Clinton Street Johnstown, PA 15901	Cambria County City of Johnstown	Little Conemaugh River (Outfalls 001—019) Conemaugh River (Outfalls 303—304)	Y

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0038237 Sewage	Rostraver Township Sewage Authority 202 Port Royal Road Belle Vernon, PA 15012	Westmoreland County Rostraver Township	Youghiogheny River	N
PA0097527 Sewage	Kenneth W. and Lori A. Cipra 51 Manor Mobile Home Park 11600 Wilshire Drive North Huntingdon, PA 15642	Fayette County Perry Township	Browneller Run	Y
PA0217174 Sewage	Elmor R. Ernst 268 Harrison Road Elizabeth, PA 15037	Allegheny County Lincoln Borough	UNT to Wylie Run	Y

## II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

**NPDES Permit No. PA0022250**, Sewage, **Biglerville Borough Authority, Biglerville WWTP**, 33 Musselman Avenue, Biglerville, PA 17307. This proposed facility is located in Butler Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Conewago Creek in Watershed 7-F.

**NPDES Permit No. PA0081922 Amendment No. 1**, Sewage, **Lewisberry Area Joint Authority, Lewisberry Area WWTP**, P. O. Box 172, Lewisberry, PA 17339. This proposed facility is located in Lewisberry Borough, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to Bennett Run in Watershed 7-F.

**NPDES Permit No. PA0246433 Amendment No. 1**, Sewage, Broad Top Township, **Hess Trailer Park**, Municipal Loop, P. O. Box 57, Defiance, PA 16633-0057. This proposed facility is located in Broad Top Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT of Sherman Valley Run in Watershed 11-D.

**NPDES Permit No. PA0082627**, Sewage, **CBM Ministries, Inc., Camp Joy El**, 3741 Joy El Drive, Greencastle, PA 17225. This proposed facility is located in Saint Thomas Township, **Franklin County**.

Description of Proposed Action/Activity: Authorization to discharge to the Back Creek in Watershed 13-C.

**NPDES Permit No. PA0021695**, Sewage, **Orbisonia Rockhill Joint Municipal Authority**, Elliot Street, P. O. Box 346, Orbisonia, PA 17243. This proposed facility is located in Cromwell Township, **Huntingdon County**.

Description of Proposed Action/Activity: Authorization to discharge to Blacking Creek in Watershed 12-C.

**NPDES Permit No. PA0010782**, Industrial Waste, **Reliant Energy Mid-Atlantic Power Holdings, LLC**, Titus Power Plant, 121 Champion Way, Canonsburg, PA 15317. This proposed facility is located in Cumru Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Schuylkill River in Watershed 3-C.

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

**NPDES Permit No. PA0253073**, Sewage, **Elk Lick Energy, Inc.**, P. O. Box 240, Friedens, PA 15541. This proposed facility is located in Lincoln Township, **Somerset County**.

Description of Proposed Action/Activity: Issuance of NPDES permit to discharge sewage.

## 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. 6705411**, Sewerage, **Windsor Township**, 1480 Windsor Road, P. O. Box 458, Red Lion, PA 17356. This proposed facility is located in Windsor Township, **York County**.

Description of Proposed Action/Activity: Construction/Operation of the Shadow Ridge Pump Station to serve the Shadow Ridge development.

**WQM Permit No. 0501406 Amendment 05-1**, Sewerage, **Broad Top Township**, P. O. Box 57, Defiance, PA 16633. This proposed facility is located in Broad Top Township, **Bedford County**.

Description of Proposed Action/Activity: Amendment approval for the removal of monitoring and reporting requirements of Ammonia Nitrogen, Total Kjeldahl Nitrogen, Nitrite Nitrogen and Nitrate Nitrogen.

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

**WQM Permit No. 4105402**, Sewerage (SIC 4952), **Williamsport Sanitary Authority**, 253 West Fourth Street, Williamsport, PA 17701. This proposed facility will be located in City of Williamsport, **Lycoming County**.

Description of Proposed Action/Activity: Issuance of a permit authorizing the construction/operation of a (relief) sanitary sewage interceptor sewer to provide capacity that is not currently available in the existing parallel interceptor, which will remain in service.

**WQM Permit No. 1905403**, Sewerage 4952, **Berwick Area Joint Sewer Authority**, 1108 Freas Avenue, Berwick, PA 18603. This proposed facility is located in Briar Creek Township, **Columbia County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate sewer extensions to Martzville and Foundryville.

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

**WQG Permit No. WQG016115**, Sewerage, **Thomas Recupero**, P. O. Box 134, Eighty Four, PA 15330. This proposed facility is located in North Bethlehem Township, **Washington County**.

Description of Proposed Action/Activity: Construction and operation of a single residence sewage treatment plant.

**IV. NPDES Stormwater Discharges from MS4 Permit Actions**

**V. NPDES Waiver Stormwater Discharges from MS4 Actions**

**VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024504025	Department of Transportation Engineering District 5-0 1713 Lehigh St. Allentown, PA 18103-4727	Monroe and Carbon	Tobyhanna Township and Kidder Township	Tunkhannock Creek HQ-CWF
PAI024505004	Lake Naomi Club Route 423 Pocono Pine, PA 18350	Monroe	Tobyhanna Township	Tobyhanna Creek HQ-CWF
PAI023905026	Blue Sky Properties, LLC 1450 Fels Rd. Quakertown, PA 18951	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032105011	Robert D. Henry, III 35 Irish Gap Road Newville, PA 17241	Cumberland	Penn Township	Yellow Breeches Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041905001	Stephen E. Rutkowski CAC Properties LLC 1039 Middle Rd. Elysburg, PA 17824	Columbia	Cleveland Township	S. Br. Roaring Creek HQ

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062405001	MiCale Construction Service, Inc.	Elk	Fox Township	UNT Byrnes Run EV
PAI063305002	Jefferson County	Jefferson	Pinecreek Township	UNT North Fork HQ-CWV and UNT Mill Creek CWF

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**VII. Approvals to Use NPDES and/or Other General Permits**


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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).

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**List of NPDES and/or Other General Permit Types**


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PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

*General Permit Type—PAG-2*
*Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
City of Pottsville Schuylkill County	PAG2005405031	Thomas A. Palamar City Administrator 401 North Center St. P. O. Box 50 Pottsville, PA 17901	Schuylkill River CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Tremont Township Schuylkill County	PAG2005405034	SEDCO 91 S. Progress Ave. Pottsville, PA 17901 and Arthur "Pat" Aungst, Inc. 45 Tremont Rd. Pine Grove, PA 17963	Lower Rausch Creek CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Mahanoy City Borough Gilberton Borough Mahanoy Township Schuylkill County	PAG2005405030	Mahanoy Township Authority 46 North Main St. Mahanoy City, PA 17948	Mahanoy Creek WWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Dallas Township Luzerne County	PAG2004005043	C & N Dining, LLC c/o Perry G. Dunford P. O. Box 596 Wytheville, VA 24382	UNT to Huntsville Reservoir CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Upper Saucon Township Lehigh County	PAG2003905013	Paul Chernay P. O. Box 199 Coopersburg, PA 18036	Saucon Creek CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Washington Township Northampton County	PAG2004805032	Bangor Area School Dist. 123 Five-Points Richmond Rd. Bangor, PA 18013	Martins Creek TSF-MF	Northampton Co. Cons. Dist. (610) 746-1971
Allen Township Northampton County	PAG2004805012	Hampton Ridge Associates 4661 Lehigh Drive Walnutport, PA 18088	Lehigh River WWF	Northampton Co. Cons. Dist. (610) 746-1971

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Salem Township Luzerne County	PAG2004005039	Salem Township 400 Luzerne Avenue P. O. Box 405 Berwick, PA 18603	Walkler Run CWF Salem Creek CWF Susquehanna River WWF	Luzerne Co. Cons. Dist. (570) 674-7991
West Earl Township Lancaster County	PAG2003604115(1)	Victor S. Martin 529 Millway Rd. Ephrata, PA 17522	Cocalico Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
West Donegal Township Lancaster County	PAG2003605102	Longenecker's Hatchery Inc. P. O. Box 307 1110 S. Market St. Elizabethtown, PA 17022	Conoy Creek TSF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
East Donegal Township Lancaster County	PAG2003605116	Mark Hessinger 920 Liinks Ave Landisville, PA 17538	Susquehanna River WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Upper Leacock Township Lancaster County	PAG2003605117	Two Stooges Development LLC 3722 Yost Rd. Gordonville, PA 17529	UNT Mill Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Penn Township Lancaster County	PAG2003605121	Manheim Central School District 71 N. Hazel St. Manheim, PA 17545	Chiques Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Leacock Township Lancaster County	PAG2003605129	Ivan J. King 2256 S. Cherry St. Ronks, PA 17572	UNT Pequea Creek CWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
East Hempfield Township Lancaster County	PAG2003605131	Noll Drive Associates 102 Bank Barn Lane Lancaster, PA 17602	Brubaker Run WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Quarryville Borough Lancaster County	PAG2003605137	Chris Fisher 225 Furniss Rd. Quarryville, PA 17566	UNT Big Beaver Creek South TSF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Manheim Township Lancaster County	PAG2003605147	Blossom Hill Mennonite Church 333 Delp Rd. Lancaster, PA 17601	Little Conesotga Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Antrim Township Franklin County	PAG2002805079	Ron Gene Properties Dianne Drive Ron Kline 9332 Willowdale Road Greencastle, PA 17225	UNT to Marsh Creek WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5



<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Centre County College Township	PAG2001405019	Daniel Hess AAA Southern PA 2840 Eastern Blvd. York, PA 17402	UNT Spring Creek CWF	Centre County Conservation District 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Montour County Mahoning Township	PAG2004705006	John Rinehart 510 Church St. Danville, PA 17821	Sechler Run CWF	Montour County Conservation District 112 Woodbine Lane, Suite 2 Danville, PA 17821 (570) 271-1140
Montour County Mahoning Township	PAG2004705007	Michael Currid P. O. Box 279 Riverside, PA 17868	Sechler Run CWF	Montour County Conservation District 112 Woodbine Lane, Suite 2 Danville, PA 17821 (570) 271-1140
Somerset County Somerset Borough	PAG2005605010	Somerset Housing Development, LP, II 4415 15th Avenue Pittsburgh, PA 15213	East Branch of Coxes Creek (TSF)	Somerset County CD (814) 445-4652
Washington County Mt. Pleasant Township	PAR10W152R	CVL Partners, Inc. P. O. Box 273 Atlasburg, PA 15004	Racoon Creek and Cherry Valley Reservoir (WWF)	Washington County CD (724) 228-6774
Washington County Cecil Township	PAG2006305042	Washington County Auth. 100 West Beau Street Suite 304 Washington, PA 15301	Chartiers Creek (WWF)	Washington County CD (724) 228-6774
Washington County Donegal Township	PAG2006305044	Robert Cossell 202 Ogelbay Lane Connellsville, PA 15425	Middle Wheeling Creek (WWF)	Washington County CD (724) 228-6774
Westmoreland County Murrysville	PAG2006505041	Jim Crowley Golden Triangle 5615 William Penn Hwy. Export, PA 15032	UNT to Turtle Crk. (CWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Hempfield Township	PAG2006505043	Vernon Sutor P. O. Box 107 371 Walnut Avenue Hunker, PA 15639	Sewickley Crk. (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County East Huntingdon Township	PAG2006505070	Bob Evans Farms 3776 South High Street Columbus, OH 43207	Jacobs Crk. (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Upper Burrell Township	PAG2006505071	Westmoreland County Ind. Dev. Co. Courthouse Square Suite 601 2 North Main St. Greensburg, PA 15601	UNT to Pucketa Crk. (TSF)	Westmoreland County CD (724) 837-5271
Westmoreland County East Huntingdon Township	PAG2006505072	Amcel Center R. D. 7 Box 982 Mount Pleasant, PA 15666	Jacobs Crk. (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Murrysville	PAG2006505074	New Belle Construction 310 Rehoboth Church Belle Vernon, PA 15012	Turtle Crk. (TSF)	Westmoreland County CD (724) 837-5271
Westmoreland County Delmont Boro	PAG2006505076	Catranell, Inc. 901 Elizabeth Street Pittsburgh, PA 15221	Turtle Crk. (TSF)	Westmoreland County CD (724) 837-5271

*Facility Location:  
Municipality &  
County*Westmoreland  
County  
Unity TownshipPermit No.  
PAG2006505078*Applicant Name &  
Address*  
Unity Township Mun.  
Auth.  
156 Beatty County Rd.  
Latrobe, PA 15650*Receiving  
Water/Use*  
Four Mile Run  
(WWF)*Contact Office &  
Phone No.*Westmoreland County CD  
(724) 837-5271*General Permit Type—PAG-3**Facility Location &  
Municipality*Huntingdon County  
Cromwell TownshipPermit No.  
PAR603581*Applicant Name &  
Address*  
Stephen G. Cresswell  
Steve's Used Auto Parts  
P. O. Box 17  
Shade Gap, PA 17255*Receiving  
Water/Use*  
Shade Creek  
TSF*Contact Office &  
Phone No.*DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4707*General Permit Type—PAG-4**Facility Location  
&  
Municipality*Washington County  
North Bethlehem  
TownshipPermit No.  
PAG046314*Applicant Name &  
Address*  
Thomas Recuperero  
P. O. Box 134  
Eighty Four, PA 15330*Receiving  
Water/Use*  
UNT of South Branch  
Pigeon Creek*Contact Office &  
Phone No.*Southwest Regional Office  
Water Management  
Program Manager  
400 Waterfront Drive  
Pittsburgh, PA  
15222-4745  
(412) 442-4000*General Permit Type—PAG-5**Facility Location &  
Municipality*Mifflin County  
Lewistown BoroughPermit No.  
PAG053587*Applicant Name &  
Address*  
Sheetz, Inc.  
5700 Sixth Avenue  
Altoona, PA 16602*Receiving  
Water/Use*  
Juniata River  
WWF*Contact Office &  
Phone No.*DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA 17110  
(717) 705-4707*General Permit Type—PAG-9**Facility Location &  
County/Municipality*Ayr Township  
Fulton CountyPermit No.  
PAG093547*Applicant Name &  
Address*  
Chestnuts Septic Service  
327 Chestnut Farm  
Lane  
McConnellsburg, PA  
17233*Site Name &  
Location*  
Ayr Township  
Fulton County*Contact Office &  
Phone No.*DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
(717) 705-4707Antrim Township  
Franklin CountyPermit No.  
PAG093534*Applicant Name &  
Address*  
Antrim Septic Service  
3119 Barr Road  
Greencastle, PA 17225*Site Name &  
Location*  
Antrim Township  
Franklin County*Contact Office &  
Phone No.*  
DEP—SCRO  
909 Elmerton Avenue  
Harrisburg, PA  
17110-8200  
(717) 705-4707**PUBLIC WATER SUPPLY (PWS)  
PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483.

TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act

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

**Permit No. Minor Amendment—Operation, Public Water Supply.**

Applicant	<b>Pennsylvania-American Water Company</b>
Township or Borough	Milton Borough
County	<b>Northumberland</b>
Responsible Official	Nick O. Rawe, Vice President Pennsylvania-American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	Public Water Supply—Operation
Consulting Engineer	Scott M. Thomas, P. E. Pennsylvania-American Water Company 852 Wesley Drive Mechanicsburg, PA 17055
Permit Issued Date	12/23/2005
Description of Action	Operation of the recently replaced media and underdrain system in Milton Filter No. 1.

**Permit No. Minor Amendment—Operation, Public Water Supply.**

Applicant	<b>Danville Municipal Authority</b>
Township or Borough	Danville Borough
County	<b>Montour</b>
Responsible Official	Walter Shultz, Chairperson Danville Municipal Authority 12 West Market Street Danville, PA 17821
Type of Facility	Public Water Supply—Operation
Consulting Engineer	N/A
Permit Issued Date	12/23/05
Description of Action	Operation of the polyaluminum chloride systems as a coagulant in the filtration process. Persons may now use either alum or polyaluminum chloride for coagulation.

**Permit No. 1704502—Operation, Public Water Supply.**

Applicant	<b>Clearfield Municipal Authority</b>
Township or Borough	Lawrence Township
County	<b>Clearfield</b>

Responsible Official	Jeffery Williams, Manager Clearfield Municipal Authority 107 East Market Street Clearfield, PA 16830
Type of Facility	Public Water Supply—Operation
Consulting Engineer	N/A
Permit Issued Date	12/23/05
Description of Action	Operation of the 100,000 gallon finished water storage tank, pump station and waterline extension for the Fire Tower area.

**Permit No. 5302501—Operation, Public Water Supply.**

Applicant	<b>Coudersport Borough Authority</b>
Township or Borough	Coudersport Borough
County	<b>Potter</b>
Responsible Official	William Krog, Chairperson Coudersport Borough Authority 201 South West Street Coudersport, PA 16915
Type of Facility	Public Water Supply—Operation
Consulting Engineer	Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801
Permit Issued Date	12/23/05
Description of Action	Operation of the East Well No. 2, East Treatment Plant with booster pumps.

**Permit No. Minor Amendment—Construction, Public Water Supply.**

Applicant	<b>Pennsylvania-American Water Company</b>
Township or Borough	Milton Borough
County	<b>Northumberland</b>
Responsible Official	Paul A. Zielinski, Director Environmental Mgmt. & Compliance Pennsylvania-American Water Company 800 West Hersheypark Drive Hershey, PA 17033
Type of Facility	Public Water Supply—Construction
Consulting Engineer	Scott M. Thomas, P. E. Pennsylvania-American Water Company 852 Wesley Drive Mechanicsburg, PA 17055
Permit Issued Date	12/23/2005
Description of Action	Rehabilitation of the Milton Reservoir.

**Permit No. 4146426EP119 Public Water Supply.**

Applicant	<b>H20 to Go</b>
Township or Borough	City of Williamsport
County	<b>Lycoming</b>

Responsible Official William Brightman, P. E.  
H2O to Go  
49 Village Square Drive  
Marietta, PA 17547

Type of Facility Public Water  
Supply—Permit-By-Rule

Consulting Engineer N/A

Permit Issued Date 12/13/2005

Description of Action For a new NAMA approved water dispenser and finished water holding and disinfection equipment located at Weis Markets Store No. 9, 305 River Rd., Williamsport, PA 17701

Consulting Engineer Paul J Opila, P. E.  
Miller Pump Systems, Inc.  
P. O. Box 105  
Cedars, PA 19423

Permit to Construct 12/23/2005  
Issued:

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

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

*Plan Location:* Chrin Commerce Center, Phase 1

Borough or Township	Borough or Township Address	County
Tatamy Borough	423 Broad St. P. O. Box 218 Tatamy, PA 18085	Northampton
Palmer Township	3 Weller Place P. O. Box 3039 Palmer, PA 18043	Northampton

*Plan Description:* The Department of Environmental Protection has reviewed the subdivision plan submitted for the previously referenced proposed Official Plan Revision consisting of an 11 lot industrial subdivision of a 65-acre tract in both the Borough of Tatamy and Palmer Township. A new 10" sanitary sewer line will connect the project to the existing public sanitary system at MH EA-15. Collection and conveyance of the proposed 99,075 gpd of sewage flows will occur through public facilities of the Borough of Tatamy, Palmer Township, Forks Township and the City of Easton. The Easton Area Joint Sewer Authority will supply conveyance and wastewater treatment plant facilities. Pennsylvania-American Water Company will provide public water to the project. The proposed development is located at 8th Street, Palmer Township and the Borough of Tatamy, Northampton County. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

*Plan Location:*

Borough or Township	Borough or Township Address	County
Hampden Township	230 South Sporting Hill Road	Cumberland

*Plan Description:* Approval of a revision to the Official Sewage Plan of Hampden Township, Cumberland County. The proposed Quigley Tract subdivision consists of 66 new townhouses and retention of one existing home, a new municipal pump station with a sewage flow of 16,750 gpd tributary to the Hampden Township Roth Lane Treatment Plant. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

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

**Permit No. 1069502-MA3, Minor Amendment**

Applicant **Pennsylvania-American Water Company**

Borough or Township Butler Township  
County **Butler**

Type of Facility Public Water Supply  
Southern Hills Tank rehabilitation

Permit to Construct Issued 12/27/2005

**Permit No. 2705501, Minor Amendment**

Applicant **Aqua Pennsylvania, Inc.**

Borough or Township Jenks Township  
County **Forest**

Type of Facility Public Water Supply  
Well No. 5

Permit to Construct Issued 12/27/2005

**Permit No. 2505503, Minor Amendment**

Applicant **Cross Station MHP**

Borough or Township Girard Township  
County **Erie**

Type of Facility Public Water Supply

Permit to Construct Issued 12/09/2005

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

**Permit No. 0605511, Public Water Supply.**

Applicant **Valley View Mobile Home Park**

Municipality Amity Township  
County **Berks**

Type of Facility Project consist of addition of 16 activated carbon filters for VOC treatment along with two 325-gallon chlorine contact tanks to the existing Well No. 2.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Sinking Spring Borough	3940 Penn Ave. Sinking Spring, PA 19608-1168	Berks

*Plan Description:* The approved plan provides for the connection of nine existing properties along Mountain Home Road to be connected to the Municipal Authority of the Borough of Sinking Spring Sewage Treatment Plan by means of a new pump station. The nine properties generate 2,700 gpd. The DEP Code number is A3-06959-017-3M. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Cumberland Township	1370 Fairfield Drive Gettysburg, PA 17325	Adams

*Plan Description:* The approved plan provides for the construction of a 0.25 mgd wastewater treatment facility at the site of the existing aerated holding tank serving the Boyd's Bears facility. The plan also provides for the construction of a public sewer system to serve the area indicated as Phase 1 in the plan. In addition, the Plan provides for the adoption and implementation of an onlot sewage disposal system management program. The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

*Plan Location:*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Albion Borough	26 Smock Avenue Albion, PA 16401	Erie

*Plan Description:* The approved plan provides for-raiting the existing Albion Wastewater Treatment Plant's organic capacity and constructing additional treatment facilities to address current and future organic loadings.

The Department of Environmental Protection's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 2

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The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

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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:

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

**International Paper Erie Mill, Main Site Area, City of Erie, Erie County.** William Staph, Atlantic Environmental Group, Inc., 20990 Neiltown Rd., Pleasantville PA 16341, on behalf of Patrick Arneault, Property Owner, Presque Isle Downs, Inc. Rt. 2, P. O. Box 358, Chester, WV 26034 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with VOCs, semi-VOCs, diesel fuel, No. 2 fuel oil, inorganics, leaded and unleaded gasoline, PAHs and PCBs. The report is intended to document remediation of the site to meet the Statewide Health Standards.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 3

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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).

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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.*

**Molycorp York**, Spring Garden Township, **York County**. Malcolm Pirnie, Inc., 1603 Carmody Court, Suite 403, Sewickley, PA 15143, on behalf of Molycorp, Inc. 350 North Sherman Street, York, PA 17403, submitted a combined Remedial Investigation, and Final Report concerning remediation of site soils and groundwater contaminated with VOCs, SVOCs and metals. The combined report demonstrated attainment of a combination of the non-residential Statewide Health and Site-Specific Standards and was approved by the Department on December 22, 2005.

**Ronca Diesel Fuel Spill**, Marietta Borough, **Lancaster County**. Liberty Environmental, Inc., 10 North 5th Street, Suite 800, Reading, PA 19601, on behalf

of Michael F. Ronca & Sons, Inc., 179 Mikron Road, Bethlehem, PA 18020, submitted a Final Report within 90 days of a release concerning remediation of site soils contaminated with diesel fuel. The final report demonstrated attainment of the residential Statewide Health Standard and was approved by the Department on December 29, 2005.

**James and Tamah Wicke Residence**, Silver Spring Township, **Cumberland County**. Alliance Environmental Services, Inc., 1820 Linglestown Road, Harrisburg, PA 17110, on behalf of James and Tamah Wicke, 83 Willow Mill Park Road, Mechanicsburg, PA 17050, submitted a Final Report concerning remediation of site soils and groundwater contaminated with No. 2 fuel oil. The final report demonstrated attainment of the residential Statewide Health Standard and was approved by the Department on December 29, 2005.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Franklin Gryctko Estate**, College Township, **Centre County**. Chambers Environmental Group, Inc. 629 East Rolling Ridge Drive, Bellefonte, PA 16823 has submitted a Final Report concerning remediation of soil contaminated with benzene, ethylbenzene, cumene, naphthalene, toluene, fluorene and phenanthrene. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 15, 2005.

**Daly Residence**, Towanda Borough, **Bradford County**. Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 has submitted a Final Report concerning remediation of soil contaminated with No. 2 heating oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 12, 2005.

**Leo Williams, Jr. Property (Former R. Rador Complex, Former Herman Rynveld & Sons Company)**, Montgomery Borough, **Lycoming County**. Cocciardi & Assoc., Inc. 4 Kacey Court, Mechanicsburg, PA 17055-5596 has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of soil contaminated with lead. These reports are necessary to obtain compliance with the Site-Specific Standard and were approved by the Department on December 8, 2005.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

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

**Permit No. 100549**. Waste Mgmt. Disposal Services of Pa. Inc., 1425 Sell Road, Pottstown, PA 19464, Douglass and West Pottsgrove Townships, **Berks and Montgomery Counties**. Permit modified to provide for additional leachate storage capacity to be constructed in increments dependent upon an assessment of cap remediation work. The permit was issued by the Southeast Regional Office on December 23, 2005.

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit Application No. 301257. PPL Martins Creek-Ash Basin No. 4**, PPL Martins Creek, LLC, Two North Ninth Street, Allentown, PA 18101-1179. A permit modification, authorizing the design, construction, and operational changes at Ash Basin No. 4 following the August 23, 2005 Ash Basin discharge structure failure, and addresses 25 Pa. Code § 289.274(b) (Failure) requirements pertaining to the return of Ash Basin No. 4 to normal service. Design and construction changes, along with required repairs, have been made by PPL to provide additional safeguards against the recurrence of any similar type of incident. The operational changes that are being made include a new site "Integrated Contingency Plan" that replaced the previous site's "Comprehensive Spill Prevention & Response Plan," which incorporates modified operating procedures for this Class II residual waste disposal impoundment that is located in Lower Mt. Bethel Township, **Northampton County**. The Permit was issued by the Regional Office on December 27, 2005.

### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**23-310-017GP: Haines and Kibblehouse, Inc.** (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474) on December 28, 2005, to operate a relocation of a portable processor in Aston Township, **Delaware County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.*

**GP5-65-00953A: The Peoples Natural Gas Co.** (625 Liberty Avenue, Dominion Tower, Pittsburgh, PA 15222) on December 30, 2005, to install and operate one 945 bhp Caterpillar natural gas-fired compressor engine, Model No. 3512 TA130LE, at the Armbrust Compressor Station in Hempfield Township, **Westmoreland County** (Permit GP-5).

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**46-0069: Highway Materials, Inc.** (5000 Joshua Road, Plymouth Meeting, PA 19462) on December 29, 2005, to operate a portable crushing plant and two engines in Whitemarsh Township, **Montgomery County**.

**09-0164: H and K Materials—Div. of Haines and Kibblehouse, Inc.** (300 Skunk Hollow Rd., Chalfont, PA 18914) on December 30, 2005, to operate a wet suppression system in Hilltown Township, **Bucks County**.

**46-0069C: Highway Materials** (5100 Joshua Rd., Plymouth Meeting, PA 19462) on December 30, 2005, to operate a shaker style baghouse in Whitemarsh Township, **Montgomery County**.

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

**49-00033A: Watsonstown Brick Co.** (P. O. Box 68, Watsonstown, PA 17777-0068) on December 20, 2005, to install a Donaldson Torit model DFT 4-48 cartridge collector on an existing brick making production operation (Source ID P204) at their facility in Delaware Township, **Northumberland County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**09-0050C: Hanson Aggregates BMC, Inc.** (P. O. Box 231, Easton, PA 18044) on December 23, 2005, to operate an asphalt batch plant in Wrightstown Township, **Bucks County**.

**23-0014E: Kimberly-Clark Corp.** (Front Street and Avenue of the States, Chester, PA 19103) on December 16, 2005, to operate a paper machine No. 16 hood dryer in City of Chester, **Delaware County**.

**46-0005M: Merck and Co., Inc.** (Sumneytown Pike, P. O. Box WP20, West Point, PA 19486) on December 23, 2005, to operate a natural gas-fired combustion turbine in Upper Gwynedd Township, **Montgomery County**.

**46-0232A: Cemco Lift, Inc.** (2801 Township Line Road, Hatfield, PA 19440) on December 6, 2005, to operate two spray booths and manual brush painting spray booth filters in Hatfield Township, **Montgomery County**.

**09-0122: Arkema Inc.** (2000 Market Street, Philadelphia, PA 19103) on December 28, 2005, to operate a thermal oxidizer in Bristol Township, **Bucks County**.

**09-0122A: Arkema Inc.** (2000 Market Street, Philadelphia, PA 19103) on December 28, 2005, to operate a B66 thermal oxidizer in Bristol Township, **Bucks County**.

**09-0124F: Fairless Energy, LLC** (5000 Dominion Boulevard, Glen Allen, VA 23060) on December 29, 2005, to operate an auxiliary boiler retrofit in Falls Township, **Bucks County**.

**09-0105B: Naceville Materials** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on December 29, 2005, to operate a 20,000 gallon storage tank in Springfield Township, **Bucks County**.

**09-0177: North Penn Polishing and Plating, Inc.** (40 West Park Avenue, Sellersville, PA 18960) On December 30, 2005, 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.*

**14-00002A: Graymont (PA), Inc.** (965 East College Avenue, Pleasant Gap PA 16823) on December 23, 2005, to operate lime kiln No. 6 and associated ancillary equipment (limestone and lime handling and storage

equipment) and air cleaning devices (fabric collectors) identified in the respective plan approval on a temporary basis until May 30, 2006, at the Pleasant Gap Plant in Spring Township, **Centre County**. The authorization has been extended.

**55-310-002A: National Limestone Quarry, Inc.** (P. O. Box 397, Middleburg, PA 17842) on November 16, 2005, to construct various pieces of stone crushing, and the like equipment and to operate various other pieces of stone crushing, and the like equipment identified in the respective plan approval on a temporary basis, until March 14, 2006, at the Paxtonville Quarry in Franklin Township, **Snyder County**. The authorization has been extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.*

**PA-30-00150A: Wellington Development—WVDT, LLC** (1620 Locust Avenue, Fairmont, WV 26551) on January 3, 2006, to correct an error which appeared in the *Pennsylvania Bulletin* on Saturday, December 17, 2005.

An error occurred in the notice providing Clarification of Class I Impacts, Plan Approval at a Title V Facility No. PA-30-00150A, which appeared at 35 Pa.B. 6828 (December 17, 2005). The notice incorrectly stated that AERMOD was the ambient air quality modeling program used to model effects of emissions on Prevention of Significant Deterioration (PSD) Class I areas. The modeling program in fact used was CALPUFF. The corrected notice, which also includes additional clarification and commences a new comment period, is as follows.

Notice is hereby given concerning the degree of increment consumption for PSD Class I areas from the proposed Wellington Development—WVDT, LLC facility to be located in Cumberland Township, **Greene County**. The Plan Approval was issued on June 21, 2005, and subsequently modified on September 1, 2005.

The United States Environmental Protection Agency's CALPUFF modeling program was used to model the effect of the proposed facility's emissions on PSD Class I areas. Based on the modeling information provided by the applicant, the degree of increment consumption on PSD Class I areas attributable to the facility is as follows:

<i>Class I Area</i>	<i>Date of Impact</i>	<i>PSD Increments (µg/m<sup>3</sup>)</i>
James River Face	12/14/1996	5
James River Face	11/22/1996	5

<i>24-Hour SO<sub>2</sub> Cumulative Concentration (µg/m<sup>3</sup>)</i>	<i>Significant Impact Level (µg/m<sup>3</sup>)</i>	<i>24-Hour SO<sub>2</sub> Greene Energy Concentration (µg/m<sup>3</sup>)</i>
1.0	0.2	0.4
0.7	0.2	0.3

As shown in the table, the predicted impacts from the Wellington Development project, even when exceeding the designated "significant impact level," are well below the allowable PSD increment, and the cumulative PSD increment consumption is also well below the allowable PSD increment.

Copies of the application, the Department's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at the Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

Persons wishing to provide additional information or comments for consideration regarding the contents of this notice may submit the information to the Department at the address which follows. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Written comments must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed Plan Approval (specify the Plan Approval number).
- Concise written statements relevant to the contents of this notice should be directed to Mark A. Wayner, P. E., Air Quality Program Manager, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

For additional information, contact Mark Gorog, P. E., Air Pollution Control Engineer III at the same address.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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

**46-00250: Porter Instrument Co., Inc.** (245 Township Line Road, P. O. Box 907, Hatfield, PA 19440) on December 29, 2005, to operate a precision dental, medical and industrial application manufacturing facility Synthetic Minor Operating Permit in Franconia Township, **Montgomery County**.

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

**06-05019: Hofmann Industries, Inc.** (3145 Shillington Road, Sinking Spring, PA 19608) on December 22, 2005, to operate their steel pipe and tubing manufacturing facility in Sinking Spring Borough, **Berks County**. This is a renewal of their State-only operating permit.

**22-02004B: The Hershey Co.** (P. O. Box 819, 19 East Chocolate Avenue, Hershey, PA 17033-0819) on December 23, 2005, to approve a case by case RACT plan in Derry Township, **Dauphin County**.

**36-05011: Pittsburgh Terminals Corp.** (P. O. Box 2621, Harrisburg, PA 17105-2621) on December 30, 2005, to operate their petroleum product bulk storage and loading facility in Manheim Township, **Lancaster County**. This is a renewal of their State-only operating permit.

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



**65-00131: Johnston's Greenhouse** (14179 Lincoln Way, North Huntingdon, PA 15642) on December 19, 2005, to operate one coal fired boiler and one oil fired boiler at this North Huntingdon Township facility in **Westmoreland County**.

**65-00856: Ligonier Stone and Lime Co.** (P. O. Box 459, Laughlinton, PA 15655) on December 19, 2005, for a surface mining operation for limestone with associated crushing, screening and loading equipment at the Derry Township facility in **Westmoreland County**.

**63-00643: Ametek, Inc.** (P. O. Box 427, Eighty Four, PA 15330) on December 30, 2005, for the atomization processes along with associated control devices (cyclones, baghouses) at their specialty metal products division in North Strabane Township, **Washington County**.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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

**09-00015: Rohm and Haas—Bristol** (200 Route 413, Bristol, PA 19007) on December 23, 2005, an administrative amendment to Title V Operating Permit No. TVOP-09-00015 under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450 in Bristol Township, **Bucks County**. The operator of the facility and its sources has been changed to Rohm and Haas Chemicals LLC (Tax ID No. 75-3175238), the wording of the stack testing conditions for Source ID 401, 441, 516, 517, 735A, 743A and 744 has been changed to require stack testing within 12 months of permit expiration and the complete test report to be submitted to the Department within 6 months of permit expiration, a compliance schedule has been added requiring the permittee to submit to the Department, on or before February 1, 2006, and proposed alternate operating procedures and restrictions for the scrubber to ensure compliance with the applicable MACT standard.

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

**36-05013: Lancaster County Solid Waste Management Authority** (1911 River Road, Bainbridge, PA 17502-9360) on December 23, 2005, to operate three municipal waste combustors in Conoy Township, **Lancaster County**. This Operating Permit was administratively amended to change the reporting date from July 5 to January 1 of each year. This is revision No. 1.

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

**55-399-003: Penn Lyon Homes Corp.** (101 Airport Road, P. O. Box 27, Selinsgrove, PA 17870) on November 22, 2005, issued a revised operating permit for the modular home manufacturing facility in Monroe Township, **Snyder County**. This operating permit modification request is to reflect in the operating permit the following: an increase to the allowable VOC emissions from the hand-applied surface coating operation from 0.1 ton in any 12-consecutive month period to 0.3 ton in any 12-consecutive month period, an increase the allowable HAP emissions from the hand-applied surface coating

operation from 0.02 ton in any 12-consecutive month period to 0.06 ton in any 12-consecutive month period, an increase the allowable usage of coatings in the hand-applied surface coating operation from 20 gallons in any 12-consecutive month period to 100 gallons in any 12-consecutive month period, and an increase the allowable usage of VOC and/or HAP containing glues and adhesives in the two Graco hand spray booths and associated operations from 150 gallons in any 12-consecutive month period to 350 gallons in any 12-consecutive month period. The operating permit contains appropriate monitoring, recordkeeping and reporting conditions, including all applicable regulatory requirements.

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

**S02-002: Southern Graphic Systems—formerly Cage Graphic Arts** (2781 Roberts Avenue, Philadelphia, PA 19129) on December 29, 2005, to operate a manufacturing facility for printing plates for the flexographic printing industry in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three photo processing units, two dryer/post exposure units, two distillation stills, and film processing and proofing departments.

**ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

*Coal Permits Actions*

*California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**32991301 and NPDES Permit No. PA0215228, AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), to renew the permit and Related NPDES Permit and revise the permit for the Nolo Mine in Buffington, Pine, Cherryhill and Brush Valley Townships, **Indiana County** to add underground permit and subsidence control plan area acres. Underground Acres Proposed 1,587.0, SCP Acres Proposed 1405.0. Permit issued December 20, 2005.

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

**32040104 and NPDES Permit No. PA0249629. KMP Associates, Inc.**, 1094 Lantz Road, Avonmore, PA 15618, commencement, operation and restoration of a bituminous surface mine in Young Township, **Indiana County**, affecting 40.5 acres. Receiving streams: UNT to Whiskey

Run to Whiskey Run to Blacklegs Creek classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received September 15, 2004. Permit issued: December 23, 2005.

*Greensburg District Mining Office: Armbrust Building, R. R. 2, Box 603C, Greensburg, PA 15601, (724) 925-5500.*

**03030107. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Permit revised to add 13.8 acres to an existing bituminous surface mining site located in Boggs Township, **Armstrong County**, now affecting 151.8 acres. Receiving streams: UNT to North Fork of Pine Creek. Application received: November 14, 2005. Revised permit issued: December 28, 2005.

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

**33940105 and NPDES Permit No. PA0212121. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767). Renewal of an existing bituminous surface strip operation in Pinecreek Township, **Jefferson County** affecting 118.1 acres. This renewal is issued for reclamation only. Receiving streams: Two UNTs to Five Mile Run to Mill Creek and Mill Creek to Little Mill Creek. Application received: October 28, 2005. Permit Issued: December 28, 2005.

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

**49783007C14. Blaschak Coal Corp.** (P. O. Box 12, Mahanoy City, PA 17948), correction to include coal ash placement to an existing anthracite surface mine in Coal Township, **Northumberland County** affecting 337.39 acres, receiving stream: none. Application received November 3, 2005. Correction issued December 28, 2005.

#### *Noncoal Permits Actions*

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

**Permit No. 31000301 and NPDES Permit No. PA0599174. New Enterprise Stone & Lime Company,** P. O. Box 77, New Enterprise, PA 16664-0077, renewal of NPDES Permit, Cromwell Township, Huntingdon County. Receiving stream: Shade Creek classified for the following use: TSF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received October 27, 2005. Permit issued December 22, 2005.

**Permit No. 4274SM26 and NPDES Permit No. PA0599174. New Enterprise Stone & Lime Company,** P. O. Box 77, New Enterprise, PA 16664-0077, renewal of NPDES Permit, Cromwell Township, Huntingdon County. Receiving stream: Shade Creek classified for the following use: TSF. There are no potable water supply intakes within 10 miles downstream. NPDES renewal application received October 27, 2005. Permit issued December 22, 2005.

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

**42040301. Duffy, Inc.** (P. O. Box 374, Smethport, PA 16749-0374). Transfer from an existing sandstone and shale operation in Liberty Township, **McKean County** affecting 33.6 acres. Receiving streams: The Allegheny River. Application received: October 28, 2005. Permit Issued: December 27, 2005.

## ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

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

**21054182. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Meadowgreen Development in Shippensburg and Southampton Townships, **Cumberland County** with an expiration date of December 1, 2006. Permit issued December 22, 2005.

**28054168. Newville Construction Services, Inc.** (408 Mohawk Road, Newville, PA 17241), construction blasting for Orrstown Bank in Greencastle Borough, **Franklin County** with an expiration date of November 30, 2006. Permit issued December 22, 2005.

**35054123. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for School Side Estates in Throop Borough, **Lackawanna County** with an expiration date of January 31, 2007. Permit issued December 22, 2005.

**45054158. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Rock Ledge Estates in Price Township, **Monroe County** with an expiration date of January 31, 2007. Permit issued December 22, 2005.

**13054102. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Golden Oaks Village in Kidder Township, **Carbon County** with an expiration date of January 31, 2007. Permit issued December 23, 2005.

**35054124. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Dan Snipe Subdivision in Scott Township, **Lackawanna County** with an expiration date of January 31, 2007. Permit issued December 23, 2005.

**35054125. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Royal Oaks Estates in South Abington Township, **Lackawanna County** with an expiration date of January 31, 2007. Permit issued December 23, 2005.

**45054159. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Twin Lake Estates in Smithfield Township, **Monroe County** with an expiration date of January 31, 2007. Permit issued December 23, 2005.

**38054132. Newville Construction Services, Inc.** (408 Mohawk Road, Newville, PA 17241), construction blasting for Catholic Housing Development in North Cornwall Township, **Lebanon County** with an expiration date of December 31, 2006. Permit issued December 27, 2005.

**22054115. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Southpoint Meadows in Derry Township, **Dauphin County** with an expiration date of January 30, 2006. Permit issued December 28, 2005.

**28054169. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), con-

struction blasting for Red Oak Estates in Antrim Township, **Franklin County** with an expiration date of December 12, 2006. Permit issued December 28, 2005.

**28054171. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Sycamore Meadows in Greene Township, **Franklin County** with an expiration date of December 27, 2006. Permit issued December 28, 2005.

**36054185. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Anglesea Development in West Earl Township, **Lancaster County** with an expiration date of December 30, 2006. Permit issued December 28, 2005.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E48-363. Signature Homes by J. T. Maloney, Inc.**, 610 Farm Lane, Doylestown, PA 18901. Tatamy Borough, **Northampton County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a 48-inch diameter stormwater outfall pipe and energy dissipator in a tributary to Bushkill Creek (HQ-CWF). The project is associated with a planned residential subdivision known as Tatamy Farms and is located northeast of the intersection of Main Street and 4th Street (Nazareth, PA Quadrangle N: 21.5 inches; W: 0.6 inch). (Subbasin: 1F)

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

**E67-788: Springettsbury Township**, 1501 Mount Zion Road, York, PA 17402 in Springettsbury Township, **York County**, ACOE Baltimore District

To construct and maintain five 10-inch sanitary sewer line stream crossings of a UNT to Codorus Creek (WWF), one wetland crossing which will temporarily impact 0.28 acre of palustrine emergent wetlands, and install a 4-foot 10-inch diameter manhole in a wetland which will permanently impact 18 square feet of palustrine emergent wetlands all associated with a UNT to Codorus Creek (WWF) (York, PA Quadrangle N: 21.0 inches; W: 13.5 inches; Latitude 39° 59' 26", Longitude: 76° 43' 17") in Springettsbury Township, **York County**. The amount of wetland impact is considered a de minimis impact of 18 square feet and wetland mitigation is not required.

**E31-206: War Vets Field Project**, 2401 Taylor Avenue, Huntingdon, PA 16652 in Huntingdon Township, **Huntingdon County**, ACOE Baltimore District

To construct and maintain an on grade 6.0-foot by 30.0-foot, one story block ticket booth within the floodplain of the Juniata River (CWF-HQ) (Huntingdon, PA Quadrangle N: 19.88 inches; W: 0.66 inches; Latitude: 40° 29' 04", Longitude: 78° 00' 17") in the Borough of Huntingdon, Huntingdon County.

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

**E12-158. Francis and Andrea Agliardo**, 426 Lancer Drive, Columbia, PA 17512. Agliardo dwelling addition in Driftwood Branch-Sinnemahoning Creek floodway, in Lumber Township, **Cameron County**, Baltimore ACOE District, (Emporium, PA Quadrangle N: 11.0 inches; W: 8.0 inches).

To modify and maintain a single-family dwelling in the 100-year floodway of Driftwood Branch-Sinnemahoning Creek. The existing single-family dwelling shall be modified by constructing an addition of 39 feet by 75 feet. The Agliardo project is located southern right-of-way of SR 0120 approximately 1110 feet west of Stillhouse Road and SR 0155 intersection. This permit was issued under Section 105.13(e) "Small Projects."

**E17-412. Bradford Township**, P. O. Box 79, Woodland, PA 16881, Bridge Construction in Bradford Township, **Clearfield County**, ACOE Baltimore District (Wallaceton, PA Quadrangle N: 21.74 inches; W: 13.33 inches).

To: 1) remove the existing 54 inch by 78 inch corrugated metal pipe; 2) construct and maintain a CMP culvert measuring 85 inches by 112 inches depressed 6 inches in the streambed; and 3) construct and maintain inlet and outlet concrete headwalls in Jake Run on Lake Street in Woodland about 0.2 mile south of SR 970. The project will not impact wetlands while impacting about 30 feet of waterway. Jake Run is a CWF stream. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E59-473. Samuel Sorenson**, R. R.1, Box 1170, Osceola, PA 16942. Water Obstruction and Encroachment Joint Permit, in Osceola Township, **Tioga County**, ACOE Susquehanna River Basin District (Knoxville, PA Quadrangle N: 20.6 inches; W: 0.1 inch).

To construct and maintain a 12-foot wide by 12-foot long (clear span) steel beam, wood deck bridge containing concrete abutments with an underclearance of 7 feet over Redhouse Run, 0.5 mile southwest of the intersection of SR 4017 and Red House Hollow Road along Red House Hollow Road. This project proposes to permanently impact 20 linear feet of Redhouse Run, which is, designated a WWF stream and does not propose to impact any jurisdictional wetlands. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E24-241, Department of Transportation, District 2-0**, 1924-30 Daisy Street. Clearfield, PA. SR 0219, Sections C10 and D10, in Johnsonburg, **Elk County**, ACOE Pittsburgh District (Ridgeway, PA Quadrangle N: 41° 29' 07"; W: 78° 40' 47").

To construct and maintain (1) a 7-span continuous curved plate girder bridge having clear spans of 110 feet,

145 feet, 145 feet, 145 feet, 145 feet, 145 feet, 110 feet and an underclearance of 38 feet on a 22° skew across West Branch of Clarion River (CWF); (2) a 6-span continuous prestressed concrete I-beam bridge having clear spans of 118.76 feet, 106.09 feet, 108.99 feet, 130.62 feet, 129.48 feet, and 99.40 feet and a minimum underclearance of 33.77 feet on 0°, 9°, 18°, 20°, 14°, 30° and 90° skews across Clarion River (CWF); (3) a 9-span continuous composite prestressed concrete I-beam and steel curved plate girder bridge having clear spans of 110 feet, 110 feet, 110 feet, 110 feet, 110 feet, 190 feet, 280 feet and 190 feet and an underclearance of 31.97 feet across Johnson Run (CWF); (4) placement of 5,267 cubic yards of fill material within the Clarion River Floodplain and 9,365 cubic yards of fill material within the floodplain of the West Branch of the Clarion River while permanently impacting 1.01 acres of PEM wetlands; and (5) 0.01 acre of stream impacts all as part of the construction of the Johnsonburg Bypass SR 0219 project sections C10 and D10.

The permittee is required to provide 1.09 acres of replacement wetlands.

**E25-602, Millcreek Township**, 3608 West 26th Street, Erie, PA 16506. Heidler Road Drainage Improvement Project, in Millcreek Township, **Erie County**, ACOE Pittsburgh District (Swanville, PA Quadrangle N: 8.0 inches; W: 6.9 inches).

This previously referenced permit, which expired on December 31, 2005, has been extended to February 28, 2006, to address public comments received by the Department. This notice also provides official notice of the receipt of Millcreek Township's August 12, 2005, request to extend the permit and provides for a 30-day public comment period. Readers should refer to the Water Obstructions and Encroachments Application section of this notice.

## SPECIAL NOTICES

### Certification to Perform Radon-Related Activities in this Commonwealth

In the month of December 2005 the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Nathaniel Burden, Jr.	626 Jacksonville Road Suite 200 Warminster, PA 18974	Mitigation
Francis Butler, Jr.	20 Thornridge Road Springfield, PA 19064	Testing
George Conklin, III Appalachian Environmental Group	237 Susquehanna Avenue Lock Haven, PA 17745	Testing and Mitigation
Michael Conroy	201 Faculty Road Duncannon, PA 17020	Testing
Charles Dougherty	645 Mason Avenue Drexel Hill, PA 19026	Testing
Judith Hood-Scheidler	5676 Valleyview Drive Bethel Park, PA 15102	Testing
Mark Johnson	112 Salix Drive Bellefonte, PA 16823	Testing
Matthew Lewis	40 Teal Drive Langhorne, PA 19047	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Richard D. Malin	2075 Haymaker Road Monroeville, PA 15146	Testing
John Mallon, Jr. Radon Detection & Control	P. O. Box 419 153 Jordan Street South Heights, PA 15081	Testing and Mitigation
Frank Marsico	504 Woodcrest Drive Mechanicsburg, PA 17050	Mitigation
Eric Proctor	98 South Cherry Lane Dillsburg, PA 17019	Testing
Robert Raishart	778 Armel Hollow Road Latrobe, PA 15650	Testing
John Rogers	1129 Old Eagle Road Lancaster, PA 17601	Testing
Flint Schachter	2901 Hemlock Farms Lords Valley, PA 18428	Testing
Kenneth Schutter	P. O. Box 55 Kemberton, PA 19442	Testing
Robert Shoemaker H. O. Thompson Testing Labs	104 Valley View Drive Parkesburg, PA 19365	Testing
Volz Environmental Services	1200 Gulf Lab Road Pittsburgh, PA 15238	Testing
Jerry Wilver	817 Milroy Road New Columbia, PA 17856	Testing and Mitigation

[Pa.B. Doc. No. 06-71. Filed for public inspection January 13, 2006, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keyword: Technical Guidance). The "Final Documents" heading is the link to a menu of the various Department bureaus where each bureau's final technical guidance documents are posted. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2006.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view and download technical guidance documents. When this option is not available, persons can order a paper copy of any of the Department's draft or final technical guidance documents by contacting the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### *Final Technical Guidance*

DEP ID: 400-2000-301. Title: Policy for Permit Coordination. Description: This guidance identifies coordination

procedures to be used by Department staff in the technical review and decision making of projects involving multiple Department permits or authorizations. The guidance complements Departmental guidance #400-2000-300: Model Permit Application Process of July 11, 1994. A notice of availability of the draft version of this document was published at 35 Pa.B. 5871 (October 22, 2005) with provision for a 30-day public comment period that concluded on November 21, 2005. The Department did not receive any public comments on the draft document during the public comment review period. Contact: Renee Bartholomew, Department of Environmental Protection, Office of Field Operations, Rachel Carson State Office Building, 16th Floor, 400 Market Street, Harrisburg, PA 17105-2063, (717) 787-5028, [rebartholo@state.pa.us](mailto:rebartholo@state.pa.us). Effective Date: January 14, 2006.

DEP ID: 383-3310-109. Title: Pennsylvania Drinking Water Information System (PADWIS) Inventory Users Manual. Description: This document establishes guidance and protocol for the use and maintenance of a computerized public water system inventory for the management of the Safe Drinking Water Program. It is issued under the authority of the Pennsylvania Safe Drinking Water Act (act) (35 P. S. §§ 721.1—721.17) and 25 Pa. Code § 109.301 (relating to general monitoring requirements). A notice of availability of the draft version of this document was published at 35 Pa.B. 4976 (September 3, 2005) with provision for a 30-day public comment period that concluded on October 3, 2005. The Department did not receive any public comments on the draft document during the public comment review period. Contact: Michael Mark, Department of Environmental Protection, Rachel Carson State Office Building, 11th Floor, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 772-4466, [mmark@state.pa.us](mailto:mmark@state.pa.us). Effective Date: January 14, 2006.

*Final Technical Guidance—Substantive Revision*

DEP ID: 383-2000-108. Title: Construction and Operation Permits Guidance. Description: The guidance and procedures contained in this document (effective November 1, 1997 at 27 Pa.B. 6278 (November 29, 1997)) provide direction to Department staff for implementing permit issuance and tracking activities under the safe drinking water management programs. Recent substantive changes were made to the guidance. These changes include the establishment of procedures for the issuance of permits under emergency conditions and provisions for assigning numbers to operation permits, including the option of assigning an operation permit with the same permit number provided in the corresponding construction permit. In addition to these changes, the guidance also includes information concerning bottled water systems and noncommunity water systems and the requirements necessary for each to be exempt from construction and operations permitting requirements. Information regarding documentation requirements for all construction, operation, amendment, transfer and emergency permit approvals is also included in the guidance. A notice of availability concerning the substantive changes to the document was published at 35 Pa.B. 1637 (March 5, 2005) with provision for a 30-day public comment period that concluded on April 4, 2005. The Department did not receive any public comments on the substantive revisions during the public comment review period; however, prior to the finalization of the document, the Department made minor changes to sections 2.B. and 8. Specifically, a sentence was added at the end of section 2.B. stating that the recommendation to include an expiration date in construction permits also applies to bottled, vended, retail and bulk water hauling systems, and a phrase was added to section 8 stating that a chronological listing of past permits should be included in permit approvals for consolidated operations permits. The final guidance is issued under the authority of the act and 25 Pa. Code Chapter 109 (relating to safe drinking water). Contact: Tom Franklin, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Rachel Carson State Office Building, 11th Floor, Harrisburg, PA 17105-8467, (717) 783-1820, thfranklin@state.pa.us. Effective Date: January 14, 2006.

*Draft Technical Guidance:*

DEP ID: 291-4200-001. Title: Medical X-ray Procedures Operator Training Guide. Description: This document describes different means by which the regulated community can demonstrate compliance with 25 Pa. Code § 221.11(b) (relating to registrant responsibilities), which requires that operators of X-ray equipment be instructed adequately in safe operating procedures and be competent in the safe use of the equipment. The guidance is quantifiable and based on risk to the patient undergoing the X-ray procedure. The draft guidance is issued under the authority of the Radiation Protection Act (35 P.S. §§ 7110.101—7110.703) and 25 Pa. Code Part I, Subpart D, Article V (relating to radiological health). Written Comments: The Department is seeking comments on draft technical guidance #291-4200-001. Interested persons may submit written comments on this draft technical guidance document by February 13, 2006. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to L. Ray Urciuolo, Chief, Division of Radiation Control, Department of Environmental Protection, Bureau of Radiation Protection, P. O. Box 8469, Harrisburg, PA 17105-

8469, lurciuolo@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*. Contact: Questions regarding the draft technical guidance document should be directed to L. Ray Urciuolo, (717) 783-9730, lurciuolo@state.pa.us.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 06-72. Filed for public inspection January 13, 2006, 9:00 a.m.]

### Proposed Amendments to Pennsylvania NPDES General Permit for Concentrated Animal Feeding Operations (CAFOs) (PAG-12)

Under 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) seeks public comments on the proposed revisions to the Department's NPDES General Permit for CAFOs (PAG-12), the Notice of Intent (NOI) and other related permit documents. The current general permit will expire on June 16, 2006.

The proposal contains the Department's revisions to the existing General Permit that was first issued in 2000. The amendments are necessary to reflect changes in State and Federal regulations. The amended permit sets forth the effluent limitations and other terms and conditions of the permit. The instructions for the NOI identify which operations are eligible for coverage under this general permit and which must obtain an individual permit.

This notice provides the public and all affected parties with a summary of changes being proposed to the General Permit and an opportunity to comment.

The following paragraphs summarize proposed major revisions to the General Permit (PAG-12):

The permit is now referred to as an "Approval for Coverage" rather than "Authorization to Discharge," as CAFO permits are nondischarge permits. Also, given the reorganization in the Department regions, the permits will now be issued under the Water Management Program Manager or the Watershed Management Program Manager.

Under the General Provisions, the stipulation is made that new operations may not populate the operations with animals until coverage is approved.

The entire "Key Notice of Intent Requirements" section has been removed from the permit. This section is relevant to the application process and is included in the Instructions form that accompanies the NOI.

The "Additional Provisions" section has been reformatted, but the content remains the same as in the original General Permit.

Under Part A, the "Definitions" section has been moved to the beginning of the section, some terms have been deleted, some have been added and some have been revised to be consistent with the October 22, 2005, revisions to 25 Pa. Code Chapters 91 and 92 (relating to general provisions; and National Pollutant Discharge Elimination System permitting, monitoring and compliance).

Under Part A, the "Effluent Limitations" section now references manure storage and land application requirements enumerated in § 91.36 (relating to pollution control and prevention at agricultural operations) as well as the requirements in § 92.5a(e) (relating to wastewater treatment requirements). New storage design requirements for certain operations are explained as well as new requirements for setbacks or buffers along surface waters and for coverage or other protection of stockpiled manure to prevent discharge to waters of this Commonwealth. These new requirements are similar to changes in the Federal CAFO rule.

Under Part A, the "Self-Inspections" section has been reformatted and streamlined somewhat to eliminate redundancy. The frequency of these inspections is to be weekly and after measurable wet weather events.

Under Part A, the "24-Hour Reporting" section now requires submission of a new reporting form: "Non-Compliance Discharge Report," as stipulated in the revised document.

Under Part A, a new "Annual Report" section has been added that enumerates 7 statistics that must be reported to the Department annually. This requirement is similar to changes in the Federal CAFO rule.

Under Part B, the "Permit Renewal, Modification, etc." section adds a requirement that in cases where an operation has to amend its nutrient management plan under Act 38, it also must submit a revised NOI and receive reissuance of coverage under the General Permit.

Under Part B, the "Duty to Provide Information" section adds a requirement that operations must notify the Department of any planned physical alterations or additions to the operation that could have an impact on surface waters.

Under Part B, the only changes to the "Penalties and Liability" section were minor reformatting.

Under Part B, the "Other Responsibilities" section is unchanged except for one additional requirement under the "Facility Closure Plan Requirements." In that section, there is a requirement for a closeout inspection of the leak detection system for earth-lined facilities, along with a report of the inspection results.

Under Part C, the format has been rearranged to coincide with § 92.5a(f) of the Department's regulations. The "Nutrient Management" item now includes a statement that CAFO manure must be handled in accordance with the Commercial Manure Hauler and Broker Certification Act. It should be noted that the revised regulations now require a "Pollution Prevention and Contingency Plan" for all CAFOs. The permit now includes a specific condition that calls attention to and requires compliance with the Domestic Animals Act when handling animal mortalities on a CAFO. For manure storage facilities, CAFOs are now required to maintain engineering certifications onsite and available to Department personnel for those facilities where this certification is required. Finally, CAFOs must implement plans to prevent discharges to surface waters from raw material storage areas, including feed storages. With the exception of the manure hauling requirement, these new requirements are similar to changes to the Federal regulations.

The following paragraph summarizes proposed major revisions to the NOI:

Because applicants for coverage are now required to submit approved nutrient management plans containing extensive data on manure generation and land application, the intent in developing the new NOI was to eliminate duplication as much as possible. Consequently, the detailed information that was previously requested has been replaced with a broad "facility description" which can either be done in narrative form or can simply reference pages of the nutrient management plan where the information can be found. The "Client/Operator Information" section has been formatted to be consistent with the Department's General Information Form (GIF), which applicants are also required to complete.

The draft revised permit document package has been completed and is on file in the Department's Central Office in the Division of Conservation Districts and Nutrient Management, Bureau of Watershed Management. The package can be obtained by writing or calling the Department of Environmental Protection, Bureau of Watershed Management, Division of Conservation Districts and Nutrient Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 783-7577.

The documents are also accessible on the Department's website at [www.depweb.state.pa.us](http://www.depweb.state.pa.us) (DEP Keywords: "Public Participation, Participate"; then choose "Proposals Open for Comment").

The Department by this notice invites public comments on the proposed revisions to PAG-12, the NOI and other related permit documents. Comments must be submitted by February 13, 2006. If there is significant public interest in the general permit or if requested, the comment period may be extended at the discretion of the Department for an additional 15-day period. Only the comments received within the specified period will be considered in the formulation of the final documents for this general permit. Persons wishing to comment should include their name, address and telephone number and a concise comment statement to inform the Department of the exact basis of the comment and the relevant facts upon which it is based. If significant issues of public interest are raised, the Department may schedule a public meeting. Written comments should be submitted at the address previously listed. Comments will also be accepted by e-mail at [rogibson@state.pa.us](mailto:rogibson@state.pa.us). Comments will not be accepted by facsimile or on voice mail.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). Following the specified comment period, the Department will review all submitted comments, prepare a written comments and response document (CRD) and prepare final documents package for this permit. An availability notice of the final permit documents will be published in the *Pennsylvania Bulletin*. Persons wishing to also receive a copy of the final documents may request them by contacting the Department at the address or telephone number previously listed.

KATHLEEN A. MCGINTY,  
Secretary

[Pa.B. Doc. No. 06-73. Filed for public inspection January 13, 2006, 9:00 a.m.]

# DEPARTMENT OF LABOR AND INDUSTRY

## Unemployment Compensation Benefit Rate Table

The purpose of this notice is to effect the automatic extension of the Unemployment Compensation Benefit Rate Table. Each year the maximum weekly benefit rate is calculated at 66 2/3% of the average weekly wage in covered employment for the preceding fiscal year. The maximum weekly benefit rate for unemployment compensation purposes in this Commonwealth during calendar year 2006 will be \$497.

Under the authority contained in sections 201 and 404(e)(2) of the Unemployment Compensation Law (43 P. S. §§ 761 and 804(e)(2)) and 34 Pa. Code § 65.111 (relating to benefit table), the table for 2006 is being adopted by this notice and will be codified in 34 Pa. Code Chapter 65, Appendix A. See 14 Pa.B. 4688 (December 29, 1984).

Under section 404(e)(2) of the Unemployment Compensation Law, this table is effective for claimants whose benefit year begins on or after January 1, 2006.

Questions concerning this notice should be directed to Patrick T. Beaty, Deputy Secretary for Unemployment Compensation Programs, Labor and Industry Building, Harrisburg, PA 17120.

STEPHEN M. SCHMERIN,  
*Secretary*

### APPENDIX A

**Table Specified for Determination of Rate and Amount of Benefits**

<i>Part A</i> <i>Highest</i> <i>Quarterly Wage</i>	<i>Part B</i> <i>Rate of</i> <i>Compensation</i>	<i>Part C</i> <i>Qualifying</i> <i>Wage</i>	<i>Part D</i> <i>Amount of Compensation</i>	<i>Part E</i>
\$800-812	\$35	\$1320	\$910	\$560
813-837	36	1360	936	576
838-862	37	1400	962	592
863-887	38	1440	988	608
888-912	39	1480	1014	624
913-937	40	1520	1040	640
938-962	41	1560	1066	656
963-987	42	1600	1092	672
988-1012	43	1640	1118	688
1013-1037	44	1680	1144	704
1038-1062	45	1720	1170	720
1063-1087	46	1760	1196	736
1088-1112	47	1800	1222	752
1113-1162	48	1840	1248	768
1163-1187	49	1880	1274	784
1188-1212	50	1920	1300	800
1213-1237	51	1960	1326	816
1238-1262	52	2000	1352	832
1263-1287	53	2040	1378	848
1288-1312	54	2080	1404	864
1313-1337	55	2120	1430	880
1338-1362	56	2160	1456	896
1363-1387	57	2200	1482	912
1388-1412	58	2240	1508	928
1413-1437	59	2280	1534	944
1438-1462	60	2320	1560	960
1463-1487	61	2360	1586	976
1488-1512	62	2400	1612	992
1513-1537	63	2440	1638	1008
1538-1562	64	2480	1664	1024
1563-1587	65	2520	1690	1040
1588-1612	66	2560	1716	1056
1613-1637	67	2600	1742	1072
1638-1662	68	2640	1768	1088
1663-1687	69	2680	1794	1104
1688-1712	70	2720	1820	1120
1713-1737	71	2760	1846	1136
1738-1762	72	2800	1872	1152
1763-1787	73	2840	1898	1168
1788-1812	74	2880	1924	1184
1813-1837	75	2920	1950	1200
1838-1862	76	2960	1976	1216
1863-1887	77	3000	2002	1232
1888-1912	78	3040	2028	1248



## NOTICES

<i>Part A</i> <i>Highest</i> <i>Quarterly Wage</i>	<i>Part B</i> <i>Rate of</i> <i>Compensation</i>	<i>Part C</i> <i>Qualifying</i> <i>Wage</i>	<i>Part D</i>  <i>Amount of Compensation</i>	<i>Part E</i>
1913-1937	79	3080	2054	1264
1938-1962	80	3120	2080	1280
1963-1987	81	3160	2106	1296
1988-2012	82	3200	2132	1312
2013-2037	83	3240	2158	1328
2038-2062	84	3280	2184	1344
2063-2087	85	3320	2210	1360
2088-2112	86	3360	2236	1376
2113-2137	87	3400	2262	1392
2138-2162	88	3440	2288	1408
2163-2187	89	3480	2314	1424
2188-2212	90	3520	2340	1440
2213-2237	91	3560	2366	1456
2238-2262	92	3600	2392	1472
2263-2287	93	3640	2418	1488
2288-2312	94	3680	2444	1504
2313-2337	95	3720	2470	1520
2338-2362	96	3760	2496	1536
2363-2387	97	3800	2522	1552
2388-2412	98	3840	2548	1568
2413-2437	99	3880	2574	1584
2438-2462	100	3920	2600	1600
2463-2487	101	3960	2626	1616
2488-2512	102	4000	2652	1632
2513-2537	103	4040	2678	1648
2538-2562	104	4080	2704	1664
2563-2587	105	4120	2730	1680
2588-2612	106	4160	2756	1696
2613-2637	107	4200	2782	1712
2638-2662	108	4240	2808	1728
2663-2687	109	4280	2834	1744
2688-2712	110	4320	2860	1760
2713-2737	111	4360	2886	1776
2738-2762	112	4400	2912	1792
2763-2787	113	4440	2938	1808
2788-2812	114	4480	2964	1824
2813-2837	115	4520	2990	1840
2838-2862	116	4560	3016	1856
2863-2887	117	4600	3042	1872
2888-2912	118	4640	3068	1888
2913-2937	119	4680	3094	1904
2938-2962	120	4720	3120	1920
2963-2987	121	4760	3146	1936
2988-3012	122	4800	3172	1952
3013-3037	123	4840	3198	1968
3038-3062	124	4880	3224	1984
3063-3087	125	4920	3250	2000
3088-3112	126	4960	3276	2016
3113-3137	127	5000	3302	2032
3138-3162	128	5040	3328	2048
3163-3187	129	5080	3354	2064
3188-3212	130	5120	3380	2080
3213-3237	131	5160	3406	2096
3238-3262	132	5200	3432	2112
3263-3287	133	5240	3458	2128
3288-3312	134	5280	3484	2144
3313-3337	135	5320	3510	2160
3338-3362	136	5360	3536	2176
3363-3387	137	5400	3562	2192
3388-3412	138	5440	3588	2208
3413-3437	139	5480	3614	2224
3438-3462	140	5520	3640	2240
3463-3487	141	5560	3666	2256
3488-3512	142	5600	3692	2272
3513-3537	143	5640	3718	2288
3538-3562	144	5680	3744	2304

<i>Part A</i> <i>Highest</i> <i>Quarterly Wage</i>	<i>Part B</i> <i>Rate of</i> <i>Compensation</i>	<i>Part C</i> <i>Qualifying</i> <i>Wage</i>	<i>Part D</i>  <i>Amount of Compensation</i>	<i>Part E</i>
3563-3587	145	5720	3770	2320
3588-3612	146	5760	3796	2336
3613-3637	147	5800	3822	2352
3638-3662	148	5840	3848	2368
3663-3687	149	5880	3874	2384
3688-3712	150	5920	3900	2400
3713-3737	151	5960	3926	2416
3738-3762	152	6000	3952	2432
3763-3787	153	6040	3978	2448
3788-3812	154	6080	4004	2464
3813-3837	155	6120	4030	2480
3838-3862	156	6160	4056	2496
3863-3887	157	6200	4082	2512
3888-3912	158	6240	4108	2528
3913-3937	159	6280	4134	2544
3938-3962	160	6320	4160	2560
3963-3987	161	6360	4186	2576
3988-4012	162	6400	4212	2592
4013-4037	163	6440	4238	2608
4038-4062	164	6480	4264	2624
4063-4087	165	6520	4290	2640
4088-4112	166	6560	4316	2656
4113-4137	167	6600	4342	2672
4138-4162	168	6640	4368	2688
4163-4187	169	6680	4394	2704
4188-4212	170	6720	4420	2720
4213-4237	171	6760	4446	2736
4238-4262	172	6800	4472	2752
4263-4287	173	6840	4498	2768
4288-4312	174	6880	4524	2784
4313-4337	175	6920	4550	2800
4338-4362	176	6960	4576	2816
4363-4387	177	7000	4602	2832
4388-4412	178	7040	4628	2848
4413-4437	179	7080	4654	2864
4438-4462	180	7120	4680	2880
4463-4487	181	7160	4706	2896
4488-4512	182	7200	4732	2912
4513-4537	183	7240	4758	2928
4538-4562	184	7280	4784	2944
4563-4587	185	7320	4810	2960
4588-4612	186	7360	4836	2976
4613-4637	187	7400	4862	2992
4638-4662	188	7440	4888	3008
4663-4687	189	7480	4914	3024
4688-4712	190	7520	4940	3040
4713-4737	191	7560	4966	3056
4738-4762	192	7600	4992	3072
4763-4787	193	7640	5018	3088
4788-4812	194	7680	5044	3104
4813-4837	195	7720	5070	3120
4838-4862	196	7760	5096	3136
4863-4887	197	7800	5122	3152
4888-4912	198	7840	5148	3168
4913-4937	199	7880	5174	3184
4938-4962	200	7920	5200	3200
4963-4987	201	7960	5226	3216
4988-5012	202	8000	5252	3232
5013-5037	203	8040	5278	3248
5038-5062	204	8080	5304	3264
5063-5087	205	8120	5330	3280
5088-5112	206	8160	5356	3296
5113-5137	207	8200	5382	3312
5138-5162	208	8240	5408	3328
5163-5187	209	8280	5434	3344
5188-5212	210	8320	5460	3360

## NOTICES

<i>Part A</i> <i>Highest</i> <i>Quarterly Wage</i>	<i>Part B</i> <i>Rate of</i> <i>Compensation</i>	<i>Part C</i> <i>Qualifying</i> <i>Wage</i>	<i>Part D</i> <i>Amount of Compensation</i>	<i>Part E</i>
5213-5237	211	8360	5486	3376
5238-5262	212	8400	5512	3392
5263-5287	213	8440	5538	3408
5288-5312	214	8480	5564	3424
5313-5337	215	8520	5590	3440
5338-5362	216	8560	5616	3456
5363-5387	217	8600	5642	3472
5388-5412	218	8640	5668	3488
5413-5437	219	8680	5694	3504
5438-5462	220	8720	5720	3520
5463-5487	221	8760	5746	3536
5488-5512	222	8800	5772	3552
5513-5537	223	8840	5798	3568
5538-5562	224	8880	5824	3584
5563-5587	225	8920	5850	3600
5588-5612	226	8960	5876	3616
5613-5637	227	9000	5902	3632
5638-5662	228	9040	5928	3648
5663-5687	229	9080	5954	3664
5688-5712	230	9120	5980	3680
5713-5737	231	9160	6006	3696
5738-5762	232	9200	6032	3712
5763-5787	233	9240	6058	3728
5788-5812	234	9280	6084	3744
5813-5837	235	9320	6110	3760
5838-5862	236	9360	6136	3776
5863-5887	237	9400	6162	3792
5888-5912	238	9440	6188	3808
5913-5937	239	9480	6214	3824
5938-5962	240	9520	6240	3840
5963-5987	241	9560	6266	3856
5988-6012	242	9600	6292	3872
6013-6037	243	9640	6318	3888
6038-6062	244	9680	6344	3904
6063-6087	245	9720	6370	3920
6088-6112	246	9760	6396	3936
6113-6137	247	9800	6422	3952
6138-6162	248	9840	6448	3968
6163-6187	249	9880	6474	3984
6188-6212	250	9920	6500	4000
6213-6237	251	9960	6526	4016
6238-6262	252	10000	6552	4032
6263-6287	253	10040	6578	4048
6288-6312	254	10080	6604	4064
6313-6337	255	10120	6630	4080
6338-6362	256	10160	6656	4096
6363-6387	257	10200	6682	4112
6388-6412	258	10240	6708	4128
6413-6437	259	10280	6734	4144
6438-6462	260	10320	6760	4160
6463-6487	261	10360	6786	4176
6488-6512	262	10400	6812	4192
6513-6537	263	10440	6838	4208
6538-6562	264	10480	6864	4224
6563-6587	265	10520	6890	4240
6588-6612	266	10560	6916	4256
6613-6637	267	10600	6942	4272
6638-6662	268	10640	6968	4288
6663-6687	269	10680	6994	4304
6688-6712	270	10720	7020	4320
6713-6737	271	10760	7046	4336
6738-6762	272	10800	7072	4352
6763-6787	273	10840	7098	4368
6788-6812	274	10880	7124	4384
6813-6837	275	10920	7150	4400
6838-6862	276	10960	7176	4416

<i>Part A</i> <i>Highest</i> <i>Quarterly Wage</i>	<i>Part B</i> <i>Rate of</i> <i>Compensation</i>	<i>Part C</i> <i>Qualifying</i> <i>Wage</i>	<i>Part D</i> <i>Amount of Compensation</i>	<i>Part E</i>
6863-6887	277	11000	7202	4432
6888-6912	278	11040	7228	4448
6913-6937	279	11080	7254	4464
6938-6962	280	11120	7280	4480
6963-6987	281	11160	7306	4496
6988-7012	282	11200	7332	4512
7013-7037	283	11240	7358	4528
7038-7062	284	11280	7384	4544
7063-7087	285	11320	7410	4560
7088-7112	286	11360	7436	4576
7113-7137	287	11400	7462	4592
7138-7162	288	11440	7488	4608
7163-7187	289	11480	7514	4624
7188-7212	290	11520	7540	4640
7213-7237	291	11560	7566	4656
7238-7262	292	11600	7592	4672
7263-7287	293	11640	7618	4688
7288-7312	294	11680	7644	4704
7313-7337	295	11720	7670	4720
7338-7362	296	11760	7696	4736
7363-7387	297	11800	7722	4752
7388-7412	298	11840	7748	4768
7413-7437	299	11880	7774	4784
7438-7462	300	11920	7800	4800
7463-7487	301	11960	7826	4816
7488-7512	302	12000	7852	4832
7513-7537	303	12040	7878	4848
7538-7562	304	12080	7904	4864
7563-7587	305	12120	7930	4880
7588-7612	306	12160	7956	4896
7613-7637	307	12200	7982	4912
7638-7662	308	12240	8008	4928
7663-7687	309	12280	8034	4944
7688-7712	310	12320	8060	4960
7713-7737	311	12360	8086	4976
7738-7762	312	12400	8112	4992
7763-7787	313	12440	8138	5008
7788-7812	314	12480	8164	5024
7813-7837	315	12520	8190	5040
7838-7862	316	12560	8216	5056
7863-7887	317	12600	8242	5072
7888-7912	318	12640	8268	5088
7913-7937	319	12680	8294	5104
7938-7962	320	12720	8320	5120
7963-7987	321	12760	8346	5136
7988-8012	322	12800	8372	5152
8013-8037	323	12840	8398	5168
8038-8062	324	12880	8424	5184
8063-8087	325	12920	8450	5200
8088-8112	326	12960	8476	5216
8113-8137	327	13000	8502	5232
8138-8162	328	13040	8528	5248
8163-8187	329	13080	8554	5264
8188-8212	330	13120	8580	5280
8213-8237	331	13160	8606	5296
8238-8262	332	13200	8632	5312
8263-8287	333	13240	8658	5328
8288-8312	334	13280	8684	5344
8313-8337	335	13320	8710	5360
8338-8362	336	13360	8736	5376
8363-8387	337	13400	8762	5392
8388-8412	338	13440	8788	5408
8413-8437	339	13480	8814	5424
8438-8462	340	13520	8840	5440
8463-8487	341	13560	8866	5456
8488-8512	342	13600	8892	5472

## NOTICES

<i>Part A</i> <i>Highest</i> <i>Quarterly Wage</i>	<i>Part B</i> <i>Rate of</i> <i>Compensation</i>	<i>Part C</i> <i>Qualifying</i> <i>Wage</i>	<i>Part D</i>  <i>Amount of Compensation</i>	<i>Part E</i>
8513-8537	343	13640	8918	5488
8538-8562	344	13680	8944	5504
8563-8587	345	13720	8970	5520
8588-8612	346	13760	8996	5536
8613-8637	347	13800	9022	5552
8638-8662	348	13840	9048	5568
8663-8687	349	13880	9074	5584
8688-8712	350	13920	9100	5600
8713-8737	351	13960	9126	5616
8738-8762	352	14000	9152	5632
8763-8787	353	14040	9178	5648
8788-8812	354	14080	9204	5664
8813-8837	355	14120	9230	5680
8838-8862	356	14160	9256	5696
8863-8887	357	14200	9282	5712
8888-8912	358	14240	9308	5728
8913-8937	359	14280	9334	5744
8938-8962	360	14320	9360	5760
8963-8987	361	14360	9386	5776
8988-9012	362	14400	9412	5792
9013-9037	363	14440	9438	5808
9038-9062	364	14480	9464	5824
9063-9087	365	14520	9490	5840
9088-9112	366	14560	9516	5856
9113-9137	367	14600	9542	5872
9138-9162	368	14640	9568	5888
9163-9187	369	14680	9594	5904
9188-9212	370	14720	9620	5920
9213-9237	371	14760	9646	5936
9238-9262	372	14800	9672	5952
9263-9287	373	14840	9698	5968
9288-9312	374	14880	9724	5984
9313-9337	375	14920	9750	6000
9338-9362	376	14960	9776	6016
9363-9387	377	15000	9802	6032
9388-9412	378	15040	9828	6048
9413-9437	379	15080	9854	6064
9438-9462	380	15120	9880	6080
9463-9487	381	15160	9906	6096
9488-9512	382	15200	9932	6112
9513-9537	383	15240	9958	6128
9538-9562	384	15280	9984	6144
9563-9587	385	15320	10010	6160
9588-9612	386	15360	10036	6176
9613-9637	387	15400	10062	6192
9638-9662	388	15440	10088	6208
9663-9687	389	15480	10114	6224
9688-9712	390	15520	10140	6240
9713-9737	391	15560	10166	6256
9738-9762	392	15600	10192	6272
9763-9787	393	15640	10218	6288
9788-9812	394	15680	10244	6304
9813-9837	395	15720	10270	6320
9838-9862	396	15760	10296	6336
9863-9887	397	15800	10322	6352
9888-9912	398	15840	10348	6368
9913-9937	399	15880	10374	6384
9938-9962	400	15920	10400	6400
9963-9987	401	15960	10426	6416
9988-10012	402	16000	10452	6432
10013-10037	403	16040	10478	6448
10038-10062	404	16080	10504	6464
10063-10087	405	16120	10530	6480
10088-10112	406	16160	10556	6496
10113-10137	407	16200	10582	6512
10138-10162	408	16240	10608	6528

<i>Part A</i> <i>Highest</i> <i>Quarterly Wage</i>	<i>Part B</i> <i>Rate of</i> <i>Compensation</i>	<i>Part C</i> <i>Qualifying</i> <i>Wage</i>	<i>Part D</i> <i>Amount of Compensation</i>	<i>Part E</i>
10163-10187	409	16280	10634	6544
10188-10212	410	16320	10660	6560
10213-10237	411	16360	10686	6576
10238-10262	412	16400	10712	6592
10263-10287	413	16440	10738	6608
10288-10312	414	16480	10764	6624
10313-10337	415	16520	10790	6640
10338-10362	416	16560	10816	6656
10363-10387	417	16600	10842	6672
10388-10412	418	16640	10868	6688
10413-10437	419	16680	10894	6704
10438-10462	420	16720	10920	6720
10463-10487	421	16760	10946	6736
10488-10512	422	16800	10972	6752
10513-10537	423	16840	10998	6768
10538-10562	424	16880	11024	6784
10563-10587	425	16920	11050	6800
10588-10612	426	16960	11076	6816
10613-10637	427	17000	11102	6832
10638-10662	428	17040	11128	6848
10663-10687	429	17080	11154	6864
10688-10712	430	17120	11180	6880
10713-10737	431	17160	11206	6896
10738-10762	432	17200	11232	6912
10763-10787	433	17240	11258	6928
10788-10812	434	17280	11284	6944
10813-10837	435	17320	11310	6960
10838-10862	436	17360	11336	6976
10863-10887	437	17400	11362	6992
10888-10912	438	17440	11388	7008
10913-10937	439	17480	11414	7024
10938-10962	440	17520	11440	7040
10963-10987	441	17560	11466	7056
10988-11012	442	17600	11492	7072
11013-11037	443	17640	11518	7088
11038-11062	444	17680	11544	7104
11063-11087	445	17720	11570	7120
11088-11112	446	17760	11596	7136
11113-11137	447	17800	11622	7152
11138-11162	448	17840	11648	7168
11163-11187	449	17880	11674	7184
11188-11212	450	17920	11700	7200
11213-11237	451	17960	11726	7216
11238-11262	452	18000	11752	7232
11263-11287	453	18040	11778	7248
11288-11312	454	18080	11804	7264
11313-11337	455	18120	11830	7280
11338-11362	456	18160	11856	7296
11363-11387	457	18200	11882	7312
11388-11412	458	18240	11908	7328
11413-11437	459	18280	11934	7344
11438-11462	460	18320	11960	7360
11463-11487	461	18360	11986	7376
11488-11512	462	18400	12012	7392
11513-11537	463	18440	12038	7408
11538-11562	464	18480	12064	7424
11563-11587	465	18520	12090	7440
11588-11612	466	18560	12116	7456
11613-11637	467	18600	12142	7472
11638-11662	468	18640	12168	7488
11663-11687	469	18680	12194	7504
11688-11712	470	18720	12220	7520
11713-11737	471	18760	12246	7536
11738-11762	472	18800	12272	7552
11763-11787	473	18840	12298	7568
11788-11812	474	18880	12324	7584

<i>Part A Highest Quarterly Wage</i>	<i>Part B Rate of Compensation</i>	<i>Part C Qualifying Wage</i>	<i>Part D Amount of Compensation</i>	<i>Part E</i>
11813-11837	475	18920	12350	7600
11838-11862	476	18960	12376	7616
11863-11887	477	19000	12402	7632
11888 [ or more ] -11912	478	[ * ]19040	12428	7648
<b>11913-11937</b>	<b>479</b>	<b>19080</b>	<b>12454</b>	<b>7664</b>
<b>11938-11962</b>	<b>480</b>	<b>19120</b>	<b>12480</b>	<b>7680</b>
<b>11963-11987</b>	<b>481</b>	<b>19160</b>	<b>12506</b>	<b>7696</b>
<b>11988-12012</b>	<b>482</b>	<b>19200</b>	<b>12532</b>	<b>7712</b>
<b>12013-12037</b>	<b>483</b>	<b>19240</b>	<b>12558</b>	<b>7728</b>
<b>12038-12062</b>	<b>484</b>	<b>19280</b>	<b>12584</b>	<b>7744</b>
<b>12063-12087</b>	<b>485</b>	<b>19320</b>	<b>12610</b>	<b>7760</b>
<b>12088-12112</b>	<b>486</b>	<b>19360</b>	<b>12636</b>	<b>7776</b>
<b>12113-12137</b>	<b>487</b>	<b>19400</b>	<b>12662</b>	<b>7792</b>
<b>12138-12162</b>	<b>488</b>	<b>19440</b>	<b>12688</b>	<b>7808</b>
<b>12163-12187</b>	<b>489</b>	<b>19480</b>	<b>12714</b>	<b>7824</b>
<b>12188-12212</b>	<b>490</b>	<b>19520</b>	<b>12740</b>	<b>7840</b>
<b>12213-12237</b>	<b>491</b>	<b>19560</b>	<b>12766</b>	<b>7856</b>
<b>12238-12262</b>	<b>492</b>	<b>19600</b>	<b>12792</b>	<b>7872</b>
<b>12263-12287</b>	<b>493</b>	<b>19640</b>	<b>12818</b>	<b>7888</b>
<b>12288-12312</b>	<b>494</b>	<b>19680</b>	<b>12844</b>	<b>7904</b>
<b>12313-12337</b>	<b>495</b>	<b>19720</b>	<b>12870</b>	<b>7920</b>
<b>12338-12362</b>	<b>496</b>	<b>19760</b>	<b>12896</b>	<b>7936</b>
<b>12363-or more</b>	<b>497</b>	<b>*19800</b>	<b>12922</b>	<b>7952</b>

\*The claimant will be ineligible for benefits unless 20% of the qualifying wage [ **\$19,040** ] **\$19,800** was paid in a quarter or quarters of the base year other than the high quarter.

[Pa.B. Doc. No. 06-74. Filed for public inspection January 13, 2006, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

Upper Gwynedd Township v. DEP; EHB Doc. No.  
2005-358-K

Upper Gwynedd Township has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in Upper Gwynedd Township, Montgomery County, PA.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,  
*Chairperson*

[Pa.B. Doc. No. 06-75. Filed for public inspection January 13, 2006, 9:00 a.m.]

## HUMAN RELATIONS COMMISSION

Public Hearing Opinion

The Human Relations Commission (Commission), under section 7(o) of the Pennsylvania Human Relations Act (act) (43 P. S. § 957(o)) announces the publication of the Findings of Fact, Conclusions of Law, Opinion and Final Order made after a public hearing under section 9(e)—(g) of the act (43 P. S. § 959(e)—(g)), in the following case:

*John J. Palmer v. Dayton Parts, Inc., PHRC Case No. 200101410 (Pennsylvania Human Relations Commission, December 20, 2005)*

Race (African-American) based termination case with regard to violation of company policies—workplace violence, horseplay, disorderly conduct and abusive or insulting language.

Ruling for respondent, 9-0 decision and 1 abstention  
23 pages

The final order in the previously listed case is subject to appeal to Commonwealth Court and if appealed is subject to being affirmed, reversed or modified, in whole or part.

A copy of the opinion listed in this notice may be obtained by mailing a request indicating the opinion desired, accompanied by a check or money order in the amount of 15¢ per page (the number of pages in the

opinion is set forth at the end of the case listing), to Laura J. Treaster, Communications Director, Human Relations Commission, 301 Chestnut Street, Suite 300, Pennsylvania Place, Harrisburg, PA 17101.

The check or money order should be made payable to the "Commonwealth of Pennsylvania." Copies are also

available under the Legal section of the Commission's website: [www.phrc.state.pa.us](http://www.phrc.state.pa.us).

HOMER C. FLOYD,  
*Executive Director*

[Pa.B. Doc. No. 06-76. Filed for public inspection January 13, 2006, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
6-293	State Board of Education Certification of Professional Personnel 35 Pa.B. 5988 (October 29, 2005)	11/28/05	12/28/05
6-295	State Board of Education Academic Standards and Assessment 35 Pa.B. 6107 (November 5, 2005)	12/5/05	1/4/06
6-296	State Board of Education Academic Standards and Assessment for Career Education and Work 35 Pa.B. 6118 (November 5, 2005)	12/5/05	1/4/06
15-429	Department of Revenue Realty Transfer Tax Amendments 35 Pa.B. 6096 (November 5, 2005)	12/5/05	1/4/06
16A-4916	State Board of Medicine Physician Assistants 35 Pa.B. 6127 (November 5, 2005)	12/5/05	1/4/06

#### State Board of Education Regulation #6-293 (IRRC #2502)

#### Certification of Professional Personnel

December 28, 2005

We submit for your consideration the following comments on the proposed rulemaking published in the October 29, 2005 *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 Education (Board) to respond to all comments received from us or any other source.

#### 1. Section 49.1. Definitions.—Consistency with statute; Reasonableness; Clarity.

##### *Substantive provisions in definitions*

Substantive provisions in a definition cannot be enforced. The following definitions contain substantive provisions: "Continuing professional education," "Intern certificate," and "Prekindergarten." The substantive provisions in these definitions should be deleted and addressed in the appropriate section of the regulation.

##### *Continuing professional education*

In addition to the concern with substantive provisions in this definition, there is another concern. The statute specifies in 24 P. S. § 12-1205.2(b) that "one (1) credit of college studies or continuing professional education courses shall be equivalent to thirty (30) hours of continuing education programs, activities or learning experiences." However, this is not included in the regulation. Since this is a requirement to maintain a certificate in active status, the acceptable combination of credits should be made clear in Section 49.17, along with the number of hours required.

##### *Unclear definitions*

The definitions of "Day-to-day substitute permit," "Emergency permit," and "Long-term substitute permit" are not clearly written. These definitions use the term being defined, include what appears to be extraneous information and use conditional phrases such as "may be issued." They should be rewritten.

As an illustrative example, the Board should consider whether the following language would be sufficient:

*Day-to-day substitute permit*—A permit issued for no longer than 20 consecutive days to fill the absence of professional certified personnel.



*Emergency permit*—A permit issued to fill a vacancy resulting from resignation, termination, retirement, death or the creation of a new position.

*Long-term substitute permit*—A permit issued for an indeterminate period to fill the absence of professional certified personnel.

#### *Diverse learners*

The term “diverse learners” in Sections 49.13(a), 49.16(d) and 49.17(a)(6) should be defined. In addition, the Board should consider the suggestion of the Education Law Center (ELC) that language be added to several sections of the regulation for diverse learners. The Board should also explain how the regulation sufficiently accommodates diverse learners.

#### **2. Section 49.11. General.—Reasonableness.**

The Board is deleting the language in Subsection (a) that states, “Certificates and letters of eligibility in force in this Commonwealth on September 25, 1999, shall continue in force . . . until they expire by virtue of their own limitations.” Have all of these certificates or letters of eligibility expired? If not, this language should be retained.

#### **3. Section 49.14. Approval of institutions.—Clarity.**

Subsection (x)(5) contains the phrase “articulation agreement.” To clarify this term, the Board should add a definition to this section.

#### **4. Section 49.17. Continuing professional education.—Consistency with statute.**

In Subsection (a)(3), the list of persons who develop the plan is not consistent with the statute (24 P.S. § 12-1205.1(b)). For example, the statute requires “The committee shall include parents of children attending a school in the district.” This does not appear in the regulation. The list in the regulation should either be made consistent with the statute or the regulation should just cross reference the statute.

#### **5. Section 49.32. Exceptional case permit.—Clarity.**

For clarity, the term “exceptional case permit” should be defined in Section 49.1 (relating to Definitions).

#### **6. Section 49.53. Elimination or change of types/categories of certificates.—Clarity.**

We have two concerns with this section.

First, in Subsection (b), what constitutes a “cogent request” is not clear.

Second, it is not clear what triggers the start of the 150-day time period in Subsection (d). What submission will start this clock?

#### **7. Section 49.84. Collegiate credit acceptable for renewal or conversation of the Instructional I Certificate.—Clarity.**

The Board has indicated that Instructional I Certificates are not renewable. However, Subsection (a) in the Board’s existing regulations states, “College credits acceptable for renewal of the Instructional I Certificate . . .” This subsection should be amended, in the final-form regulation, to accurately reflect the Board’s position that Instructional I Certificates are not renewable.

#### **8. Section 49.91. Criteria for eligibility.—Clarity.**

It is unclear what the term “intensive supervision” in Subsection (c) requires. The Board should define this term to specify how much supervision is required.

### **State Board of Education Regulation #6-295 (IRRC #2499)**

#### **Academic Standards and Assessment**

**January 4, 2006**

We submit for your consideration the following comments on the proposed rulemaking published in the November 5, 2005 *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 Education (Board) to respond to all comments received from us or any other source.

#### **1. Section 4.52. Local assessment systems.—Economic and Fiscal Impact; Reasonableness; Feasibility; Clarity.**

The description in the Preamble of the amendment to Subsection (c) considerably understates the change in requirements. We find that proposed Subsection (c) adds significant changes in requirements and enforcement provisions to local assessment systems including:

- If a school entity chooses to use local assessment tests, the school entity must demonstrate the local assessment test is comparable to Pennsylvania System of School Assessment (PSSA) test.
- The existence of significant numbers of students not achieving proficiency on the PSSA who are deemed proficient by a local assessment will raise an inference that the local assessment is not aligned with the PSSA or the PSSA’s meaning of proficient.
- A school entity whose local assessment system certification is rejected by the Department of Education (Department) shall use the PSSA until the school entity receives approval of its local assessment.
- If the Secretary is not satisfied with the form or accuracy of the report and certification that have been submitted by the school entity, the Secretary will exercise the powers under Section 2552 of the School Code (24 P.S. § 25-2552) regarding withholding State appropriations.

A joint comment in strong opposition to the proposed revisions of Subsection (c) was submitted by the Pennsylvania School Boards Association, Pennsylvania Association of School Administrators, Pennsylvania State Education Association, American Federation of Teachers, and Pennsylvania Association of Vocational Administrators. Several individual school districts commented in opposition also. These commentators represent a broad spectrum of professionals involved in education.

The proposed rulemaking does not contain sufficient information to fully evaluate its requirements and impact. The regulation imposes new requirements for school entities to monitor, analyze and report on the progress of their students. If these are not done satisfactorily, the Secretary will take the devastating action of withholding State appropriations. In the final-form regulation submitted, the Board must respond with further information to support this revision including:

- Whether this regulation will make the PSSA essentially a high school exit examination. How many school entities currently have local assessment systems in place that would be acceptable to the Board under the proposed amendments and how many do not? How many use the PSSA?

- How much will it cost for a school entity to develop, get approval and maintain a local assessment system? In comparison, what is the cost of using the PSSA?

- Whether the PSSA is a valid indicator of proficiency, particularly in special education and English language learner programs. How does the Board evaluate the PSSA and why is it a valid standard?

In addition, several provisions within the regulation are not clear:

- How will the Department evaluate local assessment systems in comparison to the PSSA? What criteria will the Department use? How much could a local assessment system vary from the PSSA and still get approval?

- In the event a local assessment system is rejected, how much warning will the school entity have? Can corrective action be taken or will the PSSA be automatically required? How can the Department's decision be appealed? Which assessment must a school entity use during the appeal?

- In regard to Subsection (c)(3), what are "significant numbers of students"? This trigger point provision is vague and must be amended to a clear standard. For the trigger point added to the regulation, the Board also needs to explain in the Preamble why the standard chosen is appropriate and how many school entities currently do not meet the standard.

- Subsection (c)(3) also requires an "annual report on a form and in a manner determined by the Department . . . and providing data specified by the Department . . ." In the final-form regulation, the Board should provide a full description of the report, the data that will be required and at what point in the year a school entity will have to file this information.

- Subsection (c)(4) states that if the requirements are not met satisfactorily, the Secretary "will" withhold State appropriations. Given the extraordinary magnitude of this action, why did the Board chose the word "will" rather than the word "may" that would allow the Secretary some discretion?

We will evaluate the Board's response to determine if the Regulatory Review Act criteria of economic and fiscal impact; reasonableness; feasibility and clarity have been met.

## 2. Section 4.3. Definitions.—Clarity.

### *Definitions of Prekindergarten and School entity*

The use of the term "school entity" within the definition of "prekindergarten" would allow several types of schools to operate prekindergarten programs including cyber schools. A commentator believes distance learning tools would be inappropriate for prekindergarten children. The Board should explain how all of the education providers included in the definition of "school entity" can adequately operate prekindergarten programs.

### *Substantive provisions in definitions*

Substantive provisions in a definition are not enforceable. We note that Paragraph (ii) of the definition of "prekindergarten" is substantive. This provision should be moved to the body of the regulation.

Also, in the definition of "school entity" the phrase "provided, that this chapter applies to school entities only to the extent provided by law" is substantive and unnecessary. The phrase should be deleted from the definition.

## 3. Section 4.13. Strategic plans.—Need; Clarity.

### *Subsection (a)*

The reference to Section 4.83 is being deleted since that section is now obsolete. The Board is adding the statement "The plan shall be developed by a schedule to be determined by the Department." The proposed amendments should provide guidance to when and where strategic plans must be filed.

### *Subsection (c)*

The following sentence is being added:

Each plan, as received and filed by the Department, becomes an extension of this chapter uniquely adapted to each school entity and can only be changed by the strategic planning committee approved by the local school board.

There are two concerns with this sentence. First, it is not clear what is meant by the phrase "becomes an extension of this chapter" and why this phrase is needed. Second, the phrase "can only be changed by the strategic planning committee" conflicts with the descriptions in existing Subsections (d) and (e) of how a plan can be altered. For these reasons we recommend deleting this sentence. Alternatively, the Board should explain why it is needed.

### *Subsection (g)*

This subsection begins with the phrase "as an extension of this chapter." Similar to the preceding comment on Subsection (c), the meaning of this phrase is not clear. This phrase should be deleted. If it is retained, further support for its need should be provided.

## 4. Section 4.25. Languages.—Clarity.

Subsections (a) and (c) mention "World Language Standards issued by the Department." The regulation should include a cross reference to, or explanation of, where these can be found.

## 5. Section 4.29. HIV/AIDS and other life-threatening and communicable diseases.—Clarity.

Subsection (c) states "It is recommended that the school district's age appropriate planned curriculum conform to the 'Guidelines for Effective School Health Education to Prevent the Spread of AIDS,' issued by the United State Centers for Disease Control and Prevention or other science-based guideline." Since this is phrased as a recommendation, it is not enforceable. The Board should either make this a requirement or delete it.

## 6. Miscellaneous Clarity.

- The definition of "world language" appears to be only relevant to Section 4.25. If so, it could be moved to that section. Also, the phrase "in this Commonwealth" is not needed.

- The word “school” should be added before the word “entity” in Section 4.13(e).

- In Sections 4.21(c)(6) and (8), what are “basic movement skills and concepts” and “principles and strategies of movement”? Also, how do they differ?

- A commentator believes the grade levels specified in Subsections 4.51(b) and (d) are inconsistent with actual practice. The Board should review these grade levels and update them as necessary.

- Subsection 4.61(a) has a vague citation to “Federal and State law.” Citations to the applicable laws should be added.

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**State Board of Education Regulation #6-296  
(IRRC #2500)**

**Academic Standards and Assessment for Career  
Education and Work**

**January 4, 2006**

We submit for your consideration the following comments on the proposed rulemaking published in the November 5, 2005 *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 Education (Board) to respond to all comments received from us or any other source.

**1. General.—Reasonableness; Clarity.**

The Education Law Center (ELC) suggested several additions to these standards in its comment letter. While we do not agree with all of ELC’s suggestions, we concur with ELC that the Board should consider adding language that will help ensure that students with disabilities will be given the opportunity to be adequately prepared for the workforce.

For example, the Board should consider adding a reference to the Americans with Disabilities Act (ADA) in Standards 13.2.8.E and 13.2.11.E and add a definition of ADA to the Glossary. Also, the Board should consider adding a reference to “Vocational Rehabilitation Centers” in Standard 13.1.11.E, as suggested by ELC.

**2. Standard 13.3. Career Retention and Advancement.—Clarity.**

Standard 13.3.3.F. requires students to “identify changes that occur at both home and school.” To clarify this requirement, the Board should identify what sort of “changes” it expects the students to identify and the relevance of these “changes” to Career Retention and Advancement. A similar concern applies to Standard 13.3.5.F.

**3. XXXIX. Glossary.—Clarity.**

We have identified the following terminology used in the Glossary which does not match the terminology used in the text of the standards:

- The term “Child Labor Laws” is defined in the Glossary, but the term used in Standards 13.2.8.E. and 13.2.11.E. is “Child Labor Law.”

- The term “Non-traditional careers” is defined in the Glossary, but the term used in Standards 13.1.5.B and 13.1.8.B is “nontraditional.”

- The term “O\*NET” is defined in the Glossary, but the term used in Standards 13.2.8.B and 13.2.11.B is “O-NET.”

Also, the term “traditional careers” does not appear to be used in this regulation. If this term is not included in the text of the standards, it should be deleted from the Glossary.

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**Department of Revenue Regulation #15-429  
(IRRC #2503)**

**Realty Transfer Tax Amendments**

**January 4, 2006**

We submit for your consideration the following comments on the proposed rulemaking published in the November 5, 2005 *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 Revenue (Department) to respond to all comments received from us or any other source.

**1. Section 91.101. Definitions.—Consistency with the statute; Clarity.**

*Association*—The Philadelphia Bar Association (PBA) has questioned whether new language pertaining to restricted professional companies is intended to mean that the characterization of those companies depends on how many members it has and also questioned the need to make such a distinction. They suggest that the phrase “that is deemed to be a limited partnership” be deleted. Does the characterization of a restricted professional company depend on how many members it has?

*Living trust and ordinary trust*—These definitions differ from the statutory definitions found at 72 P. S. § 8101-C. Why do these definitions differ? We recommend that the statutory and regulatory definitions be verbatim or, in the alternative, that the regulatory definitions cross reference the statutory definitions.

*Ordinary trust*—This definition includes a citation to 15 Pa.C.S. (relating to Association Codes). The correct citation is 15 Pa.C.S.A (relating to corporations and unincorporated associations). The final-form regulation should be amended accordingly. We also recommend that a more specific citation to the relevant chapters of 15 Pa.C.S.A. be added to the regulation. This would assist the regulated community in complying with the requirements of the regulation.

*Testamentary trust*—This definition includes the phrase “private trust.” What is a “private trust”? Does the term include “living trusts” and “ordinary trusts”? The Department should add a definition of this term.

**2. Section 91.132. Bona fide sale transactions.—Clarity.**

This section has been amended to address the Pennsylvania Supreme Court decision in *Allebach v. Commonwealth*, 546 Pa. 146,683 A.2d 625 (1996). The PBA believes that the regulation should be revised to “. . . include the value amounts received by a seller’s affiliate for an assignment of a contact.” Has the Department considered including more detailed language in this provision?

**3. Section 91.152. Confirmatory deed.—Consistency with the statute; Clarity.**

The Department has added language to this section with the intent of providing additional guidance on mergers and business form changes. The PBA has submitted extensive comments on the new language. They believe that the new language contains numerous errors in interpreting the Realty Transfer Tax Act (Act) and case law. The PBA has made suggestions to correct each of the potential errors it has identified. We urge the Department to carefully consider and respond to all issues raised by the PBA.

In addition, Subsections (b) and (c) are incomplete. Both subsections have omitted the phrase “is not taxable.” This phrase should be added to both subsections.

**4. Section 91.154. Documents involving corporations, partnerships, limited partnerships and other associations.—Consistency with the statute; Clarity.**

New language has been added to this section that clarifies the taxation regarding conversion of real estate between certain types of businesses and their owners. We have three recommendations. First, the Department should explain the need for the exclusions created by the new language. A commentator has suggested that the approach proposed by the Department will create “. . . an underground of unrecorded title documents that would provide no one with the necessary notice or access to information that is the basis of the Statute of Frauds and recording process.” The PBA also commented on the new language. They believe it is not consistent with general concepts of the Act and it should be deleted.

Second, Subsections (b), (c) and (d) should include a citation to the “Statute of Frauds.” This citation should also be included in § 91.171.

Third, the term “writings,” should be defined. This term is included in Subsections (b), (c) and (d), and also in §§ 91.170(a) and 91.171. The Department has explained that this term can mean any sort of document from a deed to a sales invoice. We recommend that this definition be included so that all parties understand the meaning the Department will ascribe to this term.

**5. Section 91.155. Timber, crops and natural resources.—Reasonableness; Clarity.**

This section pertains to the taxability of timber, crops and natural resources. We have two concerns. First, the term “natural resources” was added to the title of this section, even though this section only addresses timber and products of the soil. Therefore, the term “natural resources” should be deleted from the title.

Second, proposed language in Subsection (b) establishes a standard that cannot be enforced. Under existing Subsection (b), standing timber is considered nontaxable personal property if the instrument provides for severance and removal “within an immediate ascertainable date.” The proposed rulemaking changes the standard from an immediate specified date to “. . . at once or as soon as it can be reasonably done.” The Department has stated that a reasonable amount of time could be established by using industry standards on a case-by-case basis. We believe that the contract or sales agreement should specify a reasonable time frame for removing the timber, such as within six months. This would provide the parties involved in the transaction and the Department with a measurable standard that could be enforced.

**6. Section 91.165. Reservations or conveyances of life estates.—Statutory authority; Implementation procedures.**

Subsection (c) states the following: “The Department will update Table I at least once every 5 years by published notice in the *Pennsylvania Bulletin*.” It is our understanding that the table is based on Federal actuarial tables and adjusted by the Department. A codified regulation has the full force and effect of law. It cannot be amended or updated by a published notice in the *Pennsylvania Bulletin*. If the Department wants to update the table, it must do so by promulgating another regulation. Therefore, Subsection (c) should be deleted.

In the alternative, the table could be deleted from the regulation and in its place the Department could specify how it calculates the values in the table. This would allow the Department to update the table as needed as a statement of policy without promulgating another regulation.

**7. Section 91.170. The rule in *Baehr Bros. v. Commonwealth*, 493 Pa. 417, 426 A.2d 1086 (1981).—Implementation procedures; Clarity.**

This section sets forth rules to determine whether a document is taxable. As noted by the PBA, it appears to restate the principles set forth in *Baehr Bros. v. Commonwealth*, 493 Pa. 417, 426 A.2d 1086 (1981). The PBA believes this new section lacks clarity and questions how it will be interpreted and administered by the Department. We agree and ask the Department to provide detail on how it intends to administer this new section.

Also, PBA questions whether the Department has incorrectly cited the *Baehr Bros.* decision. It feels that the correct citation is 487 Pa. 417, 426 A.2d 1086 (1981). The case should be correctly cited in the final-form regulation.

**8. Section 91.193. Excluded transactions.—Statutory authority.**

Subsection (c) states the following: “Documents that convey or evidence the transfer of real estate between the parties involved in the transactions enumerated in subsection (b) are excluded from tax. Subsection (b) has no application to acquisitions of real estate companies as provided in § 91.202.” It is being promulgated to codify the Department’s policy that the list of excluded transactions in Subsection (b) does not apply to acquisitions of real estate companies. The PBA believes that transfers of interests in a real estate company are statutorily exempt. They also commented as follows: “There is no rational policy reason to tax transfers of interests in real estate companies where comparable transfers of real estate would be subject to an exclusion or exemption from RTT.” What is the Department’s statutory authority for taxing these types of transactions?

**9. Section 91.195. State-related universities and public charities.—Statutory authority; Consistency with the intent of the General Assembly.**

We have two concerns with this section.

First, the Department incorrectly excludes “other State-related institutions,” such as the Pennsylvania State University, Temple University, the University of Pittsburgh and their affiliates from being considered as excluded parties under this section. The Department indicates that these institutions are not included in the list of

excluded parties because it does not believe they are “instrumentalities of the Commonwealth.” We disagree.

Paragraph 6 in 24 P. S. § 2510-503 states “The Corporation For Penn State is a wholly controlled affiliate of the Board of Trustees of the Pennsylvania State University, a State-related university *and an instrumentality of the Commonwealth.*” (Emphasis added). In addition, similar language is found in 24 P. S. § 2510-202(6) for the University of Pittsburgh, 24 P. S. § 2510-2(7) for Temple University, 24 P. S. § 2510-503(7) for the Pennsylvania College of Technology and 24 P. S. § 2510-402(7) for Lincoln University.

Further, the Act, at 72 P. S. § 8102-C.3(1), states that the realty transfer tax shall not be imposed on “a transfer to the Commonwealth or to *any of its instrumentalities . . .*” (Emphasis added). Considering this and the fact that the General Assembly is clear that it considers these institutions to be “instrumentalities of the Commonwealth,” the Department should amend this section to include them in the list of excluded parties in Subsections (a) and (c). Subsections (b) and (d) should be deleted.

Second, if the Department does not make the revision discussed above, this section should include an applicable provision from the Institutions of Purely Public Charity Act (IPPC). The IPPC, in 10 P. S. § 374(b), states “All real property owned by State-related universities . . . shall be deemed public property . . . relating to the assessment, taxation and exemption of real estate and *shall be exempt from all State and local taxation when actually and regularly used for public purposes.*” (Emphasis added).

Section 374(d) of IPPC defines “State-related universities” as “The Pennsylvania State University and its affiliate, the Pennsylvania College of Technology, the University of Pittsburgh, Temple University and its subsidiaries Temple University Hospital, Inc., and Temple University Children’s Hospital, Inc., and Lincoln University.” This definition does not include the institutions that are part of the State System of Higher Education.

Therefore, if the Department does not add the “State-related universities” to the list of excluded parties, it should add a provision for those institutions that exempts them from the tax when the property is used for public purposes as directed by IPPC.

**10. Section 91.221. Family farm partnership.—Consistency with statute; Need.**

This section establishes the criteria for when an entity qualifies as a family farm partnership. It is being added to address statutory changes to the Act. The PBA has questioned the reason Subsection (a)(2) and (a)(3) impose additional requirements that are not found in the Act. We share the concerns of the PBA. What is the need for these additional requirements?

**State Board of Medicine Regulation #16A-4916  
(IRRC #2505)**

**Physician Assistants**

**January 4, 2006**

We submit for your consideration the following comments on the proposed rulemaking published in the November 5, 2005 *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 Medicine (Board) to respond to all comments received from us or any other source.

**1. Comments from the House Professional Licensure Committee.—Statutory authority; Legislative intent; Public health and safety; Consistency with the statute; Reasonableness; Implementation procedure; Need; Clarity; Comments, objections or recommendations of a committee.**

The House Professional Licensure Committee (House Committee) submitted comments on this regulation in a letter dated December 15, 2005. It listed comments, concerns and questions in 18 separate points. The House Committee noted that “the General Assembly intended there to be supervision of a physician assistant (PA) by a physician,” quoting provisions from Sections 13 and 36 of the Medical Practice Act (Act) (63 P. S. §§ 422.13 and 422.36). It identified several areas of concern in the proposed regulation where there is a need for additional information and further clarification. It also referenced concerns raised by public commentators.

For example, the existing regulations at Section 18.161(b) state that a “physician assistant may not be responsible to more than three physician assistant supervisors [supervising physicians] in a medical care facility.” The proposed regulation will delete this provision. In the Preamble, the Board explains this deletion by asserting that “regulations should allow for flexible and creative innovation and appropriate use of all members of the workforce.” However, the Board neglected the specific limitations of the Act at 63 P. S. § 422.13(g) which states “a physician assistant [employed by a medical care facility] shall not be responsible to more than three physicians.” If this limitation is too restrictive, then the Act needs to be amended. Barring any change in the statute, this language should be retained in the regulation.

While we support amending the regulation to reflect the capabilities of PAs, this must be done within the limits of the Act. We also believe more explanation is needed in several areas of PA practice. Therefore, we concur with the comments, concerns and questions of the House Committee and incorporate them into our comments by reference.

**2. Section 18.122. Definitions.—Legislative intent; Consistency with the statute; Reasonableness; Implementation procedure; Clarity.**

*Direct Supervision and Supervision*

The existing “direct supervision” definition reads:

The physical presence of the physician assistant supervisor on the premises so that the physician assistant supervisor is immediately available to the physician assistant when needed.

The proposed regulation deletes this definition in its entirety. It also revises the existing definition of “supervision” by removing the words “personal direction.”

In contrast, Section 13(d) of the Act (63 P. S. § 422.13(d)), entitled “supervision,” begins with this statement: “A physician assistant shall not perform a medical service without the supervision and *personal direction* of an approved physician.” [Emphasis added.] The second sentence of Subsection (d) gives the Board the

authority to “promulgate regulations which define the supervision and *personal direction* required by the standards of acceptable medical practice . . .” [Emphasis added.]

Although we recognize the Board’s discretion to define “supervision,” the statute uses the words “personal direction” twice in the same subsection on “supervision.” We recommend that the words “personal direction” be retained in the definition of “supervision” in the regulation.

Paragraph (C) of the “supervision” definition reads:

Personal and regular [—at least weekly—] review by the [ **physician assistant supervisor** ] **supervising physician** of the patient records upon which entries are made by the physician assistant.

In the proposed regulation, the words “at least weekly” are being deleted from the existing regulations even though they provide guidance as to the meaning of the word “regular.” We have two concerns.

First, we suggest that the Board add the minimum standard of “at least weekly” or the specific period that is consistent with the minimum standards of acceptable medical practice for the supervising physician’s “timely review” of the medical records prepared by the physician assistant pursuant to Section 18.159 relating to medical records.

Second, given the deletion of the definition of “direct supervision,” the Board needs to explain its interpretation of terms such as “personal direction” in the statute and “personal contact” in Section 18.142(a)(3). Does the Board intend that supervising physicians and PAs shall at some point and with some frequency be on the same premises for review and supervision? If not, does the Board foresee situations when all contact between physicians and PAs could be accomplished via telecommunications, or written, electronic or other means?

#### *Supervising physician*

The new definition of “supervising physician” seems to imply that there is only one supervising physician per each PA. However, the definitions section also includes definitions of “primary supervising physicians” and “substitute supervising physicians.” Also, under 63 P. S. § 422.13(g) a PA may be responsible to three physicians. In addition, the House Committee asked for clarification that all physicians assisted by PAs are “supervising physicians.”

Therefore, the definition of “supervising physician” should indicate that all physicians assisted by PAs are “supervising physicians” and also be clarified to indicate that there may be more than one supervising physician.

### **3. Section 18.158. Prescribing and dispensing drugs, pharmaceutical aids and devices.—Reasonable-ness; Need; Clarity.**

The third sentence of Subsection (a)(3) states that a PA “may write a prescription for a Schedule II controlled substance for up to a 30-day supply if it was originally prescribed by the supervising physician *and* approved by the supervising physician for ongoing therapy.” [Emphasis added.] A commentator stated that requiring an original prescription from the physician would be restrictive in rural clinics when the physician is not on site and is

redundant since the physician must approve the prescription. The Board needs to explain the need to require both the original prescription and approval by the physician.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 06-77. Filed for public inspection January 13, 2006, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board leases will expire:

Philadelphia County, Wine & Spirits Shoppe #5169, 1935 Fairmount Avenue, Philadelphia, PA 19130.

*Lease Expiration Date:* June 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of the intersection of 20th and Fairmount Avenues, Philadelphia.

*Proposals due:* February 3, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Henry Blocker, (215) 482-9671

Philadelphia County, Wine & Spirits Shoppe #5101, 135 W. Cheltenham Avenue, Philadelphia, PA 19144.

*Lease Expiration Date:* November 30, 2008

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space within a 1/4-mile radius of Wayne and Cheltenham Avenues, Philadelphia.

*Proposals due:* February 3, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Henry Blocker, (215) 482-9671

The Liquor Control Board seeks the following new lease:

Philadelphia County, Wine & Spirits Shoppe #5128, Philadelphia.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 7,000 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of Broad and Grange Streets, Philadelphia.

*Proposals due:* February 3, 2006, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Henry Blocker, (215) 482-9671

JONATHAN H. NEWMAN,  
*Chairperson*

[Pa.B. Doc. No. 06-78. Filed for public inspection January 13, 2006, 9:00 a.m.]

# PENNSYLVANIA MUNICIPAL RETIREMENT BOARD

## Hearing Scheduled

A hearing has been scheduled, as authorized by Pennsylvania Municipal Retirement Law (53 P. S. §§ 881.101—881.413), in connection with the Pennsylvania Municipal Retirement Board's denial of claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Pennsylvania Municipal Retirement Board, 1010 North 7th Street, Suite 301, Eastgate Center, Harrisburg, PA 17102.

March 1, 2006 Robert J. Shook 1 p.m.  
(Purchase of Pension Credit)

Persons with a disability who wish to attend the previously listed hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Tina Eisenhart at (717) 787-2065 to discuss how the Pennsylvania Municipal Retirement System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 16 Pa. Code § 91.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JAMES B. ALLEN,  
*Secretary*

[Pa.B. Doc. No. 06-79. Filed for public inspection January 13, 2006, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Section 3015(f) Review Regarding the Lifeline Tracking Report, Accident Report and Service Outage Report; Doc. No. M-00051900

Public Meeting held  
December 15, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick, dissenting statement follows

### Final Order

*By the Commission:*

On October 5, 2005, the Commission entered at this docket a tentative order (Tentative Order) regarding section 3015(f)<sup>1</sup> review of certain reporting requirements for Local Exchange Carriers (LECs). In its Tentative Order, the Commission directed that further review of certain reporting requirements be conducted in accord-

ance with section 3015(f)(1) of Chapter 30<sup>2</sup> to determine whether the Lifeline tracking reports and the accident and service outage reports can be required. In accordance with section 3015(f)(1) and the comments submitted in this matter, the Commission finds that the Lifeline tracking reports and the service outage reports meet the standards prescribed in this section and, therefore, continue to be required by the Commission. The Commission also finds that accident reports are no longer required to be filed by LECs in accordance with sections 3015(f)(1) and 3015(e).

### Background

In December 2004, the General Assembly enacted Act 18<sup>3</sup> which substantially amends the Public Utility Code relating to alternative forms of regulation for LECs and, in particular, contains provisions designed to reduce the present level of annual, quarterly and other periodic reporting requirements for LECs. Act 183 or Chapter 30 provides that the general filing and reporting requirements for LECs are limited to the nine reports specified in the statute, to be "submitted in the form determined by the Commission." 66 Pa.C.S. § 3015(e).

Section 3015(e) provides that the Commission's filing and audit requirements for a LEC that is operating under an amended network modernization plan are limited to the following: 1) network modernization reports filed pursuant to Section 3014(f); 2) an annual financial report consisting of a balance sheet and income statement; 3) an annual deaf, speech-impaired and hearing-impaired relay information report; 4) an annual service report; 5) universal service reports; 6) an annual access line report; 7) an annual statement of gross intrastate operating revenues for purposes of calculating assessments for regulatory expenses; 8) an annual state tax adjustment computation for years in which a tax change has occurred, if applicable; and 9) for those companies with a bona fide retail request program, a bona fide retail request report under Section 3014(c)(9).

Chapter 30 also provides for exceptions to this limitation. In particular, section 3015(f)(1) of Chapter 30 provides that "no report, statement, filing or other document or information, except as specified in subsection (e), shall be required unless the Commission, upon notice to the affected LEC and an opportunity to be heard, has first made specific written findings supporting conclusions in an entered order that:

(i) the report is necessary to ensure that the LEC is charging rates that are in compliance with the chapter and its effective alternative form of regulation;

(ii) the benefits of the report substantially outweigh the attendant expense and administrative time and effort required by the LEC to prepare it."

Section 3015(f)(2) also provides that nothing should be construed to impede the ability of the Commission to require the submission of further information to support the accuracy or to seek an explanation of the reports in subsection(e). Further, section 3019 retains the Commission's power to seek information necessary to review and revise its quality of service standards and establish customer protection requirements.<sup>4</sup>

On April 15, 2005, in accordance with the newly-enacted Chapter 30, the Commission entered a Tentative

<sup>2</sup> 66 Pa.C.S. § 3015(f)(1).

<sup>3</sup> Id.

<sup>4</sup> 66 Pa.C.S. §§ 3019(b)(2) and (3).

<sup>1</sup> 66 Pa.C.S. § 3015(f)(1).

Implementation Order<sup>5</sup> directing the continuation, consolidation, and/or elimination of the general filing and reporting requirements presently imposed on LECs operating in Pennsylvania. In its Tentative Order, the Commission sought comments on its initial determinations to maintain, streamline or eliminate certain LEC reports. Upon review of Chapter 30 and the submitted comments, the Commission entered a Final Implementation Order<sup>6</sup> on October 5, 2005 determining which LEC reporting requirements should be maintained, streamlined or eliminated. Also, in the Final Implementation Order, the Commission found that the Lifeline tracking reports and the accident and service outage reports are not within the scope of reports listed in section 3015(e). Therefore, the Commission directed that a new proceeding be opened to address the issue of whether these reports can meet the exception standard set forth in section 3015(f)(1).<sup>7</sup>

Also, on October 5, 2005, the Commission entered a Tentative Order at this docket ordering a section 3015(f)<sup>8</sup> review of certain reporting requirements for Local Exchange Carriers (LECs). In its Tentative Order, the Commission directed that further review of certain reporting requirements be conducted in accordance with section 3015(f)(1) of Chapter 30<sup>9</sup> to determine whether the Lifeline tracking reports and the accident and service outage reports can be required. In doing so, the Commission provided the affected LECs and other interested participants notice and opportunity to be heard concerning the continued reporting of the previously mentioned reports. The Pennsylvania Telephone Association (PTA), the Office of Consumer Advocate (OCA) and Representatives Raymond Bunt, Jr. and William F. Adolph, Jr. submitted comments at this docket.

## Discussion

Chapter 30 sets forth reporting requirements for LECs. Although various sections of Chapter 30 provide the Commission with the authority to require information from LECs, as stated previously, section 3015(e) provides that the Commission's filing and audit requirements for a LEC that is operating under an amended network modernization plan are limited to nine enumerated reports, subject to the previously mentioned exceptions. In addition, section 3015(f)(1) requires Commission review to determine additional reporting requirements pursuant to the previously mentioned exceptions in section 3015(f)(1).

As an initial matter, the Commission requested comments in the Tentative Order as to the interpretation of the standards set forth in section 3015(f)(1). Specifically, the Commission requested input on whether both standards articulated in section 3015(f)(1) must be met, or whether satisfaction of either one would allow for the report to be requested pursuant to this same section.

Representatives Bunt and Adolph comment that section 3015(f) is a two-pronged test that the PUC must undertake prior to requiring additional reports outside of the nine reports statutorily required by current law.<sup>10</sup> Representatives Bunt and Adolph also comment that a proposed additional report satisfying one of the two standards contained in section 3015(f) cannot be mandated by

the Commission.<sup>11</sup> The legislators further state that the language in section 3015(f) is clearly written and that the Commission should implement the provisions in accordance with legislative intent.<sup>12</sup>

PTA comments that section 3015(f)(1)(i) and (ii) operate in the conjunctive resulting in two distinct tests that must both be met in order for the Commission to require any report other than the nine set forth in section 3015(e).<sup>13</sup> Also, PTA submits that the word "or" cannot be inserted between the two subsections of section 3015(f)(1) because a reviewing body may not insert words into a statute that the legislature omitted.<sup>14</sup> PTA contends that inserting language into section 3015(f) would be improper and defeat the plain meaning of this particular section.<sup>15</sup>

OCA submits that the Commission should interpret section 3015(f)(1)(i) and (ii) as providing two separate grounds for requiring a report that is not specifically identified in 3015(e).<sup>16</sup> OCA also contends that to require that a report meet both statutory requirements would lead to results counter to the express will of the General Assembly and would produce unreasonable results.<sup>17</sup>

In this case, it is the Commission's view that the reports discussed in this Order meet both exceptions articulated in section 3015(f)(1)(i) and (ii). Therefore, at this time, we decline to decide the issue of whether both standards must be met, or whether satisfaction of either of the subsections would permit the Commission to allow additional reports pursuant to section 3015(f)(1).

## 1. Lifeline Tracking Report

The Lifeline tracking report is required by the Commission's February 21, 2003 Order<sup>18</sup> on an annual basis in order to monitor customer enrollment and funding levels in the statewide Lifeline 150, and Link-Up programs, the Verizon<sup>19</sup> companies' Lifeline programs and Verizon Pennsylvania Inc.'s Universal Telephone Assistance Program (UTAP). The Commission collects the necessary data through a standard form available from the Commission's website.<sup>20</sup> In the Final Implementation Order at Docket No. M-00041857, the Commission required LECs to continue the Lifeline Tracking report pending the outcome of this proceeding herein.

In its Tentative Order, the Commission requested that interested participants comment on whether the Lifeline tracking report is necessary for the Commission to ensure that the rates charged by LECs are in compliance with Chapter 30 and are in accordance with the LECs' current alternative forms of regulation. In particular, the Commission sought comment on whether there is a relationship between rates that are in compliance with the goals of Chapter 30 and the actual availability of discounted Lifeline rates for local telephone service. Also, the Commission requested input addressing the expense and administrative time and effort involved in the preparation of the individual reports and the benefits of the report in relation to the Commission's duties under Title 66.

<sup>11</sup> *Id.* at 2.

<sup>12</sup> *Id.*

<sup>13</sup> PTA October 25, 2005 Comments at 3.

<sup>14</sup> *Id.* at 4. In its comments, PTA includes legal precedent that forbids a court to add provisions which the legislature has omitted.

<sup>15</sup> *Id.*

<sup>16</sup> OCA October 25, 2005 Comments at 2.

<sup>17</sup> *Id.*

<sup>18</sup> *Joint Petition of Nextlink PA, Inc., Senator Vincent J. Fumo, Senator Roger Madigan, Senator Mary Jo White, et al. for Adoption of Partial Settlement Resolving Telecommunications Issues*, Docket Nos. P-00991648 and P-00991649 (Order entered February 21, 2003).

<sup>19</sup> Verizon North Inc. and Verizon Pennsylvania Inc.

<sup>20</sup> See *Section 3015(f) Review regarding the Lifeline Tracking Report, Accident Report and Service Outage Report*, Docket No. M-00051900 (Order entered October 5, 2005) at Appendix A.

<sup>5</sup> *PUC Filing and Reporting Requirements on Local Exchange Carriers*, Docket No. M-00041857 (Order entered April 15, 2005).

<sup>6</sup> *PUC Filing and Reporting Requirements on Local Exchange Carriers*, Docket No. M-00041857 (Order entered October 5, 2005).

<sup>7</sup> *Section 3015(f) Review regarding the Lifeline Tracking Report, Accident Report and Service Outage Report*, Docket No. M-00051900 (Order entered October 5, 2005).

<sup>8</sup> 66 Pa.C.S. § 3015(f)(1).

<sup>9</sup> 66 Pa.C.S. § 3015(f)(1).

<sup>10</sup> Representatives Raymond Bunt, Jr. and William F. Adolph, Jr. October 24, 2005 Comments at 1-2.



In their comments, Representatives Bunt and Adolph indicate that the provisions of Chapter 30 to enhance the Lifeline program do not support the Commission's requiring Lifeline tracking reports.<sup>21</sup> Representatives Bunt and Adolph submit that filing Lifeline enrollment statistics at the state level is duplicative because LECs report this information to the Federal Communications Commission (FCC).<sup>22</sup> The legislators also indicate that, since the Lifeline tracking reports have no correlation to Lifeline rates and can be obtained from the FCC, this reporting requirement does not meet both subsections in section 3015(f)(1) and cannot be required.<sup>23</sup>

PTA comments that Chapter 30 does, in fact, encourage Lifeline enrollment through publication requirements and removal of service restrictions.<sup>24</sup> PTA also contends that Lifeline is not a rate but rather, a credit set by federal law and given to qualifying customers.<sup>25</sup> In addition, PTA notes that the Commission's Lifeline tracking report contains no information about the rates charged to Lifeline customers.<sup>26</sup> In the spirit of compromise, however, PTA has volunteered to provide a courtesy copy of the Lifeline report that individual companies submit to the FCC.<sup>27</sup>

OCA strongly supports the continuation of the Lifeline tracking reports because it is essential for the Commission to fulfill its statutory obligation to oversee Pennsylvania's Lifeline program set forth at section 3019(f) of Chapter 30.<sup>28</sup> OCA submits that it is necessary for the Commission to have a Lifeline tracking report requirement so that it monitors customer participation in the LEC's Lifeline programs and to assess the success of the program. OCA also submits that it would be contrary to the will of the General Assembly for the Commission to abandon monitoring the provision of Lifeline service in light of the statutory provisions set forth in Chapter 30.<sup>29</sup>

In addition, OCA submits that the Commission may require the Lifeline tracking report pursuant to its section 3015(f)(1) authority because either or both of the requirements in subsections (i) and (ii) are met in regard to this report.<sup>30</sup> Regarding section 3015(f)(1)(i), OCA submits that Lifeline services is intrinsic to rates as defined in section 3012 of Chapter 30.<sup>31</sup> Without the Lifeline tracking report, the OCA contends that the Commission cannot ensure that LECs are making Lifeline rates available in compliance with Chapter 30. The OCA further states that the Lifeline tracking report is a necessary tool to assess year-to-year changes in customer access to various LEC Lifeline rates, in order to assure that rates are affordable, to assure that Lifeline rates are universally available throughout the Commonwealth, and to assure that funds set aside to support Lifeline rates are properly used.<sup>32</sup> Further, OCA maintains that the Commission's efforts to fulfill its duty to maintain universal service telecommunications at affordable rates as prescribed at section 3011(2) will diminish without the Lifeline tracking report.<sup>33</sup>

<sup>21</sup> Representatives Raymond Bunt, Jr. and William F. Adolph, Jr. October 24, 2005 Comments at 2.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> PTA October 25, 2005 Comments at 7.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 9.

<sup>28</sup> OCA October 25, 2005 Comments at 4. 66 Pa.C.S. § 3019(f).

<sup>29</sup> OCA October 25, 2005 Comments at 5.

<sup>30</sup> *Id.* at 6.

<sup>31</sup> *Id.* at 8. Section 3012 defines Lifeline service as a discounted rate local service offering. 66 Pa.C.S. § 3012. In addition, section 3019(f) permits customers who subscribe to Lifeline service to subscribe to any number of other telecommunications services at the tariffed rates for such services. 66 Pa.C.S. § 3019(f)(2).

<sup>32</sup> OCA October 25, 2005 Comments at 8.

<sup>33</sup> *Id.*

Concerning section 3015(f)(1)(ii), OCA submits that the public benefit of section 3019(f) compliant Lifeline services is very high in comparison to the burden of preparing the Lifeline tracking report.<sup>34</sup> OCA points out that the Verizon and Verizon North Lifeline tracking report consists of four pages of fill-in-the-blank data, and the non-Verizon company report consists of three pages of fill-in-the-blank data<sup>35</sup> resulting in minimal hours (1-10) to complete.<sup>36</sup> Also, OCA comments that, during the Legislative Budget and Finance Committee's (LB & FC) review of LEC reporting requirements, both the Commission and PTA agreed that the Lifeline tracking report is necessary and that PTA indicated that no changes to this reporting requirement is needed.<sup>37</sup>

Based on the comments submitted at this docket, we find that the Lifeline tracking report continues to be required in accordance with the exceptions set forth in section 3015(f)(1)(i) and (ii). Regarding section 3015(f)(1)(i), the Commission finds that the Lifeline tracking report is necessary to ensure that the LECs providing Lifeline service are charging rates in compliance with Chapter 30. First, under the provisions at section 3019(f), LECs are required to provide Lifeline service to eligible customers who subscribe to the service at the prescribed discounted rate for the local service offering as defined in section 3012 of the statute. Second, there clearly exists a relationship between the rates that are in compliance with the goals of Chapter 30 and the actual availability of discounted Lifeline rates for local telephone service.<sup>38</sup> Third, we agree with OCA that, without the Lifeline tracking report, the Commission cannot ensure that LECs are making Lifeline rates available in compliance with Chapter 30. Because the Commission must ensure that LECs are charging rates in compliance with Chapter 30, including discounted rates for local service to eligible customers, the Commission finds that there is an adequate nexus between the Lifeline tracking report and the provision of Lifeline service at discounted rates to satisfy the requirements of section 3015(f)(1)(i).

In addition, regarding section 3015(f)(1)(ii), the Commission finds that the benefits of the Lifeline tracking report substantially outweigh the attendant expense and administrative time and effort of the LEC to prepare the report. It is clear that the benefits of the Lifeline tracking report are many including the imposition of rates in compliance with Chapter 30 and LECs alternative form of regulation, the measurement of customer enrollment and disconnection in the Lifeline programs in light of the newly enacted section 3019(f), and the tracking and monitoring of Lifeline notice and enrollment to determine future statutory changes, where appropriate.

Regarding the LECs' attendant expense and administrative time and effort to prepare the Lifeline tracking report, PTA did not fully address this requirement of section 3015(f)(1) in their comments outside of a footnote reference to its position in the Legislative Budget & Finance Committee's (LB & FC) Report. Rather, PTA refers the Commission to the LB & FC Report in which the carriers estimate that the cost to produce this report,

<sup>34</sup> *Id.* at 7.

<sup>35</sup> *Id.* See also *Section 3015(f) Review regarding the Lifeline Tracking Report, Accident Report and Service Outage Report*, Docket No. M-00051900 (Order entered October 5, 2005) at Appendix A.

<sup>36</sup> LB & FC Report at 17.

<sup>37</sup> OCA October 25, 2005 Comments at 7-8. See also LB & FC Report at S-2 and 17.

<sup>38</sup> Under the provisions of section 3019(f)(2), eligible Lifeline customers may now subscribe to any number of competitive services on a tariffed basis. 66 Pa.C.S. §§ 3019(f)(2). The opportunity to subscribe to additional competitive services by Lifeline customers clearly will impact both enrollment and disconnection in the Lifeline program. We note that Lifeline enrollment and disconnection data is currently required on the Lifeline tracking report.

on an annual basis, is between 1 and ten hours.<sup>39</sup> However, as mentioned previously, PTA offers to provide to the Commission a courtesy copy of its Lifeline reports submitted to the FCC as a compromise position to continue this reporting requirement.

We find that the current annual filing of Lifeline information in the Commission's standardized format is less burdensome on LECs than PTA's proposed compromise. While we appreciate PTA's willingness to reach agreement on this reporting requirement, PTA's position actually increases their reporting requirement to this Commission. PTA is proposing to provide to us its quarterly filings to the FCC, thus increasing the amount of Lifeline information to be submitted from an annual basis to four times a year.

In addition, we find that the federal Lifeline report is not sufficient to address the needs of the Commission. These needs include the measurement of customer enrollment and disconnection activity in the Lifeline programs as well as the tracking and monitoring of Lifeline year end enrollment levels. This information, as provided on the Pennsylvania Lifeline form, will allow this Commission to evaluate utility compliance with section 3019 of Chapter 30.

Further, the federal Lifeline form—Form 497—is currently being revised by the Federal Communications Commission and, without knowing the extent of the revisions and how they will impact information needed by this Commission, we decline to adopt PTA's compromise. At this time, the Commission is not prepared to forego the information currently required in its Lifeline tracking report.

In addition, PTA does not provide sufficient grounds to demonstrate that this reporting requirement is burdensome on its member companies. In our view, having to produce a standardized report once a year comprised of only 3 to 4 pages does not constitute a burdensome reporting requirement.

We also are persuaded by OCA's comments stated previously that the on-line standard format Lifeline tracking reports are of minimal burden to the carriers and does not outweigh the benefit of the Commission having the necessary information about Lifeline enrollment and application of the proper rate for this program. However, we direct our staff, the Bureau of Consumer Services, to review and develop a more streamlined version of the Lifeline tracking report as appropriate and to establish a process to file these reports electronically with the Commission.

Accordingly, we find that the Lifeline tracking report meets the standards prescribed in section 3015(f)(1) and, therefore, directs that this reporting requirement be maintained.

## 2. Service Outage Reports

The Commission's regulations at section 67.1 require all public utilities, including LECs, to report service outages when 2,500 or 5 percent, whichever is less, of a public utility's customers have an unscheduled service interruption in a single incident for six or more projected consecutive hours.<sup>40</sup> The Commission reviews the service outage reports to ensure that all necessary steps were taken in the utility's restoration efforts and to monitor the level of service outages occurring in the state.<sup>41</sup> In the

Final Implementation Order at Docket No. M-00041857, the Commission required LECs to continue the service outage reporting requirement pending the outcome of this proceeding herein.

In its Tentative Order, the Commission requested that interested participants comment on whether service outage reports are necessary for the Commission to ensure that the rates charged by LECs are in compliance with Chapter 30 and are in accordance with the LECs' current alternative forms of regulation. In particular, the Commission sought input on whether there is a relationship between rates that are just and reasonable and the frequency, duration and extent of service outages given that Chapter 30 requires that all rates shall be just and reasonable. In addition, the Commission requested comments addressing the expense and administrative time and effort involved in the preparation of the individual reports and the benefits of the report in relation to the Commission's duties under Title 66. Further, the Commission sought input on the frequency of service outage reports filed by individual LECs in prior years as well as whether this reporting requirement could be streamlined and submitted to the Commission electronically.

In their comments, Representatives Bunt and Adolph indicate that it is unclear how service outage reports documenting a previously occurred outage assists the Commission in responding to emergency situations including managing the utility's response to the situation.<sup>42</sup> Also, the Representatives question how the service outage reports provide information to assist the Commission in maintaining overall safe and reliable utility services.<sup>43</sup>

PTA comments that the frequency, duration and extent of service outages do not have any relationship with whether a LEC's rates are in compliance with its Chapter 30 plan. PTA also notes that service outage information is not identified as a component in the setting of a LEC's rates under its Chapter 30 plan. PTA comments that, had the Legislature intended to include service outage information in the setting of rates in a Chapter 30 plan, they would have included it as an explicit provision in the statute.<sup>44</sup> In its comments, the PTA proposes a compromise concerning this reporting requirement in that its member companies agree to inform the Commission verbally of an outage as dictated in section 67.1 of our regulations with follow up written documentation.<sup>45</sup>

OCA, in its comments, states that the Commission has the authority to require service outage reports under sections 3015(f) and 3019(b) of Chapter 30. OCA indicates that this reporting requirement is on a per occurrence requirement that all public utilities file to alert the Commission, in a timely fashion, of prolonged and widespread service failures.<sup>46</sup> OCA states that the service outage reporting requirement is important to the Commission's duty to ensure reasonable, adequate and reliable utility service for the benefit of consumers and is consistent with the Commission's obligations to ensure safe and adequate service at section 1501 of Title 66.

<sup>39</sup> LB & FC Report at 17. In this same report, the PTA advocated that no changes to this reporting requirement was needed at the time.

<sup>40</sup> 52 Pa. Code § 67.1.

<sup>41</sup> LB & FC Report at 32.

<sup>42</sup> Representatives Raymond Bunt, Jr. and William F. Adolph, Jr. October 24, 2005 Comments at 2.

<sup>43</sup> Id.

<sup>44</sup> PTA October 25, 2005 Comments at 7-8.

<sup>45</sup> Id. at 9. Also, PTA indicated in the LB & FC Report that no changes to this reporting requirement should be made. LB & FC Report at 32.

<sup>46</sup> OCA October 25, 2005 Comments at 9-10.

In addition, OCA submits that the service outage reports clearly relate to the Commission's statutory obligation at section 3019(b) to review and revise safety, adequacy and reliability of service regulations. OCA submits that it would be unreasonable for the Commission to be able to establish rules governing these aspects of telephone service but then not have a reporting mechanism to enforce them.<sup>47</sup> OCA further submits that the section 3019(b) not only provides the Commission the authority to establish a reporting mechanism relating to safety, adequacy and reliability of services but also establishes an affirmative duty for the Commission to review whether telephone utility services meet these standards.<sup>48</sup>

Regarding section 3015(f)(1)(ii), OCA contends that the risks to public safety far outweigh the expense and administrative time and effort involved in notifying the Commission of a widespread and prolonged service failure.<sup>49</sup> OCA also submits that the assertion that making a telephone call to alert the Commission of a prolonged and widespread service failure event represents too much of a burden on a telephone utility is patently unreasonable. OCA further points out that the information required by section 67.1 of the Commission's regulations is provided in a one page format on a very limited frequency.<sup>50</sup>

Based on the comments submitted at this docket, we find that the service outage report continues to be required in accordance with the exceptions set forth in section 3015(f)(1)(i) and (ii). Concerning section 3015(f)(1)(i), the Commission's request for service outage information satisfies the requirements of this section in that the service outage report is necessary information to ensure that the LECs are charging rates in compliance with Chapter 30. Chapter 30 requires that rates be just and reasonable as also stated in Chapter 13 of the Public Utility Code.<sup>51</sup> In fact, the fundamental principle that rates for utility services be just and reasonable is peppered throughout the statute. First, section 3011 declares that charges for protected service must be "reasonable." Also, section 3015(g) specifically states that nothing in Chapter 30 limits the requirements of section 1301 that rates shall be "just and reasonable." In addition, this same section states that the annual rate change limitations set forth in a LEC's effective commission-approved alternative form of regulation plan shall be deemed "just and reasonable" under section 1301.<sup>52</sup> Further, if a LEC fails to meet an interim or final 100% commitment for broadband availability under its Chapter 30 plan, the Commission can require the LEC to refund to customers an amount that is "just and reasonable under the circumstances."<sup>53</sup> Finally, Chapter 30 itself links "just and reasonable" rates to a LEC's rates in its alternative form of regulation.<sup>54</sup>

Moreover, it is long standing precedent in Pennsylvania that quality of service is directly related to just and reasonable rates. We have determined, and the Pennsylvania courts have affirmed, that the quality of service provided by a public utility is not a neutral factor in determining the just and reasonable level of rates that may be charged. *National Utilities Inc. v. Pa. PUC*, 709 A.2d 972 (Pa. Cmwlth. 1998); 66 Pa.C.S. § 523(a); *Pa. P.U.C.*

*v. Aqua Pennsylvania, Inc.*, 2004 Pa. PUC LEXIS 39; 236 P.U.R.4th 218 (Order entered August 5, 2004); *Policy Statement on Acquisitions of Water and Wastewater Systems*, Docket Nos. M-00051926, P-00052155 (Order entered December 5, 2005).<sup>55</sup> Service outage reports bear on service quality and, for that reason, are critical to the Commission to ensure that LECs are charging just and reasonable rates as required by Chapter 30.<sup>56</sup>

For these reasons, the Commission finds that there is an adequate nexus between service outage reports and whether rates are in compliance with Chapter 30 to satisfy the requirements at section 3015(f)(1)(i). Indeed, we find that there is a direct and fundamental nexus between the service quality information in this report and the justness and reasonableness of a LEC's rates, and that Chapter 30 does not de-couple the long-standing link between service quality and regulated rates.

Further, we find that the benefits of the service outage report substantially outweigh the attendant expense and administrative time and effort of the LEC to prepare the report, and therefore, satisfy the requirements at section 3015(f)(1)(ii). In our view, the benefits of the service outage reporting requirement are numerous. First, this reporting requirement informs the Commission of significant outages in order that utilities, public officials and Commission personnel can quickly and adequately respond to the service interruption. Second, this reporting requirement is necessary to ensure that the Commission is meeting its statutory obligations of requiring utilities to provide reasonable, continuous service and of reviewing and revising its safety, adequacy, and reliability of service standards as prescribed in Chapter 30.<sup>57</sup> Third, the Commission finds that the service outage information from utilities is necessary so that they can explain the circumstances surrounding a significant outage ensuring that the Commission has adequate information to determine whether enforcement action is warranted under section 1501 of the Public Utility Code.<sup>58</sup> Accordingly, we determine that the benefits of having service outage information as prescribed by section 67.1 of our regulations are numerous and this reporting requirement is necessary for the Commission to fulfill its statutory duties as set forth in Chapter 30 and Title 66.

Regarding the LECs' attendant expense and administrative time and effort to prepare the service outage report, PTA did not fully address this requirement in their comments. Instead, PTA's member companies agreed to supply service outage information verbally and in writing to the Commission as prescribed in section 67.1 of our regulations.<sup>59</sup> While we appreciate PTA's willingness to reach agreement on this report requirement, we view their compromise as simply requiring the same information as stated in our regulation. Therefore, we find that PTA has not demonstrated that the service outage reporting requirement, required on a per incident basis, is too expensive, time-consuming or burdensome.

<sup>55</sup> In *National Utilities Inc. v. Pa. PUC*, 709 A.2d 972 (Pa. Cmwlth. 1998), the Court held that the Fifth and Fourteenth Amendments to the U.S. Constitution are not violated when a public utility is denied an increase in rates when it fails to provide adequate service to the public, even if the result is a rate of return less than it would otherwise be entitled to receive. Because the evidence supports the PUC's finding that NUI provided inadequate service to its customers, its determination to refuse NUI's request to increase its rates which consequently may result in a reduced rate of return is not in violation of the United States Constitution.

<sup>56</sup> 66 Pa.C.S. § 3015(g).

<sup>57</sup> 66 Pa.C.S. § 1501, 3019(b)(2).

<sup>58</sup> 66 Pa.C.S. § 1501.

<sup>59</sup> PTA October 25, 2005 Comments at 9, 52 Pa. Code § 67.1.

<sup>47</sup> *Id.* at 13-14.

<sup>48</sup> *Id.* at 14.

<sup>49</sup> *Id.* at 18.

<sup>50</sup> *Id.* at 18 and 20. 52 Pa. Code § 67.1.

<sup>51</sup> 66 Pa.C.S. §§ 3019(h), 1301.

<sup>52</sup> 66 Pa.C.S. §§ 1301, 3011-3019.

<sup>53</sup> 66 Pa.C.S. § 3015(a)(2).

<sup>54</sup> 66 Pa.C.S. § 3015(g).

Also, we are persuaded by OCA's comments that the standardized form of the report on service outages is of minimal burden to LECs. In addition, we point out that service outage reports are on a per occurrence basis and are not filed on a quarterly or annual basis. Based on the comments submitted at this docket, we determine that the attendant expense and administrative time and effort to prepare the service outage reports does not outweigh the benefit of the Commission having the necessary information about significant outages that affect service quality and the rates for that service.

Accordingly, we find that the service outage reporting requirement meets the standards prescribed in section 3015(f)(1) and, therefore, direct that this reporting requirement be maintained.

### 3. Accident Reports

Accident reports, as required by the Commission's regulations at section 63.11 and section 1508 of Title 66,<sup>60</sup> require all public utilities, including LECs, to file reports following an accident resulting in the death of a person or an occurrence of an unusual nature. The purpose of the report is to have information provided to the Commission so that it can monitor serious accidents involving facilities or operations of all public utilities.<sup>61</sup> At the time of the LB & FC report, the PTA indicated that accident reports are only required on a per incident basis and stated that no changes in this reporting requirement are necessary.<sup>62</sup>

In the Tentative Order, the Commission requested that interested participants comment on whether accident reports are necessary for the Commission to ensure that the rates charged by LECs are in compliance with Chapter 30 and are in accordance with the LECs' current alternative forms of regulation. In particular, the Commission sought input on whether there is a relationship between the level of rates and the frequency and severity of accidents given that Chapter 30 requires that all rates shall be just and reasonable. In addition, the Commission requested comments addressing the expense and administrative time and effort involved in the preparation of the individual reports and the benefits of the report in relation to the Commission's duties under Title 66. Further, the Commission sought input on the frequency of accident reports filed by individual LECs in prior years as well as whether this reporting requirement could be streamlined and submitted to the Commission electronically.

In their comments, Representatives Bunt and Adolph also address accident reports in the same manner as service outage reports. The legislators state that they are unclear how accident reports documenting a previously occurred incident assists the Commission in responding to emergency situations. In addition, the Representatives question how accident reports provide information to assist the Commission in maintaining overall safe and reliable utility services.<sup>63</sup>

PTA comments that there is no reasonable connection between whether an ILEC is charging rates in compliance with Chapter 30 or its alternative regulation plan and the number or severity of accidents suffered by a LEC.<sup>64</sup>

<sup>60</sup> 52 Pa. Code § 63.11 and 66 Pa.C.S. § 1508. Specifically, section 1508 provides that every public utility give immediate notice to the Commission of any accident in or about, or in connection with, the operation of its service and facilities, when a person has been killed or injured.

<sup>61</sup> LB & FC Report at 28.

<sup>62</sup> Id.

<sup>63</sup> Representative Raymond Bunt, Jr. and William F. Adolph, Jr. October 24, 2005 Comments at 2.

<sup>64</sup> PTA October 25, 2005 Comments at 8.

However, the PTA member companies have agreed to voluntarily inform the Commission in writing of an accident which meets the requirements of the Commission regulations at section 63.11.

In addition, OCA comments that the Commission may require accident reports under both sections 3015(f) and 3019(b). OCA submits that accident reports clearly relate to the Commission's duty to assure that utilities provide safe, adequate and reliable telephone service to the public and are consistent with the Commission's obligations under section 1501 of the Public Utility Code.<sup>65</sup> OCA also submits that section 3019(b) adds to the powers of section 3015(f) of the statute in providing the Commission the authority to review and revise service quality regulations. In doing so, OCA contends that it would be unreasonable for the Commission to be able to establish rules governing these aspects of telephone utility services but could not enforce those same regulations through a reporting mechanism.<sup>66</sup>

Further, regarding section 3015(f)(1)(ii), OCA contends that the risks to public safety far outweigh the expense and administrative time and effort involved in notifying the Commission of an accident resulting in serious injury or death.<sup>67</sup> OCA also submits that the assertion that making a telephone call to alert the Commission of a utility's services or facilities having been involved in a death or serious injury to an employee or the public represents too much of a burden on a telephone utility is patently unreasonable. OCA also points out that the information required by section 63.11 of the Commission's regulations is provided in a two page format on a very limited frequency.<sup>68</sup> OCA further comments that PTA indicated, at the time of the LB & FC Report, that accident reports are only required on a per incident basis and no changes to the reporting requirement are necessary.<sup>69</sup>

Based upon our review of the comments in this docket and section 3015(f) of Chapter 30, we find that accident reports do not meet the exceptions set forth in section 3015(f)(1). Upon further analysis, we are persuaded by Representative Bunt and Adolph's comments as well as PTAs' that accident reports do not have a direct nexus to the rates charged by LECs in accordance with Chapter 30 and their alternative forms of regulation sufficient to satisfy section 3015(f)(1)(i). However, we note that, if a serious or fatal accident occurs that results in a significant service outage, in that event, the service outage report would capture the incident, bear directly on service quality, and therefore be reported to the Commission. As such, any potential nexus between the information in an accident report is at least one-step removed from the information that would appear in a service quality report even if the accident caused a significant service outage. Under these circumstances, there is no adequate nexus relating to whether rates are just and reasonable.

Although we are persuaded by OCA's comments that accident reports are not burdensome since they comprise only two standardized pages submitted on a per incident basis, we shall decline to require accident reports from telephone companies since any accident that substantially affects service quality will be reported separately pursuant to section 67.1. While we appreciate PTA's willingness

<sup>65</sup> OCA October 25, 2005 Comments at 9 - 11. 66 Pa.C.S. § 1501.

<sup>66</sup> OCA October 25, 2005 Comments at 13-14.

<sup>67</sup> Id. at 18.

<sup>68</sup> Id. at 18 and 20. 52 Pa. Code § 63.11.

<sup>69</sup> Id. at 20. LB & FC Report at 28.

to reach agreement on this reporting requirement by agreeing to voluntarily submit accident reports, we determine, at this time, that this reporting requirement is no longer necessary for telecommunications companies.

In addition, we find that our obligation under section 1508 of Title 66 to require telephone utilities to report accidents involving death or serious injury to a person has been removed by the enactment of Chapter 30. Section 1971 of the rules of statutory construction provides that, if two statutes are irreconcilable, the statute latest in date of enactment prevails.<sup>70</sup> Accordingly, we find that accident reports for telephone utilities are no longer required under Chapter 30 or section 1508 of the Public Utility Code.

Therefore, we direct staff to eliminate this reporting requirement, for telecommunications carriers only, through the proposed rulemaking proceeding at Docket No. L-00050176, in accordance with the discussion herein.

Based on our review of the comments submitted in this docket and of Chapter 30, the Commission directs the continuation of the annual Lifeline tracking reports and service outage reports currently required. At the same time, the Commission eliminates the accident report requirement for telecommunications companies only in accordance with Chapter 30,

*Therefore:*

*It Is Ordered That:*

1. In accordance with Chapter 30, the Lifeline tracking report as required by Docket No. P-00991648 and Service Outage reports, per occurrence, as required by 52 Pa. Code § 67.1, shall remain in place.

2. In accordance with the discussion in this Order, the Bureau of Consumer Services shall review and develop a streamlined version of the Lifeline tracking report, as appropriate, and shall establish a process to file these reports electronically with the Commission.

3. In accordance with Chapter 30, the Accident reports, per occurrence, as required by 52 Pa. Code § 63.11 and 66 Pa.C.S. § 1508 shall be eliminated for telecommunications companies only.

4. The elimination of accident reports for telecommunications carriers at section 63.11 of the Commission's regulations shall be included in the proposed rulemaking proceeding at Docket No. L-00050176.

5. A copy of this final order be served on all incumbent and competitive local exchange telecommunications carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Telephone Association. Notice of this order shall be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

**Dissenting Statement of Commissioner Terrance J. Fitzpatrick**

**Public Meeting December 15, 2005;  
DEC-2005-L-0128\***

**Section 3015(f) Review Regarding the Lifeline Tracking Report, Accident Report and Service Outage Report; M-00051900**

I respectfully dissent from the Majority's conclusion that it may continue to require local exchange carriers

<sup>70</sup> 1 Pa.C.S. § 1971. *Lewis v. School District of Philadelphia*, 538 A.2d 862, 867-68 (1988).

(LECs) to file lifeline tracking reports and service outage reports pursuant to 66 Pa.C.S. § 3015(f), despite the fact that the General Assembly left these two reports off the list of reports that are authorized under Section 3015(e).

First, I would conclude that in order to require a report not listed in Section 3015(e), the Commission must find that both of the standards set forth in Section 3015(f)(1) have been met—that the report is necessary to ensure that a LEC's rates are in compliance, and that the benefits of the report substantially outweigh the expense and effort of preparing it. While these two requirements are not joined by a conjunction—"and" or "or"—that would make the intention of the General Assembly plain, a conclusion that both requirements must be met is consistent with the legislative intent to restrict the authority of the Commission to impose reporting requirements. See, 1 Pa.C.S. § 1921(b) (If the words of a statute are ambiguous, the intention of the General Assembly may be ascertained by considering, among other things, the occasion and necessity for the statute, the circumstances under which it was enacted, the mischief to be remedied, the object to be attained, and the consequences of a particular interpretation.)

Neither the lifeline tracking report nor the service outage report satisfy the requirement that the report is necessary to ensure that a LEC's rates are in compliance. With regard to the lifeline tracking report, an examination of that report makes clear that it is designed to track enrollment levels, not how rates are calculated. The mere fact that the Act defines "lifeline service" as a "discounted rate" offering (66 Pa.C.S. § 3012) does not change this conclusion since the report does not seek information as to whether any rate complies with applicable law.

Second, the argument that the service outage report may be required because quality of service is relevant to setting rates is unpersuasive. These reports seek information regarding isolated incidents rather than broad information that could be used to evaluate whether a utility is, in general, providing adequate service. Moreover, the Commission uses many tools to evaluate and improve service quality, but rate cuts are used very rarely. Since the nexus between these reports and a LEC's rates is remote, at best, the outage reports may not be required.

For these reasons, I respectfully dissent.

[Pa.B. Doc. No. 06-80. Filed for public inspection January 13, 2006, 9:00 a.m.]

### **Service of Notice of Motor Carrier Applications**

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by February 6, 2006.

Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.**

**A-00121691 (corrected). Vonnie Hamilton t/a Hamilton's Enterprise** (5524 Willows Avenue, Philadelphia, Philadelphia County, PA 19143)—persons, in paratransit service from points in the City and County of Philadelphia, to points in Pennsylvania, and return.

**A-00122321. Your Limo, Inc.** (149 Dewberry Drive, Hawley, Wayne County, PA 18428)—a corporation of the Commonwealth—persons in limousine service, from points in the Counties of Wayne, Pike and Monroe, to points in Pennsylvania, and return.

**A-00122303. William Jeff Spencer, Jr.** (2012 Compass Road, Honey Brook, Chester County, PA 19344)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Chester to points in Pennsylvania, and return.

**Applications of the following for approval of the additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under each application.**

**A-00120555, F.4. Nasser Limousine, LLC** (1015 Electric Street, Scranton, Lackawanna County, PA 18509), a limited liability company of the Commonwealth—persons in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the Counties of Lackawanna, Luzerne, Wyoming and Wayne, to points in Pennsylvania and return. *Attorney:* W. Boyd Hughes, Hughes, Nicholls & O'Hara, 1421 E. Drinker Street, Dunmore, PA 18512-2614.

**A-00109125, Folder 4 (corrected). Walter Larry Green t/d/b/a At Your Service Limo** (116 Kim Acres Drive, Mechanicsburg, Cumberland County, PA 17055)—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, from points in the Counties of Dauphin, York, Perry, Cumberland, Franklin and Lancaster to points in Pennsylvania, and return.

**Application of the following for the approval of the transfer of stock as described under the application.**

**A-00118446, F.5001. American Luxury Limousine, Inc.** (7137 Claridge Street, Philadelphia, Philadelphia County, PA 19111)—a corporation of the Commonwealth—for the approval of the transfer of 100 shares of issued and outstanding shares of stock held by Bartholomew Wloczynski to Mihretu Tefera.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 06-81. Filed for public inspection January 13, 2006, 9:00 a.m.]

## Telecommunications

**A-311067F7018. Frontier Communications of Breezewood, LLC and Dobson Cellular Systems, Inc.** Joint petition of Frontier Communications of Breezewood, LLC and Dobson Cellular Systems, Inc. for approval of an interconnection and traffic interchange agreement for commercial mobile radio services under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Breezewood, LLC and Dobson Cellular Systems, Inc., by its counsel, filed on December 22, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection and traffic interchange agreement for commercial mobile radio services 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 Frontier Communications of Breezewood, LLC and Dobson Cellular Systems, 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. 06-82. Filed for public inspection January 13, 2006, 9:00 a.m.]

## Telecommunications

**A-311067F7020. Frontier Communications of Oswayo River, LLC and Dobson Cellular Systems, Inc.** Joint petition of Frontier Communications of Oswayo River, LLC and Dobson Cellular Systems, Inc. for approval of an interconnection and traffic interchange agreement for commercial mobile radio services under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Oswayo River, LLC and Dobson Cellular Systems, Inc., by its counsel, filed on December 22, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection and traffic interchange agreement for commercial mobile radio services 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 Frontier Communications of Oswayo River, LLC and Dobson Cellular Systems, 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. 06-83. Filed for public inspection January 13, 2006, 9:00 a.m.]

# PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

## Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

February 8, 2006	Donald W. Brian (Purchase of Service)	10 a.m.
February 15, 2006	Rufus Boatwright (D) (Death Benefit)	2:30 p.m.
March 15, 2006	William Toomey John P. Wabby (Retirement Covered Comp)	1 p.m.
March 29, 2006	George F. Kaso (D) (Death Benefit)	1 p.m.

Persons with a disability who wish to attend the previously listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,  
*Executive Director*

[Pa.B. Doc. No. 06-84. Filed for public inspection January 13, 2006, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
PA Department of Community and Economic Development  
374 Forum Building  
Harrisburg, PA 17120  
800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
Location: Harrisburg, Pa.  
Duration: 12/1/93-12/30/93  
Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705



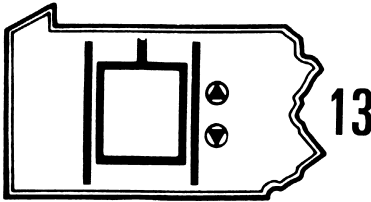
## DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at [www.patreaury.org](http://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

ROBERT P. CASEY, Jr.,  
*State Treasurer*

## SERVICES

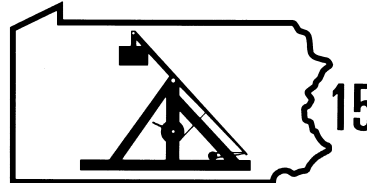


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### Elevator Maintenance

**CN00018493** Elevator repair service for one year period.

**Department:** Public Welfare  
**Location:** Torrance State Hospital, SR 1014, Torrance, PA 15779  
**Duration:** 12 months—anticipated 2/1/06 through 1/31/07  
**Contact:** Nancy E. Byers

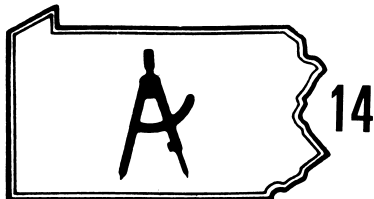


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### Environmental Maintenance Service

**CN00018532** Dewater the Melcroft No. 3 Mine in Saltlick Township, Fayette County from an approximate elevation of 1,460 ft. to 1,441± ft. (estimated 95 million gallons of water). Project includes treatment of water with caustic soda utilizing an existing settling basin.

**Department:** Environmental Protection  
**Duration:** From date of execution to December 31, 2006  
**Contact:** Phyllis Cocco, 814-472-1811

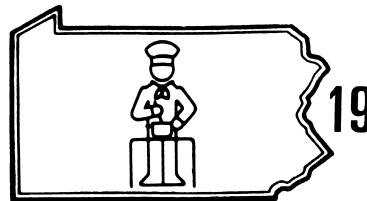


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### Engineering Services

**cn00018497** DEP Toxic Monitoring Section is requesting bids for a Jerome 651 H2S Analyzer. Bid opening will be on the 10th of January at 2:00 p.m.

**Department:** Environmental Protection  
**Location:** 400 Market Street, RCSOB, 15th Floor, Harrisburg, PA 17101  
**Contact:** Bill McDade, 717-783-0486



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### Food

**PF 0879-16** This is a consolidated non-perishable food bid advertisement for two (2) individual food groups. There are separate commodity bid proposals; each bid proposal is to be requested individually by the product and bid number shown in this advertisement. Canned Fruit, January through March 2006—No. 9128; Canned Vegetables, January through March 2006—No. 9129.

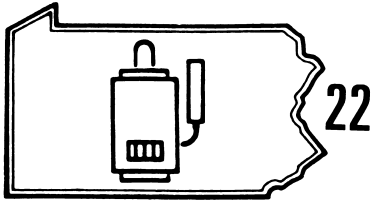
**Department:** Public Welfare  
**Location:** Selingsgrove Center, 1000 U. S. Highway 522, Selingsgrove, PA 17870  
**Duration:** See above  
**Contact:** Patti Kreamer, 570-372-5670

**CN00018542** Fresh Cheese and Dairy Products.

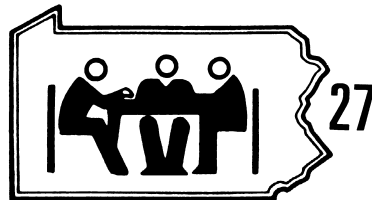
**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101  
**Duration:** Through March 31, 2006  
**Contact:** Kathleen A Zeigler, (724) 656-7308

**CN00018544** Fresh and Frozen Poultry and Poultry Products.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101  
**Duration:** Through March 31, 2006  
**Contact:** Kathleen A Zeigler, (724) 656-7308

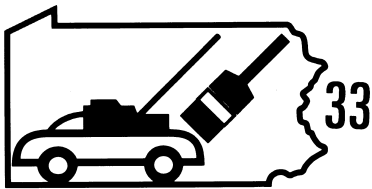
**HVAC Services****CN00018538** Maintenance of Heating, Air Conditioning Systems, and Electric Hot Water Heater.

**Department:** Transportation  
**Location:** PA Department of Transportation, Quehanna Training Center, 4676 Quehanna Highway, Karthaus, PA 16845  
**Duration:** Five (5) Year Contract  
**Contact:** Sherri Linen, 717-787-3959

**Lodging/Meeting Facilities**

**CN00018530** Services to be provided for two PennDOT Winter Construction Meetings. This includes: Meeting Rooms, Overnight Rooms, coffee break, and Buffet Lunch per specifications. Anticipated dates for services are in the month of February. PennDOT will provide a guaranteed number of attendees to the awarded bidder.

**Department:** Transportation  
**Location:** Within the State College, Centre County area.  
**Duration:** For services between February 1, 2006 and March 31, 2006  
**Contact:** Janis Miele, (814) 765-0404

**Property Maintenance**

**CN00018288** Requires services for a complete roof reconstruction, construct a new ADA accessible concrete walkway, install new pourable floors, and partition replacement at three (3) lot locations in the Marsh Creek State Park, 675 Park Road, Chester County, Downingtown, PA 19335.

**Department:** Conservation and Natural Resources  
**Location:** Marsh Creek State Park, 675 Park Road, Chester County, Downingtown, PA 19335  
**Contact:** Steven E. Smith, 717-783-1896

**CN00018517** The Department of Transportation District 11-4 is seeking a qualified contractor to provide plumbing services on an as needed basis at various facilities and locations in Lawrence County. Work includes servicing, maintaining, repairing and upgrading, and replacing plumbing items.

**Department:** Transportation  
**Location:** Various facilities in Lawrence County  
**Duration:** The purchase order will be for an original period of one year from the effective date. The purchase order will be renewable by mutual consent for one additional one-year period.  
**Contact:** Ed Doyle, (724) 774-6610

**CN0018478** A complete rehabilitation of three (3) existing porches at the Park Manager's Residence, Neshaminy State Park, 3401 State Road, Bucks County, Bensalem, PA 19020-5930. Bid Opening Date 01/24/2006, 2:00 p.m.

**Department:** Conservation and Natural Resources  
**Location:** Neshaminy State Park, 3401 State Road, Bucks County, Bensalem, PA 19020-5930  
**Duration:** Will commence upon execution and receipt of purchase order and notice to proceed letter and terminate June 30, 2006  
**Contact:** Steven E. Smith, 717-783-1896

**KUCC-0059** Kutztown University is seeking a qualified painting contractor for the work associated with the Interior Painting of The Education House, Rothermel Hall, and Schuylkill Hall buildings at Kutztown University, Kutztown, PA. The project consists of painting the interiors of one residence house and two large residence halls. The contractor selection process will be via sealed competitive bids. Bid packets are available for a nonrefundable fee of \$15.00 from: Kutztown University, Attn: Craig Kleinsmith, Facilities Project Services Office, P. O. Box 730, Kutztown, PA 19530; or phone (610) 683-4602; fax (610) 683-1553; email: kleinsmi@kutztown.edu. Bid packets are available January 17, 2006 through February 9, 2006. To obtain the Bid packet, please submit a written request and send either cash or check in the amount of \$15.00. Checks must be made payable to "Kutztown University." The Bid packet will not be mailed until the fee is received. A pre-bid meeting has been scheduled for February 9, 2006 at 1:30 p.m. in Room OM-26, Old Main Building. All questions must be submitted in writing by 3:00 p.m. on February 10, 2006, to the attention of Craig Kleinsmith. Bids must be received no later than 3:00 p.m. on February 22, 2006 in Room 229, I-Wing, Old Main, Facilities Project Services Office. No exceptions will be made for bids received after the time specified. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education.

**Department:** State System of Higher Education  
**Location:** Kutztown University, Kutztown, PA 19530  
**Duration:** Work to begin in May 2006 and be completed by August 14, 2006.  
**Contact:** Craig Kleinsmith, 610-683-4602

**cn00018518** The Department of Transportation, Engineering District 11-2, is seeking a qualified contractor to provide plumbing services on an as needed basis at various facilities and locations in Beaver County. Work includes servicing, maintaining, repairing, upgrading, and replacing plumbing items.

**Department:** Transportation  
**Location:** Various facilities throughout Beaver County.  
**Duration:** The Purchase Order will be for an original period of one year from the effective date. The Purchase Order will be renewable by mutual consent for one additional one year period.  
**Contact:** Ed Doyle, 724-774-6610

**Sanitation**

**CN00018506** This work will consist of garbage removal from the I-80 Roadside Rest Area (Eastbound and Westbound), Maudsley Stocking Area, and SR 0054 Seasonal Rest Area. Contractors to supply containers. Interested contractors should be registered with the Commonwealth of Pennsylvania Vendor Program prior to receiving a Request For Quote. To register and obtain a PA Vendor Number, log onto www.vendor-registration.state.pa.us Bid package may be obtained by faxing request to Susan A. Hunsinger at 570-387-4254. Request must contain company name, address, phone/fax number, PA Vendor Number, and name of a contact person. Bid opening date: February 1, 2006 at 2:00 p.m.

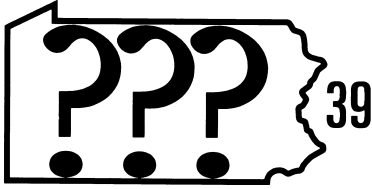
**Department:** Transportation  
**Location:** I-80 Roadside Rest Area (Eastbound and Westbound), Maudsley Stocking Area, SR 0054 Seasonal Rest Area.  
**Duration:** 12 months with a renewal option of four one-year renewal periods.  
**Contact:** Susan A. Hunsinger, 570-387-4250 x230

**CN00018549** Trash Removal for PennDOT District 8-0 and Dauphin County Maintenance 8-5 for one year with four one year renewals by mutual consent of both parties.

**Department:** Transportation  
**Location:** Bid opening: January 17, 2006. Time: 11:00 a.m. Room: Perry Conference Room. Address: 2140 Herr Street, Harrisburg PA 17241.  
**Contact:** Selena Runk, 717-787-4191

**CN00018509** Weekly trash removal—Quehanna Training Center, Clearfield, PA.

**Department:** Transportation  
**Location:** Department of Transportation, Quehanna Training Center, 4676 Quehanna Highway, Karthaus, PA 16845  
**Duration:** Five (5) Year Contract.  
**Contact:** Sherri Linen, 717-787-3959



### Miscellaneous

**CN00018562** Preventative Maintenance of Overhead Doors, personnel doors and related operating hardware.

**Department:** Transportation

**Location:** PA Department of Transportation, Equipment Division, 17th Street and Arsenal Blvd., Harrisburg, PA 17120

**Duration:** This is a five (5) year contract.

**Contact:** Sherri Linen, 717-787-3959

**RFQ 6000091091** The Department of Environmental Protection is seeking bids for approximately 10,000 pounds of granular flocculant (polymer) packaged in moisture resistant bags for use at the Rausch Creek Acid Mine Drainage Treatment Plant.

**Department:** Environmental Protection

**Location:** Rausch Creek AMD Treatment Plant, 315 Schwenks Road, P. O. Box 758, Valley View, PA 17983-0758

**Duration:** January 26, 2006 to June 15, 2006

**Contact:** Jack Buckwalter, 570-682-3448

**PGC-2857** Agency seeking a contractor to provide ground application of herbicide in forested areas of the Commonwealth of Pennsylvania (for an approximate three-month period) at specifically designated locations. Herbicide to aid in the establishment of stands of high-value trees by eliminating competing understory vegetation consisting primarily of hay scented fern, striped maple, beech brush and various species of grass. Additional specifications are available in the bid package.

**Department:** Game Commission

**Location:** Pennsylvania Game Commission, Bureau of Administrative Services, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

**Duration:** July 1, 2006 to October 31, 2006

**Contact:** Diane Shultz or Barb Kline, 717/787-6594

[Pa.B. Doc. No. 06-85. Filed for public inspection January 13, 2006, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> 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*

