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Volume 34

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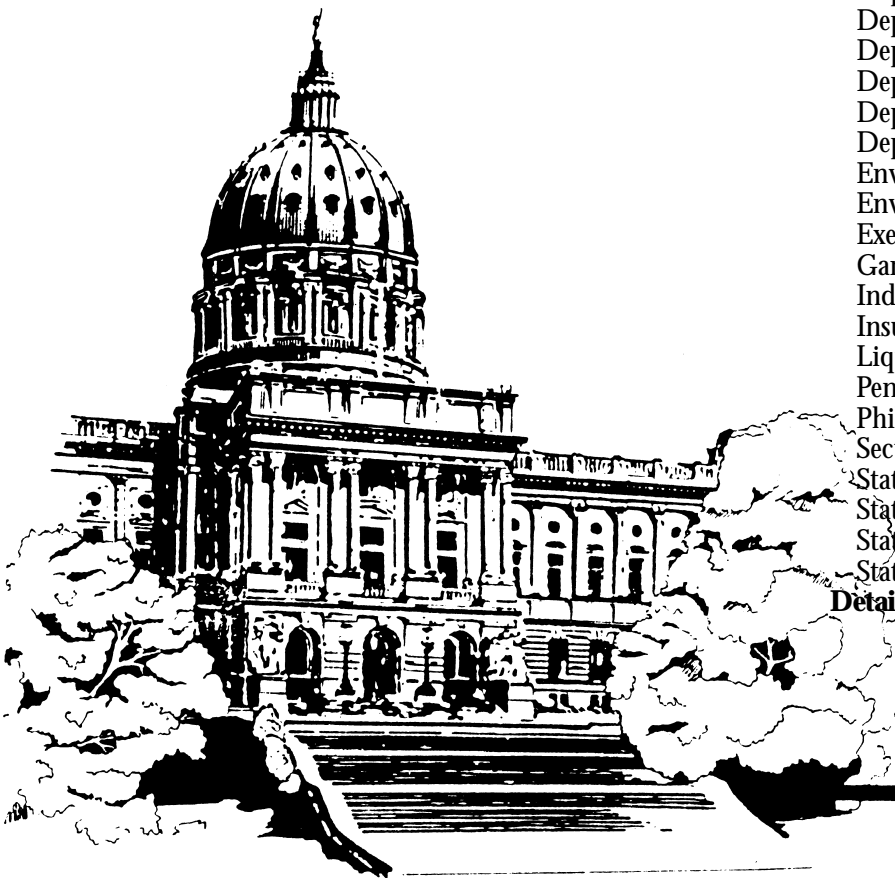
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No. 353, April 2004

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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 2004.

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THE GENERAL ASSEMBLY

Recent Actions during the 2004 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2004 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>
2004 GENERAL ACTS ENACTED—ACT 015 through 021					
015	Mar 24	HB0100	PN3430	immediately	Pennsylvania Trauma Systems Stabilization Act—enactment
016	Mar 24	HB0349	PN1573	60 days	Urban Redevelopment Law—further defining “city”
017	Mar 24	HB2004	PN3308	immediately*	Compact relating to Pymatuning Lake—operation of motor boats
018	Mar 24	HB1236	PN1520	60 days	Second Class Township Code, The—shade tree commission members
019	Mar 24	HB1235	PN1519	60 days	First Class Township Code, The—shade tree commission members
020	Mar 24	HB0514	PN1792	immediately	Game Code (34 Pa.C.S.)—offensive littering
021	Mar 24	HB1423	PN3386	60 days	Domestic Relations Code (23 Pa.C.S.)—volunteer relinquishment to adults intending to adopt, for alternative procedure, for reports of intention and for consent

* 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, State Records Center Building, 1825 Stanley Drive, Harrisburg, PA 17103, 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. 04-590. Filed for public inspection April 9, 2004, 9:00 a.m.]

THE COURTS

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CHS. 1000 AND 4000]

Promulgation of Rules Governing Pre-Trial Procedures in Medical Professional Liability Actions; No. 406 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 29th day of March, 2004, the Pennsylvania Rules of Civil Procedure are amended as follows:

(1) New Rules 1042.21, 1042.26 through 1042.32, 1042.36 to 1042.38, 1042.41, and 1042.51 are promulgated to read as follows.

(2) A note to Rule 4003.5(a) is promulgated and the note to Rule 4009.1 is amended to read as follows.

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

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective immediately. This Order shall apply to actions pending on the effective date.

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1000. ACTIONS

Subchapter B. ACTION IN TRESPASS

SETTLEMENT CONFERENCE; MEDIATION

Rule 1042.21. Medical Professional Liability Actions. Motion for Settlement Conference or Mediation.

(a) Prior to the exchange of expert reports in a medical professional liability action, a health care provider may file a motion with the court requesting a settlement conference or court ordered mediation.

(1) If the motion is filed without the consent of all other parties, the moving party shall certify that it believes there is a realistic possibility of settlement.

(2) If the motion requests court ordered mediation, the moving party shall describe in the motion the mediation which is sought and shall pay for the mediation.

(b) The court shall consider any objection to the motion before entering an order.

Official Note: See Section 5101.1(c) of the Judicial Code, 42 Pa.C.S. § 5101.1(c), for the definitions of "health care provider" and "medical professional liability action."

EXPERT REPORTS

Rule 1042.26. Medical Professional Liability Actions. Expert Reports.

(a) The rules of this chapter, Rules 1042.26 through 1042.38, govern a medical professional liability action in

which a medical professional liability claim is asserted against a health care provider.

Official Note: See Section 5101.1(c) of the Judicial Code, 42 Pa.C.S. § 5101.1(c), for the definitions of "health care provider," "medical professional liability action" and "medical professional liability claim."

The rules of this chapter create additional requirements for the pre-trial production of expert reports for cases within the scope of these rules.

(b) The rules of this chapter are applicable only in those jurisdictions where the court has not established case management deadlines by court order or otherwise.

Official Note: These rules do not apply if the court has set different times for the production of expert reports, whether those times are established before or after a party has initiated a proceeding under this chapter by the filing of a request for expert reports.

Rule 1042.27. Requests for Production of Expert Reports. Responses. General Provisions.

(a)(1) A party may request the production of expert reports as provided by Rules 1042.28(a), 1042.29(a) and 1042.30(a).

(2) The request shall specify the party to whom it is directed and the party making the request.

(b)(1) A party served with a request shall respond as provided by Rules 1042.28(b), 1042.29(a)(2) or (a)(3) or 1042.30(b) as may be appropriate.

(2) An expert report produced pursuant to these rules shall encompass all issues in the liability phase of the case, including issues of professional negligence and causation of harm, for which a party to whom a request has been directed will offer expert testimony at trial in support of claims made against the requesting party or in support of defenses raised to the requesting party's claims. The report shall reflect the best information available to the party producing the report at the time it is produced.

(3) The report shall be signed by the expert and shall comply with the requirements of Rule 4003.5.

Official Note: Rule 4003.5 governs the discovery of expert testimony and trial preparation material.

(c) While a request for the production of an expert report may be filed with the court, an expert report produced pursuant to these rules is discovery material that shall not be filed except as provided by Rule 4002.1.

Official Note: Rule 4002.1 governs filing discovery material.

Rule 1042.28. Defendant's Request to Plaintiff for Production of Expert Reports. Response.

(a)(1) A defendant against whom a claim of professional negligence has been made may serve on a plaintiff making that claim a Defendant's Request to Plaintiff for Production of Expert Reports. The request shall be substantially in the form prescribed by Rule 1042.36.

(2) The Defendant's Request may be served not earlier than ninety days after the defendant filed its original answer to the plaintiff's complaint.

Official Note: An additional defendant may serve a Defendant's Request to Plaintiff for Production of Expert

Reports on a plaintiff pursuant to subdivision (a)(1) if the plaintiff is actively pursuing a claim against the additional defendant.

(b) A plaintiff to whom a request has been made under subdivision (a) shall, within one hundred eighty days after service of the request, furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that plaintiff to support the claims of professional negligence made by that plaintiff against the requesting party.

Rule 1042.29. Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports. Response.

(a)(1) Within the times set forth in subdivisions (a)(2) and (a)(3), a plaintiff who has furnished a defendant or additional defendant expert reports summarizing the expert testimony that will be offered by the plaintiff to support his or her claims of professional liability made against that defendant or additional defendant, may serve on that defendant or additional defendant a Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports. The request shall be substantially in the form prescribed by Rule 1042.37.

(2) A plaintiff who has furnished an expert report to the defendant or additional defendant in response to a request pursuant to Rule 1042.28 may thereafter serve a request on that defendant or additional defendant. Within sixty days after service of the request, the party to whom the request has been directed shall furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that party to support the defenses to the requesting party's claims.

(3) A plaintiff who has furnished an expert report to the defendant or additional defendant without a request may serve a request on that defendant or additional defendant after ninety days following the filing of the certificate of merit as to the party to whom the request is directed. Within one hundred twenty days after service of the request, the party to whom the request has been directed shall furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that party to support the defenses to the requesting party's claims.

(b) If the defendant or additional defendant to whom a Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports has been directed has raised claims against other parties pursuant to Rule 2251 et seq., the expert reports shall also summarize the expert testimony that will be offered by that party in support of the claims against other parties.

Official Note: Rule 2251 et seq. governs the joinder of additional defendants.

Rule 1042.30. Defendant's or Additional Defendant's Request to Another Defendant or Additional Defendant for Production of Expert Reports. Response.

(a)(1) A defendant or additional defendant who has furnished expert reports summarizing the expert testimony offered by that party in support of claims against other parties pursuant to Rule 1042.29(b) may serve a Defendant's or Additional Defendant's Request to Another Defendant or Additional Defendant for Production of Expert Reports. The request shall be substantially in the form prescribed by Rule 1042.38.

(2) The request may not be made earlier than ninety days after a certificate of merit was served on the party to whom the request is directed.

(b) A party to whom a request for production of expert reports has been directed pursuant to subdivision (a) shall within sixty days after service of the request furnish to the requesting party expert reports summarizing the expert testimony that will be offered by that party supporting the defenses to the claims by the requesting party and any claims raised against the requesting party and any other parties joined pursuant to Rule 2251 et seq.

Official Note: Rule 2251 et seq. governs the joinder of additional defendants.

Rule 1042.31. Failure to Produce Report. Sanctions. Summary Judgment.

(a) A party who has not received an expert report required to be produced under these rules may upon motion obtain a court order compelling the production of the report. In ruling on the motion, the court shall consider the complexity of the case, the diligence of the parties in making and responding to discovery requests, and other relevant factors. A party who has proceeded with reasonable diligence shall be given a reasonable time in which to complete necessary discovery and to produce an expert report.

Official Note: A party cannot justify the non-production of an expert report required by these rules simply by stating that discovery has not been completed or that the party failing to provide the report has not yet identified the experts whom he or she intends to call at trial. However, a party who has acted diligently should not be required to produce expert reports if discovery of significant information has not been completed because of difficulty obtaining discovery from other parties or third persons or because of the complexity of the case.

(b) A court may impose sanctions for non-compliance with an order entered pursuant to subdivision (a) including, where appropriate, an order barring a party from introducing expert testimony.

(c) A court shall promptly consider a motion for summary judgment which is based solely on a court order entered pursuant to subdivision (b), barring a party from introducing expert testimony.

Rule 1042.32. Additional and Supplemental Reports.

Until a deadline set by the court for the production of expert reports has passed or unless the court has precluded such production, a party may serve additional and supplemental expert reports without leave of court. These reports may introduce new theories of liability or causation or new defenses, and may be prepared by other experts.

Rule 1042.36. Defendant's Request to Plaintiff. Form.

The Defendant's Request to Plaintiff for Production of Expert Reports required by Rule 1042.28(a)(1) shall be substantially in the following form:

(CAPTION)

DEFENDANT'S REQUEST TO PLAINTIFF
FOR PRODUCTION OF EXPERT REPORTS

TO: _____
Name of Plaintiff

FROM: _____
Name of Defendant

Pursuant to Pennsylvania Rule of Civil Procedure 1042.28(b), you are requested within one hundred eighty

(180) days of service of this request to furnish to me, the defendant named above, expert reports summarizing the expert testimony that you will offer to support the claims of professional negligence that you have made against me. You are required to serve copies of all expert reports on all other parties.

Dated: _____

Attorney for Defendant

Rule 1042.37. Plaintiff's Request to Defendant or Additional Defendant.

The Plaintiff's Request to Defendant or Additional Defendant for Production of Expert Reports required by Rule 1042.29(a)(1) shall be substantially in the following form:

(CAPTION)

Plaintiff's Request to Defendant or Additional Defendant
for Production of Expert Reports

TO: _____
Name of Defendant/Additional Defendant

FROM: _____
Name of Plaintiff

1. I, the plaintiff named above, have furnished you, the defendant named above, expert reports summarizing the expert testimony that I will offer to support the claims of professional negligence or product liability that I have made against you.

2(A). Pursuant to Pennsylvania Rule of Civil Procedure 1042.29(a)(2), you are requested within sixty (60) days of service of this request to furnish to me expert reports summarizing the expert testimony that you will offer to support your defenses to the claims of professional negligence that I have made against you.

2(B). Pursuant to Pennsylvania Rule of Civil Procedure 1042.29(a)(3), you are requested within one hundred twenty (120) days of service of this request to furnish to me expert reports summarizing the expert testimony that you will offer to support your defenses to the claims of professional negligence that I have made against you.

3. If you have made claims against other parties pursuant to Pennsylvania Rule of Civil Procedure 2251 et seq. governing the joinder of additional defendants, your expert reports are required also to summarize the expert testimony that you will offer in support of these claims against those other parties.

4. You are required to serve copies of all expert reports on all other parties.

Date: _____

Attorney for _____, Plaintiff

Official Note: Delete Paragraph 2(A) or 2(B), whichever is not applicable.

Rule 1042.38. Defendant's or Additional Defendant's Request to Another Defendant or Additional Defendant. Form.

The Defendant's or Additional Defendant's Request to Another Defendant or Additional Defendant for Production of Expert Reports required by Rule 1042.30(a)(1) shall be substantially in the following form:

(CAPTION)

Defendant's or Additional Defendant's Request to Another
Defendant or Additional Defendant for Production of
Expert Reports

TO: _____
Name of Another Defendant/Additional Defendant

FROM: _____
Name of Defendant/Additional Defendant

I, the defendant/additional defendant named above, have furnished to you expert reports summarizing the expert testimony that I will offer to support the claims that I have made against you pursuant to Pennsylvania Rule of Civil Procedure 2251 et seq. governing joinder of additional parties.

Pursuant to Pa.R.C.P. 1042.30(b), you are requested within sixty (60) days to furnish me expert reports summarizing the expert testimony that you will offer to support your defenses to my claims against you and to support any claims you have raised against me pursuant to Pa.R.C.P. 2251 et seq.

If you have raised claims against other parties pursuant to Pa.R.C.P. 2251 et seq., your expert reports are required also to summarize the expert testimony that you will offer in support of your claims against these other parties.

You are required to serve copies of all expert reports on all other parties.

Date: _____

Attorney for _____
Defendant/Additional Defendant

SCHEDULING ORDER

Rule 1042.41. Medical Professional Liability Actions. Scheduling Order.

(a) After one year from the date the first answer was filed in a medical professional liability action, any party to the action may file a motion requesting the court to issue a scheduling order. Upon presentation of the motion, the court shall within thirty days issue a scheduling order or schedule a case management conference.

(b) The scheduling order shall include schedules for the completion of discovery and the production of expert reports.

(c) This rule shall not apply where the court by court order or otherwise has established schedules for completion of discovery and production of expert reports

PRE-TRIAL CONFERENCE

Rule 1042.51. Medical Professional Liability Actions. Motion for Pre-Trial Conference. Mediation. Report of Cases not Tried.

(a)(1) Any party to a medical professional liability action may file a motion requesting the court to schedule a pre-trial conference. The motion may be filed

(i) after the parties have produced expert reports as to liability pursuant to a request under Rule 1042.26 et seq. or a scheduling order under Rule 1042.41 or

(ii) whenever the motion includes a statement that all parties have exchanged expert reports as to liability.

(2) The pre-trial conference shall be scheduled within sixty days of the filing of the motion and shall be governed by the procedure of Rule 212.3.

(b) At the pretrial conference, the court shall

(1) set a date for another pre-trial conference or for trial or furnish the parties with a tentative trial date, and

(2) inquire of the parties whether they are willing to participate in mediation.

(c) On the first day of February and the first day of September of each year, the court administrator of each court of common pleas shall file with the Administrative Office of Pennsylvania Courts a list of all medical professional liability cases that have not been tried within nine months of a pre-trial conference scheduled pursuant to this rule.

(d) This rule shall not apply where a court has set a trial date.

CHAPTER 4000. DEPOSITIONS AND DISCOVERY

Rule 4003.5. Discovery of Expert Testimony. Trial Preparation Material.

(a) Discovery of facts known and opinions held by an expert, otherwise discoverable under the provisions of Rule 4003.1 and acquired or developed in anticipation of litigation or for trial, may be obtained as follows:

* * * * *

(3) A party may not discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial, except a medical expert as provided in Rule 4010(b) or except on order of court as to any other expert upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means, subject to such restrictions as to scope and such provisions concerning fees and expenses as the court may deem appropriate.

Official Note: For additional provisions governing the production of expert reports in medical professional liability actions, see Rule 1042.26 et seq. Nothing in Rule 1042.26 et seq. precludes the entry of a court order under this rule.

* * * * *

PRODUCTION OF DOCUMENTS AND THINGS AND ENTRY FOR INSPECTION AND OTHER ACTIVITIES

PRODUCTION OF DOCUMENTS AND THINGS

GENERAL PROVISIONS

Rule 4009.1. Production of Documents and Things. General Provisions.

* * * * *

Official Note:

* * * * *

These rules do not preclude (1) the issuance under Rule 234.1 et seq. of a subpoena or request for the production of documents or things at a deposition pursuant to Rule 4007.1(d) or (2) an independent action against a person not a party for production of documents or things.

For additional provisions governing the production of expert reports in medical professional liability actions, see Rule 1042.26 et seq.

[Pa.B. Doc. No. 04-591. Filed for public inspection April 9, 2004, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 4]

Order Amending Rule 454 and Approving the Revision of the Comments to Rules 122, 140, 141, and 462; No. 305 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the March 26, 2004 changes to Rule of Criminal Procedure 454 and revision of the Comments to Rules 122, 140, 141, and 462 that make it clear that no defendant in a summary trial or summary contempt hearing may be imprisoned or sentenced to probation if the right to counsel was not afforded at the trial or contempt hearing. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 26th day of March, 2004, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 32 Pa.B. 6247 (December 21, 2002), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 811), 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) Rule of Criminal Procedure 454 is amended; and
- 2) the revision of the Comments to Rules 122, 140, 141, and 462 is approved,

all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2004.

Annex A

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

PART B. Counsel

Rule 122. Assignment of Counsel.

* * * * *

Comment

This rule is designed to implement the decisions of *Argersinger v. Hamlin*, 407 U.S. 25 (1972), and *Coleman v. Alabama*, 399 U.S. 1 (1970), that no defendant in a summary case be sentenced to imprisonment unless the defendant was represented at trial by counsel, and that every defendant in a court case has counsel starting no later than the preliminary hearing stage.

No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial. See *Alabama v. Shelton*, 535 U.S. 654

(2002) and *Scott v. Illinois*, 440 U. S. 367 (1979). See Rule 454 (Trial in Summary Cases) concerning the right to counsel at a summary trial.

* * * * *

Official Note: Rule 318 adopted November 29, 1972, effective 10 days hence; replacing prior rule; amended September 18, 1973, effective immediately; renumbered Rule 316 and amended June 29, 1977, and October 21, 1977, effective January 1, 1978; renumbered Rule 122 and amended March 1, 2000, effective April 1, 2001; amended March 12, 2004, effective July 1, 2004; Comment revised March 26, 2004, effective July 1, 2004.

Committee Explanatory Reports:

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Final Report explaining the March 26, 2004 Comment revision concerning *Alabama v. Shelton* published with the Court's Order at 34 Pa.B. 1931 (April 10, 2004).

PART D. Procedures Implementing 42 Pa.C.S. §§ 4137, 4138, and 4139: Criminal Contempt Powers of District Justices, Judges of the Pittsburgh Magistrates Court, and Judges of the Traffic Court of Philadelphia

Rule 140. Contempt Proceedings Before District Justices, Pittsburgh Magistrates Court Judges, and Philadelphia Traffic Court Judges.

* * * * *

Comment

* * * * *

Although 42 Pa.C.S. §§ 4137(a)(4), 4138(a)(3), and 4139(a)(3) permit an issuing authority to impose summary punishments for indirect criminal contempt when a defendant fails to comply with an order of the issuing authority directing the defendant to pay fines and costs in accordance with an installment payment order, nothing in this rule is intended to preclude an issuing authority from proceeding pursuant to Rule [85] 456 (Default Procedures: Restitution, Fines, and Costs).

No defendant may be sentenced to imprisonment if the right to counsel was not afforded at the contempt hearing. See *Alabama v. Shelton*, 535 U. S. 654 (2002), *Scott v. Illinois*, 440 U. S. 367 (1979), and *Argersinger v. Hamlin*, 407 U. S. 25 (1972). Also see Rule 454 concerning counsel in summary cases. The Supreme Court in *Commonwealth v. Abrams*, 336 A.2d 308 (Pa. 1975) held that the right to counsel applies in cases of criminal contempt. See also *Commonwealth v. Crawford*, 352 A.2d 52 (Pa. 1976).

* * * * *

Official Note: Rule 30 adopted October 1, 1997, effective October 1, 1998; renumbered Rule 140 and amended March 1, 2000, effective April 1, 2001; Comment revised March 26, 2004, effective July 1, 2004.

Committee Explanatory Reports:

* * * * *

Final Report explaining the March 26, 2004 Comment revision concerning right to counsel published with the Court's Order at 34 Pa.B. 1931 (April 10, 2004).

Rule 141. Appeals from Contempt Adjudications by District Justices, Pittsburgh Magistrates Court Judges, or Philadelphia Traffic Court Judges.

* * * * *

Comment

* * * * *

The procedures set forth in Rule 462 (Trial de Novo) for a trial de novo on a summary case should be followed when a contempt adjudication is appealed to the common pleas court.

No defendant may be sentenced to imprisonment if the right to counsel was not afforded at the de novo contempt hearing. See *Alabama v. Shelton*, 535 U. S. 654 (2002), *Scott v. Illinois*, 440 U. S. 367 (1979), and *Argersinger v. Hamlin*, 407 U. S. 25 (1972).

Paragraph (F) makes it clear that the judge assigned to conduct the de novo hearing may dismiss an appeal of the action of an issuing authority in a contempt proceeding when the judge determines that the appellant is absent without cause from the de novo hearing. If the appeal is dismissed, the judge should enter judgment and order execution of any punishment imposed by the issuing authority. [The procedures set forth in Rule 462 (Trial De Novo) for a trial de novo in a summary case should be followed when a contempt adjudication is appealed to the common pleas court.]

* * * * *

Official Note: Rule 31 adopted October 1, 1997, effective October 1, 1998; renumbered Rule 141 and Comment revised March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised March 26, 2004, effective July 1, 2004.

Committee Explanatory Reports:

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Final Report explaining the March 26, 2004 Comment revision concerning right to counsel published with the Court's Order at 34 Pa.B. 1931 (April 10, 2004).

CHAPTER 4. PROCEDURES IN SUMMARY CASES

PART E. General Procedures in Summary Cases

Rule 454. Trial in Summary Cases.

(A) Immediately prior to trial in a summary case:

* * * * *

(2) [when] if, in the event of a conviction, there is a reasonable likelihood of a sentence of imprisonment or probation, the defendant shall be advised of the right to counsel and [shall,]

(a) upon request, the defendant shall be given a reasonable opportunity to secure counsel [; and]; or

(b) if the defendant is without financial resources or is otherwise unable to employ counsel, counsel shall be assigned as provided in Rule 122; and

* * * * *

Comment

[The defendant has a right to counsel at trial in all summary cases in which the issuing authority determines there is a likelihood of imprisonment.] No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial. See *Alabama v. Shelton*, 535 U. S. 654 (2002), *Scott v. Illinois*, 440 U. S. 367 (1979), and *Argersinger v. Hamlin*, 407 U. S. 25 (1972). See Rules 121 and 122 [and 121].

* * * * *

When a defendant has waived the stay of the sentence of imprisonment pursuant to Rule 461 the issuing authority may fix the commencement date of the sentence to be the date of conviction, rather than after the 30-day stay period has expired. The defendant, of course, still would [still] be able to pursue an appeal under Rules 460—462.

* * * * *

Official Note: Rule 83 adopted July 12, 1985, effective January 1, 1986; amended September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; Comment revised April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; Comment revised February 13, 1998, effective July 1, 1998; renumbered Rule 454 and Comment revised March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; Comment revised August 7, 2003, effective July 1, 2004; **amended March 26, 2004, effective July 1, 2004.**

Committee Explanatory Reports:

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Final Report explaining the March 26, 2004 changes concerning *Alabama v. Shelton* published with the Court's Order at 34 Pa.B. 1931 (April 10, 2004).

PART F. Procedures in Summary Cases Under the Vehicle Code

Rule 462. Trial De Novo.

* * * * *

Comment

* * * * *

Pursuant to paragraph (G), if the defendant is convicted, the trial judge must impose sentence, and advise the defendant of the payment schedule, if any, and the defendant's appeal rights. See Rule 704(A)(3). **No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial.** See *Alabama v. Shelton*, 535 U. S. 654 (2002), *Scott v. Illinois*, 440 U. S. 367 (1979), and *Argersinger v. Hamlin*, 407 U. S. 25 (1972).

* * * * *

Official Note: Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1,

1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; rescinded March 1, 2000, effective April 1, 2001, and paragraph (G) replaced by Rule 462. New Rule 462 adopted March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003; **Comment revised March 26, 2004, effective July 1, 2004.**

Committee Explanatory Reports:

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NEW RULE 462:

* * * * *

Final Report explaining the March 26, 2004 Comment revision published with the Court's Order at 34 Pa.B. 1931 (April 10, 2004).

FINAL REPORT¹

Amendments to Pa.R.Crim.P 454, and Revision of the Comments to Rules 122, 140, 141, and 462

Right to Counsel at Summary Trial and Summary Contempt Hearing

On March 26, 2004, effective July 1, 2004, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule of Criminal Procedure 454 (Trial in Summary Cases), and approved the revision of the Comments to Rules 122 (Assignment of Counsel), 140 (Contempt Proceedings Before District Justices, Pittsburgh Magistrates Court Judges, and Philadelphia Traffic Court Judges), 141 (Appeals From Contempt Adjudications by District Justices, Pittsburgh Magistrates Court Judges, or Philadelphia Traffic Court Judges), and 462 (Trial de Novo). These changes make it clear that no defendant in a summary trial or summary contempt hearing may be imprisoned or sentenced to probation if the right to counsel was not afforded at the trial or contempt hearing.

I. BACKGROUND

These rule changes were developed following the request of the Court that the Committee 1) review *Alabama v. Shelton*, 535 U. S. 654 (2002)² with a focus on whether Pennsylvania practice is consistent with the case, and 2) consider whether, in view of *Shelton*, any changes to the Criminal Rules concerning the right to counsel in summary cases are necessary. The Court raised the specific concern "that in Pennsylvania there may be cases where an individual may have been incarcerated or subject to a suspended sentence on the basis of a summary offense, and the individual was not provided with counsel."

During our discussions of *Shelton* and its impact on the Criminal Rules in Pennsylvania, the Committee agreed that although the rules are clear concerning the right to counsel in court cases, the right to counsel as set forth in the rules concerning summary cases now might be ambiguous: Rule 122 provides that counsel in a summary case is required when "there is a likelihood that imprisonment will be imposed." The Committee, in view of *Shelton*, thought this language with nothing more could

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

² In *Shelton* the Supreme Court held, inter alia, (1) that a sentence that may end up in actual deprivation of personal liberty, e.g., imprisonment following probation violation, may not be imposed "unless the accused . . . receive the benefit of 'the guiding hand of counsel' so necessary when one's liberty is in jeopardy" (quoting *Argersinger v. Hamlin*, 407 U. S. 25, 40 (1972)); (2) "without a knowing and intelligent waiver, no person may be imprisoned for any offense . . . unless he was represented by counsel at his trial" (quoting *Argersinger v. Hamlin*, 407 U. S. 25, 37 (1972)); and (3) imprisonment following a probation violation does not result from the violation itself but from the underlying conviction.

result in confusion for members of the bench and bar. We agreed, therefore, a reference should be added in the rules to further underscore when counsel must be appointed for a defendant in a summary case and highlight the potential consequences when counsel is not afforded at the summary trial.

II. DISCUSSION OF RULE CHANGES

A. Rules 122, 454, and 462

The Committee first considered amending Rule 122 by adding language that would make it clear counsel must be assigned when there is a likelihood that a sentence to a period of probation will be imposed and including a reference to *Shelton* in the Comment. During our discussion of this possible change, we agreed Rule 122, which addresses the circumstances when counsel should be assigned, merely should acknowledge *Shelton* in the Comment, and Rule 454 should be amended since the holding in *Shelton* directly applies to the defendant's right to counsel at the time of the conviction for the offense charged (imprisonment may not be imposed if the defendant was not afforded counsel at the time of trial). Accordingly, Rule 454(A) has been amended to make it clear that if there is a reasonable likelihood of a sentence of imprisonment or probation in a summary case, the defendant shall be given an opportunity to secure counsel or have counsel assigned pursuant to Rule 122.³

In addition, the Comments to Rules 122, 454, and 462⁴ also have been revised by the language "No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial. See *Alabama v. Shelton*, 535 U.S. 654 (2002) and *Scott v. Illinois*, 440 U.S. 367 (1979)." The cross-reference to *Scott* has been included in the Rule 122 Comment because the Supreme Court in *Shelton* relied on both *Scott* and *Argersinger v. Hamlin*, 407 U.S. 25 (1972). For the same reason, the Comments to Rules 454 and 462 also include cross-references to *Argersinger*.

B. Revision of the Comments to Rules 140 and 141

Rules 140 and 141 respectively provide the procedures governing summary contempt proceedings and appeals from summary contempt adjudications. The Committee considered whether *Shelton* has any impact upon these summary contempt rules. After fully discussing this issue, the Committee agreed that *Shelton* does apply and changes to Rules 140 and 141 comparable to the changes in Rule 122, 454, and 462 should be made. During our discussion, however, the Committee encountered some difficulty reconciling in the contempt rules the terms "trial" and "probation" that are in the changes to Rules 122, 454, and 462: the contempt rules provide that a defendant who is charged with contempt shall be given a hearing, not a trial, and the statutory punishment for a finding of contempt only includes a fine or imprisonment, not probation.⁵ In addition, *Shelton* talks about summary trials and trials generally, and contempt hearings are not trials. The Committee agreed that using the terms "trial" and "probation" in the contempt rules could cause confu-

sion. Accordingly, the revisions to the Comments to Rules 140 and 141 use "contempt hearing" instead of "trial," and do not reference "probation."

[Pa.B. Doc. No. 04-592. Filed for public inspection April 9, 2004, 9:00 a.m.]

[234 PA. CODE CH. 5]

Order Approving the Revision of the Comment to Rule 573; No. 306 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the March 26, 2004 changes to Rule of Criminal Procedure 573 clarifying that 1) ordinarily the attorney for the Commonwealth cannot charge the defendant for the costs of copying discoverable materials, but on a case-by-case basis, the attorney may request the trial judge to order costs charged against the defendant, and 2) the judge has the discretion to determine the amount of costs, if any, to be paid by the defendant. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 26th day of March, 2004, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 32 Pa.B. 6248 (December 21, 2002), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 811), 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 the revision of the Comment to Rule of Criminal Procedure 573 is approved in the following form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2004.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART F. Procedures Following Filing of Information

Rule 573. Pretrial Discovery and Inspection.

* * * * *

Comment

* * * * *

The attorney for the Commonwealth should not charge the defendant for the costs of copying pretrial discovery materials. However, nothing in this rule is intended to preclude the attorney for the Commonwealth, on a case-by-case basis, from requesting an order for the defendant to pay the copying costs. In these cases, the trial judge has discretion to determine the amount of costs, if any, to be paid by the defendant.

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

Included within the scope of paragraph (B)(2)(a)(iv) is any information concerning any prosecutor, investigator, or police officer involved in the case who has received

³ One issue of particular concern to the Committee members concerned the costs to the counties of providing counsel in summary cases. Although sensitive to this issue, we noted that these changes do not significantly change what has been the law since *Argersinger*, and we concluded that defendant's right to counsel as clearly articulated by the Supreme Court in *Shelton* outweighs these concerns.

⁴ The Committee agreed to add this change to the Rule 462 Comment in view of correspondence we received following the publication of our proposal at 32 Pa.B. 6248 (December 21, 2002). The correspondent questioned whether the same right concerning the defendant's right to counsel when there is a likelihood of imprisonment or probation applies at a trial de novo. Although the members thought this was clear, in view of the question and to avoid potential confusion, we agreed to include in the Comment to Rule 462 the same language being added to the Comments to Rules 122 and 454.

⁵ See 42 Pa.C.S. 4137, 4138, and 4139.

either valuable consideration, or an oral or written promise or contract for valuable consideration, for information concerning the case, or for the production of any work describing the case, or for the right to depict the character of the prosecutor or investigator in connection with his or her involvement in the case.

* * * *

Official Note: Present Rule 305 replaces former Rules 310 and 312 in their entirety. Former Rules 310 and 312 adopted June 30, 1964, effective January 1, 1965. Former Rule 312 suspended June 29, 1973, effective immediately. Present Rule 305 adopted June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; Comment revised April 24, 1981, effective June 1, 1981; amended October 22, 1981, effective January 1, 1982; amended September 3, 1993, effective January 1, 1994; amended May 13, 1996, effective July 1, 1996; Comment revised July 28, 1997, effective immediately; Comment revised August 28, 1998, effective January 1, 1999; renumbered Rule 573 and amended March 1, 2000, effective April 1, 2001; **amended March 3, 2004, effective July 1, 2004; Comment revised March 26, 2004, effective July 1, 2004.**

Committee Explanatory Reports:

* * * *

Final Report explaining the March 26, 2004 Comment revision concerning costs of copying discovery materials published with the Court's Order at 34 Pa.B. 1933 (April 10, 2004).

FINAL REPORT¹

Revision of the Comment to Pa.R.Crim.P. 573

Charges for Copying Discovery Material

On March 26, 2004, effective July 1, 2004, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the revision of the Comment to Rule 573 (Pretrial Discovery and Inspection) clarifying that ordinarily the attorney for the Commonwealth cannot charge the defendant for the costs of copying discoverable materials.

The Committee received an inquiry from the Common Pleas Case Management System (CPCMS)² staff asking if the Criminal Rules should address whether the attorneys for the Commonwealth may charge a fee to the defendant for the copying costs associated with discovery materials. They pointed out that 1) this practice occurs in several judicial districts, 2) they could find nothing in the Criminal Rules specifically permitting this practice, and 3) there is no uniformity among the judicial districts in procedures concerning whether and how these copying costs are assessed. The Committee agreed that addressing this issue in the Criminal Rules would promote the Court's goals of statewide uniformity.

How to address "costs for discovery" in the Criminal Rules provisions generated considerable discussion among the Committee members. Initially, there was a split in opinion about whether the attorneys for the Commonwealth should be permitted to charge the defendants for

the costs associated with the copying of discoverable materials.³ Some members felt strongly that defendants should not be required to pay the costs of copying any discovery materials, especially mandatory discovery; other members thought the attorneys for the Commonwealth should not carry the burden of paying these costs in all cases. Ultimately, the members reached a compromise, agreeing that generally the attorney for the Commonwealth may not charge a defendant for the costs of copying discovery materials, but a judge may order the defendant to pay the costs in a specific case. Accordingly, the Rule 573 Comment has been revised to explain that 1) the attorney for the Commonwealth cannot assess a fee against the defendant for the costs of copying discovery materials, but on a case-by-case basis, the attorney may request the trial judge to order costs charged against the defendant, and 2) the judge has the discretion to determine the amount of costs, if any, to be paid by the defendant.

[Pa.B. Doc. No. 04-593. Filed for public inspection April 9, 2004, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CH. 1000]

Issuance of Orders of Execution or Orders for Possession After a District Justice Judgment is Appealed to the Court of Common Pleas

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend or revise the Official Notes to Rules 1006, 1007, 1008, 1011, and 1013 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices to clarify that if an award or judgment has been entered in the court of common pleas following de novo appellate proceedings, the case shall remain in the court of common pleas and no further process, including orders of execution and orders for possession, may be issued by the district justice. The Committee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the Committee's Official Notes to the rules. The Supreme Court does not adopt the Committee's Official Notes or the contents of the explanatory reports.

The text of the proposed changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

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

² The Supreme Court has been developing the CPCMS, a statewide automated case management system for the criminal divisions of the courts of common pleas, and the Court anticipates the new system will be functioning fully within the next year and will promote the Court's goal of statewide uniformity. As part of the development of the CPCMS, the Committee has been working with the system staff to ensure conformity and consistency with the Criminal Rules.

³ In developing this rule change, the Committee reviewed Chapter 5 Part F of the rules, and specifically Rule 573(B)(1) and (B)(2)(a) that provide for "the defendant's attorney to inspect and copy or photograph" discoverable information. The Committee researched the history of Rule 573, but found nothing concerning the provisions for copying and who should be responsible for paying the costs of copying discovery material that was helpful to this inquiry. We also looked at other jurisdictions and found few rules, statutes, or cases specifically permitting the practice of assessing copying costs for discovery against defendants. See, e.g., *U.S. v. Freedman*, 688 F.2d 1364 (C.A. 11 1982) and *U.S. v. Green*, 144 F.R.D. 631 (1992). See also *State v. Williams*, 678 So.2d 1356 (Fl. 1996), in which the court held, inter alia, the defendant has the burden of paying the costs of copying discoverable materials.

Michael F. Krimmel, Counsel
Supreme Court of Pennsylvania
Minor Court Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055
Fax 717-795-2175

or e-mail to: minorrules@pacourts.us

no later than Monday, May 17, 2004.

By the Minor Court Rules Committee

THOMAS E. MARTIN, Jr.,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 1000. APPEALS

APPEAL

Rule 1006. Striking Appeal.

* * * * *

Official Note: This rule is intended to provide sanctions for failing to act within the time limits prescribed.

If an appeal is stricken pursuant to this rule, any supersedeas based on it shall be terminated. See Rule 1008C. If this occurs, and the court of common pleas does not reinstate the appeal upon good cause shown, the judgment holder may proceed with execution of the judgment entered by the district justice.

Rule 1007. Procedure on Appeal.

A.(1) The proceeding on appeal shall be conducted de novo in accordance with the Rules of Civil Procedure that would be applicable if the action was initially commenced in the court of common pleas.

(2) After an award or judgment is entered in the court of common pleas, the case shall remain in the court of common pleas for all further proceedings including execution proceedings, and no further process may be issued by the district justice.

* * * * *

Official Note: * * *

Subparagraph A(2) makes clear that once an award or judgment is entered in the court of common pleas following the de novo proceedings, no further process, including orders of execution or orders for possession, may be issued by the district justice.

Rule 1008. Appeal as Supersedeas.

* * * * *

Official Note:

* * * * *

Subdivision B, however, does require the deposit of money or approved bond as a condition for supersedeas where the appeal is from a judgment for the possession of real property. This provision substantially incorporates the purpose and intent of the [Legislative] statutory provision contained in [Act No. 1995-33, approved July 6, 1995] the Act of July 6, 1995, P. L. 253, No. 33. The 1996 amendment to this rule provides a uniform[, Statewide] statewide procedure [except Philadelphia County; See: Philadelphia Municipal

Court Rules of Civil Procedure), and establishes] in the district justice courts, establishing a mechanism for the application of a supersedeas or the termination thereof without the need for any local court rule or order.

Subdivisions B and C provide in part for the termination of a supersedeas under certain circumstances. If a supersedeas is terminated pursuant to these provisions, the judgment holder may proceed with execution of the judgment entered by the district justice. If, however, an award or judgment is entered in the court of common pleas following the de novo proceedings, the case shall remain in the court of common pleas, and no further process, including orders of execution or orders for possession, may be issued by the district justice. See Rule 1007.

The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state[:] "Please terminate the supersedeas in the within action for failure of the appellant to pay monthly rental as required by Pa. R.C.P.D.J. No. 1008 for a period in excess of [thirty (30)] 30 days," and will be signed by appellee. The prothonotary will then note upon the praecipe[:] "Upon confirmation of failure of the appellant to deposit the monthly rent for more than [thirty (30)] 30 days, the supersedeas is terminated," and the prothonotary will sign and clock the praecipe. A copy of the praecipe may thereupon be displayed to the district justice who rendered the judgment, and a request for issuance of an order for possession [under Pa. R.C.P.D.J. No. 515] may be made. See Rules 515 and 516.

* * * * *

The money judgment portion of a landlord and tenant judgment [(see Pa. R.C.P.D.J. Nos. 514 and 521)] would be governed by subdivision A. See Rules 514 and 521.

CERTIORARI

Rule 1011. Issuance and Service of Writ of Certiorari.

* * * * *

Official Note: The provisions as to service of the writ parallel those for service of notices of appeal. Subdivision C contains sanctions for failing to comply with the prescribed time limits, and reinstatement of the writ or the issuance of a new one is not allowed. If the writ is stricken pursuant to subdivision C, any supersedeas based on it shall be terminated. See Rule 1013C. If this occurs the judgment holder may proceed with execution of the judgment entered by the district justice.

Rule 1013. Writ of Certiorari as Supersedeas.

* * * * *

Official Note: As in appeals [(see Pa. R.C.P.D.J. No. 1008)], certiorari operates as an automatic supersedeas in trespass and assumpsit matters when the writ is received by the district justice. If the writ involves a judgment for the possession of real property, however, it will operate as a supersedeas upon receipt by the district justice only if money is paid or a bond is filed conditioned as stated in the rule. [This Rule has been amended to require a payment equal to the lesser of three months rent or the rent actually in arrears in order

for the writ involving a judgment for the possession of real property to act as a supersedeas to ensure consistency between this Rule and Pa. R.C.P.D.J. No. 1008. (Appeal as Supersedeas.).] See Rule 1008.

Subdivisions B and C provide in part for the termination of a supersedeas under certain circumstances. If a supersedeas is terminated pursuant to these provisions, or if the writ is dismissed pursuant to Rule 1014B, the judgment holder may proceed with execution of the judgment entered by the district justice.

The request for termination of the supersedeas, upon the praecipe filed with the prothonotary, may simply state[:] "Please terminate the supersedeas in the within action for failure of the party filing the writ to pay monthly rental as required by Pa. R.C.P.D.J. No. 1013 for a period in excess of [**thirty (30)**] **30** days," and will be signed by landlord. The prothonotary will then note upon the praecipe[:] "Upon confirmation of failure of the party filing the writ to deposit the monthly rent for more than [**thirty (30)**] **30** days, the supersedeas is terminated," and the prothonotary will sign and clock the praecipe. A copy of the praecipe may thereupon be displayed to the district justice who rendered the judgment, and a request for issuance of an order for possession [**under Pa. R.C.P.D.J. No. 515**] may be made. See Rules 515 and 516.

The money judgment portion of a landlord and tenant judgment [(see Pa. R.C.P.D.J. Nos. 514 and 521)] would be governed by subdivision A [**of this rule**]. See Rules 514 and 521.

REPORT

Proposed Amendments or Revisions to the Official Notes to Rules 1006, 1007, 1008, 1011, and 1013 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices

Issuance of Orders of Execution or Orders for Possession After a District Justice Judgment is Appealed to the Court of Common Pleas

I. Background

The Minor Court Rules Committee (the Committee) undertook a review of the rules relating to the issuance of orders of execution and orders for possession, as well as the rules relating to appeals from district justice judgments, in response to an inquiry from the Administrative Office of Pennsylvania Courts (AOPC). Specifically, the AOPC reported that there is a lack of procedural uniformity in local practice as to how and by whom orders of execution and orders for possession are being issued after a case has been appealed to the court of common pleas for a trial de novo. It was reported that in some instances, judgment holders are returning to the district justice to request an order of execution or order for possession after an award or judgment has been entered in the de novo proceedings in the court of common pleas. Some district justices are reportedly issuing such orders. In other cases, district justices are refusing to issue further process after the case has been appealed. The AOPC asked the Committee to review this situation and to clarify the proper procedure.¹

After review of the relevant rules and other authority, the Committee is proposing amendments or revisions to

the Official Notes to Pa. R.C.P.D.J. Nos. 1006 (Striking Appeal), 1007 (Procedure on Appeal), 1008 (Appeal as Supersedeas), 1011 (Issuance and Service of Writ of Certiorari), and 1013 (Writ of Certiorari as Supersedeas). These proposed rule changes are intended to clarify that if an award or judgment is entered in the court of common pleas following de novo proceedings, the case shall remain in the court of common pleas, and no further process, including orders of execution and orders for possession, may be issued by the district justice.

II. Discussion

The Committee began its analysis with Rule 1007 (Procedure on Appeal), which states in part, "[t]he proceeding on appeal shall be conducted de novo in accordance with the Rules of Civil Procedure that would be applicable if the action was initially commenced in the court of common pleas." Pa. R.C.P.D.J. No. 1007; see also 42 Pa.C.S. § 932 (Appeal from minor judiciary). In addition, the Official Note to the Rule states, "... the court of common pleas on appeal can exercise its full jurisdiction and all parties will be free to treat the case as though it had never been before the district justice, subject of course to the Rules of Civil Procedure." Pa. R.C.P.D.J. No. 1007, Official Note.² The Committee also considered the specific provisions of Rules 1008 and 1013 which permit execution of the district justice judgment in limited circumstances when a supersedeas is terminated because an appeal or writ of certiorari is stricken, dismissed, discontinued, or otherwise terminated before an award or judgment is entered in the court of common pleas (in the case of an appeal), or before the court of common pleas enters an order in favor of the party obtaining the writ of certiorari (pursuant to Rule 1014A).³ The Committee noted, however, that no specific provision exists in the current rules for executing on the district justice judgment after disposition of the case on the merits in the court of common pleas.

These provisions suggested to a majority of the committee members that proceedings on appeal are to be handled exclusively in accordance with the Rules of Civil Procedure, and that the district justice who entered the original judgment has no further jurisdiction in the case after it is appealed except as provided in Rules 1008 and 1013.

Having concluded that the current rules require an appealed action to remain in the court of common pleas for all further proceedings after an award or judgment is entered in the appeal, the Committee considered whether the rules should provide some mechanism for a judgment holder to return to the district justice after disposition of an appeal solely for purposes of obtaining execution or possession. A number of Committee members were sensitive to the fact that execution and possession procedures are significantly faster and less expensive at the district justice level (via constable) than they are at the common pleas level (via the sheriff). These members argued that requiring judgment holders to execute using common pleas procedures would prevent them from utilizing the relatively inexpensive, simplified, and expedited procedures inherent in the district justice system. Other members argued that permitting judgment holders to return to the district justice for execution would be contrary to the de novo nature of the appellate proceedings. In addition, it would unduly complicate the rules in that it would require additional procedures governing

¹ The specific inquiry from the AOPC dealt only with landlords requesting orders for possession in actions for possession of real property (landlord-tenant actions), but the Committee noted that similar issues could arise in execution of judgments in regular civil actions.

² The Supreme Court of Pennsylvania does not adopt the content of the Committee's Official Notes to the rules.

³ See Rule 1008 B and C, and Rule 1013 B and C.

how and when a judgment would be certified back to the district justice so the judgment holder could request execution or possession. After considerable discussion, a majority of the Committee voted for the current proposal, although a significant minority would have crafted the rules to permit the judgment holder to return to the district justice for solely purposes of obtaining execution or possession.

III. Proposed Rule Changes

To address the issues discussed above, the Committee proposes the following rule changes.⁴

A. Rule 1007—Proceedings Must Remain in the Court of Common Pleas

The cornerstone of the Committee's proposal is a new subparagraph A(2) in Rule 1007 which would provide that "[a]fter an award or judgment is entered in the court of common pleas, the case shall remain in the court of common pleas for all further proceedings including execution proceedings, and no further process may be issued by the district justice." Proposed amendment to Rule 1007, supra. In addition, clarifying language in this same regard would be added to the Official Note.

B. Rules 1006, 1008, 1011, and 1013—Correlative Revisions to Official Notes

The Committee further proposes that the Official Notes to Rules 1006, 1008, 1011, and 1013 be revised to make clear that if a supersedeas is terminated or an appeal or writ of certiorari is stricken or otherwise terminated before disposition of the matter on appeal or subject to the writ, the judgment holder may proceed with execution of the judgment entered by the district justice.

[Pa.B. Doc. No. 04-594. Filed for public inspection April 9, 2004, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BUCKS COUNTY Judicial and Related Account

Order

And Now, this 25th day of March, 2004, the original Order of November 9, 1978 establishing the Judicial and Related Account and subsequently amended August 6, 1993, September 9, 1999, March 5, 2002 and March 21, 2003, is hereby amended as follows:

The Judicial and Related Account shall be composed of the following budget accounts:

1. 0135 Domestic Relations

⁴ In addition to the substantive changes discussed here, the Committee proposes minor technical or "housekeeping" changes to add or correct cross-references, and to conform to modern drafting style.

2. 0139 Law Library
3. 0140 Main Courts
4. 0141 Grand Jury
5. 0142 Jury Commissioners
6. 0147 Court Reporters
7. 0151 Adult Probation and Parole
8. 0152-0153 Juvenile Probation
9. 0325-0375 Youth Detention Center (County)
10. 0330-0380 Juvenile Reimbursable Administration
11. 0334-0384 Juvenile Counseling
12. 0335-0385 Juvenile Day Treatment
13. 0336-0385 Juvenile Life Skills
14. 0337-0387 Juvenile Protective Services General
15. 0338-0388 Juvenile Protective Services Planning
16. 0339-0389 Juvenile Alternative Treatment
17. 0340-0390 Juvenile Community Residential (Group Home)
18. 0341-0391 Juvenile Foster Family
19. 0342-0392 Juvenile Detention (Out of County)
20. 0343-0393 Juvenile Residential (Non Group Home)
21. 0344-0394 Juvenile Revenue (Act 148 Related)
22. 0201 Magisterial District 07-1-01
23. 0202 Magisterial District 07-1-02
24. 0203 Magisterial District 07-1-03
25. 0204 Magisterial District 07-1-04
26. 0206 Magisterial District 07-1-06
27. 0207 Magisterial District 07-1-07
28. 0208 Magisterial District 07-1-08
29. 0209 Magisterial District 07-1-09
30. 0210 Magisterial District 07-1-10
31. 0211 Magisterial District 07-1-11
32. 0212 Magisterial District 07-2-01
33. 0213 Magisterial District 07-2-02
34. 0214 Magisterial District 07-2-03
35. 0215 Magisterial District 07-3-01
36. 0216 Magisterial District 07-2-05
37. 0217 Magisterial District 07-3-03
38. 0218 Magisterial District 07-2-07
39. 0219 Magisterial District 07-2-08
40. 0220 Supplemental Judicial Clerks
41. 2540 Court's Capital
42. 2640 Court's Capital
43. 0130 Register of Wills
44. 0131 Sheriff
45. 0133 Prothonotary
46. 0134 Clerk of Courts

and such other accounts as the Court may from time to time direct.

In all other respects, Administrative Order No. 1 dated November 9, 1978, remains in full force and effect.

This Order to be effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

DAVID W. HECKLER,
President Judge

[Pa.B. Doc. No. 04-595. Filed for public inspection April 9, 2004, 9:00 a.m.]

CLEARFIELD COUNTY
Local Rules of Criminal Procedure

**Rule 202. Approval of Search Warrant Applications
 by Attorney for the Commonwealth**

The District Attorney of Clearfield County having filed a certification pursuant to Pa.R.Crim.P Rule 202, no search warrant, under any circumstance, shall be issued by any judicial officer unless the search warrant applica-

tion has the approval of an attorney for the Commonwealth prior to filing.

Adopted March 22, 2004. Effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

FREDRIC J. AMMERMAN,
President Judge

[Pa.B. Doc. No. 04-596. Filed for public inspection April 9, 2004, 9:00 a.m.]

CLEARFIELD COUNTY
Local Rules of Criminal Procedure

Rule 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.

The District Attorney of Clearfield County having filed a Certification pursuant to Pa.R.Crim.P. Rule 507 criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging any of the below listed offenses shall not hereafter be accepted by any judicial officer unless the complaint and arrest warrant affidavit has the approval of an attorney for the Commonwealth prior to filing.

Crimes Code

Title 18

Chapter 7

- | | |
|--|-----------------------|
| a. Criminal Attempt
(To commit any offense in this Rule) | 18 Pa.C.S.A. § 901(a) |
| b. Criminal Solicitation
(To commit any offense in this Rule) | 18 Pa.C.S.A. § 902(a) |
| c. Criminal Conspiracy
(To commit any offense in this Rule) | 18 Pa.C.S.A. § 903(a) |

Chapter 25

- | | |
|-------------------------------------|------------------------------|
| a. Criminal Homicide | 18 Pa.C.S.A. § 2501 |
| b. Murder | 18 Pa.C.S.A. § 2502(a)(b)(c) |
| c. Voluntary Manslaughter | 18 Pa.C.S.A. § 2503(a)(b) |
| d. Involuntary Manslaughter | 18 Pa.C.S.A. § 2504(a) |
| e. Causing or Aiding Suicide | 18 Pa.C.S.A. § 2505(a)(b) |
| f. Drug Delivery Resulting in Death | 18 Pa.C.S.A. § 2506(a) |

Chapter 26

- | | |
|---|------------------------------|
| a. Criminal Homicide of Unborn Child | 18 Pa.C.S.A. § 2603(a) |
| b. Murder of Unborn Child | 18 Pa.C.S.A. § 2604(a)(b)(c) |
| c. Voluntary Manslaughter of Unborn Child | 18 Pa.C.S.A. § 2605(a)(b) |
| d. Aggravated Assault of Unborn Children | 18 Pa.C.S.A. § 2606(a) |

Chapter 27

- | | |
|--|---------------------------|
| a. Assault by Prisoner | 18 Pa.C.S.A. § 2703(a) |
| b. Aggravated Harassment by Prisoner | 18 Pa.C.S.A. § 2703.1 |
| c. Assault by Life Prisoner | 18 Pa.C.S.A. § 2704 |
| d. Ethnic Intimidation | 18 Pa.C.S.A. § 2710(a) |
| e. Neglect of Care Dependent Person | 18 Pa.C.S.A. § 2713(a) |
| f. Unauthorized Administration of Intoxicant | 18 Pa.C.S.A. § 2714 |
| g. Threat to Use Weapon of Mass Destruction | 18 Pa.C.S.A. § 2715(a) |
| h. Weapons of Mass Destruction | 18 Pa.C.S.A. § 2716(a)(b) |

Chapter 29

- | | |
|---------------------------------------|------------------------|
| a. Kidnapping | 18 Pa.C.S.A. § 2901(a) |
| b. Unlawful Restraint | 18 Pa.C.S.A. § 2902(a) |
| c. False Imprisonment | 18 Pa.C.S.A. § 2903(a) |
| e. Interference with Custody of Child | 18 Pa.C.S.A. § 2904(a) |
| f. Disposition of Ransom | 18 Pa.C.S.A. § 2907 |

Chapter 31

- | | |
|-----------------------------|------------------------------|
| a. Rape | 18 Pa.C.S.A. § 3121(a)(c)(d) |
| b. Statutory Sexual Assault | 18 Pa.C.S.A. § 3122.1 |

Chapter 31

- c. Involuntary Deviate Sexual intercourse 18 Pa.C.S.A. § 3123(a)(b)(c)
- d. Sexual Assault 18 Pa.C.S.A. § 3124.1
- e. Institutional Sexual Assault 18 Pa.C.S.A. § 3124.2(a)
- f. Aggravated Indecent Assault 18 Pa.C.S.A. § 3125(a)(b)

Chapter 32

- a. Abortion of Unborn Child 18 Pa.C.S.A. § 3211(a)(c)
- b. Infanticide 18 Pa.C.S.A. § 3212(a)(b)(c)
- c. Prohibited Acts 18 Pa.C.S.A. § 3213(a)—(f)
- d. Reporting 18 Pa.C.S.A. § 3214(a)—(h)
- e. Publicly Owned Facilities 18 Pa.C.S.A. § 3215(a)—(j)
- f. Fetal Experimentation 18 Pa.C.S.A. § 3216(a)(b)

Chapter 33

- a. Arson 18 Pa.C.S.A. § 3301(a)—(f)
- b. Causing or Risking a Catastrophe 18 Pa.C.S.A. § 3302(a)(b)

Chapter 35

- a. Burglary 18 Pa.C.S.A. § 3502(a)
- b. Criminal Trespass 18 Pa.C.S.A. § 3503(a)

Chapter 36

- a. Robbery 18 Pa.C.S.A. § 3701(a)
- b. Robbery of a Motor Vehicle 18 Pa.C.S.A. § 3702

Chapter 39

- a. Theft by Extortion 18 Pa.C.S.A. § 3923(a)
- b. Theft of Trade Secrets 18 Pa.C.S.A. § 3930(a)(b)
- c. Theft of Unpublished Dramas and Musicals 18 Pa.C.S.A. § 3931

Chapter 41

- a. Forgery 18 Pa.C.S.A. § 4101(a)
- b. Fraudulent Destruction, Removal or Concealment 18 Pa.C.S.A. § 4103
- c. Commercial Bribery 18 Pa.C.S.A. § 4108(a)(b)(c)

Chapter 43

- a. Incest 18 Pa.C.S.A. § 4302

Chapter 45

- a. Bribery in Political Matters 18 Pa.C.S.A. § 4701(a)
- b. Threats and Improper Influence 18 Pa.C.S.A. § 4702(a)

Chapter 46

- a. Perjury 18 Pa.C.S.A. § 4902(a)

Chapter 51

- a. Dealing in Proceeds of Unlawful Activities 18 Pa.C.S.A. § 5111(a)
- b. Escape 18 Pa.C.S.A. § 5121(a)(b)
- c. Weapons for Escape 18 Pa.C.S.A. § 5122(a)
- d. Contraband 18 Pa.C.S.A. § 5123(a)—(c.2)

Chapter 53

- a. Official Oppression 18 Pa.C.S.A. § 5301
- b. Speculating or Wagering on Official Action 18 Pa.C.S.A. § 5302

Chapter 55

- a. Riot 18 Pa.C.S.A. § 5501
- b. Assault with Biological Agent on Animal 18 Pa.C.S.A. § 5511.3(a)

Chapter 59

- a. Obscene and Other Sexual Material 18 Pa.C.S.A. § 5903(a)—(m)

Chapter 63

- a. Sexual Abuse of Children 18 Pa.C.S.A. § 6312(b)(c)(d)
- b. Solicitation of Minors to Traffic Drugs 18 Pa.C.S.A. § 6319(a)(b)
- c. Sexual Exploitation of Children 18 Pa.C.S.A. § 6320(a)

The Controlled Substance, Drug, Device and Cosmetic Act**Title 35**

- a. Acquisition of Controlled Substance by Fraud 35 Pa.C.S.A. § 780-113(a)(12)
- b. Administration by Practitioner 35 Pa.C.S.A. § 780-113(a)(14)
- c. Manufacture, Delivery or Possession with Intent to Manufacture or Deliver a Controlled Substance 35 Pa.C.S.A. § 780-113(a)(30)
- d. Manufacture, Distribution, Possession of Designer Drug 35 Pa.C.S.A. § 780-113(a)(36)

The Vehicle Code**Title 75***Chapter 37*

- a. Homicide by Vehicle 75 Pa.C.S.A. § 3732(a)
- b. Homicide by Vehicle while Driving Under the Influence 75 Pa.C.S.A. § 3735
- c. Aggravated Assault by Vehicle while Driving Under the Influence 75 Pa.C.S.A. § 3735.1

Miscellaneous Offenses

a. Any offense arising out of or involving either directly or indirectly the State Correctional Institute Houtzdale, the Quehanna Boot Camp, or the Clearfield County Jail.

Adopted March 22, 2004. Effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

FREDRIC J. AMMERMAN,
President Judge

[Pa.B. Doc. No. 04-597. Filed for public inspection April 9, 2004, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated March 25, 2004, Charles David Conway is disbarred from the practice of law in this Commonwealth, effective April 24, 2004. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 04-598. Filed for public inspection April 9, 2004, 9:00 a.m.]

RULES AND REGULATIONS

Title 64—SECURITIES

SECURITIES COMMISSION

[64 PA. CODE CH. 207]

Corrective Amendment to 64 Pa. Code § 207.130(f)

The Securities Commission has discovered a discrepancy between the agency text of 64 Pa. Code § 207.130(f) (relating to notice to purchasers under section 207(m)) as deposited with the Legislative Reference Bureau and as published at 30 Pa.B. 18 (January 1, 2000), and the official text published in the *Pennsylvania Code Reporter* (Master Transmittal Sheet No. 304) and as currently appearing in the *Pennsylvania Code*. When the amendments to 64 Pa. Code § 207.130 were codified, the addition of subsection (f) was inadvertently omitted.

Therefore, under 45 Pa.C.S. § 901: The Securities Commission has deposited with the Legislative Reference Bureau a corrective amendment to 64 Pa. Code § 207.130(f). The corrective amendment to 64 Pa. Code § 207.130(f) is effective as of March 4, 2000, the date the defective official text was announced in the *Pennsylvania Bulletin*.

The correct version of 64 Pa. Code § 207.130(f) appears in Annex A, with ellipses referring to the existing text of the regulation.

Annex A

TITLE 64. SECURITIES

PART I. SECURITIES COMMISSION

Subpart B. REGISTRATION OF SECURITIES

CHAPTER 207. GENERAL REGISTRATION PROVISIONS

§ 207.130. Notice to purchasers under section 207(m).

* * * * *

(f) The following language illustrates a right of withdrawal which complies with section 207(m)(2) of the act:

"If you have accepted an offer to purchase these securities and have received a written notice explaining your right to withdraw your acceptance pursuant to section 207(m)(2) of the Pennsylvania Securities Act of 1972, you may elect, within two business days from the date of receipt by the issuer of your binding contract of purchase or, in the case of a transaction in which there is no binding contract of purchase, within two business days after you make the initial payment for the securities being offered, to withdraw your acceptance and receive a full refund of all monies paid by you. Your withdrawal of acceptance will be without any further liability to any person. To accomplish this withdrawal, you need only send a written notice (including a notice by facsimile or electronic mail) to the issuer (or placement agent if one is listed on the front page of the offering memorandum) indicating your intention to withdraw.

[Pa.B. Doc. No. 04-599. Filed for public inspection April 9, 2004, 9:00 a.m.]

PROPOSED RULEMAKING

GAME COMMISSION

[58 PA. CODE CH. 135]
Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2004, meeting, proposed the following amendment:

Amend § 135.2 (relating to unlawful actions) by eliminating redundant language.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the January 27, 2004, meeting of the Commission. Comments can be sent until April 16, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Introduction

The Commission is proposing to amend § 135.2(6) by eliminating redundant language.

2. Purpose and Authority

Section 135.2 provides a list of actions deemed unlawful. Specifically, § 135.2(6) makes it unlawful, except with the permission of the person in charge of the State owned or controlled lands, to "Remove or attempt to remove any manmade or natural object except wildlife and fish lawfully taken 'during the open season.'" The additional language "during the open season" is redundant and unnecessary. Therefore, the Commission is proposing to amend § 135.2(6) by removing "during the open season."

Section 721(a) of the code (relating to control of property) provides "the administration of all lands and waters owned, leased or otherwise controlled by the Commission shall be under the sole control of the Director, and the Commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." The amendment to § 135.2 is proposed under this authority.

3. Regulatory Requirements

The proposed rulemaking does not change the substance of an existing regulation, but rather removes redundant language.

4. Persons Affected

Persons wishing to remove natural or manmade objects from lands under Commission control or ownership will be affected by the proposed rulemaking.

5. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

6. Effective Date

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-184. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter A. GENERAL PROVISIONS

§ 135.2. Unlawful actions.

In addition to the prohibitions in the act on lands, waters or buildings under Commission ownership, lease or jurisdiction, it is unlawful, except with the permission of the person in charge of the lands, to:

* * * * *

(6) Remove or attempt to remove any manmade or natural object except wildlife and fish lawfully taken [**during the open season**]. Objects which may not be removed include animals, rocks, minerals, sand and historical or archaeological artifacts.

* * * * *

[Pa.B. Doc. No. 04-600. Filed for public inspection April 9, 2004, 9:00 a.m.]

[58 PA. CODE CH. 141]

Hunting and Trapping; Firearm Caliber Limitations

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2004, meeting, proposed the following rulemaking:

Amend § 141.22 (relating to small game) to permit rimfire and centerfire firearms of less than .23 caliber to hunt small game and § 141.43 (relating to deer) to permit the use of rimfire firearms of .22 caliber or less to dispatch legally trapped furbearers during the regular or special firearms deer seasons to make the regulations more consistent and reduce confusion related to firearm caliber limitations.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the January 27, 2004, meeting of the Commission. Comments can be sent until April 16, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. Introduction

The Commission is proposing to amend § 141.22 to permit rimfire and centerfire firearms of less than .23 caliber to hunt small game and § 141.43 to permit the use of rimfire firearms of .22 caliber or less to dispatch legally trapped furbearers during the regular or special firearms deer seasons to make the regulations more consistent and reduce confusion regarding firearm caliber limitations.

2. Purpose and Authority

Currently, § 141.22 makes it unlawful to take small game with a centerfire firearm. Only rimfire, .22 caliber or less firearms are permitted to take small game. The Commission is proposing to amend § 141.22 to permit the use of rimfire and centerfire firearms of less than .23 caliber to take small game.

Currently, § 141.43 permits trappers to dispatch legally trapped furbearers during the regular or special firearms deer seasons with a .22 caliber firearm only. However, the Commission has recently amended the restrictions relating to the caliber of single projectile firearms that are permitted during the small game season to include smaller caliber firearms such as the .17 caliber. To maintain consistency between the regulations and reduce confusion regarding the calibers permitted, the Commission proposes to amend § 141.43 to permit the use of .22 caliber or less firearms for the dispatch of legally trapped furbearers during the regular or special firearms deer seasons.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." Section 322(c)(5) of the code (relating to powers and duties of commission) specifically empowers the Commission to "fix the type and number of devices which may be used to take game or wildlife." Section 2102(a) of the code provides that "the Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to . . . the ways, manner, methods and means of hunting or furtaking . . . in this Commonwealth." The amendments to §§ 141.22 and 141.43 are proposed under this authority.

3. Regulatory Requirements

The proposed rulemaking will permit the use of rimfire and centerfire firearms of less than .23 caliber to hunt small game and will also permit trappers to dispatch legally trapped furbearers during the regular or special firearms deer seasons with firearms of .22 caliber or less.

4. Persons Affected

Persons wishing to hunt small game in this Commonwealth with single projectile firearms will be affected by the proposed rulemaking. Additionally, persons wishing to dispatch legally trapped furbearers during the regular or special firearms deer seasons will be affected by the proposed rulemaking.

5. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

6. Effective Date

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-183. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter B. SMALL GAME

§ 141.22. Small game.

(a) *Unlawful activities.* It is unlawful to:

* * * * *

(8) Unless otherwise provided in the act or this title, hunt or take small game with anything other than a shotgun with fine shot, muzzleloading rifle or handgun .40 caliber or less, **[rimfire]** rifle or handgun **[.22 caliber or] less than 23 caliber**, or bow and arrow with or without broadheads. The caliber restrictions do not apply to rifles or handguns while hunting woodchuck.

* * * * *

Subchapter C. BIG GAME

§ 141.43. Deer.

* * * * *

(h) **.22 caliber or less rimfire required for furbearers.** When using a firearm only a **[.22 caliber] rimfire rifle or handgun .22 caliber or less** may be used to dispatch legally trapped furbearers during the regular or special firearms deer seasons.

[Pa.B. Doc. No. 04-601. Filed for public inspection April 9, 2004, 9:00 a.m.]

[58 PA. CODE CH. 141]

Hunting and Trapping; Furbearer Tagging Requirements

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2004, meeting, proposed the following amendment:

Amend § 141.5 (relating to furbearer tagging requirements) to eliminate fur tagging requirements for beaver.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the January 27, 2004, meeting of the Commission. Comments can be sent until April 16, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Introduction*

The Commission is proposing to amend § 141.5 to eliminate fur tagging requirements for beaver.

2. *Purpose and Authority*

To lawfully possess or transfer beaver pelts from this Commonwealth, current regulations require a trapper to first obtain a tag from the Commission to be secured upon the pelt. At one time the information gathered from the beaver tagging process was considered essential data by the Commission in maintaining and monitoring beaver populations across this Commonwealth. However, the Bureau of Wildlife Management has since indicated that it is no longer necessary to collect the data in this manner. The Commission is proposing to eliminate the fur tagging requirements for beaver and all references from § 141.5. By eliminating these requirements, trappers and wildlife conservation officers should be relieved of the time consuming burdens of arranging meetings throughout the state to tag beavers taken.

Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking, the possession of certain species or parts thereof . . ." Section 2102(a) of the code provides that "the Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat . . . in this Commonwealth." The amendment to § 141.5 is proposed under this authority.

3. *Regulatory Requirements*

The proposed rulemaking will eliminate the fur tagging requirements for beaver.

4. *Persons Affected*

Persons wishing to trap beavers within this Commonwealth will be affected by the proposed rulemaking.

5. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-185. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.5. Furbearer tagging requirements.

(a) *Tag required.*

(1) Before possessing or removing any of the following wildlife or parts thereof from this Commonwealth, a tag shall be acquired from a representative of the Commission:

* * * * *

[(v) Beaver.]

* * * * *

(3) The fee for the tag is 50¢ [except for beaver].

* * * * *

(c) [*Beaver tag.* A beaver pelt shall be presented for tagging to a Commission representative in the district or county where trapped, unless prohibited by unusual circumstances which would create a hardship on the trapper. The deadline for tagging beaver is not later than 4 p.m. on the 10th day following the closing of the beaver season. Before a beaver or beaver pelt is sold or removed from this Commonwealth, it shall be tagged by an officer of the Commission.

(d)] (c) * * *

[(e)] (d) * * *

[Pa.B. Doc. No. 04-602. Filed for public inspection April 9, 2004, 9:00 a.m.]

[58 PA. CODE CH. 141]

Hunting and Trapping; Table of Hunting Hours

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2004, meeting, proposed the following rulemaking:

Amend Chapter 141, Appendix G (relating to table of hunting hours) to reflect the annual change in days and subsequent hunting times.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the January 27, 2004, meeting of the Commission. Comments can be sent until April 16, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Introduction*

The Commission is proposing to amend Appendix G to reflect the annual change in days and subsequent hunting times.

2. Purpose and Authority

Each year there is a shift in calendar days for each month. As a result of this occurrence, the table of hunting hours in Appendix G must be amended and updated to reflect the current year's hunting dates and corresponding legal hunting hours. The Commission is proposing to amend Appendix G by updating the table of hunting hours for the 2004-2005 hunting year.

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the Commission to "fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife." Section 2102(a) of the code (relating to regulations) provides that "the Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth. . . ." The amendment to Appendix G is proposed under this authority.

3. Regulatory Requirements

The proposed rulemaking will amend Appendix G to update the table of hunting hours to reflect the annual change in days and subsequent hunting times.

4. Persons Affected

Persons wishing to hunt or trap in this Commonwealth will be affected by the proposed rulemaking.

5. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

6. Effective Date

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-181. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

APPENDIX G

* * * * *

(*Editor's Note:* As part of this proposed rulemaking, the Commission is proposing to delete the text of the Table of Hunting Hours which appears in 58 Pa. Code pages 141-28 and 141-29, serial pages (297370) and (300827) and replace it with the following text.)

TABLE OF HUNTING HOURS FOR JUNE 27, 2004 THROUGH JULY 2, 2005

Dates	Begin a.m.	End p.m.
June 27—July 3	5:06	8:33
July 4—July 10	5:10	8:32
July 11—July 17	5:14	8:29
July 18—July 24	5:20	8:24

Dates

Dates	Begin a.m.	End p.m.
July 25—July 31	5:26	8:18
Aug. 1—Aug. 7	5:32	8:12
Aug. 8—Aug. 14	5:39	8:02
Aug. 15—Aug. 21	5:45	7:54
Aug. 22—Aug. 28	5:52	7:43
Aug. 29—Sept. 4	6:00	7:32
Sept. 5—Sept. 11	6:05	7:22
Sept. 12—Sept. 18	6:12	7:10
Sept. 19—Sept. 25	6:18	6:57
Sept. 26—Oct. 2	6:24	6:47
Oct. 3—Oct. 9	6:33	6:35
Oct. 10—Oct. 16	6:40	6:24
Oct. 17—Oct. 23	6:46	6:15
Oct. 24—Oct. 30	6:54	6:05
Oct. 31—Nov. 6	6:01	4:56
Nov. 7—Nov. 13	6:10	4:50
Nov. 14—Nov. 20	6:18	4:44
Nov. 21—Nov. 27	6:36	4:39
Nov. 28—Dec. 4	6:33	4:37
Dec. 5—Dec. 11	6:40	4:36
Dec. 12—Dec. 18	6:45	4:37
Dec. 19—Dec. 25	6:50	4:40
Dec. 26—Jan. 1	6:52	4:44
Jan. 2—Jan. 8	6:53	4:51
Jan. 9—Jan. 15	6:49	5:05
Jan. 16—Jan. 22	6:48	5:08
Jan. 23—Jan. 29	6:44	5:13
Jan. 30—Feb. 5	6:39	5:22
Feb. 6—Feb. 12	6:30	5:30
Feb. 13—Feb. 19	6:23	5:38
Feb. 20—Feb. 26	6:14	5:46
Feb. 27—Mar. 5	6:03	5:54
Mar. 6—Mar. 12	5:53	6:01
Mar. 13—Mar. 19	5:41	6:09
Mar. 20—Mar. 26	5:30	6:16
Mar. 27—Apr. 2	5:19	6:23
Apr. 3—Apr. 9	6:08	7:30
Apr. 10—Apr. 16	5:57	7:38
Apr. 17—Apr. 23	5:47	7:44
Apr. 24—Apr. 30	5:36	7:52
May 1—May 7	5:28	7:58
May 8—May 14	5:20	8:05
May 15—May 21	5:14	8:12
May 22—May 28	5:08	8:18
May 29—June 4	5:05	8:24
June 5—June 11	5:02	8:28
June 12—June 18	5:02	8:31
June 19—June 25	5:03	8:33
June 26—July 2	5:05	8:33

[Pa.B. Doc. No. 04-603. Filed for public inspection April 9, 2004, 9:00 a.m.]

[58 PA. CODE CHS. 141 AND 143]

Hunting and Trapping; Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2004, meeting, proposed the following amendments:

Amend § 141.47 (relating to elk) to create a 150-yard wide no elk hunting zone on each side of the center line of Rt. 555 from Weedville to Hicks Run; § 141.48 (relating to elk management units) to allow the Director to estab-

lish elk management units prior to the opening of elk season; § 143.203 (relating to drawing) to permit elk hunters to meet the orientation requirement by completing one of the available orientation programs and also permit elk hunters whose military obligations prevent them from hunting during the current elk season to transfer their elk hunting eligibility to the next available season; and § 143.207 (relating to unlawful acts) to permit elk hunters to submit one application for an elk license for each elk season available.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the January 27, 2004, meeting of the Commission. Comments can be sent until April 16, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Introduction*

The Commission is proposing to amend § 141.47 to create a 150-yard wide no elk hunting zone on each side of the center line of Rt. 555 from Weedville to Hicks Run, § 141.48 to allow the Director to establish elk management units prior to the opening of elk season, § 143.203 to permit elk hunters to meet the orientation requirement by completing one of the available orientation programs and also permit elk hunters whose military obligations prevent them from hunting during the current elk season to transfer their elk hunting eligibility to the next available season and § 143.207 to permit elk hunters to submit one application for an elk license for each elk season available.

2. *Purpose and Authority*

Currently, there is an area along Rt. 555 where elk are highly visible to the public from the roadway. These elk are often found in both private and public places; however, due to the proximity of these elk to the public, hunting them creates a danger for individuals located in or passing through this area. The proximity of these elk to Rt. 555 also encourages illegal poaching and the violation of the fair chase element to legal hunting. The Commission is proposing to amend § 141.47 to create a 150-yard wide no elk hunting zone on each side of the center line of Rt. 555 from Weedville to Hicks Run to protect people and elk in this exposed area from unsafe, illegal or incorrigible hunting practices.

At present, elk management units are, as some might say, "set in semipermanent stone" in the regulations. While the elk management units may be amended as needed, the process required to amend the regulations creates a substantial time delay before an amendment can be implemented and enforced. For elk management units, this delay means that by the time the elk management units are established and implemented, the information used to establish the new elk management units is no longer current. The Commission relies on various changing information to determine elk management unit locations including known elk herd locations, estimated elk populations and current elk problem areas. The Commission is proposing to amend § 141.48 to allow the Director to establish the elk management unit boundaries prior to the opening of elk season. This amendment will allow the Commission to more effectively manage the elk herd by allowing the elk management units to be defined in a more responsive manner. This means that hunters will have a greater opportunity to be successful and will

enable the Commission to reduce elk numbers in the most critical areas based upon the most recent information available.

Unfortunately, many successful applicants for an elk license are burdened with conflicts that prevent them from attending the orientation program sponsored by the Commission. As this orientation program is a required step to be completed before being issued an elk license, these conflicts can create an unfortunate dilemma for hunters. The Commission intends to relax this requirement and allow more flexibility in meeting the orientation requirement. Specifically, the Commission is proposing to amend § 143.203 to permit other options in programming to give the hunters the necessary orientation. The Commission also proposes to amend § 143.203 to allow persons serving in the armed forces, who were successfully drawn for an elk license but are unable to hunt during the current elk season because of their military obligation, to be issued an elk license for the following elk season.

Recently, the Commission proposed a second, early elk season. However, if implemented, current regulations would prevent an applicant from lawfully submitting an application for each season available. Specifically, § 143.207 currently makes it unlawful for a person to submit more than one application for an elk license during any hunting license year. The Commission is proposing to amend this language in § 143.207 to permit hunters to submit one application for each elk season available in any given hunting license year.

Section 322(c)(4) of the code (relating to powers and duties of commission) specifically authorizes the Commission to "define geographic limitations or restrictions." Section 2102(a) of the code (relating to regulations) provides that "the Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and no elk hunting of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 141.47 and 141.48 are proposed under this authority.

Section 2722(g)(2) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of activities related to license issuing. Section 2102(a) of the code provides that "the Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking . . . in this Commonwealth." The amendments to §§ 143.203 and 143.207 are proposed under this authority.

3. *Regulatory Requirements*

The proposed rulemaking will make it unlawful to hunt within the 150-yard wide no elk hunting zone on each side of Rt. 555 from Weedville to Hicks Run, will allow the Director to establish elk management units prior to the opening of elk season, will permit elk hunters to meet the orientation by completing one of the available orientation programs, will permit hunters whose military obliga-

tions prevent them from hunting during the current elk season to transfer their elk hunting eligibility to the next available season and will allow elk hunters to submit one application for an elk license for each elk season available.

4. *Persons Affected*

Persons wishing to hunt for elk in this Commonwealth may be affected by the proposed rulemaking.

5. *Cost and Paperwork Requirements*

The proposed rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-179. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.47. Elk.

It is unlawful while hunting elk to:

* * * * *

(12) Hunt within 150 yards from the center line of Route 555, from the intersection of Routes 255 and 555, to the intersection of Huston Hill Road and Route 555.

§ 141.48. Elk management units.

* * * * *

(b) [The outline map of Pennsylvania sets forth elk management units. Elk management unit 11 comprises all areas outside Units 1-10 inclusive. (See map of Pennsylvania Elk Management Units in Appendix F.)] The elk management units shall be established by the Director prior to the opening of elk season.

(Editor's Note: As part of this proposed rulemaking, the Commission is proposing to delete Appendix F which appears in 58 Pa. Code pages 141-25 and 141-26, serial pages (297367) and (297368).)

APPENDIX F. (Reserved)

CHAPTER 143. HUNTING AND FUR TAKER LICENSES

Subchapter K. ELK LICENSES

§ 143.203. Drawing.

* * * * *

(d) Qualified applicants and alternates drawn for an elk license shall be required to obtain a regular hunting

license **[prior to attending an orientation session sponsored by the Commission before the elk license is issued] and complete an orientation program as prescribed by the Director.** Persons who are eligible for license and fee exemptions and meet the requirements in section 2706 of the act (relating to resident license and fee exemptions) are not required to purchase a regular hunting license.

(e) [The number of licenses shall be limited to a number set by the Commission.] Qualified applicants drawn for an elk license whose military obligation prevents them from hunting the current elk season shall be eligible to hunt in the next available elk season.

(f) The number of licenses shall be limited to a number set by the Commission.

§ 143.207. Unlawful acts.

It is unlawful for a person to:

(1) Submit more than one application for an elk license for any elk season during any hunting license year.

* * * * *

[Pa.B. Doc. No. 04-604. Filed for public inspection April 9, 2004, 9:00 a.m.]

[58 PA. CODE CH. 147]

Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its January 27, 2004, meeting, proposed the following amendments:

Amend § 147.672 (relating to definitions) to expand the list of definitions; § 147.673 (relating to eligibility and application for DMAP) to remove limitations and expand eligibility for the Deer Management Assistance Program (DMAP); § 147.674 (relating to issuance of DMAP harvest permits) to establish separate fees related to submitting a DMAP coupon for a DMAP harvest permit for residents and nonresidents; and § 147.676 (relating to unlawful acts) to make it unlawful for a nonresident to apply for or possess a resident DMAP harvest permit.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the January 27, 2004, meeting of the Commission. Comments can be sent until April 16, 2004, to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797.

1. *Introduction*

The DMAP has been in effect for almost a full season and has already proven to be an asset to both the public and private landowners as a tool for the future management of local white-tailed deer herds on lands where excessive deer numbers have compromised the landowners' land uses and other interests. In response to these successes, the Commission has identified a few changes that could make the DMAP even more successful in the future.

2. Purpose and Authority

When the Commission first approved DMAP regulations, they included language limiting DMAP applications to public land and private land enrolled in one of the Commission's public access programs for the 2003-2004 license year only. This language will no longer be in effect for the 2004-2005 license year; therefore, the Commission is proposing to amend § 147.673 by removing this language. In addition, the Commission is proposing to amend § 147.673 to expand eligibility for the DMAP by allowing more private land, such as eligible hunting clubs, to be enrolled in the DMAP.

The Commission is proposing to amend § 147.672 to expand the list of definitions to include "hunting club" and "private land." Adding the definition of "hunting club" will permit the Commission to effectively limit the types and size of clubs eligible for the DMAP. Defining "private land" will permit the Commission to deny eligibility to private landowner applicants where hunting rights on that land are leased or where there is a fee charged for hunting.

Current regulations do not establish separate fees for residents and nonresident hunters who submit the DMAP coupons for the DMAP harvest permits. To stay consistent with related fee scales for antlerless deer licenses, the Commission is proposing to amend § 147.674 to establish separate fees for residents and nonresident hunters who submit a DMAP coupon for a DMAP harvest permit.

Currently, there is no distinction in the regulations between a resident and nonresident DMAP harvest permit. If the separate fee schedule for resident and nonresident hunters is finally adopted, the regulations would provide no limitations to prevent a nonresident hunter from applying for or possessing a resident DMAP harvest permit. Therefore, the Commission is proposing to amend § 147.676 to make it unlawful for a nonresident to apply for or possess a resident DMAP harvest permit.

Section 2901(b) of the code (relating to authority to issue permits) provides "the Commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 322(c)(4) of the code (relating to powers and duties of commission) specifically authorizes the Commission to "define geographic limitations or restrictions." Section 2102(a) of the code (relating to regulations) provides that "the Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to §§ 147.672, 147.673, 147.674 and 147.676 are proposed under this authority.

3. Regulatory Requirements

The proposed rulemaking will define and limit eligibility for the DMAP, establish separate fees related to submitting a DMAP coupon for a DMAP harvest permit for residents and nonresidents and make it unlawful for a nonresident to apply for or possess a resident DMAP harvest permit.

4. Persons Affected

Persons wishing to apply to have their land enrolled in DMAP or persons wishing to submit a DMAP coupon for a DMAP harvest permit will be affected by the proposed rulemaking.

5. Cost and Paperwork Requirements

The proposed rulemaking should not result in additional cost or paperwork.

6. Effective Date

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-182. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter R. DEER CONTROL

DEER MANAGEMENT ASSISTANCE PROGRAM PERMITS

§ 147.672. Definitions.

The following words and terms, when used in this section and §§ 147.671 and 147.673—147.676, have the following meanings unless the context clearly indicates otherwise:

* * * * *

Hunting club—A corporation or legal cooperative which owns 1,000 or more contiguous acres in fee title, was established prior to January 1, 2000, and has provided its club charter and list of current members to the Commission.

Private land—Land not defined as public land where the hunting rights are not leased or there is no fee charged for hunting.

* * * * *

§ 147.673. Eligibility and application for DMAP.

(a) [In the 2003-2004 license year, DMAP applications will only be accepted for public land, and private land enrolled in one of the Commission's public access programs (Farm Game, Forest Game or Safety Zone—P.1-2-3).] Owners or lessees of private land, hunting clubs or authorized officers or employees of political subdivisions or government agencies shall apply for the DMAP in a manner and on a form required by the Director. Separate applications for DMAP areas will not be accepted for areas that are within 1 air mile of another area that is owned, leased or controlled by the same person, political subdivision or government agency **without an approved management plan.**

* * * * *

§ 147.674. Issuance of DMAP harvest permits.

* * * * *

(c) Coupon holders shall mail the completed coupon to the Commission along with a [\$6] check or money order payable to the "Pennsylvania Game Commission." **The fee for the coupon is \$6 for residents and \$26 for nonresidents.**

* * * * *

§ 147.676. Unlawful acts.

It is unlawful to:

* * * * *

(8) [Fail to comply with any other provisions of §§ 147.672—147.675] **Apply for, receive or possess a resident DMAP permit if you are a nonresident.**

(9) **Fail to comply with any other provisions of §§ 147.672—147.675.**

[Pa.B. Doc. No. 04-605. Filed for public inspection April 9, 2004, 9:00 a.m.]

STATE ARCHITECTS LICENSURE BOARD

[49 PA. CODE CH. 9] Definitions and Fees

The State Architects Licensure Board (Board) proposes to amend §§ 9.2 and 9.3 (relating to definitions; and fees) by defining "sole proprietorship" and clarifying which firm practices are subject to the annual renewal fee to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The proposed rulemaking is authorized under section 6(a) of the Architects Licensure Law (act) (63 P.S. § 34.6(a)).

C. Background and Purpose

On January 4, 2003, the Board implemented a regulation that assesses a \$50 annual renewal fee for registered architecture firms. All currently registered architecture firms received notice of this new regulation and an assessment of \$100 (the fee is collected biennially). Under section 13(j) of the act (63 P.S. § 34.13(j)), this fee must be paid by partnerships, professional associations, professional corporations, business corporations, limited liability companies and limited liability partnerships. Although sole proprietorship is listed under section 13 of the act as an acceptable type of firm practice, it is excluded from the list of firm practices in section 13(j) of the act that are required to pay the annual renewal fee. However, sole proprietors received the annual renewal fee bill in error. Once the error was realized, a refund check was issued to those sole proprietors who paid the bill.

The proposed rulemaking, therefore, defines "sole proprietorship" and clarifies which firm practices are subject to the annual renewal fee.

D. Description of the Proposed Rulemaking

The Board proposes to amend § 9.2 to define sole proprietorship as "a business in which an architect

licensed in the Commonwealth owns all the assets and operates in his personal capacity."

The Board further proposes amending § 9.3 to clarify that only partnerships, professional associations, professional corporations, limited liability companies and limited liability partnerships are subject to the annual renewal fee for registered architecture firms.

E. Fiscal Impact and Paperwork Requirements

The proposed rulemaking should have no fiscal impact on the Commonwealth or its political subdivisions. Likewise, the proposed rulemaking should not necessitate any legal, accounting, reporting or other paperwork requirements.

F. Sunset Date

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

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 30, 2004, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

H. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Dorna Thorpe, State Architects Licensure Board, 2601 North Third Street, P.O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

ANN SHEPARD HOUSTON,
President

Fiscal Note: 16A-418. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 9. STATE ARCHITECTS LICENSURE BOARD

GENERAL PROVISIONS

§ 9.2. Definitions.

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

* * * * *

***Sole proprietorship*—A business in which an architect licensed in this Commonwealth owns all the assets and operates in his personal capacity.**

* * * * *

§ 9.3. Fees.

* * * * *

Annual renewal fee for registered [architecture firms] partnerships, professional associations, professional corporations, business corporations, limited liability companies and limited liability partnerships (\$100 fee shall be assessed biennially) \$ 50

[Pa.B. Doc. No. 04-606. Filed for public inspection April 9, 2004, 9:00 a.m.]

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Administration of General Anesthesia, Deep Sedation, Conscious Sedation and Nitrous Oxide/Oxygen Analgesia

The State Board of Dentistry (Board) proposes to amend Subchapter E (relating to administration of general anesthesia, conscious sedation and nitrous oxide/oxygen analgesia) to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The Board is authorized to adopt regulations concerning anesthesia under sections 3(o) and 11.2(a) of the Dental Law (act) (63 P. S. §§ 122(o) and 130c(a)).

C. Background and Purpose

In 1986, the act was amended to establish standards for the administration of general anesthesia and conscious sedation in a dental office. Subchapter E was adopted to implement the amendments to the act at 18 Pa.B. 3045 (July 9, 1988). In 1999, the Commonwealth Court in *Watkins v. State Board of Dentistry*, 740 A.2d 760 (Pa. Cmwlth. 1999) invalidated a provision of § 33.340 (relating to duties of dentists who are permit holders) concerning "appropriate monitoring equipment" required for the administration of general anesthesia as unconstitutionally vague.

In response to the *Watkins* decision, the Board undertook a comprehensive review of all regulations dealing with the administration of general anesthesia, conscious sedation and nitrous oxide adopted under the 1985 amendments to the act. While the Board focused its attention primarily upon clarifying necessary monitoring equipment, it considered the need to update and improve other requirements of the regulations to conform to current standards of safe dental practice.

The Board empanelled an Anesthesia Committee (Committee) which was tasked with reviewing state-of-the-art equipment, procedures and protocols for safe and effective

delivery of anesthesia and analgesia in dental offices. The Committee sought input from 138 dental associations, schools and interested licensees. From the discussions, the Board published a proposed rulemaking at 31 Pa.B. 6691 (December 8, 2001). The Board entertained public comment on the proposal and considered comments and suggestions on regulatory review throughout the following year. On November 25, 2002, the act of November 25, 2002 (P. L. 1109, No. 135) (Act 135) was enacted which amended section 11.2 of the act, further regulating the administration of anesthesia and sedation in dental offices. Section 2 of Act 135 required the Board to promulgate regulations necessary to implement the amendments within 1 year of the effective date, December 26, 2002.

Act 135 amended section 11.2 of the act as follows:

1. Section 11.2(a)(1) of the act requires the Board to establish minimal training and education or certification to issue permits to dentists to administer general anesthesia on an outpatient basis and requires a minimum of 1 year of advanced training in anesthesiology beyond graduation from dental school.

2. Section 11.2(a)(2) of the act requires the Board to establish further requirements for use of general anesthesia including equipment standards and conducting workplace inspections, permit fees, temporary permit fees, biennial renewal fees, office inspection fees and clinical evaluation fees.

3. Section 11.2(a)(3) of the act requires the Board to establish minimal training and education for conscious sedation permits and directs the Board to require a minimum period of didactic instruction/clinical experience in accredited program.

4. Section 11.2(a)(4) of the act requires the Board to establish further requirements for use of conscious sedation including equipment standards, conducting workplace inspections and collection of permit fees, temporary permit fees, biennial renewal fees, office inspection fees and clinical evaluation fees.

5. Section 11.2(a)(5) of the act requires the Board to establish minimal training and education for nitrous permits and directs the Board to require a minimum period of didactic instruction/clinical experience in an accredited program.

6. Section 11.2(a)(6) of the act requires the Board to establish further requirements for use of nitrous oxide/oxygen analgesia including equipment standards, conducting workplace inspections and collection of permit fees.

7. Under section 11.2(b)(1) of the act, beginning April 1, 2004, prior to issuing initial permits to administer general anesthesia, deep sedation or conscious sedation, the Board is to require applicants to satisfactorily undergo clinical evaluations and office inspections. The Board may contract with dental schools, organizations or individuals with expertise in dental outpatient anesthesia to perform office inspections and clinical evaluations and requires written reports of all inspections and evaluations to be provided to the Board. If the results of an evaluation or inspection are deemed unsatisfactory, subsequent evaluations or inspections may be conducted upon written request of the applicant, and no permit may be issued until the applicant satisfactorily completes a clinical evaluation and office inspection.

8. Under section 11.2(b) of the act, beginning April 1, 2004, prior to issuing initial nitrous permits, the Board must require applicants to provide the make, model and

serial number of all nitrous equipment and certify that the equipment is in proper working order. Thereafter, permit holders must provide evidence that equipment is properly calibrated, at least once every 6 years.

9. Under section 11.2(b)(3) of the act, the Board must establish standards and procedures necessary to perform clinical evaluations and office inspections to include the requirement that equipment be maintained in good working order and in accordance with manufacturer's specifications. Equipment standards must be updated periodically and all staff assisting in the administration of anesthesia must maintain, at a minimum, current CPR certification.

10. Under section 11.2(b)(4) of the act, itinerate permit holders must ensure that the office location they are working in has the required equipment and staff properly trained to handle anesthesia-related emergencies.

11. Under section 11.2(b)(5) of the act, nonpermit holders who allow itinerate permit holders to administer anesthesia in their offices must meet the same requirements pertaining to equipment and staffing.

12. Under section 11.2(b)(6) of the act, beginning April 1, 2005, as a condition for permit renewal, the Board must require unrestricted and restricted permit I holders to have satisfactorily passed a clinical evaluation and office inspection. This requirement may be waived if the permit holder can satisfactorily demonstrate a successful clinical evaluation administered by an organization acceptable to the Board, within 6 years preceding the effective date of section 11.2(b)(6) of the act. Thereafter, clinical evaluations and office inspections must be done at least once every 6 years.

13. Under section 11.2(c) of the act, beginning April 1, 2004, the Board may issue temporary permits, valid for 1 year which are not renewable.

14. Beginning April 1, 2005, as a condition of permit renewal, unrestricted permit holders must have completed 15 hours of Board-approved courses related to general anesthesia and deep sedation and restricted I permit holders must have completed 15 hours of Board-approved courses related to conscious sedation. Nonpermit holder dentists who maintain offices where general anesthesia, deep sedation or conscious sedation is administered must have completed 5 hours of Board-approved courses related to anesthesia. Continuing anesthesia education will be credited toward the licensee's continuing education requirement.

15. Permit holders are required under section 11.2(e) of the act to conduct a physical evaluation and take a medical history prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous, and maintain records.

16. Written informed consent is required under section 11.2(f) of the act prior to administration of general anesthesia, deep sedation, conscious sedation or nitrous to include the description of the procedure, risks and alternatives.

The Committee and the Department of State (Department) discussed problems with implementing the provisions of Act 135 within the time parameters specified in the act. The most difficult area has been implementing provisions that require clinical evaluations and office inspections as a condition of the issuance or renewal of a permit. Although current § 33.342 (relating to inspection of dental offices) authorizes the Board to make office inspections, none have been conducted due to difficulties

encountered in obtaining qualified inspectors. The proposed rulemaking is designed to address these issues.

On September 5, 2003, the Board approved a new proposed rulemaking in response to the mandate of Act 135. In its proposal, the Board incorporates many proposed amendments from the proposed rulemaking published at 31 Pa.B. 6691.

D. Description of Proposed rulemaking

The proposed rulemaking to Subchapter E makes substantive and editorial changes to §§ 33.331—33.342.

§ 33.331 (relating to definitions)

The Board proposes to add a definition for "deep sedation" derived from the American Academy of Pediatric Dentistry's (AAPD) *Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Dental Patients* (Guidelines). In so doing, the proposed rulemaking recognizes that even though sedation is on a continuum, deep sedation is a defined stage between general anesthesia and conscious sedation. The AAPD, the American Association of Oral and Maxillofacial Surgeons (AAOMS) and the American Dental Association (ADA) all recognize distinctions between general anesthesia and deep sedation.

Deep sedation is a state of depressed consciousness accompanied by a partial loss of protective reflexes, including the ability to continually maintain an airway independently. General anesthesia is a state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the ability to continually maintain an airway independently. (See the ADA *Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists* (Guidelines).) Because of the partial loss of protective reflexes with deep sedation and the necessity to have similar monitoring and resuscitation equipment as with general anesthesia, deep sedation was grouped with general anesthesia under the unrestricted permit. Consequently, only a licensee holding an unrestricted permit may administer general anesthesia or deep sedation.

The Board also proposes to add definitions for "AAOMS," "AAOMS Guidelines," "AAOMS Manual," "AAPD," "AAPD Guidelines," "ADA" and "ADA Guidelines."

The following acronyms and terms have also been defined in this proposed rulemaking: "ACLS," "adult patient," "BLS," "CRNA," "clinical evaluation," "communications equipment," "general dentist," "PALS," "patient physical evaluation," "pediatric patient," "peer evaluation organization," "peer evaluator," "physician," "OMS" and "office inspection."

§ 33.332 (relating to requirement of permit to administer general anesthesia, conscious sedation or nitrous oxide/oxygen analgesia)

The proposed rulemaking clarifies that a permit is required to administer deep sedation in a dental office.

§ 33.333 (relating to types of permits)

The proposed rulemaking clarifies that an unrestricted permit is required to administer deep sedation and creates a new type of permit, a temporary permit, which is limited to 1 year, as required by Act 135.

§ 33.334 (relating to application for permit)

This section makes permit application requirements applicable to permission to administer deep sedation and to the temporary permit.

§ 33.335 (relating to requirements for unrestricted permit)

The proposed rulemaking removes one of the three possible requirements that must be met for securing an unrestricted permit, specifically that of having administered general anesthesia on a regular basis in the course of dental practice for 5 years prior to January 1, 1986. The 1985 "grandparenting" clause of section 11.2(b) of the act, tracked in the regulation, is no longer necessary.

The proposed rulemaking increases the time required in a postgraduate program for advanced training in anesthesiology from 1 year to 2 years to conform to the ADA's Guidelines.

§ 33.336 (relating to requirements for restricted permit I)

The proposed rulemaking removes one of the two possible requirements for securing a restricted permit I, specifically that of having administered conscious sedation on a regular basis in the course of dental practice for 5 years prior to January 1, 1986. As described previously, that requirement is no longer necessary.

The proposed rulemaking reduces the number of hours of undergraduate or postgraduate didactic instruction and clinical experience in a program conforming to Part I or III of the ADA Guidelines.

§ 33.336a (relating to requirements for unrestricted permit and restricted permit I)

Subsection (a) requires all initial unrestricted and restricted I permit applicants to have satisfactorily completed an office inspection and clinical evaluation conducted by an approved peer evaluation organization, beginning April 1, 2004. After April 1, 2005, all renewal applicants must complete an office inspection and clinical evaluation for permit renewal. If an applicant can demonstrate satisfactory completion of an office inspection and clinical evaluation within the 6 years preceding April 1, 2005, the office inspection and clinical evaluation may be waived.

This subsection also requires all renewal applicants to satisfactorily complete an office inspection and clinical evaluation every 6 years. Applications for initial or renewal permits must contain an original letter from the peer review organization that conducted the office inspection/clinical evaluation evidencing the applicant's satisfactory completion of the office inspection/clinical evaluation.

Subsection (b) requires an oral and maxillofacial surgeon (OMS) applicant to attest that the administration of anesthesia to adult and pediatric patients will be conducted in conformance with standards outlined in the *AAOMS Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Dental Patients* (Guidelines) and the *AAOMS Office Anesthesia Manual* (Manual). It would require a general dentist applicant to attest that the administration of anesthesia to adult patients would be conducted in accordance with the ADA Guidelines and that the administration of anesthesia to pediatric patients would be conducted in conformance with the AAPD Guidelines.

Under subsection (c), applicants are required to have successfully completed and maintained current certification in advanced cardiac life support (ACLS) prior to the administration of anesthesia to an adult patient, and certification in pediatric advanced life support (PALS) prior to the administration of anesthesia to a pediatric patient.

Subsection (d) provides that as of April 1, 2005, applicants for unrestricted permits are required to complete 15

hours of Board-approved courses related to general anesthesia and deep sedation, and restricted permit I applicants have to complete 15 hours of Board-approved courses related to conscious sedation. These continuing anesthesia education hours would be credited toward the permit holder's regular continuing education requirement.

§ 33.336b (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections)

This section specifies peer evaluation organizations approved by the Board for conducting clinical evaluations and office inspections. The Board proposes to initially approve the AAOMS and the Pennsylvania Society of Oral and Maxillofacial Surgeons. Other organizations may apply to the Board for approval to serve as an organization that conducts clinical evaluations and office inspections. Subsection (b) outlines factors the Board will consider in approving an organization.

§ 33.336c (relating to standards for office inspections and clinical evaluations)

This section proposes to conduct office inspections and clinical evaluations in accordance with the AAOMS Manual and the AAOMS Guidelines. This continues the current policy in § 33.342(e) of utilizing the AAOMS materials as they represent the most current and comprehensive standards, and should apply to any permit holder. In addition, the AAOMS Manual is the only office inspection manual of this caliber.

§ 33.336d (relating to qualifications of peer evaluators conducting office inspections and clinical evaluations)

This section proposes that peer evaluators must be licensed dentists holding a current unrestricted permit and be independent from, and have no conflict of interest with, the dentist or dental practice being reviewed.

§ 33.336e (relating to confidentiality of peer review evaluation reports)

Office inspection and clinical evaluation reports and related information would remain confidential except when included in the permit application to the Board and upon Board inquiry of the peer evaluation organization as to whether an applicant's office inspection or clinical evaluation reports have been accepted by the peer evaluation organization.

§ 33.337 (relating to requirements for restricted permit II)

This section removes one of the two possible requirements that must be met for securing a restricted permit II, specifically that of having administered nitrous oxide/oxygen analgesia on a regular basis in the course of dental practice for 5 or more years prior to January 1, 1986, for the previous reasons. Also, the Board proposes to reduce the number of required hours of undergraduate or postgraduate didactic instruction and clinical experience in a conforming program from 40 to 14.

As of April 1, 2004, all initial restricted II applicants must provide to the Board the make, model and serial number of any nitrous equipment utilized; certify that the equipment is properly calibrated, contains a fail-safe system and is in working order; and attest that the applicant has written office procedures for administering nitrous oxide/oxygen analgesia and handling emergencies related to the administration of nitrous oxide/oxygen analgesia.

After the initial permit renewal, applicants would provide an attestation to the Board every 6 years that the nitrous equipment that the applicant uses is properly calibrated.

§ 33.337a (relating to requirements for temporary permit)

This section requires an applicant for a temporary permit of any type to include with the application proof that the applicant possesses the qualifications for the permit requested. Temporary permits expire in 1 year and are not renewable.

§ 33.338 (relating to expiration and renewal of permits)

Under the proposed rulemaking, renewal requirements have been amended to include proof of current certification in ACLS or PALS, or both, for unrestricted and restricted I permits; an attestation that nitrous oxide/oxygen analgesia equipment has been installed and calibrated according to the equipment manufacturer's guidelines and contains a failsafe system; and proof of compliance with anesthesia continuing education requirements and proof of compliance with office inspection and clinical evaluation requirements.

§ 33.339 (relating to fees for issuance of permits)

Permit fees are proposed to be amended as follows: initial unrestricted permits and restricted permit I fees would be \$100 and the initial restricted permit II fee would remain \$15. The renewal unrestricted permit and restricted permit I fee would be \$200 and the renewal restricted permit II fee would remain \$15.

As a general rule, the establishment of a fee authorized by a licensing board in the Department is determined after an analysis by the Department's Budget Office of staff requirements to prepare forms and process applications. In the case of office inspections and clinical evaluations, however, the fees will be determined by dental professionals of the peer evaluation organizations approved by the Board to administer office inspections and clinical evaluations. The permit applicant will then select an approved peer evaluation organization to conduct his office inspection and clinical evaluation. The permit applicant will pay the fee charged by the approved peer evaluation organization to have the office inspection and clinical evaluation conducted. This is similar to what already occurs with the continuing education requirement (that is, an applicant selects an approved continuing education provider and pays the required course fee directly to the provider).

The Board proposes to lower the renewal permit fees for unrestricted permits and restricted permit based upon the Board's understanding that the clinical evaluation/office inspection fee would be in the range of \$400 to \$600, and the Board's understanding of the work performed by these dentist evaluators and the necessary and reasonable costs performed by dentists in the private sector.

The Board proposes to increase the one-time initial permit fee for those permit holders from \$15 to \$100 to cover additional administrative costs entailed in verifying compliance with new requirements. The Board had initially intended to promulgate regulations containing substantive anesthesia requirements, and to promulgate fee regulations at a later date when data became available upon which to base the new fees. However, Act 135 mandates promulgation of fee regulations by December 26, 2003, thus necessitating this approach.

§ 33.340

The proposed amendments to this section require that a patient medical history be taken prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

The equipment list for unrestricted permit holders would be amended to require suction equipment commensurate with the patient's age, size and condition; monitoring equipment, procedures and documentation conforming to the AAOMS Manual/AAPD Guidelines; a capnograph for intubated patients and a pulse oximeter; an ECG; a blood pressure monitoring device; a defibrillator; a stethoscope; and results of patient medical history and physical evaluation, anesthesia procedures to be utilized and signed written patient consent.

The proposed amendments to this section also require that auxiliary personnel assisting unrestricted permit holders in the administration of general anesthesia, deep sedation or conscious sedation (deletes reference to nitrous oxide/oxygen analgesia) be currently certified in basic life support. Certified registered nurse practitioners would be required to be certified in ACLS. Permit holders would be required to hold current certification in ACLS for adult patients and PALS for pediatric patients.

The Board proposes to require that general anesthesia or deep sedation administered to pediatric patients by or under the delegation of a general dentist must be administered by a person dedicated solely to the administration and monitoring of anesthesia, while the dental procedures are performed by a dental licensee not involved in the administration of the general anesthesia or deep sedation.

All monitoring equipment and equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia would have to be installed and calibrated according to equipment manufacturer guidelines, be in proper working condition prior to administration and monitoring equipment must be used during the administration of general anesthesia.

The nonpermit holder dentist's office and equipment transported to his office by an itinerant permit holder must satisfactorily complete an office inspection conducted by an approved peer evaluation organization in accordance with the requirements of the AAOMS Manual and the AAOMS Guidelines for OMSs and in accordance with the ADA Guidelines and the AAPD Guidelines for general dentists.

OMS permit holders would be required to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia in accordance with the AAOMS Guidelines and the AAOMS Manual. General dentists would be required to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen to adult patients in accordance with the ADA Guidelines and to pediatric patients in accordance with the AAPD Guidelines.

The patient medical history and patient evaluation would be conducted by the permit holder, physician or certified registered nurse anesthetist.

§ 33.340a (relating to duties of dentists who are restricted permit I holders)

The proposed rulemaking amends this section in substantially the same manner as § 33.340 with the exceptions that a capnograph for intubated patients is not required and a separate person dedicated to the administration of anesthesia to a pediatric patient is not required.

§ 33.340b (relating to duties of dentists who are restricted permit II holders)

This section is added to require that patients be given a physical evaluation and a medical history be taken prior to the administration of nitrous oxide/oxygen analgesia.

Equipment and operating room requirements are similar to those of restrictive permit I holders, with the exception that restricted permit II holders are not required to have a recovery area, patient transport equipment, an oximeter, an ECG, a blood pressure monitoring device and a defibrillator, as specifically enumerated items. However, the permit holder's monitoring equipment, procedures and documentation must conform to the AAOMS Manual and the AAOMS Guidelines for adult and pediatric patients (if the permit holder is an OMS) or the ADA Guidelines for adult patients and the AAPD Guidelines for pediatric patients (if the permit holder is a general dentist).

Requirements for restricted permit II holders would be added to require that monitoring equipment and equipment used to administer nitrous oxide/oxygen analgesia be installed and calibrated according to the equipment manufacturers' guidelines, contain a fail-safe system and be in proper working condition.

§ 33.341 (relating to duties of dentists who are not permit holders)

This section would require that a permit may not be issued unless the dental office has been inspected and meets the appropriate equipment and facility requirements.

Anyone administering general anesthesia, deep sedation or conscious sedation must possess current certification in ACLS.

A nonpermit holding dentist would be required to verify with the permit holder that all monitoring equipment is present in the nonpermit holder's office, is properly calibrated and in proper working condition and is being used during the administration of general anesthesia.

The nonpermit holder's office and equipment transported to the nonpermit holder dentist's office would have to satisfactorily complete an office inspection conducted by a Board approved peer evaluation organization. As of April 1, 2005, nonpermit holders who maintain offices in which general anesthesia, deep sedation and conscious sedation is administered, would be required to complete 5 hours of Board-approved courses related to anesthesia.

§ 33.342

Under the proposed rulemaking, the classifications of inspections, routine and special, are deleted. This section now allows inspections of dental offices by Board authorized agents. It also allows for a reinspection to take place within 30 days of an inspection finding deficiencies.

E. Fiscal Impact and Paperwork Requirements

Some of the provisions of this proposed rulemaking will have a fiscal impact upon permit holders. Fees for an office inspection and clinical evaluation will be set by the approved peer evaluation organizations. Although the fee amounts are not known at this time, the Board believes they will be in the \$400 to \$600 range for an office inspection and clinical evaluation. In view of this, the Board proposes to lower the permit renewal fees for both unrestricted and restricted permit I holders from \$300 to \$200. The one-time initial permit fee for these permit holders would be increased from \$15 to \$100. Permit fees for restricted permit II holders would remain the same (\$15). In addition, requirements for current certification in ACLS and some additional required monitoring equipment may entail increased costs to permit holders. At this stage, it is not possible to estimate the fiscal impact with precision; however, cost data will be available at a later date. See the explanation for § 33.339.

F. Sunset Date

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

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 30, 2004, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

H. Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Deborah B. Eskin, Counsel, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication in the *Pennsylvania Bulletin*. Reference No. 16A-4614 (Administration of General Anesthesia, Deep Sedation, Conscious Sedation and Nitrous Oxide/Oxygen Analgesia) when submitting comments.

VEASEY B. CULLEN, Jr., D.M.D.,
Chairperson

Fiscal Note: 16A-4614. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 33. STATE BOARD OF DENTISTRY

Subchapter E. ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, CONSCIOUS SEDATION AND NITROUS OXIDE/OXYGEN ANALGESIA

§ 33.331. Definitions.

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

AAOMS—American Association of Oral and Maxillofacial Surgeons, with principal offices at 9700 W. Bryn Mawr Avenue, Rosemont, Illinois 60018.

AAOMS Guidelines—AAOMS Parameters and Pathways 2000 Clinical Practice Guidelines for Oral and Maxillofacial Surgery, Anesthesia in Outpatient Facilities (AAOMS Par Path 2000), 4/15/99.

AAOMS Manual—AAOMS Office Anesthesia Manual, 6th Edition, 2000.

AAPD—American Academy of Pediatric Dentistry, with principal offices at 211 East Chicago Avenue, Suite 700, Chicago, Illinois 60611-2663.

AAPD Guidelines—*AAPD Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Dental Patients* (May, 1998).

ACLS—Advanced Cardiac Life Support.

ADA—American Dental Association.

ADA Guidelines—*ADA Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists* (October, 2000).

Adult patient—A patient 18 years of age or older.

BLS—Basic Life Support.

CRNA—A registered nurse certified as a Registered Nurse Anesthetist by the Council on Certification or Recertification of Nurse Anesthetists of the American Association of Nurse Anesthetists authorized to administer anesthesia under § 21.17 (relating to the administration of anesthesia by a registered nurse).

Clinical evaluation—A determination of the dentist's current technical competency to safely administer general anesthesia, deep sedation or conscious sedation and to effectively respond to anesthesia related emergencies, in accordance with the AAOMS Manual for OMSs or the ADA Guidelines for general dentists.

Communications equipment—Equipment capable of eliciting a response in an emergency.

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Deep sedation—A controlled, pharmacologically induced state of depressed consciousness from which the patient is not easily aroused and which may be accompanied by a partial loss of protective reflexes, including the ability to maintain a patent airway independently or respond purposefully to physical stimulation or verbal command, or both.

General anesthesia—A controlled state of unconsciousness[, including deep sedation,] that is produced by a pharmacologic method, a nonpharmacologic method, or a combination of both, and that is accompanied by a complete or partial loss of protective reflexes that include the patient's inability to maintain an airway independently and to respond purposefully to physical stimulation or verbal command.

General dentist—A dentist who is not an oral and maxillofacial surgeon.

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OMS—An Oral and Maxillofacial Surgeon who is a current member of the PSOMS or AAOMS.

Office inspection—A determination as to whether the offices where the dentist administers anesthesia is properly equipped as prescribed in § 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2) (relating to duties of dentists who are unrestricted permit holders; duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders), as appropriate to the type of permit, and in accordance with the AAOMS Manual for OMSs, or the ADA Guidelines for general dentists.

PALS—Pediatric Advanced Life Support.

PSOMS—Pennsylvania Society of Oral and Maxillofacial Surgeons, with principal offices at 2700 North Broad Street, Suite 106, Lansdale, Pennsylvania 19644.

Patient physical evaluation—An assessment of the patient's physical and mental condition relevant to the surgery to be performed and anesthesia or anesthetic to be utilized.

Pediatric patient—A patient under 18 years of age.

Peer evaluation organization—An entity approved by the Board for administering a program whereby licensed dentists with unrestricted permits conduct office inspections and clinical evaluations for dentists seeking initial or renewal unrestricted or restricted I permits.

Peer evaluator—A licensed dentist with a current unrestricted permit who conducts an office inspection or clinical evaluation under the auspices of a peer evaluation organization.

Physician—A Pennsylvania licensed medical or osteopathic physician who is currently credentialed to administer anesthesia in a hospital licensed by the Department of Health.

§ 33.332. Requirement of permit to administer general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia.

(a) *Permit required for administration of anesthetic modality in dental office.* [**Effective January 9, 1990, a**] A dentist shall possess a current permit issued by the Board under this subchapter before administering, or supervising the administration of, general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia in a dental office.

(b) *Permit not required for administration of anesthetic modality in other facilities.* A dentist is not required to possess a permit under this subchapter before administering, or supervising the administration of, general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia in a State- or Federally-regulated facility other than a dental office.

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§ 33.333. Types of permits.

The Board will issue the following permits to licensees qualified under this subchapter:

(1) *Unrestricted permit.* A permit which authorizes the holder to administer general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia.

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(4) *Temporary permit.* A permit limited to 1 year which authorizes the applicant for an unrestricted, restricted I or restricted II permit to administer the appropriate type of anesthesia relevant to the applicant's qualifications.

§ 33.334. Application for permit.

(a) A dentist who desires to obtain a permit to administer general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia, or a **temporary permit**, shall submit an application on a form provided by the Board, pay the permit fee prescribed in § 33.339 (relating to fees for issuance of permits) and meet the requirements for the permit applied for as prescribed in this subchapter.

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§ 33.335. Requirements for unrestricted permit.

(a) To secure an unrestricted permit, a dentist shall have done one of the following:

(1) Successfully completed at least **[1 year] 2 years** in a postgraduate program for advanced training in anesthesiology and related academic subjects that conforms to Part II of the American Dental Association's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry*.

(2) **[Be certified] Possess current certification** as a Diplomate of the American Board of Oral and Maxillofacial Surgeons, a Fellow of the American Association of Oral and Maxillofacial **[Surgeons] Surgery** or a Fellow of the American Dental Society of **[Dental] Anesthesiology**, or be eligible for examination by the American Board of Oral and Maxillofacial **[Surgeons] Surgery**.

[(3) Administered general anesthesia on a regular basis in the course of his dental practice for at least 5 years prior to January 1, 1986, if the applicant:

(i) **Is competent to administer general anesthesia.**

(ii) **Administers general anesthesia in a properly equipped dental office as prescribed in § 33.340 (a)(2) (relating to duties of dentists who are permit holders).**

(b) **To determine whether the requirements of subsection (a)(3) are satisfied, the Board will require the applicant to undergo a clinical evaluation and office inspection conducted by the Board through its authorized agents. The clinical evaluation and office inspection will be conducted in accordance with the American Association of Oral and Maxillofacial Surgeons' *Office Anesthesia Evaluation Manual*.**

(c) A dentist who applies for a permit under subsection (a)(3) shall do so by January 9, 1990.]

§ 33.336. Requirements for restricted permit I.

[(a)] To secure a restricted permit I, a dentist shall have **[done one of the following:**

(1) **Successfully] successfully** completed a course on conscious sedation comprising at least **[80] 60** hours of undergraduate or postgraduate didactic instruction and clinical experience in a program that conforms to Part I (for an undergraduate program) or Part III (for a postgraduate program) of the **[American Dental Association's] ADA's** *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry*.

[(2) Administered conscious sedation on a regular basis in the course of his dental practice for 5 or more years prior to January 1, 1986, if the applicant:

(i) **Is competent to administer conscious sedation.**

(ii) **Administers conscious sedation in a properly equipped dental office as prescribed in § 33.340 (a)(2) (relating to duties of dentists who are permit holders).**

(b) **To determine whether the requirements of subsection (a)(2) are satisfied, the Board will require the applicant to undergo a clinical evaluation**

and office inspection conducted by the Board through its authorized agents. The clinical evaluation and office inspection will be conducted in accordance with the American Association of Oral and Maxillofacial Surgeons' *Office Anesthesia Evaluation Manual*.

(c) A dentist who applies for a permit under subsection (a)(2) shall do so by January 9, 1990.]

§ 33.336a. Requirements for unrestricted permit and restricted permit I.

(a) *Office inspections and clinical evaluations.*

(1) *Initial permits.* Beginning April 1, 2004, all initial unrestricted and restricted I permit applicants shall satisfactorily complete an office inspection and clinical evaluation conducted by an approved peer evaluation organization under § 33.336b (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections).

(2) *First renewal permit after April 1, 2005.* Beginning April 1, 2005, all renewal unrestricted and restricted I permit applicants shall satisfactorily complete an office inspection and clinical evaluation as a condition for permit renewal. Completion of an office inspection and clinical evaluation may be waived if the applicant can demonstrate satisfactory completion of an office inspection and clinical evaluation, administered by an organization approved by the Board, within 6 years preceding April 1, 2005.

(3) *Subsequent renewal permit.* Following the applicant's initial permit renewal after April 1, 2005, all unrestricted and restricted permit I renewal applicants shall satisfactorily complete an office inspection and clinical evaluation once every 6 years.

(4) *Report of office inspection and clinical evaluation.* An application for an initial or renewal permit shall contain an original letter from the peer review organization that conducted the office inspection and clinical evaluation that evidences the applicant's satisfactory completion of an office inspection and clinical evaluation and a written report of the results of the office inspection and clinical evaluation.

(b) *Standards for anesthesia administration.*

(1) An OMS applicant for an unrestricted or restricted I permit shall attest that the administration of anesthesia to adult and pediatric patients will be conducted in conformance with the standards outlined in the AAOMS Guidelines and the AAOMS Manual.

(2) A general dentist applicant for an unrestricted or restricted I permit shall attest that the administration of anesthesia to adult patients will be conducted in conformance with the standards outlined in the ADA Guidelines and that the administration of anesthesia to pediatric patients will be conducted in conformance with the standards outlined in the AAPD Guidelines.

(c) *ACLS/PALS certification.*

(1) *Adult patients.* An applicant for an unrestricted or restricted I permit shall have successfully completed and maintained current certification in ACLS prior to the administration of anesthesia to an adult patient.

(2) *Pediatric patients.* An applicant for an unrestricted or restricted I permit shall have successfully completed and maintained current certification in PALS prior to the administration of anesthesia to a pediatric patient.

(d) *Continuing anesthesia education.*

(1) Beginning April 1, 2005, and for all subsequent renewal periods, the following hours of continuing education are required as a condition of permit renewal:

(i) *Unrestricted permit.* An applicant for an unrestricted permit shall have completed 15 hours of Board approved courses related to general anesthesia and deep sedation.

(ii) *Restricted permit I.* An applicant for a restricted permit I shall have completed 15 hours of Board approved courses related to conscious sedation.

(2) Continuing anesthesia education will be credited toward the permit holder's continuing education requirement under § 33.401(a)(1) (relating to credit-hour requirements).

§ 33.336b. Approved peer evaluation organizations for administering clinical evaluations and office inspections.

(a) The following organizations are deemed qualified to conduct clinical evaluations and office inspections and do not require prior approval from the Board:

(1) The American Association of Oral and Maxillofacial Surgeons (AAOMS)

(2) The Pennsylvania Society of Oral and Maxillofacial Surgeons (PSOMS)

(b) An organization of oral and maxillofacial surgeons or of unrestricted permit holders that does not qualify as an organization to conduct clinical evaluations and office inspections under subsection (a) may apply to the Board for approval to serve as an organization to conduct clinical evaluations and office inspections. In determining whether to grant approval, the Board will consider the following factors:

(1) Whether the organization agrees to utilize peer evaluators meeting the following criteria:

(i) A minimum 5 years experience administering general anesthesia and deep sedation within the last 7 years.

(ii) A current unrestricted permit.

(iii) Completion of a minimum 7-hour course in conducting office inspections and clinical evaluations.

(2) Whether the organization has sufficient peer evaluators that meet the criteria listed in § 33.336d (relating to qualifications of peer evaluators conducting office inspections and clinical evaluations) to conduct office inspections and clinical evaluations.

(3) Whether the organization has the technical competence to administer office inspections and clinical evaluations to applicants for initial and renewal permits.

(4) Whether the organization's fee for office inspections and clinical evaluations is based upon reasonable costs.

(5) Whether the organization has standards for satisfactory completion of an office inspection and clinical evaluation.

(6) Whether the organization has an internal appeal procedure to contest the office inspection or clinical evaluation.

(7) Whether the organization has a peer review oversight committee whose members meet the following criteria:

(i) A minimum 5 years experience administering general anesthesia and deep sedation.

(ii) A current unrestricted permit.

(8) Whether the organization has procedures to facilitate fair, unbiased and equitable office inspections and clinical evaluations.

(9) Whether the organization agrees to make records of all office inspections and clinical evaluations available to the State Board of Dentistry upon request.

(10) Whether the organization agrees to conduct a subsequent office inspection or clinical evaluation within a reasonable time if the results of the initial office inspection or clinical evaluation are unsatisfactory.

(11) Whether the organization agrees to conduct office inspections and clinical evaluations in conformance with the standards outlined in the AAOMS Manual and AAOMS Guidelines, and in accordance with §§ 33.340 and 33.340a (relating to duties of dentists who are unrestricted permit holders; and duties of dentists who are restricted permit I holders).

(c) An approved peer evaluation organization may not require a permit applicant to become a member of the organization as a precondition for the organization to conduct a clinical evaluation and office inspection for the applicant.

§ 33.336c. Standards for office inspections and clinical evaluations.

Office inspections and clinical evaluations shall be conducted in accordance with the AAOMS Manual and AAOMS Guidelines.

§ 33.336d. Qualifications of peer evaluators conducting office inspections and clinical evaluations.

(a) A peer evaluator shall be a licensed dentist holding a current unrestricted permit.

(b) A peer evaluator shall be independent from, and have no conflict of interest with, the dentist or dental practice being reviewed.

(c) The administering approved peer evaluation organization shall ensure that its peer evaluators are qualified under this section.

§ 33.336e. Confidentiality of peer evaluation reports.

(a) Office inspection and clinical evaluation reports and related information shall remain confidential except as provided in § 33.336a(a)(4) (relating to requirements for unrestricted permit and restricted permit I) and the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1—66.4), known as the Right-to-Know Law.

(b) An administering approved peer evaluation organization must notify the Board within 30 days from the date the office inspection and clinical evaluation was conducted as to whether office inspection and clinical evaluation report has been accepted or rejected by the peer evaluation organization.

§ 33.337. Requirements for restricted permit II.

(a) To secure a restricted permit II, a dentist shall have [done one of the following]:

(1) **Successfully] successfully** completed a course in nitrous oxide/oxygen analgesia comprising at least [40] 14 hours of undergraduate or postgraduate didactic instruction and clinical experience in a program that conforms to Part I (for an undergraduate program) or Part III (for a postgraduate program) of the [American

Dental Association's] ADA's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry*.

[(2) Administered nitrous oxide/oxygen analgesia on a regular basis in the course of his dental practice for 5 or more years prior to January 1, 1986, if the applicant:

(i) Is competent to administer nitrous oxide/oxygen analgesia. The Board will consider an applicant competent if there are no reported or discovered incidents of mortality or morbidity resulting from the applicant's administration of nitrous oxide/oxygen analgesia.

(ii) Administers nitrous oxide/oxygen analgesia in a properly equipped dental office as prescribed in § 33.340(a)(2) (relating to duties of dentists who are permit holders).]

(b) [A dentist who applies for a permit under subsection (a)(2) shall do so by January 9, 1990.]

Initial permits. Beginning April 1, 2004, all initial restricted II permit applicants shall provide the following:

(1) The make, model and serial number of any nitrous oxide/oxygen analgesia equipment utilized by the applicant.

(2) Certification that the equipment is properly calibrated, contains a fail-safe system and is in working order.

(3) An attestation that the applicant has written office procedures for administering nitrous oxide/oxygen analgesia and handling emergencies related to the administration of nitrous oxide/oxygen analgesia.

(c) **Subsequent renewal permits.** Following the applicant's initial permit renewal after April 1, 2004, for each subsequent renewal period, an applicant shall provide an attestation to the Board, in accordance with § 33.338(b)(4) (relating to expiration and renewal of permits), that the nitrous oxide/oxygen analgesia equipment that the applicant uses is properly calibrated and contains a fail-safe system.

§ 33.337a. Requirements for temporary permit.

(a) To secure a temporary unrestricted permit, restricted permit I or restricted permit II, an applicant shall include with the application proof that the applicant possesses the qualifications required for the type of permit requested.

(b) Temporary permits expire 1 year following the effective date and may not be renewed.

§ 33.338. Expiration and renewal of permits.

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(b) A dentist who desires to renew a permit shall submit [a] the following:

(1) A renewal application on a form provided by the Board [and pay the].

(2) The permit renewal fee prescribed in § 33.339 (relating to fees for issuance of permits).

(3) Proof of current certification in ACLS (adult patients) or PALS (pediatric patients), or both (for unrestricted permits and restricted I permits).

(4) An attestation, on the renewal application, that any nitrous oxide/oxygen analgesia equipment utilized has been installed, properly calibrated according to the equipment manufacturer's guidelines and contains a fail-safe system (for all permits).

(5) Proof of compliance with the continuing anesthesia education requirement under § 33.336a(d) (relating to requirements for unrestricted permit and restricted I permit).

(6) Proof of compliance with the office inspection and clinical evaluation requirements under § 33.336a(a).

§ 33.339. Fees for issuance of permits.

The following fees are charged for the issuance of permits under this subchapter:

(1) *Unrestricted permit.*

(i) [Issuance under § 33.335(a)(1) or
(2)] Initial \$[15] 100

(ii) [Issuance under § 33.335(a)(3)]
Renewal \$[300] 200

(iii) Temporary \$100

(2) *Restricted permit I.*

(i) [Issuance under § 33.336(a)(1)]
Initial \$[15] 100

(ii) [Issuance under § 33.336(a)(2)]
Renewal \$[300] 200

(iii) Temporary \$100

(3) *Restricted permit II.*

(i) [Issuance under § 33.337(a)(1)]
Initial \$15

(ii) [Issuance under § 33.337(a)(2)]
Renewal \$15

(iii) Temporary \$15

§ 33.340. Duties of dentists who are unrestricted permit holders.

(a) A dentist who possesses [a] an unrestricted permit issued under this subchapter shall ensure that:

(1) Prior to the administration of general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia **a patient medical history is taken or updated** and the patient is given a physical evaluation sufficient to determine the patient's suitability to receive general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office in which the permit holder administers general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

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(iv) Suction equipment **commensurate with the patient's age, size and condition.**

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(xii) [**Appropriate monitoring**] Monitoring equipment, procedures and documentation to conform to the age, size and condition of the patient and the AAOMS Manual and AAOMS Guidelines for adult and pediatric patients (OMS); the ADA Guidelines

for adult patients (general dentists); and the AAPD Guidelines for pediatric patients (general dentists).

(xiii) Capnograph for intubated patients and pulse oximeter.

(xiv) ECG.

(xv) Blood pressure monitoring device.

(xvi) Defibrillator.

(xvii) Results of patient medical history and patient physical evaluation, and identification of anesthesia procedures to be utilized, prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(xviii) Signed, written, informed patient consent, prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, which includes a description of the procedure, its risks and possible alternative treatments. Consent for a minor patient shall be obtained from the minor's parent or guardian.

(xiv) Stethoscope.

(3) Auxiliary personnel who assist the permit holder in the administration of general anesthesia, **deep sedation or conscious sedation [or nitrous oxide/oxygen analgesia]**:

(i) Are trained to perform the duties that the permit holder delegates to them, if the duties do not require the professional judgment and skill of the permit holder and do not involve the administration of general anesthesia, **deep sedation or conscious sedation [or nitrous oxide/oxygen analgesia]**.

* * * * *

(iv) Are currently certified in BLS.

(4) Certified registered nurse anesthetists who are delegated the duties of administering general anesthesia, **deep sedation or conscious sedation [or nitrous oxide/oxygen analgesia]**:

* * * * *

(iii) Are currently certified in ACLS.

(5) **[He] The dentist possesses a current certification [to administer cardiopulmonary resuscitation (CPR)] in ACLS for adult patients and PALS for pediatric patients.**

(6) The Board receives a complete report of a death or **[unusual]** incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of general anesthesia, **deep sedation, conscious sedation or nitrous oxide/oxygen analgesia** by the permit holder or by a certified registered nurse anesthetist working under the supervision of the permit holder. The permit holder shall submit the report within 30 days of the death or **[unusual]** incident.

(7) The Board receives prior notice of the first time that a dental office of the permit holder will be used for the administration of general anesthesia, **deep sedation, conscious sedation or nitrous oxide/oxygen analgesia**.

(8) General anesthesia or deep sedation administered to pediatric patients by or under the delegation of a general dentist is administered by a person dedicated solely to the administration and

monitoring of anesthesia, and the dental procedures are performed by a dental licensee who is not involved in the administration of the general anesthesia.

(9) Monitoring equipment and equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia is installed and calibrated according to the equipment manufacturer's guidelines; is in proper working condition prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia; and monitoring equipment is being used during the administration of general anesthesia.

(10) The nonpermit holder dentist's office and equipment transported to the nonpermit holder dentist's office for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia by a permit holder shall satisfactorily complete an office inspection conducted by an approved peer evaluation organization under § 33.336b(a) (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections) in accordance with the requirements of the AAOMS Manual and AAOMS Guidelines (OMS).

(11) General anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia is administered to adult and pediatric patients in accordance with the AAOMS Guidelines and AAOMS Manual (OMS) or to adult patients in accordance with the ADA Guidelines (general dentists) or to pediatric patients in accordance with the AAPD Guidelines (general dentists). Conflicts between the AAOMS Guidelines, the AAOMS Manual, the ADA Guidelines, or the AAPD Guidelines and this subchapter shall be resolved in favor of this subchapter.

(12) The patient medical history and patient physical evaluation are conducted by the permit holder, physician or CRNA.

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§ 33.340a. Duties of dentists who are restricted permit I holders.

(a) A dentist who possesses a restricted permit I issued under this subchapter shall ensure that:

(1) Prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia, a patient medical history is taken or updated and the patient is given a physical evaluation sufficient to determine the patient's suitability to receive conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office in which the permit holder administers conscious sedation or nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

(i) An operating room.

(ii) An operating table or chair.

(iii) A lighting system.

(iv) Suction equipment commensurate with the patient's age, size and condition.

(v) Oxygen and supplemental gas delivery systems, including primary and back-up sources and a fail-safe control mechanism.

(vi) A sterilization area.

- (vii) A recovery area.
 - (viii) A gas storage area and scavenger system.
 - (ix) Emergency airway equipment and medications, including intravenous emergency equipment.
 - (x) Communications equipment.
 - (xi) Patient transport equipment.
 - (xii) Monitoring equipment, procedures, and documentation to conform to the age, size and condition of the patient and the AAOMS Manual and AAOMS Guidelines for adult and pediatric patients (OMS); the ADA Guidelines for adult patients (general dentists); and the AAPD Guidelines for pediatric patients (general dentists.)
 - (xiii) Pulse oximeter.
 - (xiv) ECG.
 - (xv) Blood pressure monitoring device.
 - (xvi) Defibrillator.
 - (xvii) Results of patient medical history and patient physical evaluation, and identification of anesthesia procedures to be utilized, prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia.
 - (xviii) Signed, written, informed patient consent, prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia, which includes a description of the procedure, its risks and possible alternative treatments. Consent for a minor patient shall be obtained from the minor's parent or guardian.
 - (xiv) Stethoscope.
- (3) Auxiliary personnel who assist the permit holder in the administration of conscious sedation:
- (i) Are trained to perform the duties that the permit holder delegates to them, if the duties do not require the professional judgment and skill of the permit holder and do not involve the administration of conscious sedation.
 - (ii) Perform their duties under the direct on-premises supervision of the permit holder, who shall assume full responsibility for the performance of the duties.
 - (iii) Do not render assistance in areas that are beyond the scope of the permit holder's authority.
 - (iv) Are currently certified in BLS.
- (4) Certified registered nurse anesthetists who are delegated the duties of administering conscious sedation:
- (i) Perform their duties under the direct on-premises supervision of the permit holder, who shall assume full responsibility for the performance of the duties.
 - (ii) Do not perform duties that are beyond the scope of the permit holder's authority.
 - (iii) Are currently certified in ACLS.
- (5) He possesses a current certification in ACLS for adult patients and PALS for pediatric patients.
- (6) The Board receives a complete report of a death or incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of conscious sedation or nitrous oxide/oxygen analgesia by the permit holder or by a certified registered nurse anesthetist working under the supervision of the permit holder. The permit holder shall submit the report within 30 days of the death or incident.

(7) The Board receives prior notice of the first time that a dental office of the permit holder will be used for the administration of conscious sedation or nitrous oxide/oxygen analgesia.

(8) Monitoring equipment and equipment used to administer conscious sedation and nitrous oxide/oxygen analgesia is installed and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia.

(9) The nonpermit holder dentist's office and equipment transported to the nonpermit holder dentist's office for the administration of conscious sedation or nitrous oxide/oxygen analgesia by a permit holder must satisfactorily complete an office inspection conducted by an approved peer evaluation organization under § 33.336b(a) (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections) in accordance with the requirements of the AAOMS Manual and AAOMS Guidelines.

(10) Conscious sedation and nitrous oxide/oxygen analgesia is administered to adult and pediatric patients in accordance with the AAOMS Guidelines and AAOMS Manual (OMS) or to adult patients in accordance with the ADA Guidelines (general dentists) or to pediatric patients in accordance with the AAPD Guidelines (general dentists). Conflicts between the AAOMS Guidelines, the AAOMS Manual, the ADA Guidelines, or the AAPD Guidelines and this subchapter shall be resolved in favor of this subchapter.

(11) The patient medical history and patient physical evaluation are conducted by the permit holder, physician or CRNA.

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

§ 33.340b. Duties of dentists who are restricted permit II holders.

(a) A dentist who possesses a restricted permit II issued under this subchapter shall ensure that:

(1) Prior to the administration of nitrous oxide/oxygen analgesia, a patient medical history is taken or updated and the patient is given a physical evaluation sufficient to determine the patient's suitability to receive nitrous oxide/oxygen analgesia.

(2) The dental office in which the permit holder administers nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

- (i) An operating room.
- (ii) An operating table or chair.
- (iii) A lighting system.
- (iv) Dental office suction equipment.
- (v) Oxygen and supplemental gas delivery systems, including primary and back-up sources and a fail-safe control mechanism.
- (vi) A sterilization area.
- (vii) A gas storage area and scavenger system.
- (viii) Communications equipment.
- (ix) Monitoring equipment, procedures and documentation to conform to the age, size and condition of the

patient and the AAOMS Manual and AAOMS Guidelines for adult and pediatric patients (OMS), the ADA Guidelines for adult patients (general dentists) and the AAPD Guidelines for pediatric patients (general dentists).

(x) Results of patient medical history, patient physical evaluation and identification of the nitrous oxide/oxygen analgesia procedure to be utilized, prior to the administration of nitrous oxide/oxygen analgesia.

(xi) Signed, written, informed patient consent, prior to the administration of nitrous oxide/oxygen analgesia, which includes a description of the procedure, its risks and possible alternative treatments. Consent for a minor patient shall be obtained from the minor's parent or guardian.

(xii) Stethoscope.

(3) Nitrous oxide/oxygen analgesia is administered to adult and pediatric patients in accordance with the AAOMS Guidelines and AAOMS Manual (OMS) or to adult patients in accordance with the ADA Guidelines (general dentists) or to pediatric patients in accordance with the AAPD Guidelines (general dentists). Conflicts between the AAOMS Guidelines, the AAOMS Manual, the ADA Guidelines or the AAPD Guidelines and this subchapter shall be resolved in favor of this subchapter.

(4) Monitoring equipment and equipment used to administer nitrous oxide/oxygen analgesia is installed and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the administration of nitrous oxide/oxygen analgesia.

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

§ 33.341. Duties of dentists who are not permit holders.

(a) **[Effective January 9, 1990, a]** A dentist who does not possess a permit issued under this subchapter may not allow general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia to be administered on an outpatient basis in his dental office unless the following conditions are met:

(1) The Board receives prior notice of the first time that the dental office will be used for the administration of general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office **has been inspected and** meets the **appropriate** equipment and facility requirements prescribed in § 33.340(a)(2), **§ 33.340a(a)(2) or § 33.340b(a)(2)** (relating to duties of dentists who are **unrestricted permit holders; duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders**) and the Board receives a written certification from the dentist to that effect.

(3) The general anesthesia, **deep sedation**, conscious sedation and nitrous oxide/oxygen analgesia are administered by one of the following:

(i) The holder of a permit under this subchapter or **CRNA delegatee**.

* * * * *

(4) Either the dentist who performs the dental procedure or the **[person] certified registered nurse anesthetist, physician or other unrestricted permit holder** who administers the general anesthesia, **deep sedation or** conscious sedation **[or nitrous oxide/oxygen analgesia]** possesses a current certification **[to administer cardiopulmonary resuscitation (CPR)] in ACLS**.

(5) **The nonpermit holder dentist verifies with the permit holder that all monitoring equipment and equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia is present in the nonpermit holder's office, is properly installed and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, and monitoring equipment is being used during the administration of general anesthesia.**

(6) **The nonpermit holder dentist's office and equipment transported to the nonpermit holder dentist's office for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia by a permit holder shall satisfactorily complete an office inspection conducted by an approved peer evaluation organization under § 33.336b(a), in accordance with the requirements of the AAOMS Manual and AAOMS Guidelines (OMS).**

(b) A dentist shall submit to the Board a complete written report on a death or **[unusual]** an incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia in his dental office. The report shall be submitted within 30 days of the death or **[unusual]** incident.

* * * * *

(d) **Continuing anesthesia education. Beginning April 1, 2005, and for all subsequent renewal periods, nonpermit holder licensees who maintain offices in which general anesthesia, deep sedation or conscious sedation is administered, shall have completed 5 hours of Board approved courses related to anesthesia. These 5 hours shall be credited toward the nonpermit holder licensee's continuing education requirement under § 33.401(a)(1).**

§ 33.342. Inspection of dental offices.

(a) **[Routine inspections] Inspections.** **[No more than once a year during regular business hours, the]** The Board, through its authorized agents, may conduct **[a routine inspection]** inspections of a dental office **with or without prior notice**, for the purpose of determining whether the office is in compliance with the equipment and facility requirements prescribed in

§ 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2) (relating to duties of dentists who are **unrestricted** permit holders; **duties of dentists who are restricted permit I holders**; and **duties of dentists who are restricted permit II holders**)[.] or as follows:

[(b) *Special inspections.* In addition to the routine inspections authorized by subsection (a), the Board, through its authorized agents, may conduct a special inspection of a dental office:]

(1) Upon a death or injury related to the administration of general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia in the office.

* * * * *

[(4) As a follow-up to a previous inspection that revealed the office's noncompliance with the equipment and facility requirements prescribed in § 33.340(a)(2).

[(c)] (b) *Notice of inspection.* Prior to the start of [a routine or special] an inspection of a dental office, the Board's authorized agents will advise the dentist whose office is being inspected that the inspection is being made under this section and is limited in scope by this section.

[(d)] (c) *Access during inspection.* [For purposes of a routine or special inspection, a] A dentist shall give the Board's authorized agents access to:

(1) Areas of the dental office where general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia are administered.

(2) Equipment, supplies, records and documents relating to the administration of general anesthesia, **deep sedation**, conscious sedation or nitrous oxide/oxygen analgesia.

* * * * *

[(e)] (d) *Guideline for inspection.* [A routine] An inspection will be conducted under provisions pertaining to office facilities and equipment in [the American Association of Oral and Maxillofacial Surgeons' Office Anesthesia Evaluation Manual] § 33.340(a)(2), § 33.340a(a)(2), § 33.340b(a)(2) or § 33.341(2).

[(f)] (e) *Inspection showing noncompliance.* If [a routine or special] an inspection reveals that a dental office is not in compliance with the equipment and facility requirements prescribed in § 33.340(a)(2), § 33.340a(a)(2), § 33.340b(a)(2) or § 33.341(2), the Board will give the dentist whose office was inspected written notice of the deficiencies and of the deadline for correcting the deficiencies. A reinspection shall take place within 30 days, and, if noncompliance is still shown, formal administrative charges may be initiated.

[Pa.B. Doc. No. 04-607. Filed for public inspection April 9, 2004, 9:00 a.m.]

STATE BOARD OF FUNERAL DIRECTORS

[49 PA. CODE CH. 13]

Limited License

The State Board of Funeral Directors (Board) proposes to amend §§ 13.1 and 13.12 (relating to definitions; and fees) and to add § 13.77 (relating to limited license) to read as set forth in Annex A.

Effective date

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

Statutory Authority

The proposed rulemaking is authorized under sections 9(c) and 16(a) of the Funeral Director Law (act) (63 P. S. §§ 479.9(c) and 479.16(a)).

Background and Need for the Amendment

Section 2 of the act (63 P. S. § 479.2) defines the term "funeral director" to include any person who supervises the burial, transportation or disposal of deceased human bodies. A person who engages in that activity is practicing the profession of funeral director. However, no one may practice as a funeral director in this Commonwealth without being licensed to do so by the Board under section 13(a) of the act (63 P. S. § 479.13(a)). Accordingly, a person who is not licensed as a funeral director by the Board, even if licensed as a funeral director by another jurisdiction, cannot remove a deceased human body, transport a body or conduct a burial in this Commonwealth. This restriction led many out-of-State licensed funeral directors who practice near the State line to obtain licensure in this Commonwealth, in addition to the home state. However, licensure in multiple jurisdictions generally would not be feasible for a funeral director who does not intend to practice regularly across the State line.

New York and New Jersey authorize their respective licensing authorities to enter into agreements that permit a funeral director licensed in the other state to enter into the state to make a removal, transport a body or conduct a burial without being licensed in the state. West Virginia, Maryland and Delaware permit a funeral director licensed in another state to obtain licensure to enter into the state and make a removal, transport a body or conduct a burial without any agreement between the licensing authorities of those states. In each of these states, a funeral director must be fully licensed by that state to open an establishment.

The act of June 22, 2000 (P. L. 376, No. 48) authorized the Board to enter into an agreement with the appropriate licensing authority of any other state to issue limited licenses to funeral directors licensed in that state who wish to practice on a limited basis in this Commonwealth. A limited license would authorize a funeral director from another state to enter into this Commonwealth for the purpose of removing, transporting and burying dead human bodies and directing funerals. A limited license would not authorize the out-of-State funeral director to maintain an establishment or to hold himself out as a funeral director in this Commonwealth.

Description of the Proposed Rulemaking

Under the proposed rulemaking, a funeral director licensed in a jurisdiction with which the Board has entered into an agreement must submit an application for

a limited license, including an original certification of good standing from the applicant's home jurisdiction, and the required fee. It is anticipated that the application will include an affidavit by which the applicant would acknowledge the restrictions on practice under a limited license, that the applicant is familiar with and will comply with the act and the Board's regulations and that any unprofessional conduct in this Commonwealth may result in disciplinary action that would be reported to the applicant's home state.

A limited license will be subject to biennial renewal. Because section 10(b) of the act (63 P.S. § 479.10(b)) requires each licensed individual to successfully complete continuing education as a condition for renewal, a holder of a limited license will be required to complete the required amount continuing education. However, because the holder of a limited license is by definition licensed in another jurisdiction, continuing education successfully completed in another jurisdiction will satisfy this requirement for the holder of a limited license. A limited license will become inactive if the holder's funeral director license in the funeral director's home state is revoked, suspended, inactivated or otherwise lapsed. The Board will reinstate the limited license to active status upon proof that the holder's license in the home state has been reinstated, unless the Board has, by disciplinary action, suspended or revoked the limited license. Additionally, the proposed rulemaking sets forth the requirement of section 9(c) of the act that the Board may take disciplinary action against the holder of a limited license for unprofessional conduct in this Commonwealth and will report that disciplinary action to the limited license holder's home state.

Finally, the proposed rulemaking will set fees for a limited license. Fees for service are to be set to enable the Board to recover the cost of providing the service. The application fee will be \$35. In general, renewal fees are set at an amount, together with other fees, sufficient to fund the operations of a licensing board and to spread that cost out over all licensees. For limited licensure, however, this approach would disregard the limited use of the license by the out-of-State holders. Also, because there is no history of limited licensure, the Board cannot determine what costs may be attributable to holders of limited licenses. Accordingly, the Board will set the renewal fee for a limited license at \$35, the same amount as the application fee.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on March 30, 2004, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Michelle Smey, Administrative Officer, State Board of Funeral Directors, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-4810 (Limited license) when submitting comments.

JOSEPH A. FLUEHR, III, FD,
Chairperson

Fiscal Note: 16A-4810. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS

GENERAL PROVISIONS

§ 13.1. Definitions.

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

* * * * *

Limited license—A license issued by the Board that authorizes a person licensed to practice funeral directing in a reciprocal state to practice funeral directing in this Commonwealth in accordance with section 9(c) of the act (63 P.S. § 479.9(c)).

* * * * *

Reciprocal state—The District of Columbia or a state or territory of the United States of America whose agency that is authorized to license persons to practice the profession of funeral director in that jurisdiction has entered into an agreement with the Board under which persons licensed in that jurisdiction may receive a limited license in this Commonwealth.

* * * * *

LICENSURE

§ 13.12. Fees.

Following is the schedule of fees charged by the Board:

* * * * *

Application for limited license \$35

Biennial renewal of limited license \$35

LICENSURE OF A FUNERAL DIRECTOR FROM ANOTHER STATE

§ 13.77. Limited license.

(a) A person licensed by a reciprocal state to practice the profession of funeral director who seeks a limited license shall apply to the Board on a form provided by the Board, including:

(i) An original certification from the reciprocal state that the applicant is licensed as a funeral director in that jurisdiction and is in good standing.

(ii) The fee prescribed by § 13.12 (relating to fees).

(b) A limited license shall be subject to biennial renewal.

(c) A limited license shall become inactive upon the revocation, suspension, placement upon inactive status, or other lapse of the holder's license in the reciprocal state. Unless a limited license is otherwise suspended or revoked, the Board may reinstate the limited license to active status upon proof that the holder's license in the reciprocal state is no longer revoked, suspended, placed on inactive status, or otherwise lapsed.

(d) The Board may take disciplinary action against the holder of a limited license for any unprofessional conduct that occurs within this Commonwealth. The Board will report to the reciprocal state any disciplinary action taken against the holder of a limited license.

[Pa.B. Doc. No. 04-608. Filed for public inspection April 9, 2004, 9:00 a.m.]

STATE BOARD OF MEDICINE

[49 PA. CODE CH. 16]

Disciplinary Process and Procedure

The State Board of Medicine (Board) proposes to amend § 16.51 (relating to creation of list of hearing examiners) and add §§ 16.55—16.58 to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

Sections 8 and 9 of the Medical Practice Act of 1985 (act) (63 P. S. §§ 422.8 and 422.9) authorize the Board to promulgate regulations addressing procedures to be followed in proceedings before it consistent with the requirements of section 9 of the act.

C. Background and Purpose

The proposed rulemaking will codify the process and procedures that are currently followed in disciplinary matters before the Board. These procedures are derived from sections 901—905 of the Health Care Services Malpractice Act (formerly 40 P. S. §§ 1301.901—1301.905). On March 20, 2002, the Governor signed into law the Medical Care Availability and Reduction of Error Act (MCARE Act) (40 P. S. §§ 1303.101—1303.910). Section 5104 of the MCARE Act (40 P. S. § 1303.) repealed 40 P. S. §§ 1301.901—1301.905. It is not clear what, if any, impact the repealer provisions have on the procedures followed by the Board. Because the Board's proce-

dures have been effective, the Board has determined that codifying the process will maintain the status quo and avoid unnecessary and unintended confusion.

D. Description of the Proposed Rulemaking

Section 16.51 is amended to more accurately reflect that, consistent with the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506), attorneys, including hearing examiners, are assigned to agencies through the Office of General Counsel. The proposed rulemaking also provides for the Board's current process that, absent an order of the Board otherwise, all matters would be heard by the Board's hearing examiner.

Section 16.55 (relating to complaint process) is added to provide a description of the complaint process. Section 16.55(a) provides that a written complaint may be submitted to the complaints office. Section 16.55(b)—(d) describes the internal processing of complaints. Specifically, in keeping with the decision in *Lyness v. State Board of Medicine*, 605 A.2d 1204 (Pa. 1992), the Board prosecutor will cause to be conducted reasonable inquiry and will determine whether to initiate the filing of formal charges. Consistent with section 907 of the MCARE Act (40 P. S. § 1303.907), § 16.55(c) reiterates that documents, materials or information obtained during the course of an investigation shall be confidential and privileged unless admitted as evidence during the course of a formal disciplinary proceeding. Section 16.55(d) provides for the Board prosecutor to enter negotiations to settle the case by consent agreement.

Section 16.56 (relating to formal hearings open to public) provides for formal hearings to be open to the public.

Section 16.57 (relating to appeal from the hearing examiner's decision) provides for review of the hearing examiner's decision by the Board on the request of either party or on the Board's own motion. Section 16.57(b) provides that, unless otherwise ordered by the Board, neither the filing of an application for review nor the Board's own notice of intent to review would stay the hearing examiner's decision.

Section 16.58 (relating to appeal from the Board decision) provides for review of the Board's decision under 2 Pa.C.S. § 702 (relating to appeals).

E. Fiscal Impact and Paperwork Requirements

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

F. Sunset Date

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

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 30, 2004, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory

review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

H. *Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Joanne Troutman, Health Licensing Division, Bureau of Professional and Occupational Affairs, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication in the *Pennsylvania Bulletin*. Refer to "disciplinary procedures" when submitting comments.

CHARLES D. HUMMER, Jr., M.D.,
Chairperson

Fiscal Note: 16A-4918. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 16. STATE BOARD OF MEDICINE—GENERAL PROVISIONS

Subchapter E. MEDICAL DISCIPLINARY PROCESS AND PROCEDURES

HEARING EXAMINERS AND MEDICAL CONSULTANTS

§ 16.51. [Creation of list of hearing] Hearing examiners.

[As provided under section 902 of the Health Care Services Malpractice Act (40 P. S. § 1301.902), the Board has created a list of individuals with the approval of the Governor from which hearing examiners can be selected to serve on a part-time basis in order to hear formal hearings and render adjudications.] Hearing examiners are appointed by the Governor's Office of General Counsel to hear matters before the Board. Unless otherwise ordered by the Board, all disciplinary matters shall be heard by a hearing examiner.

§ 16.55. Complaint process.

(a) A person, firm, corporation or public officer may submit a written complaint to the complaints office alleging a violation of the act or this chapter or Chapters 17 or 18 (relating to State Board of Medicine—medical doctors; and State Board of Medicine—practitioners other than medical doctors), specifying the grounds therefore.

(b) The complaints office will assign a complaint to the prosecution and investigatory staff who, together with medical consultants as may be required, will make a determination that the complaint merits consideration. The Board prosecutor will cause to be conducted reasonable inquiry or investigation that is deemed necessary to determine the truth and validity of the allegations in the complaint. The Board prosecutor will provide reports to the Board at its regular meetings on the number, nature, procedure and handling of the complaints received.

(c) Upon review of the complaint, documentation, records and other materials obtained during the course of

an investigation, the Board prosecutor will determine whether to initiate the filing of formal charges. The documents, materials or information obtained during the course of an investigation shall be confidential and privileged unless admitted as evidence during the course of a formal disciplinary proceeding. A person who has investigated or has access to or custody of documents, materials or information which are confidential and privileged under this subsection will not be required to testify in any judicial or administrative proceeding without the written consent of the Board.

(d) The Board prosecutor may enter into negotiations at any stage of the complaint, investigation or hearing process to settle the case by consent agreement.

(1) Consent agreements must be approved as to form and legality by the Office of General Counsel and adopted by the Board.

(2) Until the Board approves a consent agreement, the terms of the agreement are confidential.

(3) Admissions made by a respondent during the course of negotiations may not be used against the respondent in any formal disciplinary proceeding if a consent agreement cannot be reached.

(4) Admissions made by a respondent in a consent agreement that is ultimately rejected by the Board may not be used against the respondent in any formal disciplinary proceeding.

(5) This subsection does not preclude the Board prosecutor from offering, at a formal disciplinary hearing, other evidence to prove factual matters disclosed during the negotiation process.

§ 16.56. Formal hearings open to public.

Formal disciplinary proceedings are open to the public. Members of the press may request in advance of the hearing permission from the presiding officer for the electronic recording of the proceedings. Upon the consideration of objections by the parties, the hearing examiner may permit the electronic recording of the proceeding by members of the press if the presiding officer determines that the recording will not interfere with the efficient conduct or impartiality and fairness of the proceedings.

§ 16.57. Appeal from the hearing examiner's decision.

(a) Unless otherwise ordered by the Board, the decision of the hearing examiner will become final after 20 days of its issuance.

(1) Upon application for review by any party or upon the Board's own notice, the Board will review the hearing examiner's decision.

(2) The Board will review the entire record and, if it deems it advisable, may hear additional testimony from persons already deposed or from new witnesses as well as arguments of counsel to make a Board decision.

(3) Additional testimony will be taken as soon as practicable.

(4) The Board will issue its final decision, along with its findings of fact and conclusions of law, which will be sent by mail to the parties involved.

(b) Unless otherwise ordered by the Board, neither the filing of an application for review nor the Board's own notice of intent to review will stay the hearing examiner's decision.

§ 16.58. Appeal from the Board decision.

The respondent may, within 30 days from the date of the decision of the Board, appeal to the Commonwealth Court if the appeal is based on allegations of certain errors of law under terms and conditions as cover appeals and actions involving State agencies under 2 Pa.C.S. § 702 (relating to appeals).

[Pa.B. Doc. No. 04-609. Filed for public inspection April 9, 2004, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Aging

The Executive Board approved a reorganization of the Department of Aging effective March 24, 2004.

The organization chart at 34 Pa.B. 1967 (April 10, 2004) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

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

[Pa.B. Doc. No. 04-610. Filed for public inspection April 9, 2004, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Labor and Industry

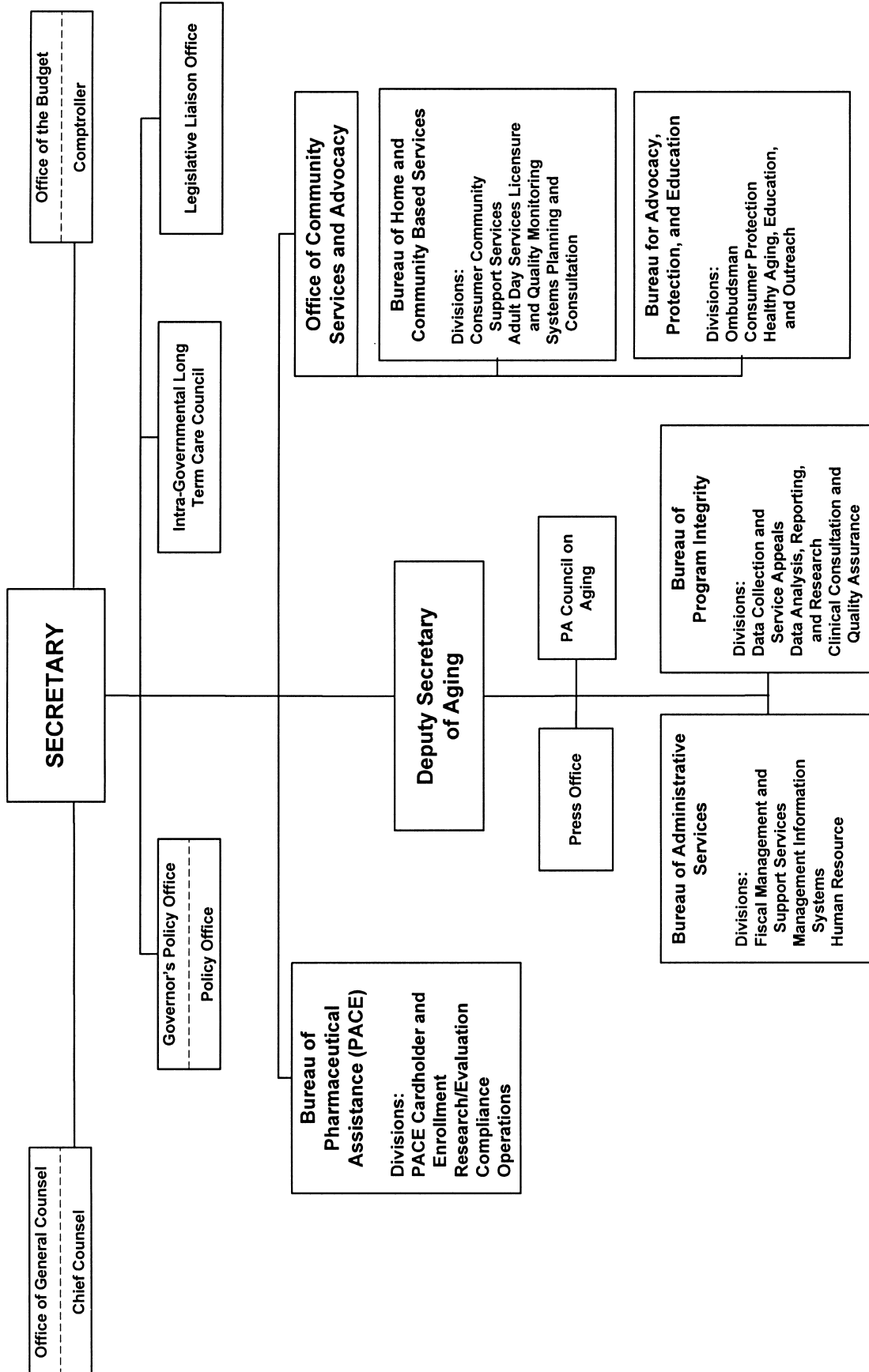
The Executive Board approved a reorganization of the Department of Labor and Industry effective March 29, 2004.

The organization chart at 34 Pa.B. 1968 (April 10, 2004) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

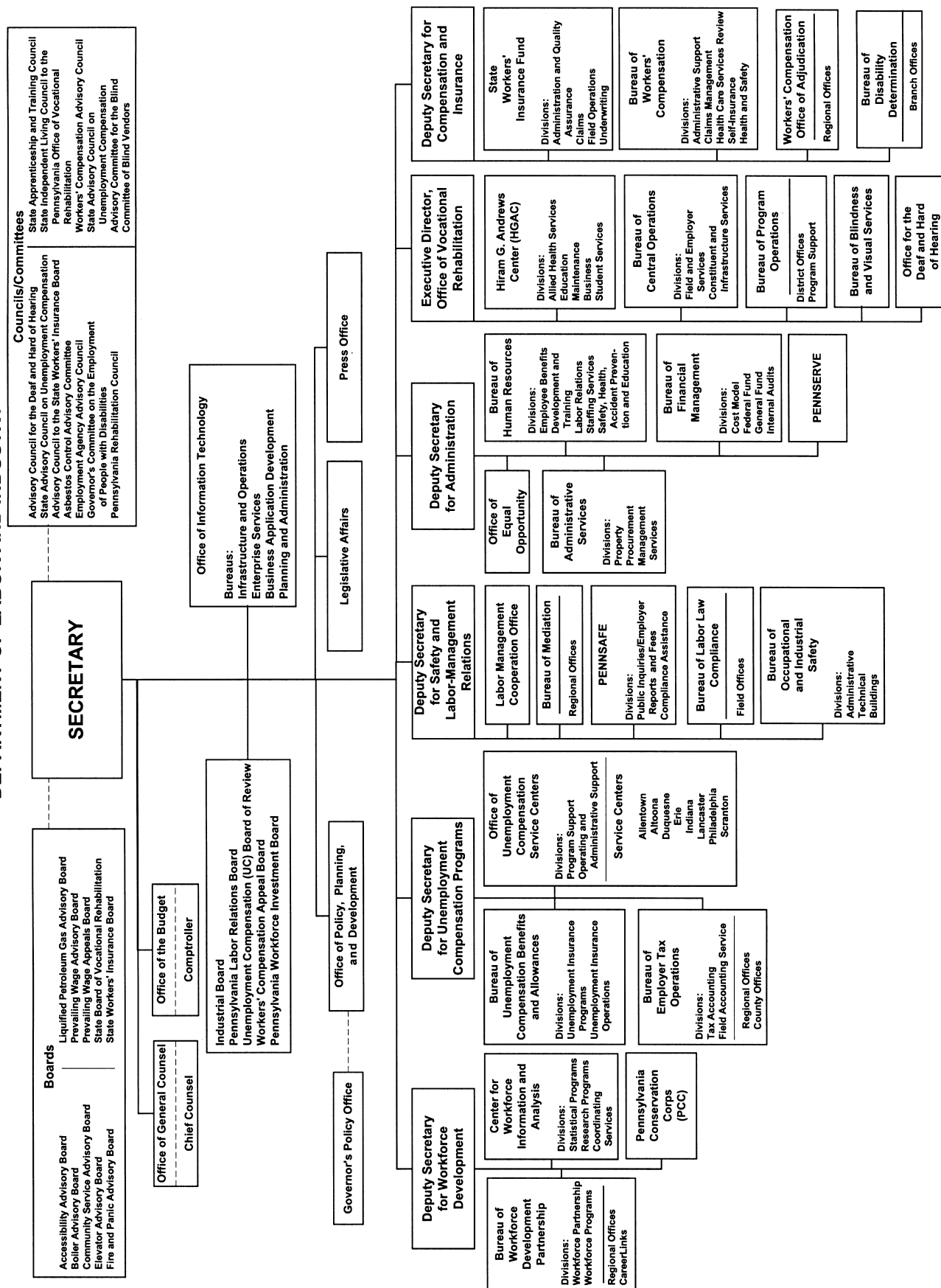
(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania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

[Pa.B. Doc. No. 04-611. Filed for public inspection April 9, 2004, 9:00 a.m.]

DEPARTMENT OF AGING



DEPARTMENT OF LABOR AND INDUSTRY



NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending March 30, 2004.

BANKING INSTITUTIONS

Mutual Holding Company Reorganization

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
3-26-04	Sharon Savings Bank Darby Delaware County Represents reorganization into a mutual holding company to be known as Sharon Mutual Holding Company, Darby, PA, parent company of Sharon Bancorp, Inc. Sharon Savings Bank will be a wholly owned subsidiary of Sharon Bancorp, Inc., a newly formed Federally-chartered stock holding company, who in turn is a subsidiary of Sharon Mutual Holding Company, a newly formed Federally-chartered mutual holding company.	Darby	Effective
3-29-04	Beneficial Mutual Savings Bank Philadelphia Philadelphia County Application represents reorganization into a mutual holding company to be known as Beneficial Savings Bank MHC.	Philadelphia	Filed

Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-26-04	Sharon Savings Bank Darby Delaware County Represents conversion from a State-chartered mutual savings bank to a State-chartered stock savings bank in conjunction with the reorganization into a mutual holding company form of ownership listed previously.	Darby	Effective

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-17-04	Pennsylvania Business Bank Philadelphia Philadelphia County	1691-1695 Grant Avenue Philadelphia Philadelphia County	Opened
3-24-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Acme Stores at the following three locations: 531 High Street Mt. Holly Burlington County, NJ 501 East Evesham Road Runnemede Camden County, NJ 175 Route 70 Medford Burlington County, NJ	Filed
3-25-04	PeoplesBank, a Codorus Valley Company York York County	The Brogue Center 2514 Delta Road Brogue Chanceford Township York County	Filed
3-26-04	NOVA Savings Bank Philadelphia Philadelphia County	1235 West Chester Pike Havertown Delaware County	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-22-04	Northwest Savings Bank Warren Warren County	<i>To:</i> 101 Monroe Road Sarver Buffalo Township Butler County <i>From:</i> 737 South Pike Road Sarver Butler County	Effective
3-29-04	Patriot Bank Pottstown Montgomery County	<i>To:</i> 3101 Shillington Road Sinking Spring Berks County <i>From:</i> 155 Shillington Road Sinking Spring Berks County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-612. Filed for public inspection April 9, 2004, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Maiden Creek Watershed Management Plan

The Department of Conservation and Natural Resources (Department), Bureau of Recreation and Conservation, has approved the Maiden Creek Watershed Management Plan (Plan) and is placing Maiden Creek, the watershed and all tributaries covered in the Plan in Berks, Lehigh and Schuylkill Counties on the Pennsylvania Rivers Conservation Registry (Registry).

The Berks County Conservancy submitted the Plan and other required information to gain Registry status.

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

1. The watershed area of Maiden Creek (Berks, Lehigh and Schuylkill Counties) from the headwaters to its confluence with the Schuylkill River—220.83 square miles.
2. All tributary streams within the Maiden Creek Watershed.

This action becomes effective April 10, 2004. Projects identified in the Plan become eligible for implementation, development or acquisition grant funding through the Program.

A copy of the Final Plan is available for review at the Berks County Conservancy, 25 North 11th Street, Reading, PA 19610, (610) 372-4992; and the Department of Conservation and Natural Resources, Rachel Carson State Office Building, 400 Market Street, 6th Floor, Harrisburg, PA 17101, (717) 787-7672.

Maps and supporting data are on file at the Berks County Conservancy.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 04-613. Filed for public inspection April 9, 2004, 9:00 a.m.]

Retention of a Professional Design Firm; Project Reference No. FDC-500-740

The Department of Conservation and Natural Resources (Department) will retain a professional design firm for an open end contract for various sanitary engineering designs, including sewage systems, water systems and swimming pools and general CADD services. The contract will be for a 12-month period with four 12-month extensions possible. Projects will be assigned on an as-needed basis.

Letters of interest for these projects will only be accepted from individuals, firms or corporations duly authorized to engage in the practice of professional design. If an individual, firm or corporation not authorized to engage in the practice of engineering wishes to submit a letter of interest, the individual, firm or corporation may do so as part of a joint venture with an individual, firm or corporation that is permitted under State law to engage in the practice of engineering in this Commonwealth. The professional design firm may be a general engineering firm with a sanitary engineering subconsultant or a sanitary engineering firm.

This firm's area of responsibility for assigned work shall be throughout this Commonwealth. Bureau of Facility Design and Construction (Bureau) personnel may do project work in conjunction with this professional design firm on some of the projects.

The services may encompass a wide range of design and environmental efforts with the possibility of several

different types of projects being designed under short completion schedules. The firm may be required to design multiple projects at the same time.

The open ended design services work will consist of sanitary design work for new and existing facilities including mechanical, plumbing and electrical design, major maintenance repair, renovations to existing facilities and expansion of existing facilities. Some of these projects may be for smaller facilities with limited project scope. Some projects may entail the use of innovative treatment technologies.

The professional design firm may be required to perform any or all of the following duties: attend site visits; prepare minutes; perform necessary field surveys; plot topography and cross sections; develop erosion control details and narrative; prepare type, size and location report; prepare modules for permit applications; prepare construction drawings, specifications and estimates; procure core borings; provide soil and foundation engineering report; investigate utility involvement; evaluate alternative using benefit/cost analysis, develop details and narratives; prepare reports; and the review of shop drawings, catalog cuts and occasional attendance at job conferences may be required.

The services shall also include, but not be limited to, a preliminary meeting for each project in the Bureau of Facility Design and Construction, 8th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. Work may be done on an hourly basis or a maximum cost work order for the individual design project. Payment for services and expenses shall not exceed the contract amount. The design work will be reviewed by the engineering staff of the Bureau and, when acceptable, approved by same staff.

Information Concerning Socially and Economically Restricted Businesses (SERB)

SERBs are small businesses whose economic growth and development have been restricted based on social and economic bias. Small businesses are Bureau of Minority and Women Business Opportunities (BMWBO)-certified minority and women-owned businesses, other disadvantaged businesses and businesses whose development has been impeded because their primary or headquarters facilities are physically located in areas designated by the Commonwealth as being designated enterprise zones. A small business will not be considered socially/economically restricted if it has gross annual revenues of \$8 million (\$18 million for businesses in the information technology sales or services business) or more, is dominant in its field of operation or employs more than 100 persons.

A company and its affiliates have achieved success and are graduated from this State-sponsored program when its gross annual revenues are \$8 million (\$18 million for businesses in the information technology sales or service business) or more. Other small business in which an owner of the graduated firm has a financial interest or control over, either directly or through family members, will not qualify for SERB status. Control is defined as the power, whether or not exercised, to direct or cause the direction of the management and policies of a firm, whether through the ownership of voting shares, by contract or otherwise or through the making of day-to-day as well as major decisions in matters of policy, management and operations. A determination of control shall include, but shall not be limited to, the following factors: capital investment and all other financial, property, acqui-

sition, contract negotiation and legal matters; officer-director-employee selection and comprehensive hiring, operating responsibility, cost-control matters and income and dividend matters; financial transactions; and rights of other shareholders or joint partners.

Contractors and others seeking to identify businesses for joint venture and subcontracting opportunities are encouraged to contact the Department of General Services, Bureau of Minority and Women Business Opportunities, Room 502, North Office Building, Harrisburg, PA 17125, (717) 787-7380, www.dgsapp.state.pa.us/cabd/mwbddata.asp.

SERB Information

To receive credit for being a SERB, entering into a joint venture agreement with a SERB or subcontracting to a SERB (including purchasing supplies or services through a purchase agreement), a company must include proof of SERB qualification in the SERB portion of the proposal:

1. SERBs qualifying as a result of MBE/WBE certification from the BMWBO must provide their BMWBO certification number or a photocopy of their BMWBO certificate.
2. SERBs qualifying as a result of having their headquarters located in a designated enterprise zone must provide proof of this status, including proof of the location of their headquarters (such as a lease or deed) and confirmation of the enterprise zone in which they are located (obtained from their local enterprise zone office). More information on the locations of enterprise zones can be obtained by calling the Department of Community and Economic Development (DCED), (717) 720-7409, fax (717) 787-4088, akartorie@state.pa.us.
3. SERBs qualifying as disadvantaged businesses certified by the Small Business Administration must submit proof of Small Business Administration certification.
4. Companies claiming SERB status, whether as a result of BMWBO certification, Small Business Administration certification as a disadvantaged business or the location of their headquarters in an enterprise zone, must submit proof that their gross annual revenues are less than \$8 million (\$18 million for businesses in the information technology sales or services business). This can be accomplished by including a recent tax or audited financial statement.

In addition to these verifications, the SERB portion of the proposal should include the following information:

1. The name and telephone number of the project contact person for the SERB.
2. The company name, address and telephone number of the prime contact person for each specific SERB business included in the proposal. The SERB businesses to which commitments are made must be specified. Credit will not be received by stating a SERB will be found after the contract is awarded or by listing several companies and stating one will be selected later.
3. The specific work, goods or services the SERB will perform or provide.
4. The location where the SERB will perform these services.
5. The timeframe for the SERB to provide or deliver the goods or services.
6. The amount of capital, if any, the SERB will be expected to provide.

7. The form and amount of compensation each SERB will receive. In the SERB Information portion of the proposal, provide the estimated dollar value of the contract to each SERB.

8. The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the SERB.

9. In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the SERB portion of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the SERB portion of the proposal.

The SERB portion of the proposal must be identified as SERB information and bound and sealed separately from the remainder of the proposal. Only one copy of the SERB section is needed.

The dollar value ratio designated for SERB commitment should be placed in a separate sealed envelope and stapled to the SERB section of the proposal or included in the bound and sealed envelope.

The selected contractor's SERB commitment amount, name of the SERB and services to be provided including timeframe for performing services will be included as a contractual obligation when the contract is executed.

SERB Participation

The following options will be considered as part of the final criteria for selection:

Priority Rank 1—Proposals submitted by SERBs.

Priority Rank 2—Proposals submitted from a joint venture with a Commonwealth-approved SERB as a joint venture partner.

Priority Rank 3—Proposals submitted with subcontracting commitments to SERBs.

A proposal will be rated for its approach to enhancing the utilization of SERBs. Each approach will be evaluated, with option number one receiving the greatest value and the succeeding options receiving values in accordance with the previously listed priority ranking.

SERB Contract Requirements

Contracts containing SERB participation must also include a provision requiring the contractor to meet and maintain those commitments made to SERBs at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the contracting Commonwealth agency upon recommendation by the BMWBO. Contracts containing SERB participation must include a provision requiring SERB contractors and SERBs in a joint venture to incur at least 50% of the cost of the subcontract or SERB portion of the joint venture, not including materials.

Commitments to SERBs made at the time of proposal submittal or contract negotiation must be maintained throughout the term of the contract. A proposed change must be submitted to the BMWBO, which will make a recommendation as to a course of action to the contracting officer.

If a contract is assigned to another contractor, the new contractor must maintain the SERB participation of the original contract.

The contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the agency that awarded the con-

tract and the BMWBO within 10 workdays at the end of each quarter the contract is in force. If there was no activity, the form must also be completed, stating "No activity in this quarter." This information will be used to determine the actual dollar amount paid to SERB subcontractors, suppliers and joint ventures. Also, it is a record of fulfillment of the commitment the firm made and for which it received SERB points.

Note: Equal employment opportunity and contract compliance statements referring to company equal employment opportunity policies or past contract compliance practices do not constitute proof of SERB status or entitle a proposer to receive credit for SERB utilization.

General Requirements and Information

Firms interested in performing the required services for the project are invited to submit letters of interest to Eugene J. Comoss, P. E., Director, Bureau of Facility Design and Construction, Rachel Carson State Office Building, 8th Floor, 400 Market Street, P. O. Box 8451, Harrisburg, PA 17105-8451. Contact James Eppley or David Brenneman at (717) 787-4892 for general information concerning the design work.

Each letter of interest must include the firm's Federal identification number and the project reference number. The letter of interest shall also include a description of the firm's three most recently completed sanitary/water treatment projects. The description shall include the client, contact person and phone number, the estimated or actual construction cost of the portion of the work which the firm designed, the project manager and the names of all personnel who made major contributions to the project. The letter of interest shall indicate the firm's capability of working on multiple small projects at the same time and understanding of the Department's needs. A standard DGS Form 150-ASP must accompany the letter of interest and shall indicate the individual in charge. The Form 150-ASP is available by downloading from Department of General Services (DGS) website: www.dgs.state.pa.us/cnprs.htm. Form 150-ASP may also be obtained in hard copy or on disk in Word '97 format only by contacting the Selections Committee, Department of General Services, Room 104, 18th and Herr Streets, Harrisburg, PA 17125, pbianchi@exec.gsinc.state.pa.us. Additional information pertinent to the firm's qualifications to do the work of this contract may be included. Direct costs other than payroll, such as travel and subsistence, shall be based on the current State rates. The Department shall reimburse miscellaneous expenses such as copies, prints, sepias, postage and film at cost upon approval.

The following factors will be considered during the evaluation of the firm's letter of interest:

Criteria evaluated by the technical review will include:

—Professional's understanding of the design work as demonstrated in letter of interest and as stated in the interpretation of the tasks to be performed.

—Qualifications of firm.

—Professional personnel in firm.

—Soundness of approach as demonstrated in the letter of interest, including the firm's description of prompt responsiveness to design questions, shop drawings and construction questions.

—Available manpower to perform the services required.

—SERB participation (evaluated by the DGS).

—Equitable distribution of the contracts.

—The proposer shall relate the proposal to the previous criteria.

Six copies of the letter of interest, six copies of the required forms and one copy of the SERB information must be received by 4 p.m. on May 6, 2004. Six copies shall be submitted in six complete sets that shall be spiral bound or in folders or secured by binder clips. The assignment and services will be made to one of the firms responding to this notice. However, the Department reserves the right to reject all letters of interest submitted, cancel the solicitation requested under this notice and readvertise solicitation for this service.

The Department will offer a debriefing session to the unsuccessful firms. The Department disclaims any liability whatsoever to its review of the proposals submitted and in formulating a recommendation for selections. Recommendations made by the Department shall be final.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 04-614. Filed for public inspection April 9, 2004, 9:00 a.m.]

Retention of a Professional Design Firm or Firms; Project Reference No. FDC-500-750

The Department of Conservation and Natural Resources (Department) will retain a professional design firm or firms for open end contracts for various building and engineering designs and associated geological services, environmental services and CADD services. The contracts will be for a 12-month period with four 12-month extensions possible. Projects will be assigned on an as-needed basis.

Letters of interest for these projects will only be accepted from individuals, firms or corporations duly authorized to engage in the practice of professional design. If an individual, firm or corporation not authorized to engage in the practice of engineering wishes to submit a letter of interest, the individual, firm or corporation may do so as part of a joint venture with an individual, firm or corporation that is permitted under State law to engage in the practice of engineering and or architecture in this Commonwealth. The professional design firm may be an engineering/architectural firm, an architectural/engineering firm, an engineering firm with an architectural subconsultant or an architectural firm with an engineering subconsultant.

The selected firm's area of responsibility for assigned work shall be throughout this Commonwealth. Bureau of Facility Design and Construction (Bureau) personnel will act as the project coordinator and may perform project work in conjunction with this professional design firm on some of the projects. Work order assignments may vary from full design development responsibilities for a project including survey, site, structural, architectural, HVAC, plumbing and electrical systems to a collaboration of design efforts with Department in-house design projects where just the coordination and design of a specific discipline such as electrical design is required.

The services may encompass a wide range of design and environmental efforts with the possibility of several different types of projects being designed under short completion schedules. The firm may be required to design multiple projects at the same time.

The open ended design services work will consist of building related site, civil, architectural, mechanical, plumbing and electrical designs, tie-ins to site utilities, major maintenance repair, renovations to existing buildings and additions to existing buildings. Many of these projects may be for buildings less than 5,000 square feet in size and small in terms of project scope.

Work will be performed with a focus on environmentally responsible (Green) design and construction principles and practices. Emphasis will be placed on knowledge of geothermal systems, sustainable site design and LID concepts, building commissioning knowledge and construction waste recycling experiences. The availability of LEED certified designers and an independent, third-party commissioning agent will be required services. The implementation of LEED accreditation on specific projects may be required.

Building designs shall be performed in accordance with the newly adopted Uniform Construction Code.

Areas of environmental study associated with these projects may include wetlands, soil, geology, 25 Pa. Code Chapter 105 (relating to dam safety and waterway management) and Corps of Engineers 404 permits.

As part of the building and site design, the selected firm may be required to perform any or all of the previous items to ensure a complete environmental investigation has been performed and may be required to provide the necessary environmental services, material and equipment necessary to collect, analyze and organize data, assess impacts, prepare reports and design mitigation plans.

The professional design firm may be required to perform any or all of the following duties: attend site visits; prepare minutes; perform necessary field surveys; plot topography and cross sections; develop erosion control details and narrative; prepare type, size and location report; prepare construction drawings, specifications and estimates; procure core borings; provide soil and foundation engineering report; investigate utility involvement; evaluate alternative using benefit/cost analysis, develop details and narratives; prepare reports; and the review of shop drawings, catalog cuts and occasional attendance at job conferences may be required.

The services shall also include for each project a preliminary meeting in the Bureau of Facility Design and Construction, 8th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The contract shall be based on the hours of service and qualifying expenses not exceeding the contract amount. Work may be done on an hourly basis or a maximum cost work order for the individual design project. The design work will be reviewed by the architectural and engineering staff of the Bureau and, when acceptable, approved by the same staff.

The number of open end contracts and the dollar amount of each contract shall be at the discretion of the Department for the first year. The extent of the work for the subsequent 4 years of the contract will be dependent on the availability of additional funds and additional projects for those years, also at the discretion of the Department.

Information Concerning Socially and Economically Restricted Businesses (SERB)

SERBs are small businesses whose economic growth and development have been restricted based on social and economic bias. Small businesses are Bureau of Minority

and Women Business Opportunities (BMWBO)-certified minority and women-owned businesses, other disadvantaged businesses and businesses whose development has been impeded because their primary or headquarters facilities are physically located in areas designated by the Commonwealth as being designated enterprise zones. A small business will not be considered socially/economically restricted if it has gross annual revenues of \$8 million (\$18 million for businesses in the information technology sales or services business) or more, is dominant in its field of operation or employs more than 100 persons.

A company and its affiliates have achieved success and are graduated from this State-sponsored program when its gross annual revenues are \$8 million (\$18 million for businesses in the information technology sales or service business) or more. Other small business in which an owner of the graduated firm has a financial interest or control over, either directly or through family members, will not qualify for SERB status. Control is defined as the power, whether or not exercised, to direct or cause the direction of the management and policies of a firm, whether through the ownership of voting shares, by contract or otherwise or through the making of day-to-day as well as major decisions in matters of policy, management and operations. A determination of control shall include, but shall not be limited to, the following factors: capital investment and all other financial, property, acquisition, contract negotiation and legal matters; officer-director-employee selection and comprehensive hiring, operating responsibility, cost-control matters and income and dividend matters; financial transactions; and rights of other shareholders or joint partners.

Contractors and others seeking to identify businesses for joint venture and subcontracting opportunities are encouraged to contact the Department of General Services, Bureau of Minority and Women Business Opportunities, Room 502, North Office Building, Harrisburg, PA 17125, (717) 787-7380, www.dgsapp.state.pa.us/cabd/mwbdata.asp.

SERB Information

To receive credit for being a SERB, entering into a joint venture agreement with a SERB or subcontracting to a SERB (including purchasing supplies or services through a purchase agreement), a company must include proof of SERB qualification in the SERB portion of the proposal:

1. SERBs qualifying as a result of MBE/WBE certification from the BMWBO must provide their BMWBO certification number or a photocopy of their BMWBO certificate.
2. SERBs qualifying as a result of having their headquarters located in a designated enterprise zone must provide proof of this status, including proof of the location of their headquarters (such as a lease or deed) and confirmation of the enterprise zone in which they are located (obtained from their local enterprise zone office). More information on the locations of enterprise zones can be obtained by calling the Department of Community and Economic Development (DCED), (717) 720-7409, fax (717) 787-4088, akartorie@state.pa.us.
3. SERBs qualifying as disadvantaged businesses certified by the Small Business Administration must submit proof of Small Business Administration certification.
4. Companies claiming SERB status, whether as a result of BMWBO certification, Small Business Administration certification as a disadvantaged business or the location of their headquarters in an enterprise zone, must

submit proof that their gross annual revenues are less than \$8 million (\$18 million for businesses in the information technology sales or services business). This can be accomplished by including a recent tax or audited financial statement.

In addition to these verifications, the SERB portion of the proposal should include the following information:

1. The name and telephone number of the project contact person for the SERB.
2. The company name, address and telephone number of the prime contact person for each specific SERB business included in the proposal. The SERB businesses to which commitments are made must be specified. Credit will not be received by stating a SERB will be found after the contract is awarded or by listing several companies and stating one will be selected later.
3. The specific work, goods or services the SERB will perform or provide.
4. The location where the SERB will perform these services.
5. The timeframe for the SERB to provide or deliver the goods or services.
6. The amount of capital, if any, the SERB will be expected to provide.
7. The form and amount of compensation each SERB will receive. In the SERB Information portion of the proposal, provide the estimated dollar value of the contract to each SERB.
8. The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the SERB.
9. In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the SERB portion of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the SERB portion of the proposal.

The SERB portion of the proposal must be identified as SERB information and bound and sealed separately from the remainder of the proposal. Only one copy of the SERB section is needed.

The dollar value ratio designated for SERB commitment should be placed in a separate sealed envelope and stapled to the SERB section of the proposal or included in the bound and sealed envelope.

The selected contractor's SERB commitment amount, name of the SERB and services to be provided including timeframe for performing services will be included as a contractual obligation when the contract is executed.

SERB Participation

The following options will be considered as part of the final criteria for selection:

Priority Rank 1—Proposals submitted by SERBs.

Priority Rank 2—Proposals submitted from a joint venture with a Commonwealth-approved SERB as a joint venture partner.

Priority Rank 3—Proposals submitted with subcontracting commitments to SERBs.

A proposal will be rated for its approach to enhancing the utilization of SERBs. Each approach will be evaluated, with option number one receiving the greatest value and the succeeding options receiving values in accordance with the previously listed priority ranking.

SERB Contract Requirements

Contracts containing SERB participation must also include a provision requiring the contractor to meet and maintain those commitments made to SERBs at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the contracting Commonwealth agency upon recommendation by the BMWBO. Contracts containing SERB participation must include a provision requiring SERB contractors and SERBs in a joint venture to incur at least 50% of the cost of the subcontract or SERB portion of the joint venture, not including materials.

Commitments to SERBs made at the time of proposal submittal or contract negotiation must be maintained throughout the term of the contract. A proposed change must be submitted to the BMWBO, which will make a recommendation as to a course of action to the contracting officer.

If a contract is assigned to another contractor, the new contractor must maintain the SERB participation of the original contract.

The contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the agency that awarded the contract and the BMWBO within 10 workdays at the end of each quarter the contract is in force. If there was no activity, the form must also be completed, stating "No activity in this quarter." This information will be used to determine the actual dollar amount paid to SERB subcontractors, suppliers and joint ventures. Also, it is a record of fulfillment of the commitment the firm made and for which it received SERB points.

Note: Equal employment opportunity and contract compliance statements referring to company equal employment opportunity policies or past contract compliance practices do not constitute proof of SERB status or entitle a proposer to receive credit for SERB utilization.

General Requirements and Information

Firms interested in performing the required services for the project are invited to submit letters of interest to Eugene J. Comoss, P.E., Director, Bureau of Facility Design and Construction, Rachel Carson State Office Building, 8th Floor, 400 Market Street, P. O. Box 8451, Harrisburg, PA 17105-8451. Contact Michael Twigg at (717) 787-2401 for general information concerning the design work.

Each letter of interest must include the firm's Federal identification number and the project reference number. The letter of interest shall also include a description of the firm's three most recently completed projects similar to the project proposed. The description shall include the client, contact person and phone number, the estimated or actual construction cost of the portion of the work which the firm designed, the project manager and the names of all personnel who made major contributions to the project. The letter of interest shall indicate the firm's capability of working on multiple small projects at the same time and understanding of the Department's needs. A standard DGS Form 150-ASP must accompany the

letter of interest and shall indicate the individual in charge. The Form 150-ASP is available by downloading from Department of General Services (DGS) website: www.dgs.state.pa.us/cnprs.htm. Form 150-ASP may also be obtained in hard copy or on disk in Word '97 format only by contacting the Selections Committee, Department of General Services, Room 104, 18th and Herr Streets, Harrisburg, PA 17125, pbianchi@exec.gsinc.state.pa.us. Additional information pertinent to the firm's qualifications to do the work of this contract may be included. Direct costs other than payroll, such as travel and subsistence, shall be based on the current State rates. The Department shall reimburse miscellaneous expenses such as copies, prints, sepias, postage and film at cost upon approval.

The following factors will be considered during the evaluation of the firm's letter of interest:

Criteria evaluated by the technical review will include:

—Professional's understanding of the problem as demonstrated in letter of interest and as stated in the interpretation of the tasks to be performed.

—Qualifications of firm.

—Professional personnel in firm.

—Soundness of approach as demonstrated in the letter of interest, including the firm's narrative description identifying available resources, services and means necessary to satisfy the potential design work described herein including prompt responsiveness to design questions, shop drawings and construction questions.

—Available manpower to perform the services required.

—Knowledge of and experiences with environmentally responsible (Green) design and LEED accreditation.

—Availability of building commissioning services.

—SERB participation (evaluated by the DGS).

—Equitable distribution of the contracts.

—The proposer shall relate the proposal to the previous criteria.

Six copies of the letter of interest, six copies of the required forms and one copy of the SERB information must be received by 4 p.m. on May 4, 2004. Six copies shall be submitted in six complete sets that shall be spiral bound or in folders or secured by binder clips. The assignment and services will be made to one or more of the firms responding to this notice. However, the Department reserves the right to reject all letters of interest submitted, cancel the solicitation requested under this notice and readvertise solicitation for this service.

The Department will offer a debriefing session to the unsuccessful firms. The Department disclaims any liability whatsoever to its review of the proposals submitted and in formulating a recommendation for selections. Recommendations made by the Department shall be final.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 04-615. Filed for public inspection April 9, 2004, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
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

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0100013	National Fuel Gas West County Service Center National Fuel Gas Distribution Corporation P. O. Box 2081 Erie, PA 16512	Fairview Township Erie County	Unnamed tributary to Elk Creek 15-EC	Y

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0002216	A Cubed Corporation Concast Metal P. O. Box 816 Mars, PA 16046-0816	Adams Township Butler County	Unnamed tributary to Breakneck Creek 20-C	Y
PA0238686	Brandywine Village P. O. Box 449 Mars, PA 16046	Connoquenessing Township Butler County	Unnamed tributary to Little Connoquenessing Creek 20-C	Y
PA0210790	West Penn Plastics, Inc. Route 422 West R. R. 2, Box 2801 New Castle, PA 16101	Union Township Lawrence County	Shenango River 20-A	Y
PA0102717	Sandy Hill Estates MHP Sandy Hill Road P. O. Box 2278 Cranberry, PA 16066	Middlesex Township Butler County	Glade Run 20-C	Y
PA0221112	Howard T. Wagner 6565 Meadville Road Girard, PA 16417	Elk Creek Township Erie County	Unnamed tributary to the Cussewago Creek	Y
PA0100790	Raymond P. DiLoreto 6059 Grubb Road Erie, PA 16506-4608	Millcreek Township Erie County	Unnamed tributary to Thomas Run	Y

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

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

PA0011720, Industrial Waste, **Rhodia, Inc.**, CN 7500 Prospect Plains Road, Cranbury, NJ 08512-7500. This application is for renewal of an NPDES permit to discharge stormwater runoff from the Rhodia-Morrisville facility in Falls Township, **Bucks County**. This is an existing discharge to Biles Creek.

The receiving stream is classified for WWF.

The proposed effluent limits for Outfall 001, based on an average stormwater runoff are as follows:

<i>Parameter</i>	<i>Maximum Daily (mg/l)</i>
CBOD ₅	Monitor and Report
COD	Monitor and Report
Total Suspended Solids	Monitor and Report
Oil and Grease	Monitor and Report
pH	Monitor and Report
Phosphorus as P	Monitor and Report
Total Kjeldahl Nitrogen	Monitor and Report
Iron (Dissolved)	Monitor and Report

Other Conditions: Stormwater requirements.

The EPA waiver is in effect.

PA0046868, Sewage, **Lower Moreland Township Authority**, 640 Red Lion Road, Huntingdon Valley, PA 19006. This proposed facility is in Lower Moreland Township, **Montgomery County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge 0.22 mgd of treated sewage into a UNT to Southampton Creek.

The receiving stream, unnamed tributary to Southampton Creek, is in the State Water Plan watershed Pennypack-3J and is classified for TSF. The nearest downstream public water supply intake for the Magnatti Construction Company, Inc. is on Pennypack Creek, 4.25 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.22 MGD.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-1 to 10-31)	10	15		20
(11-1 to 4-30)	20	30		40

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Suspended Solids	10	15		20
Ammonia as N				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Phosphorous as P	1.0			2.0
Fecal Coliform	200#/100 ml			
Dissolved Oxygen	Instantaneous Minimum			
	5.0			
pH	Instantaneous Minimum			
	6.0			9.0
Copper, Total				
(0-2 years)	Monitor		Monitor	Monitor
(3-5 years)	0.016		0.022	0.032

The proposed effluent limits for Outfall 001 from completion of expansion of treatment plant from 0.22 MGD to 0.279 MGD area follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-1 to 10-31)	10	15		20
Total Suspended Solids	20	15		20
Ammonia as N				
(5-1 to 10-31)	1.5			3.0
(11-1 to 4-30)	3.0			6.0
Phosphorous as P	1.0			2.0
Fecal Coliform	50#/100 ml			
Dissolved Oxygen	Instantaneous Minimum			
	6.0			
pH	Instantaneous Minimum			
	6.0			9.0
Copper, Total	0.015		0.020	0.030

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

PA0024732, Sewage, **Elizabeth Township Sanitary Authority**, 2420 Greenock Buena Vista Road, McKeesport, PA 15135. This application is for renewal of an NPDES permit to discharge treated sewage from the Buena Vista Sewage Treatment Plant in Elizabeth Township, **Allegheny County**.

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

Outfall 001: existing discharge, design flow of 1.4 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	38		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	10,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.0
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0090638, Sewage, **White Township Municipal Authority**. This application is for renewal of an NPDES permit to discharge treated sewage from the Kittyhawk Sewage Treatment Plant in White Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Two Lick 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 Western Pennsylvania Water Company.

Outfall 001: existing discharge, design flow of 0.01715 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.5			5.0
(11-1 to 4-30)	7.5			15.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	4,500/100 as a geometric mean			
Total Residual Chlorine	0.5			1.2
Dissolved Oxygen	not less than 6 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0091260, Sewage, **Clifford B. Wareham**, 87 Kinter Station Road, Northern Cambria, PA 15714. This application is for renewal of an NPDES permit to discharge treated sewage from the Country Meadows MHP STP in Pine Township, **Indiana County**.

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

Outfall 001: existing discharge, design flow of .011 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	4.0			8.0
(11-1 to 4-30)	12.0			24.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.53			1.2
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0091651, Sewage, **Unity Township Municipal Authority**, R. D. 5, Box 325, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from the Wimmerton Water Pollution Control Plant in Unity Township, **Westmoreland County**.

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

Outfall 001: existing discharge, design flow of 0.205 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅				
(5-1 to 10-31)	20	30		40
(11-1 to 4-30)	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	4.0	6.0		8.0
(11-1 to 4-30)	12.0	18.0		24.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 as a geometric mean			

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Residual Chlorine	0.6			2.0
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0094790, Sewage, **Briko LLC (formerly Donald Krug)**, 110 Fremont Avenue, Portage, PA 15946. This application is for renewal of an NPDES permit to discharge treated sewage from the Pleasantview Mobile Home Park Sewage Treatment Plant in Adams Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Sandy Run, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Saltsburg Municipal Waterworks on the Conemaugh River.

Outfall 001: existing discharge, design flow of 0.014 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	1.9			3.8
(11-1 to 4-30)	2.8			5.6
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 6 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0205311, Sewage, **St. Paul's Highfield Lutheran Church**, R. D. 1, Box 134A, Vandergrift, PA 15690. This application is for renewal of an NPDES permit to discharge treated sewage from the St. Paul's Lutheran Church STP in Parks Township, **Armstrong County**.

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

Outfall 001: existing discharge, design flow of 0.0009 mgd.

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

The EPA waiver is in effect.

PA0218103, Sewage, **Worthington-West Franklin Joint Municipal Authority**, P. O. Box 0, Worthington, PA 16262. This application is for renewal of an NPDES permit to discharge treated sewage from the Worthington STP in West Franklin Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Buffalo Creek, which are classified as a HQ TSF 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 Creekside Mushrooms, Ltd. on Buffalo Creek.

Outfall 001: existing discharge, design flow of 0.3 mgd.

Parameter	Concentration (mg/l)		
	Average Monthly	Average Weekly	Maximum Daily
CBOD ₅			
(5-1 to 10-31)	10	15	20
(11-1 to 4-30)	15	23	30
Suspended Solids	20	30	40
Ammonia Nitrogen			
(5-1 to 10-31)	1.5	2.3	3.0
(11-1 to 4-30)	4.5	6.8	9.0
Fecal Coliform			
(5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	9,000/100ml as a geometric mean		
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.

PAI136132, MS4, **Sewickley Hills Borough**, 1165 Fairhill Playground Road, Sewickley, PA 15143. This facility is in Sewickley Hills Borough, **Allegheny County**.

Description of Proposed Activity: New NPDES Permit for an existing discharges of stormwater.

The receiving waters, Kilbuck Run and Little Sewickley Creek, are in the Act 167 Watersheds, Little Sewickley Creek and the Ohio River and are classified for CWF, HQ-TSF, aquatic life, water supply and recreation.

The MS4 permittee will implement and enforce a Storm Water Management Program approved by the Department, which is designed to reduce the discharge of pollutants from its MS4 to the maximum extent practicable, with the goal of protecting water quality and satisfying the appropriate water quality requirements of the Federal Clean Water Act and The Clean Streams Law. The program must contain a schedule, best management practices and measurable goals for the following minimum control measures, approved by the Department.

1. Public education and outreach.
2. Public participation and involvement.
3. Illicit discharge detection and elimination.
4. Construction site runoff control.
5. Post-construction stormwater management in new development and redevelopment.
6. Pollution prevention and good housekeeping or municipal operations and maintenance.

The EPA waiver is in effect.

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

PA0239461, Sewage, **David K. and Lori A. Mason**, 887 Ekastown Road, Sarver, PA 16055. This proposed facility is in Clinton Township, **Butler County**.

Description of Proposed Activity: New discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply considered during the evaluation is the receiving waters at the discharge.

The receiving stream, the unnamed tributary to Sarver Run, is in watershed 18-F and classified for HQ-TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 MGD.

Parameter	Concentrations		
	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX		
CBOD ₅	10		20
Total Suspended Solids	10		20
Ultraviolet Light		Clean and Report	
Fecal Coliform		200/100ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The EPA waiver is in effect.

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

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

WQM Permit No. 0904404, Sewerage, **Bucks County Water and Sewer Authority**, 1275 Almhouse Road, Warrington, PA 18976. This proposed facility is in Bensalem Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a sanitary sewer pumping station.

WQM Permit No. 1504405, Sewerage, **Westtown Township**, P. O. Box 79, Westtown, PA 19395. This proposed facility is in Westtown Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a new 675 gpm sewage pump station and a 10-inch force main.

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

WQM Permit No. 4504404, **Department of General Services**, 18th and Herr Streets, Harrisburg, PA 17125. This proposed facility is in Smithfield Township, **Monroe County**.

Description of Proposed Action/Activity: This project consists of the construction of a pump station and forcemain to serve the Delaware Water Gap Welcome Center.

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

WQM Permit No. 0297202-A2, Industrial Waste, **Bettis Atomic Laboratory, Pittsburgh Naval Reactors**, P. O. Box 109, West Mifflin, PA 15122-0109. This proposed facility is in West Mifflin Borough, **Allegheny County**.

Description of Proposed Action/Activity: Application for the modification and operation of the Bettis Atomic Power Laboratory Springwater Interceptor System.

WQM Permit No. 0478205-A1, Industrial Waste, **Horsehead Corp.**, 300 Frankfort Road, Monaca, PA 15061. This proposed facility is in Potter Township, **Beaver County**.

Description of Proposed Action/Activity: Application for the modification and operation of the Monaca Smeltzer Wastewater Treatment Plant.

WQM Permit No. 6570401-A2, Sewerage, **Alcoa Inc.**, Alcoa Technical Center, 100 Technical Drive, Alcoa Center, PA 15069-0001. This proposed facility is in Upper Burrell Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the modification and operation of the Alcoa Technical Center Sewerage Treatment Plant Polishing Pond.

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

WQM Permit No. 2504409, Sewerage, **Whispering Woods Estates and Stoneridge Golf Course**, 4132 Stone Creek Drive, Erie, PA 16506. This proposed facility is in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the construction and operation of pump station and sewer extension to serve a residential area and 18-hole golf course.

WQM Permit No. 4304406, Sewerage, **Donald Loomis**, 326 Westbrook Drive, Butler, PA 16001. This proposed facility is in Delaware Township, **Mercer County**.

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

WQM Permit No. 6204401, Sewerage, **Anne M. Behrend and Barbara M. Leonard**, 859 Amherst Lane, Brunswick, OH 44212. This proposed facility is in Limestone Township, **Warren County**.

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

WQM Permit No. 6202402, Sewerage, **William L. Knisley**, 12 Race Street, Sugar Grove, PA 16350. This proposed facility is in Freehold Township, **Warren County**.

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

IV. NPDES Applications for Stormwater Discharges from MS4

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAI132238	Butler Township 415 West Butler Drive Drums, PA 18222	Luzerne	Butler Township	Nescopeck Creek (Basin) HQ-CWF Nescopeck Creek (Main Stem) CWF UNT to Nescopeck Creek CWF Long Run CWF	Y

V. Applications for NPDES Waiver Stormwater Discharges from MS4

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

<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
Hanover Township 2202 Grove Road Allentown, PA 18103	Lehigh	Hanover Township	Lehigh River WWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Department Protocol (Y/N)</i>
PAG136318	Penn Borough P. O. Box 352 400 Harrison Avenue Penn, PA 15675	Westmoreland	Penn Borough	Y

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010903018	Quakertown Community School District Pfaff Elementary School 600 Park Avenue Quakertown, PA 18951	Bucks	Milford Township	Schmoutz Creek HQ-TSF

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

Carbon County Conservation District: 5664 Interchange Road, Lehigh, PA 18235-5114, (610) 377-4894.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI021304001	Big Boulder Corp. Attn: Eldon Dietterick P. O. Box 707 Blakeslee, PA 18610	Carbon	Kidder Township	Tunkhannock Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023904011	Selvaggio Enterprises, Inc. 623 Selvaggio Dr., Suite 200 Nazareth, PA 18064	Lehigh	Salisbury Township	Little Lehigh Creek HQ-CWF
PAI023904012	Upper Macungie Township 8330 Schantz Rd. Breinigsville, PA 18031	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q123-R	Terence Schimmel 7356 Spring Creek Rd. Macungie, PA 18062	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF
PAS10Q171-R	Mary Yastishok Residuary Trust of Andrew Yastishok 6500 Chapmans Rd. Allentown, PA 18106	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024504007	Robert Serfass R. R. 1, Box 1082 Kunkletown, PA 18058	Monroe	Polk Township	Dotters Creek HQ-CWF

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

Centre Conservation District, 414 Holmes Ave., Suite 4, Bellefonte, PA 16823, (814) 486-2244, Ext. 5.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041404005	Department of Transportation P. O. Box 342 Clearfield, PA 16830	Centre	Harris Township	UNT Spring Creek Galbraith Gap Run HQ-CWF

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

Cambria County Conservation District: 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI051104003 (1)	Department of Transportation 1620 North Juniata Street Hollidaysburg, PA 16648	Cambria	Jackson Township	Findlay Run HQ-CWF Rummel Run CWF Laurel Run HQ-CWF Hinckston Run CWF Unnamed tributary to South Branch Blacklick CWF

Somerset County Conservation District: North Ridge Building, 1590 North Center Avenue, Suite 103, Somerset, PA 15501-7000.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI055604001	Somerset County General Authority 146 West Main Street Somerset, PA 15501	Somerset	Boswell and Jennerstown Boroughs Conemaugh, Jenner, Lincoln and Somerset Townships	Coxes Creek CWF Quemahoning Creek CWF Wells Creek WWF

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

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Department Protocol (Y/N)</i>
PAG136318	Penn Borough P. O. Box 352 400 Harrison Avenue Penn, PA 15675	Westmoreland	Penn Borough	Y
PAG136356	Beaver County 810 Third Street Beaver, PA 15009	Beaver	Beaver Borough	Y

PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Permit No. Minor Amendment. Public Water Supply.

Applicant	Whiskey Run Water Association Betty Barton, Secretary 2924 Farrandsville Road Farrandsville, PA 17745
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Township	Colebrook Township, Clinton County
Responsible Official	Betty Barton, Secretary 2924 Farrandsville Road Farrandsville, PA 17745
Type of Facility	PWS
Consulting Engineer	Joseph J. Matalavage, P. E. Alfred Benesch & Company 400 One Norwegian Plaza Pottsville, PA 17901
Application Received Date	March 24, 2004
Description of Action	Rehabilitation of a springhouse to prevent infiltration/exfiltration of water.

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

Permit No. 3004501, Public Water Supply.

Applicant	Southwestern Pennsylvania Water Authority P. O. Box 187 1442 Jefferson Road Jefferson, PA 15344
Township or Borough	Washington Township
Responsible Official	Joseph Simatic, Manager Southwestern Pennsylvania Water Authority P. O. Box 187 1442 Jefferson Road Jefferson, PA 15344
Type of Facility	Water Treatment Plant
Consulting Engineer	Dakota Engineering Associates, Inc. Etna Technical Center, Suite 200 35 Wilson Street Pittsburgh, PA 15223
Application Received Date	March 17, 2004
Description of Action	Installation of a pump station.

Permit No. 3204502, Public Water Supply.

Applicant	Central Indiana County Water Authority 30 East Wiley Street Homer City, PA 15748
Township or Borough	Center Township

Responsible Official Anthony Perman, Chairperson
Central Indiana County Water
Authority
30 East Wiley Street
Homer City, PA 15748

Type of Facility Water Treatment Plant

Consulting Engineer Bankson Engineers Inc.
267 Blue Run Road
P. O. Box 200
Indianola, PA 15051

Application Received Date March 22, 2004

Description of Action Construction of sodium
hypochlorite disinfection
facilities to replace the existing
gas chlorination. Modifications to
the two filter units include the
rehabilitation of the underdrain
system, installation of an
air-backwash system and the
conversion of the filters from
single media to multimedia.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. 3004501, Minor Amendment.

Applicant **Ernest Borough**
P. O. Box 55
Ernest, PA 15739

Township or Borough Ernest Borough

Responsible Official Susan Bennett, Council
President
Ernest Borough
P. O. Box 55
Ernest, PA 15739

Type of Facility Water Treatment Plant

Consulting Engineer Keller Engineers, Inc.
P. O. Box 61
420 Allegheny Street
Hollidaysburg, PA 16648

Application Received Date March 25, 2004

Description of Action New process tank.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An

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

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

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

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

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

Former Envirotest Site, City of Lebanon, **Lebanon County**. Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440, on behalf of Environmental Systems Products, Inc., 11 Kripes Road, East Granby, CT 06026, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with inorganics, lead and PAHs. The applicant proposes to remediate the site to meet a combination of requirements for the Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lebanon Daily News* on February 24, 2004.

West Shore Office Center, East Pennsboro Township, **Cumberland County**. Marshall Miller and Associates,

3913 Hartzdale Drive, Suite 1306, Camp Hill, PA 17011, on behalf of Senate Avenue Associates, 4601 Presidents Drive, Suite 140, Lanham, MD 20706, submitted a revised Notice of Intent to Remediate site soils and groundwater contaminated with diesel fuel. The applicant proposes to remediate the site to meet the Statewide Health Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Harrisburg Patriot* on March 13, 2004.

Sunoco Station No. 003-6889, Hampden Township, **Cumberland County**. AquaTerra Technologies, 122 South Church Street, West Chester, PA 19381, on behalf of Sunoco, Inc. (R & M), Ten Penn Center, 1801 Market Street, Philadelphia, PA 19335, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with unleaded gasoline. The applicant proposes to remediate the site to meet the Statewide Health Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Patriot News* on February 25, 2004.

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

Vine Street Property (BVK, Inc.) Cleanup, Berwick Borough, **Columbia County**. AGI Aegis Company, Inc., on behalf of BVK, Inc., Castletown Square North, 4290 Rt. 8, Allison Park, PA 15101, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with diesel fuel. This site is being remediated to meet the special industrial area requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Press Enterprise* on March 20, 2004.

Alpine Plaza, Wysox Township, **Bradford County**. Converse Consultants, on behalf of Joan and William Woloshyn, R. R. 2, Box 72A-1, Wysox, PA 18854, has submitted a Notice of Intent to Remediate groundwater contaminated with solvents. The applicant proposes to meet the Site-Specific Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily and Sunday Review* during the week of March 23, 2004.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications Received under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101–4000.1904) and regulations to operate solid waste processing or disposal area or site.

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

Permit Application No. 101468. Republic Services of PA, 4145 E. Baltimore Pike, Media, PA 19063, Philadelphia City, **Philadelphia County**. This major permit modification seeks approval for the Girard Point Transfer Station to relocate their MSW processing and transfer operations from the existing building to a new transfer building and to make modifications to the existing building to accommodate processing and transfer of C and D waste by barge from the pier on which the facility is located. The application was received by the Southeast Regional Office on March 26, 2004.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

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

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

PLAN APPROVALS

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

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

06-05030A: Caraustar Mill Group, Inc. (3110 Paper Mill Road, Sinking Spring, PA 19608) for modification of

the conditions limiting the emissions of sulfur dioxide from the boiler at their mill in Spring Township, **Berks County**.

06-05040A: East Penn Manufacturing Co., Inc. (P. O. Box 147, Lyon Station, PA 19536-0147) for approval to remove the wetted packed bed scrubber as a control device from the lead scrap dryer at their smelter plant in Richmond Township, **Berks County**. The dryer is subject to 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants from Secondary Lead Smelters.

06-05069E: East Penn Manufacturing Co., Inc. (P. O. Box 147, Lyon Station, PA 19536-0147) for construction and modification of various sources used in the manufacturing of lead/acid batteries controlled by various fabric collectors and HEPA filters in their assembly facility in Richmond Township, **Berks County**. The sources are subject to 40 CFR Part 60, Standards of Performance for New Stationary Sources.

34-03005B: Energex American, Inc. (R. R. 5, Box 343, Mifflintown, PA 17059) for installation of a wet scrubber to control emissions from a wood-fired dryer in Walker Township, **Juniata County**.

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

41-310-012A: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) for installation of an air cleaning device (a replacement waterspray dust suppression system) on a sandstone crushing and screening plant (Plant No. 12, Hagerman's Run) in Armstrong Township, **Lycoming County**.

49-00054A: Meckley's Limestone Products, Inc. (R. R. 1, Box 1682, Herndon, PA 17830) for installation of an air cleaning device (a fabric collector) on a "dust bunker" in a limestone crushing, screening and grinding plant and installation of a diverter valve and cyclone separator in Lower Mahanoy Township, **Northumberland County**.

19-310-002D: Hanson Aggregates Pennsylvania, Inc. (2200 Springfield Pike, Connellsville, PA 15425) for construction of a replacement impact crusher in a stone crushing plant at their Bloomsburg Quarry in Hemlock Township, **Columbia County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

03-00237A: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201-9642) for installation of coal processing facility at the Keystone East Mine in Plumcreek Township, **Armstrong County**.

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

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

PA-46-0012: Philadelphia Newspaper, Inc. for installation of five plate processors which replace five existing plate processors in Upper Merion Township, **Montgomery County**. This facility is a Major for VOC. There is no emissions increase. Emissions from these

sources are 8.5 tons of VOCs. The Plan Approval will contain recordkeeping and operating restriction designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

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

52-318-002: LP Cylinder Service, Inc. (Box 1576, Route 434, Shohola, PA 18458) for construction of a cylinder spray operation with filters at their site in Shohola Township, **Pike County**. This facility is a non-Title V facility. The VOC emissions from the facility will be less than 50 tpy. The HAPs emissions from the facility will be less than 10 tpy for any single pollutant and 25 tpy for all HAPs combined. There will be no malodorous emissions past the property line. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system.

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

36-05027C: R. R. Donnelley and Sons Co. (216 Greenfield Road, Lancaster, PA 17601-5885) to install a rotogravure printing press at their Lancaster East facility in Lancaster City, **Lancaster County**. This printing facility is a Title V facility. The new press will result in increased VOC emissions. The press has an emission limit of 104 tons per 12-month period. Applicable requirements include 40 CFR Part 60, Subpart QQ—New Source Performance Standard and 40 CFR Part 63, Subpart KK—MACT. Monitoring, recordkeeping and other restrictions are included to keep the facility operating within applicable requirements.

44-05002C: CNH America LLC (P. O. Box 868, Belleville, PA 17004) for installation of a replacement paint spray booth at their farm equipment manufacturing facility in Union Township, **Mifflin County**. The replacement will not measurably impact emissions from the facility. The facility is a major source subject to Title V and 40 CFR Part 63, National Emission Standards for Hazardous Air Pollutants: Surface Coating of Miscellaneous Metal Parts and Products.

67-05101B: Kinsley Construction, Inc. (P. O. Box 2886, York, PA 17403) to change the allowable sulfur content of the waste oil used in their drum mix asphalt plant in West Manchester Township, **York County**. This hot mix asphalt plant is a non-Title V facility. There is no change in the facility annual emissions limit of 100 tons per year of SO_x. Requirements for monitoring, recordkeeping and reporting are included to keep the facility operating within the applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Richard Maxwell, New Source Review Chief, (570) 327-3637.

47-00001A: PPL Montour LLC (P. O. Box 128, Washingtonville, PA 17884) for installation of air cleaning devices and sodium sulfite flue gas injection systems on two bituminous coal-fired electric utility boilers (units 1 and 2) at their Montour Steam Electric Station near Washingtonville in Derry Township, **Montour County**.

The respective facility is a major facility for which Title V Operating Permit No. 47-00001 has been issued.

The proposed sodium sulfite flue gas injection systems will be used to lower the sulfur trioxide and sulfuric acid

concentrations in the exhaust of the two electric utility boilers which, in turn, is expected to result in an improvement in the boilers' visible air contaminant emissions, particularly during the May through September time period. The magnitude of the resultant annual decrease in sulfur trioxide and sulfuric acid emissions is unknown. The degree of improvement in the boilers' visible air contaminant emissions is also unknown but it is believed that the use of the respective sodium sulfite flue gas injection systems will help ensure compliance with the visible air contaminant emission limitations of 25 Pa. Code § 123.41 on a consistent basis.

The Department's review of the information submitted by PPL Montour LLC indicates that the respective boilers will meet all applicable air quality regulations pertaining to air contamination sources and the emission of air contaminants following the installation of the proposed sodium sulfite flue gas injection systems. Based on this finding, the Department proposes to issue plan approval for the installation of the injection systems.

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

1. The sodium sulfite flue gas injection system associated with a boiler shall be operated at any time that the selective catalytic reduction system associated with that boiler is also being operated.

2. When the selective catalytic reduction system associated with a boiler is not being used, the operation of the sodium sulfite flue gas injection system associated with that boiler shall be at the discretion of PPL Montour LLC.

3. Each sodium sulfite flue gas injection system shall be equipped with instrumentation to continuously monitor the sodium sulfite solution flow rate in the supply line to each injection lance as well as the pressure existing in the supply line to each injection lance.

4. On any occasion that a sodium sulfite flue gas injection system is in use, the sodium sulfite solution flow rate and pressure existing in the supply line to each injection lance shall be recorded at least once per 8-hour operating shift. All records shall be retained for at least 5 years and shall be made available to the Department upon request.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

65-767A: Westmoreland Waste, LLC (900 Tyrol Boulevard, Belle Vernon, PA 15909) for expansion of the landfill and installation of a control system in Rostraver Township, **Westmoreland County**.

Under 25 Pa. Code §§ 127.44–127.48, the Department intends to issue a Plan Approval to allow the expansion of the existing landfill and installation of a control system consisting of a collection system, two 5,500 CFM enclosed ground flares and a 1,005 CFM generator set. Emissions from the facility have been estimated at 75 tons of NO_x per year, 248 tons of CO per year and 53 tons of NMOCs per year. The facility is subject to the operational, monitoring, recordkeeping, testing and reporting requirements required by 40 CFR 60, Subpart WWW and 25 Pa. Code Chapter 127. The Plan Approval has been conditioned accordingly. Copies of the Plan Approval application, the Department's analysis and the proposed

Plan Approval are available for public inspection during normal business hours at the following address. This is a Title V Facility.

Persons who wish to oppose the plan approval may file a written protest. A 30-day comment period, from the date of this publication, will exist for the submission of protests. Written protests must contain the name, address and telephone number of the person filing the protest, identification of proposed Plan Approval PA-65-767A and a concise statement of the objections to the Plan Approval issuance and relevant facts upon which the objections are based.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting written protests or requesting a hearing will be notified of the decision to hold a hearing by publication in the *Pennsylvania Bulletin*, or by telephone, where the Department determines notification by telephone is sufficient. Written comments or request for a public hearing should be sent to Barbara Hatch, Air Pollution Control Engineer, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

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

10-001I: AK Steel Corp.—Butler Works (Standard Avenue, Butler, PA 16003-0832) for revision of the CO emission limitation at the no. 3 baghouse inlet (melt shop) in Butler Township, **Butler County**. This increase in emissions will not result in NSR or PSD applicability. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b, regarding plan approval terms and conditions, and will demonstrate best available technology for the source:

- Increasing the CO emissions from 142 to 164 #/hr.
- Increasing the CO emissions from 620 to 718.3 tpy.

20-293A: Meadville Sandblasting, Inc. (15921 South Mosiertown Road, Meadville, PA 16335) for modification of a sandblasting facility and construction of four surface coating facilities in Hayfield Township, **Crawford County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval for post-construction of an existing sandblasting facility which will be modified to use either grit or sand with an associated bag house or cartridge collector; and post construction of four surface coating facilities which will be modified by installing a filter system in the paint bay air vents at their facility in Hayfield Township, Crawford County. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

1. The blasting operation and the paint booths shall comply with 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions, respectively.

2. Particulate emissions from the sources shall not exceed 0.02 grain/dscf.

3. The sources shall not operate when the control devices are not operating.

The following conditions apply to the surface coating operations:

4. The source shall use coatings that are compliant with 25 Pa. Code § 129.52, Table 1(10)(e) for the category miscellaneous metal parts and products, only.

5. VOC emissions from the facility shall not exceed 15.0 tons in any 12-month rolling period and 9.8 tons of HAPs in any 12-month rolling period.

6. Records of coating usage shall be maintained in accordance with 25 Pa. Code § 129.52(c). Daily records shall be maintained for each coating, thinner and other components as supplied including:

- a. The coating, thinner or component name and identification number.
- b. The volume used.
- c. The mix ration.
- d. The density or specific gravity.
- e. The weight percent of total volatiles, water, solids and exempt solvents.
- f. The volume percent of solids.
- g. The VOC content of each coating, thinner and other components as supplied.
- h. The VOC content of each as applied coating.

7. The facility shall maintain monthly totals of VOC and HAPs and maintain 12-month rolling totals. The records shall be maintained for a minimum of 5 years and shall be made available to the Department upon request.

8. The weight of VOC per volume of coating solids must be equal to or less than 6.67 pounds of VOCs per gallon of coating solids unless the owner or operator of the facility complies with the exemptions listed in 25 Pa. Code § 129.52(h).

9. This facility shall not use air spray guns for the application of surface coatings. Coatings may be applied with electrostatic, airless, curtain coating, roller coating, hand brush, flow coating, dip coating or high volume-low pressure application equipment. Air atomized sprays may be used to apply cosmetic specialty coatings if the volume of the cosmetic specialty coatings is less than 5% by volume of the total coating used at the facility or to apply final repair coatings.

The following conditions apply to the grit or sand blasting operation:

10. A magnehelic gauge or equivalent shall be permanently installed and maintained at a conveniently readable location to indicate the pressure drop across the collector.

11. The facility shall maintain 20% of the total number filters or cartridges as replacements for the blasting dust collection system onsite or shall have immediate access to spare filters or cartridges in the event of failure. The blasting system shall not be operated if the collection system is not operating within manufacturer's specifications.

12. Whenever a condition in this permit requires the measurement of pressure drop across any part of the unit

or its control device, the gauge employed shall have a scale so that the expected normal reading shall be no less than 20% of full scale.

13. The operating range for pressure drop of the collector shall be determined within 30 days of startup of the control device and shall be indicated to the Department in writing. The pressure drop ranges shall be made part of the facility-operating permit.

14. A routine inspection of the collector shall be made weekly. An inspection/maintenance log for the collector shall be maintained onsite. The log shall contain all records of maintenance, as suggested by the manufacturer. The records shall be kept on file for 5 years and shall be made available to the Department personnel upon request.

43-270A: CCL Container (1 Llodio Drive, Hermitage, PA 16148-9015), for replacement of an existing 25,000 cfm incinerator with a new 30,000 cfm regenerative catalytic oxidizer in Hermitage City, **Mercer County**. This modification will not result in NSR or PSD applicability. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b, regarding plan approval terms and conditions, and will demonstrate best available technology for the source:

- This plan approval is for the replacement of catalytic incinerator 1 identified as C01 in their Title V permit with a regenerative catalytic oxidizer (RCO) to control emissions from can lines 1—5 identified as Sources 101—105 in their Title V permit. This plan approval will supercede the following stated conditions in Title V Permit No. 43-00270 issued on September 24, 2003, for Sources 101—105.

- This approval to construct/modify shall become invalid if: (1) construction is not commenced (as defined in 25 Pa. Code § 127.13(b) and 40 CFR 52.21(b)(8)) within 18 months after the date of this approval; (2) if construction is discontinued for a period of 18 months or more; or (3) construction is not completed within a reasonable time.

- This source is subject to 25 Pa. Code §§ 123.1, 123.13, 123.21, 123.31 and 123.41.

- The VOC destruction/removal efficiency of the RCO shall be greater than 95% by weight.

- The permittee shall perform annual conversion efficiency testing of the catalytic.

- Stack test for PM and VOC DRE.

- The permittee shall continuously monitor the inlet and outlet temperature of this catalytic oxidizer whenever the source is in operation.

- The permittee shall monitor the pressure differential across the catalytic oxidizer on a daily basis using a magnehelic gauge or equivalent.

- The permittee shall monitor the airflow or fan amperage on a daily basis.

- The permittee shall maintain a log of all inspections, repairs and maintenance performed on the control device and all the monitoring equipment. The log, at a minimum, shall contain the dates of the inspections, repairs

and maintenance performed, any potential problems or defects that were encountered and the steps taken to correct them.

- The permittee shall record the following operational data from the catalytic oxidizer (these records may be done with strip charts recorders, data acquisition systems or manual log entries):

- Catalytic oxidizer inlet and outlet temperature continuously.

- Pressure drop across the catalytic oxidizer daily.

- The airflow or fan amperage prior to and after putting a source online that exhausts to this catalytic oxidizer.

- The permittee shall record all excursions and corrective actions taken in response to an excursion and the time elapsed until the corrective actions have been taken.

- The permittee shall maintain records of all monitoring downtime incidents (other than downtime associated with zero and span or other daily calibration checks, if applicable). The permittee shall also record the dates, times and durations, probable causes and corrective actions taken for the incidents.

- The permittee shall report all excursions and corrective actions taken, the dates, times, durations and probable causes, every 6 months.

- The permittee shall report all monitoring downtime incidents (other than downtime associated with zero and span or other daily calibration checks, if applicable), their dates, times and durations, probable causes and corrective actions taken, every 6 months.

- The permittee shall adhere to the approved indicator range for the catalytic oxidizer so that operation within the range shall provide reasonable assurance of compliance. A departure from the specified indicator range over a specified averaging period shall be defined as an excursion. The approved indicator range for the following shall be determined during the initial performance test or any subsequently approved performance tests unless otherwise stated:

- Pressure drop across the catalyst bed between ___" w. g. and ___" w. g.

- Airflow greater than ___ ACFM or fan amperage greater than ___.

- Three-hour average inlet temperature of less than the 3-hour average inlet temperature during the most recently approved performance test or an inlet temperature to catalyst bed less than 600°F at any time. The permittee shall ensure that the catalytic oxidizer has reached its minimum operating temperature prior to placing any affected source on line.

- The permittee shall perform daily operational inspections of the control device, including but not limited to, monitoring the temperature rise across the catalyst bed, monitoring the pressure drop across the catalyst bed, monitoring the airflow or fan amperage and monitoring the minimum temperature at the inlet to the catalyst bed.

- The facility shall comply with 25 Pa. Code § 127.25 as follows: A person may not cause or permit the operation of a source, unless the source and air-cleaning device, are operated and maintained in accordance with specifications in the Plan Approval application and conditions listed in this plan approval. A person may not cause or permit the operation of an air contamination source in a manner inconsistent with good operating practices.

- The permittee shall utilize approved QA/QC practices that are adequate to ensure continuing validity of data and proper performance of the control devices.

- The permittee shall install detectors or sensors at a Department-approved location for obtaining data that is representative of the monitored indicator.

- The permittee shall develop verification procedures to confirm that the operational status of the monitoring devices is within the expected range.

- The permittee shall calibrate and check the accuracy of the monitoring equipment, according to the manufacturer's recommended procedures. (For example, the thermocouple shall be checked for accuracy (+/- 20°F) each calendar quarter.)

- The permittee shall develop and implement a quality improvement plan as expeditiously as practicable if any of the following occur:

- For properly and accurately collected data, accumulated excursions exceed 2% of the data for VOC.

- Six excursions occur in a 6-month reporting period.

- The Department determines after review of all reported information that the permittee has not responded acceptable to an excursion.

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.

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

08-00004: Rynone Manufacturing Corp. (P. O. Box 128, Sayre, PA 18840) for renewal of the Title V Operating Permit for their Sayre plant in Sayre Borough, **Bradford County**. The facility is currently operating under TVOP 08-00004, which was issued June 15, 1999. The facility's sources include 19 combustion units, 4 gel-coat and molding lines, 2 marble casing machines, 1 batch mixer, 1 bucket washer, 1 parts washer and miscellaneous solvent cleaning. The facility has the potential to emit major quantities of styrene, an HAP. The facility has the potential to emit SO_x, NO_x, CO, PM (PM₁₀), VOCs and combined HAPs below the major emission thresholds. The proposed Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

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

38-03033: East Indies Coffee and Tea Co., Inc. (7 Keystone Drive, Lebanon, PA 17042) for operation of a coffee roasting facility in South Lebanon Township, **Lebanon County**. The facility has the following annual potential emissions: 6.5 tons NO_x, 1.2 tons CO, 0.3 ton PM₁₀ and 0.1 ton VOC. The State-only operating permit 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.

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

17-00028: Hepburnia Coal Co. (P. O. Box 1, Grampian, PA 16838) for their coal processing facility in Greenwood Township, **Clearfield County**. The facility's main sources include a coal processing operation and unpaved site haul roads. The facility has the potential to emit SO_x, NO_x, CO, PM (PM₁₀), VOCs and HAPs below the major emission thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

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

20-00264: Salt Painting Co. (17918 State Highway 198, P. O. Box 491, Saegertown, PA 16433) for a Natural Minor Operating Permit for operation of the Salt Painting Company in Hayfield Township, **Crawford County**.

20-00037: US Bronze Foundry and Machine, Inc. (18649 Brake Shoe Road, P. O. Box 458, Meadville, PA 16335) for a Natural Minor Operating Permit for manufacture of centrifugal cast specialty bronze products in Woodcock Township, **Crawford County**.

25-00930: Metro Machine Corp. (Foot of Holland Street, Erie, PA 16502) for a Synthetic Minor Operating Permit to operate a ship repair and shipbuilding facility in the City of Erie, **Erie County**. The facility's primary emission sources include surface preparation and surface coating operations. The facility has elected to limit the VOC and HAP emissions to below major source levels.

PUBLIC HEARINGS

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

10-00001: AK Steel Corp.—Butler Works (Route 8, Butler, PA 16003) for a Reasonably Available Control Technology (RACT) revision to increase fuel throughput limitation of boiler 11 in Butler, **Butler County**.

For the facility, a public hearing will be held for the purpose of receiving comments on the proposed Operating Permit and the proposed revisions to the Commonwealth's State Implementation Plan (SIP). The Department will conduct a public hearing on Wednesday May 19, 2004, from 1 p.m. to 3 p.m. in the Air Quality Conference Room, Meadville Regional Office, 230 Chestnut Street, Meadville, PA.

The hearing is for the Department to accept testimony concerning the Department's decision to approve, with conditions, the revised RACT plans.

The hearing is being held to meet the requirements in 25 Pa. Code §§ 129.91—129.95 concerning the emissions of NO_x and VOC from various air contamination sources. The final RACT proposal will be submitted to the EPA as a revision to the SIP.

The proposed SIP revisions do not adopt new regulations. They incorporate the provisions and requirements contained in RACT approvals for this facility to comply with current regulations.

The preliminary RACT determination, if finally approved, will be incorporated into a Plan Approval and/or

Operating Permit for the facility and will be submitted to the EPA as a revision to the SIP.

The following is a summary of the preliminary NO_x and VOC determination for the facility:

<i>Source</i>	<i>Control</i>
Boiler 11 (revised to increase fuel throughput limitation)	Additional controls not feasible

Persons wishing to present testimony at the hearing should contact H. Thomas Flaherty, New Source Review, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335-3494, (814) 332-6940 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to a maximum of 10 minutes and two written copies of the oral testimony are required. Each organization is requested to designate one witness to present testimony on its own behalf.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact H. Thomas Flaherty at (814) 332-6940 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Persons unable to attend the hearing who wish to comment should provide written comments to H. Thomas Flaherty. Comments should be submitted within 30 days of the date of this notice.

All pertinent documents (applications, review memos and draft approvals) are available for review from 8 a.m. to 4 p.m. at the Meadville Regional Office (Air Quality). Appointments for scheduling a review must be made by calling H. Thomas Flaherty.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

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

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

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

Coal Applications Received

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

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

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

24890101 and NPDES Permit No. PA0105082. Energy Resources, Inc. (P. O. Box 259, Brockway, PA 15824). Renewal of an existing bituminous surface strip and tippie refuse disposal, use of coproduct, coal ash placement operation in Horton and Fox Townships, **Elk County**, affecting 377.0 acres. Receiving streams: unnamed tributary to Little Toby Creek, Brandy Camp Creek and Boderoco Run, a tributary to Brandy Camp Creek (CWF). The first downstream potable water supply intakes from the point of discharge are Elbon and Brandy Camp. Application for reclamation only. Application received March 22, 2004.

24980105 and NPDES Permit No. PA0227871. Tamburlin Bros. Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830-1419). Renewal of an existing bituminous surface strip and auger operation in Horton Township, **Elk County**, affecting 139.0 acres. Receiving streams: Kernes Run, Brandy Camp Creek and Johnson Run (CWF). There are no potable surface water supply intakes within 10 miles downstream. Application received March 22, 2004.

24980102 and NPDES Permit No. PA0227781. Tamburlin Bros. Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830-1419). Renewal of an existing bituminous surface strip and auger operation in Fox Township, **Elk County**, affecting 196.0 acres. Receiving streams: Limestone Run and Little Toby Creek (CWF).

There are no potable surface water supply intakes within 10 miles downstream. Application received March 22, 2004.

33950106 and NPDES Permit No. PA0227081. Falls Creek Energy Co., Inc. (R. D. 6, Box 231, Kittanning, PA 16201). Transfer of an existing bituminous surface strip in Perry Township, **Jefferson County**, affecting 148.4 acres. Receiving streams: unnamed tributary to Mahoning Creek, unnamed tributary to Sawmill Run and Rose Run (CWF). There are no potable surface water supply intakes within 10 miles downstream. Transfer from Beth Contracting, Inc. Application received March 24, 2004.

10040102 and NPDES Permit No. PA0242501. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Commencement, operation and restoration of a bituminous surface strip operation in Concord Township, **Butler County**, affecting 179.0 acres. Receiving streams: six unnamed tributaries to Bear Creek (CWF). There are no potable surface water supply intakes within 10 miles downstream. Application received March 23, 2004.

1475-10040102-E-1. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Application for a stream encroachment to conduct mining activities within 25 feet of an unnamed tributary to Bear Creek (CWF) in Concord Township, **Butler County**, affecting 2.7 acres. Receiving streams: six unnamed tributaries to Bear Creek. There are no potable surface water supply intakes within 10 miles downstream. Application received March 23, 2004.

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

56890101. Croner, Inc. (1576 Stoystown Road, P. O. Box 260, Friedens, PA 15541), surface mining permit bonding increment in Brothersvalley Township, **Somerset County**, affecting 205.9 acres. Receiving streams: unnamed tributary to Buffalo Creek and Buffalo

Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received March 23, 2004.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

63-03-01 and NPDES Permit No. PA0250546. Newgate Development Corporation (2201 Quicksilver Road, McDonald, PA 15057). Application for a government financed construction contract in Robinson Township, **Washington County**, affecting 27 acres. Receiving

streams: unnamed tributary to Robinson Run (WWF). There is no potable water supply intake within 10 miles from the point of discharge. This application was previously submitted by Robinson Coal Company. GFCC application received March 22, 2004.

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
pH*		greater than 6.0; less than 9.0	

*The parameter is applicable at all times.

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

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

6475SM10T and NPDES Permit No. PA0224391. Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17105), transfer of an existing quarry operation from Kaminski Brothers, Inc. and correction to add NPDES Permit for discharge of treated mine drainage in Jenkins Township, **Luzerne County**, affecting 128.85 acres. Receiving streams: Lampblack Creek (CWF). Application received March 23, 2004.

40970302T. Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17105), transfer of an existing quarry operation from Kaminski Brothers, Inc. in Jenkins Township, **Luzerne County**, affecting 51.5 acres. Receiving streams: None. Application received March 23, 2004.

6875SM5C and NPDES Permit No. PA0595128. Eastern Industries, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), renewal of NPDES Permit discharge of treated mine drainage in Oliver Township, **Mifflin County**. Receiving streams: Strodes Run (CWF). Application received March 24, 2004.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

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

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

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

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

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

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E09-871. Brandywine Realty Trust, 401 Plymouth Road, Plymouth Meeting, PA 19462, Newtown Township, **Bucks County**, ACOE Philadelphia District.

Brandywine Realty Trust Bridge Construction Project to construct a 125-foot span reinforced concrete bridge with wingwalls, over the Core Creek (CWF, MF). The work will impact approximately 0.35 acre of wetlands to accommodate roadway approach widening and construction access. Approximately 0.30 acre of wetland replacement will be constructed onsite, as mitigation to the wetland impact. The bridge will span the entire FEMA delineated floodway with no major construction work expected within the floodway. Work will include an 8-foot wide bituminous walkway loop running approximately 733 linear feet into the wetlands. The site is approxi-

mately on the northern edge by Newtown-Yardley Road (SR 0332) with Upper Silver Lake Road serving as its western border (Newtown Township, Bucks County District) (Langhorne, PA Quadrangle N: 19.45 inches; W: 3.58).

E15-710. Telvil Corporation, 528 Main Street, Harleysville, PA 19438, East Coventry, **Chester County**, ACOE Philadelphia District.

The project proposes to construct the following water obstructions associated with the proposed Walnut Springs Farms, a 23-lot single-family home residential subdivision:

(1) A culvert for road crossing A, associated with Linwood Circle at road station 10+64, consisting of headwall no. 2, 24 LF of 42-inch RCP, catch basin 5A, 50 LF of 42-inch RCP, catch basin 5B, 24 LF of 42-inch RCP, end wall no. 5.

(2) Road crossing A, includes 107 cubic yards of approach fill within the assumed 100-year floodway, 0.09 acre of fill wetlands (PEM) and temporary cofferdams dewatering 160 LF of stream.

(3) A culvert for road crossing B, associated with Linwood Circle at road station 21+00, consisting of headwall no. 1, 22 LF of 60-inch RCP, catch basin 5A, 53 LF of 60-inch RCP, catch basin 5B, 22 LF of 60-inch RCP, end wall no. 6.

(4) Road crossing B, includes 213 cubic yards of approach fill within the assumed 100-year floodway, 0.06 acre of fill wetlands (PEM) and temporary cofferdams dewatering 150 LF of stream.

(5) Outfall channel of combination sediment/stormwater retention basin no. 1 impacting 5 LF of stream.

(6) Outfall channel of combination sediment/stormwater retention basin no. 2 impacting 24 LF of stream.

(7) Two replacement wetland areas totaling 0.44 acre are proposed.

The project site proposes impacts to 339 linear feet of watercourse to an unnamed tributary of Pigeon Creek (HQ-TSF) and 0.15 acre of adjacent wetland and is approximately 380 feet from the intersection Ebelhare and Ellis Woods Roads (Phoenixville, PA Quadrangle N: 12.11 inches; W: 15.81 inches).

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

E45-461. Lake Naomi Club, Route 423, P. O. Box T, Pocono Pines, PA 18350-0620 in Tobyhanna Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a pedestrian bridge having a single span of approximately 110.0 feet and a maximum underclearance of approximately 12 feet across Upper Tunkhannock Creek (HQ-CWF) and three minor road crossings in a de minimis area of PSS wetlands equal to 0.05 acre for the purpose of constructing a pedestrian walkway. The project begins at a point 30 feet upstream of the SR 0423 bridge and includes approximately 2,600 feet of additional pedestrian walkway along SR 0423 (Pocono Pines, PA Quadrangle N: 19.8 inches; W: 13.8 inches).

E35-371. City of Scranton, R800 Providence Road, Scranton, PA 18508 in City of Scranton, **Lackawanna County**, U. S. Army Corps of Engineers, Baltimore District.

To remove the existing structure and to construct and maintain a concrete arch bridge having a 36-foot span and minimum underclearance of 15.3 feet across Leggetts Creek (CWF). The project is on Rockwell Avenue approximately 0.1 mile east of Market Street (Scranton, PA Quadrangle N: 12.2 inches; W: 4.8 inches).

E40-632. Can Do, Inc., 1 South Church Street, 200 Renaissance Center, Hazleton, PA 18201 in Hazle Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To place fill or regrade within 0.80 acre of PFO wetlands for the extension of Humboldt Drive and construction of a warehouse/distribution facility and associated stormwater management facilities on lot 105 of the Humboldt Industrial Park East. The project is on the western side of SR 0081, approximately 4,000 feet south of SR 0924 (Conyngham, PA Quadrangle N: 10.5 inches; W: 3.5 inches).

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

E59-455. Corey Creek Watershed Association Inc., 246 Pickle Hill Road, Mansfield, PA 16901. Corey Creek Phased Restoration Project in Sullivan and Richmond Townships, **Tioga County**, ACOE Baltimore District (Mansfield, PA Quadrangle N: 7.3 inches; W: 1.5 inches).

The applicant proposes to gain authorization for a Phased Water Obstruction and Encroachment Permit to complete restoration activities with the Corey Creek Watershed. The permit application proposes five phased reaches along Corey Creek (reaches A—E) that would undergo geomorphologic design and construction. Reaches A and C—E are proposed to have authorization only for approximate length, acreage of disturbance and start and stop locations. Reach B consists of 1,345 linear feet of channel reconstruction and enhancement, riparian plantings, bank regarding and habitat enhancement. A total of ten rock structures will be utilized to increase bank stability and habitat enhancement. The project will impact .2 acre of wetlands and will be mitigated for by the additional creation of wetland habitat pockets. Inserting channel plugs in the existing channel will create the wetland pockets.

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

E02-1456. Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017. Four bridges on SR 0079 in Collier Township, **Allegheny County**, Pittsburgh ACOE District. Bridges 1 and 2 (Bridgeville, PA Quadrangle N: 22.1 inches; W: 15.1 inches) (Latitude: 40° 22' 18" and Longitude: 80° 6' 30"). Bridges 12—14 (Pittsburgh West, PA Quadrangle N: 4.5 inches; W: 14.7 inches) (Latitude: 40° 23' 59" and Longitude: 80° 6' 20"). The applicant proposes to operate and maintain a dual three-span bridge over Chartiers Creek (WWF). Bridge 1 has a span of approximately 228 feet and an underclearance of approximately 27 feet. Bridge 2 has a span of approximately 253 feet and an underclearance of approximately 27 feet. For bridge 2, new pier jacket will be constructed and maintained with scour protection around piers 1 and 2. The bridge deck and parapets will be removed and new ones will be constructed and maintained. The applicant proposes to operate and maintain a six-span bridge across Robinson Run (WWF). Bridge 12 (ramp D) has a span of approximately 667 feet and an underclearance of approximately 85 feet. Pier 3 will be replaced and maintained, the rest

of the piers will be modified and maintained. The bridge deck and parapet will be removed and a new one will be constructed and maintained. The abutments will be modified and maintained. The applicant also proposes to operate and maintain a dual five-span bridge across Robinson Run. The bridge is next to bridge 12. Bridge 13 has a span of approximately 602 feet and an underclearance of approximately 80 feet. Bridge 14 has a span of approximately 582 feet and an underclearance of approximately 80 feet. The bridge decks and parapets for both bridges will be removed and new ones constructed and maintained. Pier scour protection shall be placed and maintained around pier 3 for both bridges. A temporary causeway will be constructed under bridges 12–14. The temporary causeway is needed for the placement of slope anchors under these bridges. The causeway will be approximately 440 feet long. A temporary stream crossing is proposed in Robinson Run and in a tributary to Robinson Run. The work is part of the proposed SR 0079 Section A12 bridge rehabilitation and reconstruction project. The project proposes to directly affect, through R-6 rock scour protection, 50 linear feet of Robinson Run to temporarily impact approximately 440 feet of Robinson Run but the construction of a temporary causeway and to directly affect, through bridge pier rehabilitation, 50 linear feet of Chartiers Creek.

E02-1457. Robert Biros, 3285 Jacks Run Road, White Oak, PA 15131. Biros commercial development in the City of McKeesport, **Allegheny County**, Pittsburgh ACOE District (McKeesport, PA Quadrangle N: 13.3 inches; W: 12.5 inches) (Latitude: 40° 19' 25" and Longitude: 79° 50' 22"). The applicant proposes to construct and maintain a stream enclosure 500.0 feet in length consisting of a box culvert having a span of 32.0 feet with an underclearance of 8.5 feet in the channel of Long Run (TSF) for the purpose of constructing a commercial development. The project is just west from the intersection of Walnut Street (SR 148) and Long Run Road (SR 048) and will impact 500.0 linear feet of stream channel.

E02-1458. Allegheny County Department of Public Works, 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219-2904. Pangburn Hollow Bridges 3 and 4 in Forward Township, **Allegheny County**, Pittsburgh ACOE District (Monongahela, PA Quadrangle Bridge 3 N: 21.8 inches; W: 5.1 inches—Bridge No. 4 N: 21.1 inches; W: 5.5 inches) (Latitude: 40° 14' 42" and Longitude: 79° 54' 42"). The applicant proposes to rehabilitate, operate and maintain the existing Pangburn Hollow Bridge 3 having a span of 14.0 feet with a minimum underclearance of 5.9 feet across the channel of Perry Mill Run (WWF) and to remove the existing structure (Pangburn Hollow Bridge 4) and to construct and maintain a box culvert having a span of 16.0 feet with a minimum underclearance of 5.0 feet in the channel of Perry Mill Run for the purpose of improving highway safety. Pangburn Hollow Bridge 3 consists of replacing the existing superstructure on the existing abutments and is on Pangburn Hollow Road, approximately 2,000 feet north from the intersection of Pangburn Hollow Road and Sadler Road. Pangburn Hollow Bridge 4 is also on Pangburn Hollow Road, approximately 350 feet north from the intersection of Pangburn Hollow Road and Sadler Road.

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

E42-305. University of Pittsburgh, Bradford Campus, 300 Campus Drive, Bradford, PA 16701. Student housing building along the southern boundary of Campus

Drive in Bradford Township, **McKean County**, ACOE Pittsburgh District (Bradford, PA Quadrangle N: 12.3 inches; W: 6.6 inches).

The applicant proposes to construct and maintain student housing with associated sidewalk and infrastructure involving the net removal of approximately 116 cubic yards of earth from the left mapped FEMA floodplain of West Branch Tunungwant Creek (CWF, perennial) along the southern boundary of Campus Drive approximately 0.3 mile southwest of the intersection of the Corydon Street Extension and Dorothy Lane. The project would result in the net removal of approximately 116 cubic yards of earth from the left mapped FEMA floodplain.

E43-311. David B. Aldridge, 137 Briar Hill Road, Zelienople, PA 16063-9661. Aldridge property dam on Indian Run Road in Springfield Township, **Mercer County**, ACOE Pittsburgh District (Greenfield, PA Quadrangle N: 1.3 inches; W: 0.7 inch).

To maintain approximately 0.48 acre of fill material placed within a palustrine emergent/palustrine scrub-shrub wetland area during the construction of a dam along the east side of Indian Run Road, 3,100 feet southeast of the intersection of Indian Run Road and Leesburg Station Road. The permittee is required to provide 1.0 acre of replacement wetlands.

ACTIONS

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

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P.S. §§ 691.1–691.1001) and the Federal Clean Water Act.

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

Sections I–VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices

for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

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

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

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

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

I. NPDES Renewal Permit Actions

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0033294	Franklin Manor Utilities Inc./Ltd. 37 Highland Avenue Washington, PA 15301	Washington County South Franklin Township	UNT of Chartiers Creek	Y
PA0217921	Indiana Investments, Inc. R. D. 2 Box 305 Shelocta, PA 15774	Indiana County Armstrong Township	Walker Run	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0101931	Jenks Township P. O. Box 436 Marienville, PA 16239	Jenks Township Forest County	UNT to Salmon Creek 16-F Wet Branch Millstone Creek 17-B	Y
PA0002500	Kane Magnetics Acquisition, LLC 700 Elk Avenue Kane, PA 16735-1068	Kane Borough McKean County	UNT to East Branch Tionesta Creek 16-F	Y
PA0100625	TravelCenters of America 24601 Center Ridge Road, Suite 200 Westlake, OH 44145-5634	Brookville Borough Jefferson County	Clement Run 17-C	Y

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

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

NPDES Permit No. PA0051802, Industrial Waste, **Brown Printing Company**, 668 Gravel Pike, East Greenville, PA 18041-2199. This proposed facility is in Upper Hanover Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into an unnamed tributary to Perkiomen Creek in Watershed 3E.

NPDES Permit No. PA0051616, Industrial Waste, **Pennsylvania American Water Company**, 4 Wellington Boulevard, Wyomissing, PA 19610. This proposed facility is in East Vincent Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal and transfer to discharge into the Schuylkill River in Watershed 3D.

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

NPDES Permit No. PAS212212, Industrial Waste, **Premier Bluestone, Inc.**, SR 1021, P. O. Box 273, Susquehanna, PA 18847. This proposed facility is in Oakland Township, **Susquehanna County**.

Description of Proposed Action/Activity: Issuance of NPDES Permit.

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

NPDES Permit No. PA0028801-A1, Sewage, **Moon Township Municipal Authority**, 1700 Beaver Grade Road, Suite 101, Moon Township, PA 15108. This proposed facility is in Moon Township, **Allegheny County**.

Description of Proposed Action/Activity: Amendment to revise stormwater outfalls discharging to Montour Run.

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

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

WQM Permit No. 1503421, Sewerage, **Valley Township, Municipal Authority of the Borough of Elverson**, 101 South Chestnut Street, Elverson, PA 19520. This proposed facility is in Elverson Borough, **Chester County**.

Description of Proposed Action/Activity: Replacing the existing treatment lagoons with activated sludge package treatment units.

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

WQM Permit No. 0203410, Sewerage, **Municipal Authority of the Borough of West View—Wastewater Department**, 210 Perry Highway, Pittsburgh, PA 15229. This proposed facility is in West View Borough, **Allegheny County**.

Description of Proposed Action/Activity: Rochester Road sanitary sewer line rehabilitation and realignment.

WQM Permit No. 0403403, **Keller Land Development Company, LLC**, 2002 McMinn Street, Aliquippa, PA 15001. This proposed facility is in Conway Borough, **Beaver County**.

Description of Proposed Action/Activity: Construction of grinder pump and pressure sewer system to serve the Birchwood Falls Plan of Lots.

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

WQM Permit No. 1003415, Sewerage, **Michael's Restaurant and Motel**, 970 New Castle Road, Butler, PA 16001. This proposed facility is in Franklin Township, **Butler County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to serve a restaurant and motel.

WQM Permit No. 2704401, Sewerage, **Jenks Township**, P. O. Box 436, Marienville, PA 16239. This proposed facility is in Jenks Township, **Forest County**.

Description of Proposed Action/Activity: This project is for the replacement of an existing wastewater treatment facility with an expanded design flow.

WQM Permit No. 4303416, Sewerage, **Hermitage Municipal Authority**, 800 North Hermitage Road, Hermitage, PA 16148. This proposed facility is in City of Hermitage, **Mercer County**.

Description of Proposed Action/Activity: This project is for the construction, modification and operation of an existing sewage treatment plant and construction of the new Miller Road pump station.

WQM Permit No. 2504408, Sewerage, **Kenneth R. Mink**, 8170 Millfair Road, McKean, PA 16426. This proposed facility is in McKean Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAI132233	Lehman Township P. O. Box 7 Lehman, PA 18627	Luzerne	Lehman Township	Harvey's Creek HQ-CWF Hunlock Creek CWF Toby's Creek CWF, TSF Pike's Creek HQ-CWF	Y
PAI132237	Forks Township Municipal Building 1606 Sullivan Trail Easton, PA 18040	Northampton	Forks Township	Bushkill Creek HQ	Y

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG136318	Penn Borough P. O. Box 352 400 Harrison Avenue Penn, PA 15675	Westmoreland	Penn Borough	Brush Creek TSF	N/A

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023904003	Lehigh—Northampton Airport Authority 3311 Airport Road Allentown, PA 18109-3040	Lehigh	City of Allentown	Little Lehigh Creek HQ-CWF
PAI023903040	Griesemer/Polsinelli, LLC P. O. Box 170 Coopersburg, PA 18036	Lehigh	South Whitehall Township	Little Lehigh Creek HQ-CWF
PAI023903012	Polaris Park, L.P. 7562 Penn Drive, Suite 100 Allentown, PA 18106	Lehigh	Upper Macungie and South Whitehall Townships	Cedar Creek HQ-CWF
PAI024503016	T. W. M. C., LLP P. O. Box 1307 Marshalls Creek, PA 18335	Monroe	Smithfield Township	Tributary to Pond Creek HQ-CWF
PAI024803036	Opus East, LLC 620 W. Germantown Pike Suite 150 Plymouth Meeting, PA 19462-1056	Northampton	Bethlehem and Lower Nazareth Townships	Monocacy Creek HQ-CWF

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

Fayette County Conservation District: 10 Nickman Plaza, Lemont Furnace, PA 15456, (724) 438-4497.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI052603009	Aqua Filter Fresh, Inc. P. O. Box 14128 One Commerce Drive Pittsburgh, PA 15239	Fayette	Springfield Township	Tributary to Mill Run HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062703001	Jenks Township Marienville STP 2 Pine Street P. O. Box 436 Marienville, PA 16239	Forest	Jenks Township	West Branch Mill Stone Creek HQ CWF

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

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems

PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

General Permit Type—PAG-2

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Lackawanna County Olyphant Borough	PAG2003504003	James Snodgrass S & G Acquisitions 1508 East Lackawanna Ave. Olyphant, PA 18447	UNT to Eddy Creek WWF	Lackawanna County Conservation District (570) 281-9495
Lehigh County Whitehall Township	PAG2003904007	Louis Cicalese 64 Montgomery Ave. Long Branch, NJ 07740	Catasauqua Creek CWF	Lehigh County Conservation District (610) 391-9583
Monroe County Smithfield Township	PAG2004503008	Department of General Services Richard J. Smith 18th and Herr Sts. Harrisburg, PA 17125	Delaware River WWF	Monroe County Conservation District (570) 629-3060
Northampton County Plainfield Township	PAG2004804001	Neil Scott Tighe Scott HC 1, Box 70 Saylorsburg, PA 18353	West Fork Martins Creek CWF	Northampton County Conservation District (610) 746-1971
Lackawanna County Archbald Borough	PAG2003504006	David Stafursky 502 Main St. Archbald, PA 18403	Wildcat Creek CWF	Lackawanna County Conservation District (570) 281-9495
Bradford County Wysox Township	PAG2000804004	Wysox Volunteer Fire Co. P. O. Box 2 Wysox, PA 18854	Laming Creek WWF	Bradford County Conservation District R. R. 5, Box 5030C Stoll Natural Resource Center Towanda, PA 18848 (570) 265-5539, Ext. 205
Clearfield County Cooper and Rush Townships	PAG2002704003	Department of Transportation 1924-30 Daisy St. Clearfield, PA 16830	Moshannon Creek CWF	Clearfield County Conservation District 650 Leonard St. Clearfield, PA 16930 (814) 765-2629
Columbia County Bloomsburg Town	PAG2001903019	N. D. LLC Conrad McKinley P. O. Box 158 Smyrna, DE 19977-0158	Fishing Creek WWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310
Lycoming County Loyalsock Township	PAG2004104001	Quintan Bower 612 Lehman Dr. Cogan Station, PA 17728	Grafius Run WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003

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<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Lycoming County Hepburn Township	PAG2004104003	Williamsport Area High School Chuck Peterson 201 W. 3rd St. Williamsport, PA 17701	Lycoming Creek WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Lycoming County Loyalsock Township	PAG2004104004	Mark and Luann Mechtley 1603 Nicola Crossway Williamsport, PA 17701	Lycoming Creek WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Union County Kelly Township	PAG2006004001	Silver Moon Shopping Center P. O. Box 73 West Milton, PA 16886	Susquehanna River WWF	Union County Conservation District 88 Bull Run Crossing Lewisburg, PA 17837 (570) 523-8782
Allegheny County Marshall Township	PAG000203003	Wadwell Group 122 Cedar Lane McMurray, PA 15317	Big Sewickley Creek TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Monroeville	PAG000203078	The Haveline Industries P. O. Box 179 Schuylkill Haven, PA 17927	Thompson Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Richland Township	PAG000203111	The Meritage Group, LP 772 Pine Valley Dr. Pittsburgh, PA 15239	Crouse Run Pine Creek TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Bethel Park	PAG000203113	Warner of Sturgis, LLC 507 Mortimer Ave. Sturgis, MI 49091	Peters Creek TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County North Fayette Township	PAG000203118	A & R Development Box 1, 111 West Allegheny Rd. Imperial, PA 15126	North Branch WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Sewickley Heights Borough	PAG000203121	Thomas R. Johnson 608 Poia Place Sewickley, PA 15143	Ohio River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Monroeville	PAG000204002	Ron Plisco P. O. Box 545 Monroeville, PA 15146	Thompson Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Ross Township	PAG000204003	AMR Ross Hill, Inc. 641 West Market St. Akron, OH 44313	Unnamed tributary to Girty's Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Hampton Township	PAG000204004	Gibsonia Development, LLC 417 Lenox Court Gibsonia, PA 15044	Cedar Run CWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Crafton Borough	PAG000204007	Anchor Properties, Inc. 30 W. Third Street, 6th Floor Cincinnati, OH 45202	Ohio River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County McCandless Township	PAG000204018	Joseph Vaccarello, Jr., Inc. P. O. Box 663 50 Arch Street Carnegie, PA 15106	Little Pine Creek TSF	Allegheny County Conservation District (412) 241-7645

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Armstrong County Freeport Borough South Buffalo Township Buffalo Township Butler County	PAG2000304001	Freeport Borough 414 Market Street Freeport, PA 16229	Buffalo Creek TSF	Allegheny County Conservation District (412) 241-7645
Washington County Cecil Township	PAG2006304009	Brooks and Blair Homes, LLC 5541 Walnut Street Pittsburgh, PA 15232	Unnamed tributary to Chartiers Creek WWF	Washington County Conservation District (724) 228-6774
Washington County Cecil Township	PAG2006304012	Department of Veterans Affairs Cemetery Admin. 811 Vermont Ave. NW Washington, DC 20005	Unnamed tributary to Chartiers and McPherson Creeks WWF	Washington County Conservation District (724) 228-6774

General Permit Type—PAG-3

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Luzerne Borough Luzerne County	PAR202228	KMS Fab, LLC 100 Parry Street Luzerne, PA 18709	Toby Creek Susquehanna River TSF, WWF	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Clifford Township Susquehanna County	PAR212227	Kochmer Quarries, Inc. 4 Main Street Clifford, PA 18413	Unnamed tributary to Dundaff Creek CWF	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

General Permit Type—PAG-4

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
White Township Indiana County	PAG046164	Robert M. Clawson P. O. Box 771 Indiana, PA 15701	UNT of McKee Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Cecil Township Washington County	PAG046175	John D. Teyssier 555 S. Wihart Road McDonald, PA 15057	Tributary to Millers Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Marshall Township Allegheny County	PAG046176	Anthony and Kathleen Weiss 128 Sunny Hill Road Wexford, PA 15090	UNT of East Branch Big Sewickley Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

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<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Marshall Township Allegheny County	PAG046178	Margaret Dismukes and Dennis Delmonaco 365 Locust Road Baden, PA 15005	UNT of Big Sewickley Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Center Township Indiana County	PAG046186	Robert G. Smith 6281 Old Route 56 West Indiana, PA 15701	Cherry Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Ridgway Township Elk County	PAG048499	Ray E. and Myra J. Barnett 89 George Road Ridgway, PA 15853	Unnamed tributary to Elk Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Harborcreek Township Erie County	PAG048572	Christopher J. and Jennifer L. Kelly 4015 Hannon Road Erie, PA 16510	Unnamed tributary to Six Mile Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Salem Township Mercer County	PAG048607	Glenn E. Green 1680 Methodist Road Greenville, PA 16125-3132	Bluff Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Eldred Township McKean County	PAG048601	Kathleen L. and Mark A. Shelander 668 Canfield Hollow Road Eldred, PA 16731	Canfield Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
McKean Township Erie County	PAG048950	Kenneth R. Mink 8170 Millfair Road McKean, PA 16426	Unnamed tributary To Elk Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-5

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
New Kensington Westmoreland County	PAG056193	Sunoco Inc. (R & M) Ten Penn Center 1801 Market Street Philadelphia, PA 19103	Little Pucketa Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-8**Facility Location and Municipality*

East Manchester Township
York County

Permit No.

PAG083529

Applicant Name and Address

Northeastern York County Sewer Authority WWTP
P. O. Box 516
175 Chestnut St.
Mt. Wolf, PA 17347

Contact Office and Telephone No.

SCRO
909 Elmerton Avenue
Harrisburg, PA 17110-8200
(717) 705-4707

General Permit Type—PAG-13

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

*NPDES**Permit No.*

PAG138329

Applicant Name and Address County

City of Butler
140 West North Street
Butler, PA 16001

Butler

Municipality

City of Butler

Receiving Water/Use

Connoquenessing Creek

Department Protocol (Y/N)

Y

PUBLIC WATER SUPPLY (PWS) PERMITS

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act.

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

Operations Permit issued to **Great Oak Spring Water Co.**, 100 Cleveland Avenue, Reading, PA 19605, PWS ID 3396517, Coopersburg Borough, **Lehigh County** on March 23, 2004, for the operation of facilities approved under Construction Permit No. 3903505.

Operations Permit issued to **SHIP-BATH, LLP**, 5058 Vera Cruz Road, Center Valley, PA 18034, PWS ID 3480040, Moore Township, **Northampton County** on March 24, 2004, for the operation of facilities approved under Construction Permit N/A.

Operations Permit issued to **PIPPPO, Inc.**, P. O. Box 72, Honesdale, PA 18431, PWS ID 2640009, Texas Township, **Wayne County** on March 25, 2004, for the operation of facilities approved under Construction Permit No. 6489507.

Operations Permit issued to **Pocono Pure Water Co., Inc.**, 308 Hickory Street, Scranton, PA 18505, PWS ID 2356450, City of Scranton, **Lackawanna County** on March 29, 2004, for the operation of facilities approved under Construction Permit No. 3597503 issued April 10, 1998.

Operations Permit issued to **Pennsylvania American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033, PWS ID 2450063, Coolbaugh Township, **Monroe County** on March 29, 2004, for the operation of facilities approved under construction permit Minor Permit Amendments issued on May 1, 1998 and December 14, 1999.

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

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

Applicant

**Shinglehouse Borough
Barry Church, Council
President**
P. O. Box 156
Shinglehouse, PA 16748

Township

Sharon Township

County

Potter

Type of Facility

PWS—Authorizes operation of a 300,000 gallon concrete finished water storage tank.

Permit to Operate Issued

March 26, 2004

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

Permit No. 6846-T1-A2, Minor Amendment. Public Water Supply.

Applicant **Indian Creek Valley Water Authority**
2068 Indian Head Road
P. O. Box 486
Indian Head, PA 15446

Borough or Township Saltlick Township

County **Fayette**

Type of Facility Collection system at Pritts Spring.

Consulting Engineer Bankson Engineers, Inc.
267 Blue Run Road
P. O. Box 200
Indianola, PA 15051

Permit to Operate Issued March 23, 2004

Permit No. 5026048-T1, Minor Amendment. Public Water Supply.

Applicant **DS Waters, LP**
45 West Noblestown Road
Carnegie, PA 15106

Borough or Township Collier Township

County **Allegheny**

Type of Facility Transfer—formerly Crystal Spring Water Company.

Permit to Operate Issued March 22, 2004

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

Operations Permit issued to **Erie City Water Authority**, 340 West Bayfront Parkway, Erie, PA 16507, PWS ID 6250028, City of Erie, **Erie County**, on March 25, 2004, for the change of Pb/cu water quality parameters at the Chestnut Street treatment plant, as approved under Construction Permit No. 2596506.

Operations Permit issued to **Erie City Water Authority**, 340 West Bayfront Parkway, Erie, PA 16507, PWS ID 6250028, City of Erie, **Erie County**, on March 25, 2004, for the change of Pb/cu water quality parameters at the Sommerheim treatment plant, as approved under Construction Permit No. 2596507.

Operations Permit issued to **Cambridge Area Joint Authority**, 161 Carringer Street, Cambridge Springs, PA 16403, PWS ID 6200004, Cambridge Township, **Crawford County**, on March 26, 2004, for the operation of the consecutive water system, as approved under Construction Permit No. 2002502.

STORMWATER MANAGEMENT

Action on plans submitted under the Stormwater Management Act Storm Water Management Act (32 P. S. §§ 680.1—680.17)

Bureau of Watershed Management, P. O. Box 8555, Harrisburg, PA 17105-8555.

Plan No. SWMP 340:60, White Deer Creek Stormwater Management Plan, as submitted by **Union County**, was approved on March 23, 2004

SEWAGE FACILITIES ACT PLAN APPROVAL

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

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
South Whitehall Township	Municipal Building 4444 Walbert Avenue Allentown, PA 18104	Lehigh

Plan Description: The approved plan provides for a 161-lot residential subdivision of a 73.26-acre tract. A proposed sewer main extension will connect to the existing Applewood Drive and Chapmans Road sewer main systems owned and operated by the South Whitehall Township Board of Authority. The City of Allentown conveyance and treatment facilities will be utilized. Public water will be supplied to the project by the South Whitehall Township Board of Authority. This project is at Clauser Road and Applewood Drive in South Whitehall Township, Lehigh County. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Pine Township	Richard Myers Pine Township Supervisors P. O. Box 311 Templeton, PA 16259	Armstrong

Plan Description: The approved plan provides for domestic sewage collection, conveyance and treatment for the Villages of Templeton and Mahoning in Pine Township, Armstrong County. Gravity sewers shall be constructed in the streets of the two villages. A pump station with force main shall be constructed for the Village of Mahoning to convey raw sewage to the extended aeration sewage treatment plant in Templeton. The force main shall be constructed and the abandoned railroad bed between Mahoning and Templeton. The sewage treatment plant shall be constructed at alternative site 1, on the western side of Allegheny Avenue, between Third and Fourth Streets in Templeton. The plant shall be constructed on the abandoned railroad bed at this Allegheny Avenue location. The package plant size is to be for a 48,000 gpd flow, or 72,000 gpd based on a 24-hour runoff period. Discharge of treated effluent shall be to the Allegheny River. The discharge point shall be at a location of Latitude 40° 54' 56" North and Longitude 79° 27' 48" West, approximately. This location is at the southern end of the Village of Templeton along the Allegheny River. This proposed sewerage system shall eliminate the raw sewage discharges directly into the Allegheny River. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988

Proposed Consent Order and Agreement

Bo-Rit Asbestos Site, Borough of Ambler, Montgomery County

The Department of Environmental Protection (Department), under section 1113 of the Hazardous Sites Cleanup Act (HSCA) (35 P.S. § 6020.1113), has entered into a Prospective Purchaser Consent Order and Agreement with Kane Core, Inc. for reimbursement of certain response costs incurred to remediate hazardous substances released and threatened to be released at the Bo-Rit Asbestos Site (Site), 6 South Maple Street, Borough of Ambler, Montgomery County.

The Site was the former location of asbestos-containing materials manufacturing operations. The EPA conducted an investigation of the Site and documented a release or threatened release of asbestos at the Site. Since 1987, the Department has performed interim response actions at the Site, including a field investigation of the Site, and has concluded that asbestos and asbestos containing materials exist as contaminants at the Site. The Department has not conducted a full investigation to determine the extent of the known contamination, the risk to human health or the environment from the release or threatened release of the known contamination or to identify whether any additional hazardous wastes, hazardous substances or contaminants exist on the Site.

Kane Core wishes to purchase the Site and intends to develop it for use as a shopping center with a single commercial building. In connection with its purchase of the Site, Kane Core wishes to resolve its potential liability to the Department for reimbursement of certain response costs incurred to investigate the asbestos and asbestos containing materials on the Site. The Department has determined that it is in the public interest to resolve its claim against Kane Core. Therefore, Kane Core has agreed to reimburse the Department for certain response costs in the amount of \$2,000 and shall receive contribution protection from claims related to its future ownership of this property.

This notice is provided under section 1113 of the HSCA, which states that "settlement shall become final upon the filing of the Department's response to the significant written comments." The Consent Order and Agreement, which contains the specific terms of the agreement, is available for public review and comment from 8 a.m. to 4 p.m. at the Southeast Regional Office, 2 East Main Street, Norristown, PA 19401. To review the Consent Order and Agreement, contact Sharon Mills, (484) 250-5200, shamills@state.pa.us or Adam N. Bram, Esq., (484) 250-5300, abram@state.pa.us. A public comment period on the Consent Order and Agreement will extend for 60 days from April 10, 2004. Persons may submit written comments regarding the agreement within 60 days from April 10, 2004, by submitting them to Sharon Mills at the previous address.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P.S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Victoria Square IV (Hobson Street and Anthony Court), Palmer Township, Northampton County. Kevin Van Kuren, P. G., Hydrocon Services, Inc., 16 East Minor Street, Emmaus, PA 18049 has submitted a combined Remedial Investigation Report and Final Report (on behalf of Nicholas Pugliese, Grand Place, Phillipsburg, NJ 08865) concerning the remediation of soils and groundwater found or suspected to have been contaminated with no. 2 and no. 6 fuel oils. The reports were submitted in partial fulfillment of the Site-Specific Standard.

Former Penn Fuel Gas Manufactured Gas Plant—Pottsville Site, City of Pottsville, **Schuylkill County**. RETEC Group, Inc., 3040 William Pitt Way, Pittsburgh, PA 15238 has submitted a Cleanup Plan (on behalf of PPL Gas Utilities, Two North Ninth Street, Allentown, PA 18101) concerning the remedy design of the subject site for residual contaminants in soil, groundwater and adjacent surface water found or suspected to have been contaminated with metals, polycyclic aromatic hydrocarbons, phenolics, cyanides and BTEX compounds related to historic manufactured gas plant operations. The plan was submitted in partial fulfillment of a combination of both the Statewide Health and the Site-Specific Standards.

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

Westinghouse Specialty Coating Division Facility (Former), Manor Borough, **Westmoreland County**. Dean Reed, Viacom Inc., 11 Stanwix Street, Pittsburgh, PA 15222 (on behalf of RANBAR Technologies, Harrison City Road, Manor, PA 15665) has submitted a Cleanup Plan concerning remediation of site soil and groundwater contaminated with lead, solvents, BTEX, PHCs and PAHs. The report is intended to document remediation of the site to meet the Site Specific Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The

baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Strathmann Lumber Company, Southampton Township, **Bucks County**. Jennifer Sherman, GHR Consulting Services, Inc., 300 Welsh Road, Horsham, PA 19044, on behalf of Pete Iliff, Strathmann Supply Co., 620 Knowles Ave., Southampton, PA, has submitted a Final Report concerning the remediation of site soils and groundwater contaminated with fuel oil no. 2, leaded gasoline, lead, MTBE and unleaded gasoline. The Final Report demonstrated attainment of Background Standards and was approved by the Department on March 16, 2004.

230 Whelen Ave. and 312 Mary St., Downingtown Borough, **Chester County**. Michael S. Welsh, P. E., Applied Environmental Management, Inc., 16 Chest County Commons, Malvern, PA 19355, on behalf of Joyce Grigson & Keystone Property Connections, LLC, 230 Whelen Ave. and 312 Mary St., Downingtown, PA 19335, has submitted a Final Report concerning the remediation of site soil contaminated with fuel oil no. 2. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 18, 2004.

RJ Power Equipment, Haverford Township, **Delaware County**. Samuel Kucia, Environmental Consulting Services, Inc., 500 E. Washington St., Norristown, PA 19401, on behalf of Rick Jones, RJ Power Equipment, 64 W. Eagle Rd., Havertown, PA 19083, has submitted a Final Report concerning the remediation of site soils contaminated with diesel fuel, fuel oil no. 2, leaded gasoline and unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 18, 2004.

12th Street Facility, Center City, **Delaware County**. Craig Herr, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, has submitted a Remedial Investigation/Final Report concerning the remediation of site soils contaminated with lead and other organics. The Final Report demonstrated attainment of Site-Specific Standards and was approved by the Department on March 26, 2004.

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

Weir Welding Company, Inc., City of Bethlehem, **Lehigh County**. Eric Schmidley, Apex Environmental,

Inc., 269 Great Valley Parkway, Malvern, PA 19355, submitted a Final Report (on behalf of Thomas Weir, 316 12th Street, Carlstadt, NJ 07072) concerning the migration of dissolved contaminants in groundwater from off-site. The report demonstrated attainment of the Background Standard and was approved on March 17, 2004.

Former Penn Fuel Gas Manufactured Gas Plant—Pottsville Site, City of Pottsville, **Schuylkill County**. RETEC Group, Inc., 3040 William Pitt Way, Pittsburgh, PA 15238 submitted a Risk Assessment Report (on behalf of PPL Gas Utilities, Two North Ninth Street, Allentown, PA 18101) concerning the risk assessment of the subject site for residual contaminants in soil, groundwater and adjacent surface water found or suspected to have been contaminated with metals, polycyclic aromatic hydrocarbons, phenolics, cyanides and BTEX compounds related to historic manufactured gas plant operations. The report was submitted in partial fulfillment of a combination of both the Statewide Health and the Site-Specific Standards and was approved on March 11, 2004.

Camp Williams—Northern NJ Council of the Boy Scouts of America, Dingman Township, **Pike County**. Thomas M. Hippensteal, P. G., Mid-Atlantic Associates, P. O. Box 1128, North Wales, PA 19454 submitted a Final Report (on behalf of Northern NJ Council of Boy Scouts of America, 25 Ramapo Valley Road, Oakland, NJ 07436) concerning the remediation of site soils found to have been contaminated with no. 2 home heating oil. The report demonstrated attainment of the Statewide Health Standard and was approved on March 8, 2004.

North Pocono High School, Moscow Borough, **Lackawanna County**. Kevin Keat, Senior Environmental Scientist, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18103 submitted a Final Report (on behalf of North Pocono School District, 701 Church Street, Moscow, PA 18444-9391) concerning the remediation of soils and groundwater found or suspected to have been contaminated with fuel oil no 2. The report demonstrated attainment of the Statewide Health Standard and was approved on March 18, 2004.

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

Roberto Clemente Park, City of Lancaster, **Lancaster County**. Environmental Standards, Inc., 1140 Valley Forge Road, Valley Forge, PA 19482, on behalf of the Inner City Group, 545 Pershing Avenue, Lancaster, PA 17602 and the School District of Lancaster, 1020 Lehigh Avenue, Lancaster, PA 17602, submitted a Baseline Environmental Report concerning remediation of site soils and groundwater contaminated with inorganics, lead and chlorinated solvents. The applicant proposes to remediate the site as a Special Industrial Area. The report was approved by the Department on December 23, 2003.

PPL South Hershey Substation, Derry Township, **Dauphin County**. PPL Electric Utilities, Two North Ninth Street, Allentown, PA 18101 submitted a combined Remedial Investigation and Final Report concerning remediation of site soils contaminated with PCBs. The final report demonstrated attainment to a combination of the Statewide Health and Site-Specific Standards and the combined report was approved by the Department on March 23, 2004.

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

Cognis—Groundwater, Castanea Township, **Clinton County**. Cogins Corporation, 300 Brookside Avenue,

Ambler, PA 1902 has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning groundwater contaminated with other organics and PAHs. This combined submission, made in partial fulfillment of the Site-Specific Standard, was approved by the Department on March 17, 2004.

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

I Richman Company, Inc., Canton Township, **Washington County**. John T. Conroy, Triline Associates, Inc., 400 Technology Drive, Suite 100, Canonsburg, PA 15217 (on behalf of John W. Richman, I. Richman Company, Inc., P. O. Box 232, Washington, PA 15301 and Franklin S. Gregg, Sr., Gregg, Inc., 2329 Hill Church-Houston Road, Canonsburg, PA 15317) has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with lead and PCBs. The Remedial Investigation Report was approved by the Department on January 27, 2004.

Former Westinghouse Facility—Lot 1B (Soils Only), Borough of Trafford, **Allegheny and Westmoreland Counties**. Richard K. Smith (on behalf of CBS Corporation, 11 Stanwix Street, Pittsburgh, PA 15222) has submitted a Cleanup Plan concerning remediation of site soil contaminated with PCBs, lead, heavy metals, pesticides, solvents, BTEX, PAHs and cyanide. The Cleanup Plan is intended to demonstrate attainment of the Site Specific Standard and was approved by the Department on March 11, 2004.

Sto-Rox Booster Hall, McKees Rocks Borough, **Allegheny County**. Toplak & Associates, 112 Pineview Road, Baden, PA 15005 (on behalf of Telephone Cards Unlimited, LLC, 217 Executive Drive, Suite 303B, Cranberry Township, PA 16066) has submitted a Baseline Environmental Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents, leaded gas, benzene and PCBs. The Baseline Environmental Report was approved by the Department on March 25, 2004.

American Refining Group—Indianola Plant, Indiana Township, **Allegheny County**. Don Blackert, Key Environmental Inc., 1200 Arch Street, Suite 200, Carnegie, PA 15106 (on behalf of Kinder Morgan Inc., 2010 William Pitt Way, Pittsburgh, PA 15238 and American Refining Group Inc., 3240 William Pitt Way, Pittsburgh, PA 15238) has submitted a Risk Assessment Report concerning the remediation of site soil and groundwater contaminated with BTEX, PAHs and MTBE. The Risk Assessment Report was approved by the Department on March 15, 2004.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Draft permits issued under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage, or disposal facility.

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

PAD003047792. American Color & Chemical LLC, P. O. Box 88, Lock Haven, PA 17745-0088, City of Lock Haven, **Clinton County**. Draft hazardous waste post-closure permit was issued on April 1, 2004.

Comments concerning the application should be directed to John C. Hamilton, 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 should contact the Williamsport Regional Office, (570) 327-3653. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 45 days of this notice and may recommend revisions to and approval or denial of the draft permit.

HAZARDOUS WASTE ACTION

Proposed action on an application for a permit under the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste storage facility.

Intent to Issue Permit

Regional Office: Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. PAD981736143. Safety-Kleen Corporation, Johnstown Service Center. Operation of a hazardous waste storage facility in Richland Township, Cambria County. The application for a permit to store hazardous waste was considered for intent to issue by the Regional Office on March 31, 2004.

Persons wishing to comment on the proposed action are invited to submit a statement to the previous regional office within 45 days from the date of this notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer, a concise statement to inform the regional office of the exact basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the regional office considers the public response significant.

Following the 45-day comment period and/or public hearing, the Department will make a final determination regarding the proposed permit action. Notice of this determination will be published in the *Pennsylvania Bulletin*, at which time this determination may be appealed to the Environmental Hearing Board.

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. 101639. L & S Demo Recycling, Inc., 884 Brook Road, Conshohocken, PA 19428, Plymouth Township, Montgomery County. The amended waste management permit is to bring L & S Demo Recycling, Inc. into compliance with the radiation protection action plan requirement. The permit was issued in the Southeast Regional Office on March 22, 2004.

Permit No. 101290. Waste Management of PA, Inc., 1121 Bordentown Road, Morrisville, PA 19067, Philadelphia City, Philadelphia County. This amended waste management permit is to bring the Philadelphia Transfer Station into compliance with the radiation protection

action plan requirement. The permit was issued by the Southeast Regional office on March 22, 2004.

Permit No. 400558. Montenay Montgomery Ltd. Partnership, 1155 Conshohocken Road, Conshohocken, PA 19428, Plymouth Township, Montgomery County. This waste management permit application is for the 10-year renewal of the waste permit for the continuing operation of the Montgomery County Resource Recovery Facility in Plymouth Township, Montgomery County. This permit was issued by the Southeast Regional Office on March 25, 2004.

Permit No. 400558. Montenay Montgomery Ltd. Partnership, 1155 Conshohocken Road, Conshohocken, PA 19428, Plymouth Township, Montgomery County. This waste management permit application is for installation and operation of a radiation monitoring action plan for the Montgomery County resource recovery facility in Plymouth Township, Montgomery County. This permit was issued by the Southeast Regional Office on March 25, 2004.

MUNICIPAL AND RESIDUAL WASTE TRANSPORTER AUTHORIZATION

Issued applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act (27 Pa.C.S. §§ 6201—6209) and regulations to transport municipal or residual waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

Segundo F. Martinez, 376 Duncan Ave., Jersey City, NJ 07306. Authorization No. WH5701. Effective February 10, 2004.

Viktoria Gott, 752 Grier Ave., Elizabeth, NJ 07202. Authorization No. WH5776. Effective March 16, 2004.

Sebastian C. Green, 129-A S. 10th St., Newark, NJ 07107. Authorization No. WH5864. Effective March 4, 2004.

Opperman Excavating, Inc., 1446 Cocalico Rd., Birdsboro, PA 19508. Authorization No. WH5872. Effective March 4, 2004.

Elmer D. Grager, R. R. 4, Box 156, Tyrone, PA 16686. Authorization No. WH5875. Effective February 26, 2004.

Taylor Trucking, Inc., 107 Amstel Ave., New Castle, DE 19720. Authorization No. WH5876. Effective February 26, 2004.

Manzueta Biviano, 24 S. Grove St. No. E3, East Orange, NJ 07018. Authorization No. WH5877. Effective February 26, 2004.

Interlocking Stone Systems, Inc., 45 Cherry Lane, Doylestown, PA 18901. Authorization No. WH5878. Effective February 26, 2004.

Pickel's General Hauling, 2657 Old 22, Hamburg, PA 19526. Authorization No. WH5879. Effective February 26, 2004.

Deano's Trucking, 155 Adelphia Rd., P. O. Box 235, Everett, PA 15537. Authorization No. WH5880. Effective March 15, 2004.

David G. Haffey, 521 Anderson Rd., Enon Valley, PA 16120. Authorization No. WH5881. Effective March 4, 2004.

CNS Express, LLC, 89 Poplar St., Waretown, NJ 08758. Authorization No. WH5882. Effective March 4, 2004.

Trent L. Harmon, 9284 US 322, Cranberry, PA 16319. Authorization No. WH5883. Effective March 4, 2004.

William A. Rooney, 65 North St., Slatington, PA 18080. Authorization No. WH5884. Effective March 4, 2004.

Nicholas Suriou, 3861 State Rt. 305, Cortland, OH 44410. Authorization No. WH5885. Effective March 4, 2004.

Demotec, Inc., 619 N. 16th St., Philadelphia, PA 19151-3613. Authorization No. WH5888. Effective March 8, 2004.

RPM Trucking, LLC, 3 Jane St., Coraopolis, PA 15108. Authorization No. WH5889. Effective March 4, 2004.

B & B Trucking, 1205 Doe Run Rd., Shippensburg, PA 16254. Authorization No. WH5890. Effective March 4, 2004.

R & T Trans., LLC, 155 Main St., Suite 205, Danbury, CT 06810. Authorization No. WH5891. Effective March 4, 2004.

Algar Enterprises, 1234 Southam Dr., Richmond, VA 23235. Authorization No. WH5892. Effective March 4, 2004.

MTM Metro Corp., 5 Margaret St., Totowa, NJ 07512. Authorization No. WH5895. Effective March 4, 2004.

Bob Drayton, Inc., 151 Big Hill Rd., Southampton, NJ 08088. Authorization No. WH5896. Effective March 2, 2004.

Tejinder S. Reen, 203 Farnsworth Ave., Bordentown, NJ 08505. Authorization No. WH5897. Effective March 2, 2004.

Norma C. Hernandez, 132 65th St., West New York, NJ 07093. Authorization No. WH5901. Effective March 4, 2004.

Michael Rubright, 508 Washington St., Apt. 5A, Shoemakersville, PA 19555. Authorization No. WH5903. Effective March 4, 2004.

Agape Services Co., Inc., Ste. C, 968 E. King St., York, PA 17043. Authorization No. WH5905. Effective March 4, 2004.

RB Contracting, 160 RB Contracting Ln., Curwensville, PA 16833-9706. Authorization No. WH5909. Effective March 18, 2004.

AAA Carting & Rubbish Removal, 480 Furnace Dock Rd., Cortlandt Manor, NY 10567. Authorization No. WH5910. Effective March 4, 2004.

Carlisle Borough, Cumberland County, 53 W. South St., Carlisle, PA 17013. Authorization No. WH5911. Effective March 4, 2004.

Balbir Singh, 9A Clover Path, Maple Shade, NJ 08052. Authorization No. WH5912. Effective March 4, 2004.

C. T. Cox, Inc., 1831 Pottstown Pike, Pottstown, PA 19465. Authorization No. WH5913. Effective March 4, 2004.

Aleman Transportation, 421 55th St., West New York, NJ 07093. Authorization No. WH5914. Effective March 4, 2004.

Whole House Maintenance Co., 443 Bull Run Rd., Wrightsville, PA 17368. Authorization No. WH5915. Effective March 4, 2004.

Grove Supply, Inc., P. O. Box 430, 5 Wood Lawn Ave., Willow Grove, PA 19090-0430. Authorization No. WH5916. Effective March 4, 2004.

Milewski Excavating and Landscaping, Inc., 285 Wimmers Rd., Lake Ariel, PA 18436. Authorization No. WH5917. Effective March 4, 2004.

William E. Cruz, 175 2nd St., Clifton, NJ 07011. Authorization No. WH5918. Effective March 15, 2004.

East Penn Pavement Co., 3300 Hill Rd., Slatington, PA 18080. Authorization No. WH5919. Effective March 4, 2004.

Ethan Subasi, 902 Adam Ct., New Hope, PA 18938. Authorization No. WH5920. Effective March 4, 2004.

Michael T. Powers, 3418 E. Broadland Dr., Terre Haute, IN 47805. Authorization No. WH5926. Effective March 8, 2004.

Kelly Horne, R. R. 1 Box 690, Linton, IN 47441. Authorization No. WH5927. Effective March 8, 2004.

Horne Trucking, LLC, R. R. 1 Box 690, Linton, IN 47441. Authorization No. WH5928. Effective March 8, 2004.

Jilver Munoz Transport Corp., 138 Overlook Ave., Belleville, NJ 07109. Authorization No. WH5929. Effective March 8, 2004.

David W. Golay, 7 Randall St., Huntingdon, PA 16652-9616. Authorization No. WH5931. Effective March 8, 2004.

Kenneth M. Beck, 85005 Cadiz Jewett Rd., Cadiz, OH 43907. Authorization No. WH5932. Effective March 8, 2004.

John Henry Assoc. Corp., 130 17th St., No. 3R, Brooklyn, NY 11215. Authorization No. WH5933. Effective March 8, 2004.

Barney Recycling Co., R. R. 1, Box 66A, Uniondale, PA 18470. Authorization No. WH5934. Effective March 8, 2004.

Brooks Jr. Trucking, Inc., 112 Melrose Ave., Irvington, NJ 07111. Authorization No. WH5935. Effective March 5, 2004.

TSS Waste Solutions, Inc., 1051 Commerce Ave., Union, NJ 07083. Authorization No. WH5936. Effective March 8, 2004.

Larry J. Forgy, 3548 Johnson Hill Rd., Tyrone, PA 16686. Authorization No. WH5937. Effective March 8, 2004.

James F. Godwin, Inc., 1701 Adams St., Cinaminson, NJ 08077. Authorization No. WH5939. Effective March 8, 2004.

Landscaping Connections, 119 Ewing Ln., Franklin, PA 16323. Authorization No. WH5940. Effective March 8, 2004.

Smoker Excavating, 122 Morley Rd., Genesee, PA 16923-9021. Authorization No. WH5946. Effective March 12, 2004.

Carl Molinaro, HCR 1931, Jim Thorpe, PA 18229. Authorization No. WH5947. Effective March 18, 2004.

Carl K. Guinther, 133 Bloody Spring Rd., Bernville, PA 19506. Authorization No. WH5949. Effective March 8, 2004.

Juan Bunay, 75 Pennsylvania Ave., Newark, NJ 07114. Authorization No. WH5950. Effective March 8, 2004.

Reiff Excavating, 98 Hershey Rd., Shippensburg, PA 19257. Authorization No. WH5951. Effective March 8, 2004.

American Furniture & Mattress Outlet, Inc., 9 Easton Rd., Nazareth, PA 18064. Authorization No. WH5952. Effective March 8, 2004.

Freedom Disposal, 110 Woodside Ave., Johnstown, PA 15904. Authorization No. WH5954. Effective March 9, 2004.

J & L Leasing, Inc., 851 Whig Lane Rd., Glassboro, NJ 08028. Authorization No. WH5955. Effective March 9, 2004.

Christy Transport, LLC, 540 Jefferson Ave., Rahway, NJ 07065. Authorization No. WH5956. Effective March 8, 2004.

Vega Investment Corp., 66 Mina Ave., Clifton, NJ 07011. Authorization No. WH5957. Effective March 9, 2004.

Christopher S. Sheeder, 2196 Lower Snake Spring Rd., Everett, PA 15537. Authorization No. WH5958. Effective March 10, 2004.

Zoran Pasovic, 106 Old Allamuchy Rd. No. 12, Hackettstown, NJ 07840. Authorization No. WH5959. Effective March 8, 2004.

Timchack & Assoc., P.O. Box 821, Pittsburgh, PA 18640. Authorization No. WH5960. Effective March 9, 2004.

Fanelli Bros. Trucking Co., 1298 Keystone Blvd., Pottsville, PA 17901. Authorization No. WH5961. Effective March 9, 2004.

M. S. Reedy Excavating, 109 Stoney Lane, Northumberland, PA 17857-9548. Authorization No. WH5962. Effective March 10, 2004.

Kline's Excavating & Trucking, 1374 Syner Rd., Annville, PA 17003. Authorization No. WH5963. Effective March 9, 2004.

Triad Roofing & Construction, 23 Gimmings Ln., Langhorne, PA 19047. Authorization No. WH5964. Effective March 12, 2004.

Samuel L. Livingston, 2404 Fleetwing Dr., Levittown, PA 19057-4117. Authorization No. WH5965. Effective March 9, 2004.

Jerry Bottiger, General Contractor, 7515 Buffalo Rd., Mifflinburg, PA 17844-7849. Authorization No. WH5966. Effective March 10, 2004.

Alpine Landscaping, 150 Summit Ave., Langhorne, PA 19047. Authorization No. WH5967. Effective March 10, 2004.

Creative Construction Cranberry, LLC, 114 Manor Rd., Cranberry Township, PA 16066. Authorization No. WH5968. Effective March 10, 2004.

Maria T. Castilio, 983 E. 19th St., Apt. 2, Paterson, NJ 07501-3645. Authorization No. WH5972. Effective March 12, 2004.

Lajara Wilfredo, 43 Congress St., Apt. 2, Newark NJ 07105. Authorization No. WH5973. Effective March 12, 2004.

J & S Trucking, R.R. 1 Box 1343, Stroudsburg, PA 18360-9621. Authorization No. WH5974. Effective March 12, 2004.

Walker Trucking, 188 Yoder Rd., Bainbridge, PA 17502-9506. Authorization No. WH5975. Effective March 18, 2004.

Pegaso Transport, Inc., 294 Boulevard Ave., Passaic, NJ 07055. Authorization No. WH5977. Effective March 12, 2004.

Dirty Deeds, P.O. Box 2162, Sinking Springs, PA 19608. Authorization No. WH5978. Effective March 12, 2004.

Hussain Sabir, 183 Walnut St., Teaneck, NJ 07666. Authorization No. WH5981. Effective March 19, 2004.

Damian's Transport Co., 312 50th St., West New York, NJ 07093. Authorization No. WH5983. Effective March 15, 2004.

Ziegenfus Coal, 940 Mauch Chunk Rd., Palmerton, PA 18071. Authorization No. WH5986. Effective March 18, 2004.

Eastern Shore Environmental, Inc., 826 Postles Corner Rd., P.O. Box 452, Little Creek, DE 19961. Authorization No. WH5988. Effective March 18, 2004.

Omni Group, Inc. of Indian Lake, 244 W. Airport Rd., Central City, PA 15926. Authorization No. WH5989. Effective March 18, 2004.

Tom Buckman Roofing & Construction, 96 Lynwood Ave., Easton, PA 18045-2745. Authorization No. WH5991. Effective March 18, 2004.

Devine Brothers, Inc., 2 H Ramond Dr., Havertown, PA 19083. Authorization No. WH5993. Effective March 18, 2004.

Melvin L. Franty, 163 Union St., Uniontown, PA 15401. Authorization No. WH5994. Effective March 18, 2004.

Burns Excavating, R.R. 3 Box 24AA, New Milford, PA 18834. Authorization No. WH5996. Effective March 19, 2004.

K & M Peschock Trucking, P.O. Box 2, Dunlo, PA 15930. Authorization No. WH5995. Effective March 19, 2004.

RSK Trucking, 331 Lambertsville Rd., Stoystown, PA 15563. Authorization No. WH5997. Effective March 19, 2004.

T L Lawrence Construction, Inc., 208 3rd Ave. E, Beaverfalls, PA 15010. Authorization No. WH5998. Effective March 19, 2004.

S M Ross, Inc., 124 Miller Rd., Pittsburgh, PA 15237-3664. Authorization No. WH5999. Effective March 19, 2004.

George Melendez, 963 Monroe Ave., Union, NJ 07201. Authorization No. WH6000. Effective March 19, 2004.

MJZ Transport, Inc., 165 Woodside Ave., Newark, NJ 07104. Authorization No. WH6002. Effective March 19, 2004.

Elmer N. Weber, 227 Woodcorner Rd., Lititz, PA 17543. Authorization No. WH6003. Effective March 18, 2004.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

66-312-001GP: The Procter and Gamble Paper Products Co. (P. O. Box 32, Mehoopany, PA 18626) on March 22, 2004, to construct and operate a 7,000-gallon storage tank (core adhesive storage) at their facility on Route 87, Washington Township, **Wyoming County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

GP5-03-00236: EOG Resources, Inc. (2039 South Sixth Street, Indiana, PA 15701) on March 23, 2004, to operate a natural gas compressor in Mahoning Township, **Armstrong County**.

Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

46-0013A: Hatfield Quality Meats, Inc.—Subsidiary of The Clemens Family Corp. (2700 Funks Rd., Hatfield, PA 19440) on March 26, 2004, to operate a 49 mmBtu/hr heat input boiler in Hatfield Township, **Montgomery County**.

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

06-05008A: SFS Intec, Inc. (P. O. Box 6326, Wyomissing, PA 19610) on March 26, 2004, to construct three dip and spin surface coating lines and associated ovens controlled by low VOC coatings in their facility in the Borough of Wyomissing, **Berks County**.

06-05069C: East Penn Manufacturing Co., Inc. (Deka Road, P. O. Box 147, Lyon Station, PA 19536) on March 23, 2004, to construct a grid caster in Plant A-2 and two lead oxide mills in the oxide plant and to modify a grid caster and lot pot in Plant A-2 all controlled by four fabric collectors and HEPA filters in their facility in Richmond Township, **Berks County**.

21-05036A: Hempt Brothers, Inc. (205 Creek Road, Camp Hill, PA 17011) on March 23, 2004, to construct equipment to process recycled asphalt pavement at batch asphalt plant no. 4 at their Camp Hill Asphalt Plant in Lower Allen Township, **Cumberland County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

03-00229D: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201-9642) on March 25, 2004, to install a coal washing facility to their Logansport Mine in Bethel Township, **Armstrong County**.

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

37-306A: Atlantic States Materials of PA, Inc.—Taylor Run Plant (Route 106, Slippery Rock, PA 16057) on March 12, 2004, to construct a sand and gravel processing plant in Scott Township, **Lawrence County**.

37-319A: Atlantic States Materials of PA, Inc.—Wampum Plant (Route 18, Wampum, PA 16157) on March 12, 2004, to construct a sand and gravel processing plant in North Beaver Township, **Lawrence County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

46-0037C: Cabot Supermetals (P. O. Box 1608, County Line Road, Boyertown, PA 19512) on March 23, 2004, to operate a tantalum scrap digestion in Douglass Township, **Montgomery County**.

09-0128: East Coast Sign Advertising (5058 Route 13 North, Bristol, PA 19007) on March 23, 2004, to operate paint spray booths in Bristol Township, **Bucks County**.

46-0229: Global Rubber, Inc. (451 Yerkes Road, King of Prussia, PA 19406) on March 23, 2004, to operate a carbon bed filter system in Upper Merion Township, **Montgomery County**.

23-0082: Liberty Electric Power, LLC (1000 Industrial Highway, Route 291, Eddystone, PA 19022) on March 23, 2004, to operate a power plant (500 mW) in Eddystone Borough, **Delaware County**.

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

14-313-041A: Rutgers Organics Corp. (201 Struble Road, State College, PA 16801) on March 19, 2004, to operate a chemical process facility (ROC7-2000) and associated air cleaning devices (various condensers, two packed bed scrubbers and a regenerative thermal oxidizer) on a temporary basis, until July 17, 2004, in College Township, **Centre County**. The plan approval has been extended.

49-00009A: Mohawk Flush Doors, Inc. (US Route 11, Northumberland, PA 17857) on March 22, 2004, to operate two wooden door roll coaters and spray booth 4 on a temporary basis, until July 20, 2004, in Point Township, **Northumberland County**. The plan approval has been extended.

60-310-006A: Eastern Industries, Inc. (P. O. Box 177, Winfield, PA 17889) on March 25, 2004, to operate a stone crushing operation and associated air cleaning devices (two water spray dust suppression systems) on a temporary basis, until July 23, 2004, in Buffalo Township, **Union County**. The plan approval has been extended.

49-303-006: Collier Materials, Inc. (R. R. 2, Box 672, Shamokin, PA 17872) on March 24, 2004, to extend the deadline date for the performance of stack testing on a batch asphalt concrete plant and associated air cleaning device (a fabric collector) until August 31, 2004, and to operate their plant on a temporary basis until July 22,

2004, in Ralpho Township, **Northumberland County**. The plan approval has been extended.

53-329-011: Tennessee Gas Pipeline Co. (9 Greenway Plaza, Houston, TX 77046) on March 25, 2004, to operate a natural gas transmission booster station (Ellisburg Booster Station) comprised of two 2,365 brake horsepower natural gas-fired reciprocating internal combustion compressor engines and a 367 brake horsepower natural gas-fired reciprocating internal combustion generator engine on a temporary basis, until July 23, 2004, in Genesee Township, **Potter County**. The plan approval has been extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

65-00865B: Sony Chemicals Corp. of America (1001 Technology Drive, Mt. Pleasant, PA 15666) on March 25, 2004, to install a MEGTEC CleanSwitch™ regenerative thermal oxidizer (RTO) system on their thermal transfer ribbon paint production and coating process facility in East Huntingdon Township, **Westmoreland County**. The Plan Approval for this facility has been revised and now identifies the minimum operating temperature of the RTO. Plan Approval condition no. 5 has been revised as follows:

Plan Approval Condition No. 5: "Equipment to continuously monitor and record the temperature maintained in the oxidizer combustion chamber shall be installed. The minimum temperature maintained in the combustion chamber shall be 1,600°F or the temperature at which a 98% destruction removal efficiency is demonstrated during performance testing. These records shall be kept on file a minimum of five years and shall be made available to the Department upon request (25 Pa. Code § 127.12b)." This is a Title V Facility.

04-00059C: Koppel Steel Corp. (P. O. Box 750, Beaver Falls, PA 15010) on March 24, 2004, for their Koppel Plant in the Borough of Koppel, **Beaver County**. The facility currently has a Title V Operating Permit No. TV-04-00059. The provisions of this plan approval modification will subsequently be incorporated into the Title V Operating Permit through an amendment in accordance with 25 Pa. Code § 127.450.

This modification is to resolve issues that were raised on appeal by Koppel to the Environmental Hearing Board. Issues include lb/hr limitations for SOx and VOC emissions and location requirements for stack testing of gaseous pollutants. The Department and Koppel have come to agreement on the issues and the following changes reflect this resolution:

- Condition 13, revised to remove lb/hr emission rates for VOC and SOx, added lb/3-hour total emission rate for SOx and changed lb/ton SOx emission factor to 0.7 lb/ton. Also added qualifier for the use of short and long term emission factors and basis for tpy rates. The SOx emission factor of 0.7 lb SOx/ton of production was taken from the EPA's AIRS, March 1990 and used as a basis for SOx emission limitations.

- Condition 25, revised to allow testing at baghouse inlet for CO, NOx, SOx and VOC, as well as, allow short term SOx emissions to be based on a lbs/3-hour total.

- Condition 26, revised to allow testing at baghouse inlet for CO, NOx, SOx and VOC.

- Condition 27, revised to detail how hourly and annual compliance is determined.

- Condition 28, revised to delete requirement for notice for completion of construction.

26-00545A: HBC Barge LLC (1800 Paul Thomas Blvd., Brownsville, PA 15417) on March 24, 2004, modified plan approval to allow changes in coating types, changes in application technology and an increase in facility-wide emission limitations at their HBC Barge facility in Brownsville Borough, **Fayette County**.

32-00367A: Ridge Energy Co., Inc. (265 Swamp Road, Suite 3000, Clymer, PA 15728) on March 29, 2004, to construct a crushing, screening and stockpiling plant in Cherryhill Township, **Indiana County**. This plan approval was extended.

65-00659B: Better Materials Corp. (220 Springfield Pike, Connellsville, PA 15425) on March 29, 2004, to construct an asphalt plant in Hempfield Township, **Westmoreland County**. This plan approval was extended.

63-307-027: American Iron Oxide Production (Foster Plaza, No. 7, 661 Andersen Drive, Pittsburgh, PA 15220) on March 12, 2004, to install a baghouse and scrubbers in Allenport Borough, **Washington County**. This plan approval was extended.

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

42-196A: Catalyst Energy, Inc.—Swamp Angel Compressor Station (Big Shanty Road and FR 307, Lewis Run, PA 16738) on March 23, 2004, to install a natural gas processing plant and associated gas compressor engine in Lafayette Township, **McKean County**. The source is subject to NSPS (40 CFR 60 Subpart KKK).

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

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

22-03030: Pennsy Supply, Inc. (P. O. Box 3331, 1001 Paxton Street, Harrisburg, PA 17105) on March 26, 2004, to operate the crushing operation at their Fiddler's Elbow Quarry in Lower Swatara Township, **Dauphin County**.

36-03063: Kearney A. Snyder Funeral Home, Inc. (141 East Orange Street, Lancaster, PA 17602) on March 23, 2004, to operate a cremation chamber in the City of Lancaster, **Lancaster County**.

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

27-00008: Industrial Timber and Lumber Co.—Endeavor Lumber (Route 666, Endeavor, PA 16322) on March 23, 2004, to issue a Natural Minor Operating Permit to operate a sawmill and a wood-fired boiler in Hickory Township, **Forest County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

49-00054: Meckley's Limestone Products (R. R. 1, Box 1682, Herndon, PA 17830) on March 2, 2004, issued a revised State-only operating permit to include an administrative amendment, which was a Department initiated revision, to add conditions to Source ID P104 and Site Level Requirements to permit MLP to burn waste oil in the rotary stone dryer of Source ID P104. This facility is in Lower Mahoney Township, **Northumberland County**. This revised State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

49-00007: Merck and Co., Inc. (P. O. Box 600, Danville, PA 17821) on March 5, 2004, issued a revised operating permit, Revision No. 5, for their pharmaceutical, pesticide and chemical manufacturing facility in Riverside Borough, **Northumberland County**. The revision of this permit is to incorporate terms and conditions from Plan Approvals 49-00007A and 49-00007B for the operation of new wastewater treatment equipment and a new condenser (CN-2640). In addition, this revision incorporates into the operating permit the ERCs awarded for the shutdown of the John Zink Waste Solvent Incinerator and the shutdown of the multiple hearth incinerator and the operation of an 8,400-gallon hydrochloric acid tank (TA-824), a 100-gallon acetic acid hold tank (TA-1303) and three emergency generators exempted from plan approval. This Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

60-00001: Bucknell University (University Ave., Lewisburg, PA 17837) on February 13, 2004, issued a revised State-only operating permit to include an administrative amendment, which was a Department-initiated revision, to change designations of Source ID P102 and P103 from combustions units to process units. This facility is in the Borough of Lewisburg, **Union County**. This revised State-only operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

V95-024: Sea Gull Lighting Products, Inc. (25th and Wharton Streets, Philadelphia, PA 19146) on March 29, 2004, administratively amended to correct the ZIP code. The Title V Operating Permit was originally issued on June 12, 2000.

V95-029: Naval Surface Warfare Center—Carderock Division—Ship Systems Engineering Station (5001 South Broad Street, Philadelphia, PA 19112-1403) on March 29, 2004, administratively amended to change contact information. The Title V operating permit was originally issued on August 1, 2002.

S95-063: Commander Navy Region—Mid-Atlantic (700 Robbins Avenue, Philadelphia, PA 19111-5098) on March 29, 2004, administratively amended to change the name of the facility from Naval Support Activity. The Synthetic Minor operating permit was originally issued on June 25, 2001.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

65-00235: Alcoa Technical Center (100 Technical Drive, Alcoa Center, PA 15069-0001) for their new electri-

cally heated Pilot Tunnel kiln used for processing of anode material, controlled by a thermal oxidizer. This new process will increase VOCs by .1 ton per year, NOx by .78 ton per year and CO by 1.4 tons per year. The increase of the three pollutants are authorized as a de minimis emission increases specified under 25 Pa. Code § 127.449.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permit Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

40930102R2. Mammoth Anthracite, LLC (P. O. Box 108, Beaver Meadows, PA 18216), renewal of an existing anthracite surface mine operation in Hazle Township, **Luzerne County**, affecting 474.0 acres. Receiving streams: None. Application received November 12, 2003. Renewal issued March 22, 2004.

13980201R. Rossi Excavating Company (9 West 15th Street, Hazleton, PA 18201), renewal of an existing coal refuse reprocessing operation in Banks Township, **Carbon County**, affecting 18.0 acres. Receiving streams: None. Application received November 24, 2003. Renewal issued March 22, 2004.

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

56950110 and NPDES Permit No. PA0213217. Ritchie Trucking and Excavating, Inc. (19709 Winner View Terrace, Frostburg, MD 21532), permit transfer from Hardrock Coal Company (19709 Winner View Terrace, Frostburg, MD 21532), for continued operation of a bituminous surface mine in Elk Lick Township, **Somerset County**, affecting 166.8 acres. Receiving streams: unnamed tributary to and Flag Run; unnamed tributary to and Casselman River (CWF). There are no potable water supply intakes within 10 miles downstream. Application received October 14, 2003. Permit issued March 22, 2004.

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

17-03-05. McDowell Excavating (3007 Palestine Road, Morrisdale, PA 16858). The Moshannon District Mining Office awarded a Government Financed Construction Contract to McDowell Excavating on March 9, 2004, that will result in incidental coal removal necessary to

accomplish reclamation of an abandoned mine land site affecting 3.7 acres. The site is in Lawrence Township, **Clearfield County**. Under the terms of the contract, no reprocessing of the coal refuse may take place and no coal refuse materials may be returned to the site once removed. The contract requires total reclamation and revegetation of the project area. This project was made possible under a program developed by the Department which allows for expedited removal and reclamation of old coal refuse piles which are generally eyesores as well as a major sources of siltation and pollution to the streams of this Commonwealth. Application received September 16, 2003. Permit issued March 9, 2004.

Noncoal Permit Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

34042801. Blue Mountain Building Stone Co., Inc. (80 South Hershey Road, Harrisburg, PA 17112), commencement, operation and restoration of a quarry operation in Milford Township, **Juniata County**, affecting 5.0 acres. Receiving streams: None. Application received January 15, 2004. Permit issued March 23, 2004.

7973SM5C5. Eureka Stone Quarry, Inc. (9119 Frankford Avenue, Philadelphia, PA 19114), depth correction to an existing quarry operation in Wrightsville Township, **Bucks County**, affecting 121.0 acres. Receiving streams: Neshaminy Creek. Application received February 11, 2003. Correction issued March 26, 2004.

09030301. Eureka Stone Quarry, Inc. (9119 Frankford Avenue, Philadelphia, PA 19114), commencement, operation and restoration of a quarry operation in Wrightstown Township, **Bucks County**, affecting 39.0 acres. Receiving streams: None. Application received February 11, 2003. Permit issued March 26, 2004.

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

56920302 and NPDES Permit No. PA0212326. New Enterprise Stone & Lime Company, Inc. (P. O. Box 77, New Enterprise, PA 16664), renewal of NPDES Permit, Shade Township, **Somerset County**. Receiving streams: Laurel Run (CWF). The first downstream potable water supply intake from the point of discharge is the Cambria Somerset Authority Stonycreek Surface Water Withdrawal. NPDES renewal application received January 20, 2004. Permit issued March 23, 2004.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

45044009. Rock Work, Inc. (1257 DeKalb Pike, R. D. 2, Blue Bell, PA 19472), construction blasting at Tranquility Woods in Smithfield Township, **Monroe County**, with an expiration date of March 31, 2005. Permit issued March 22, 2004.

54044003. Brubacher Excavating, Inc. (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting at Sears Logistics in Foster Township,

Schuylkill County, with an expiration date of March 31, 2005. Permit issued March 22, 2004.

48044006. Schlouch, Inc. (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting at Opus (Bethlehem) Commercial in Bethlehem and Lower Nazareth Townships, **Northampton County**, with an expiration date of April 10, 2005. Permit issued March 22, 2004.

09044004. Eastern Blasting Co., Inc. (1292 Street Road, New Hope, PA 18938), construction blasting at Hilltop Housing Project in Warrington Township, **Bucks County**, with an expiration date of October 10, 2004. Permit issued March 22, 2004.

48044007. Schlouch Excavating, Inc. (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting at Palmer North Housing in Palmer Township, **Northampton County**, with an expiration date of April 14, 2005. Permit issued March 22, 2004.

09044005. Joao & Bradley Construction Co., Inc. (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC** (P. O. Box 20412, Bethlehem, PA 18002), construction blasting at Stoopville Road and Eagle Road in Newtown Township, **Bucks County**, with an expiration date of December 15, 2004. Permit issued March 22, 2004.

38044003. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Wheatstone in South and North Londonderry Townships, **Lebanon County**, with an expiration date of April 12, 2005. Permit issued March 22, 2004.

36044016. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Freedom Graphics in Mount Joy Township, **Lancaster County**, with an expiration date of January 12, 2005. Permit issued March 22, 2004.

36044017. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting at the Ralph Brubaker Project in West Earl Township, **Lancaster County**, with an expiration date of September 12, 2004. Permit issued March 22, 2004.

45044010. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at Lake In The Clouds in Barrett Township, **Monroe County**, with an expiration date of March 5, 2005. Permit issued March 22, 2004.

46044013. Joao & Bradley Construction Co., Inc. (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC** (P. O. Box 20412, Bethlehem, PA 18002), construction blasting at Brownstone Mill Waterline Extension in Lower Salford Township, **Montgomery County**, with an expiration date of December 12, 2004. Permit issued March 22, 2004.

36044018. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting at 188 Blank Road, Soil Conservation Work in Salisbury Township, **Lancaster County**, with an expiration date of August 17, 2004. Permit issued March 23, 2004.

36044019. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting at Hinkletown Mennonite Church Cemetery in Earl Township, **Lancaster County**, with an expiration date of April 17, 2005. Permit issued March 23, 2004.

06044008. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting at

Paul Sekulski Project in Amity Township, **Berks County**, with an expiration date of July 10, 2004. Permit issued March 23, 2004.

46044012. Anrich, Inc. (400 Gypsy Lane, King of Prussia, PA 19406) and **Bernard J. Hasara** (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting at Cedar Hill Sanitary Pipe Installation in Lower Gwynedd Township, **Montgomery County**, with an expiration date of October 8, 2004. Permit issued March 23, 2004.

06044009. Barwis Construction, LLC (P. O. Box 97, Limekiln, PA 19535) and **BlueStone, Inc.** (170 Cherry Blossom Drive, Churchville, PA 18966-1091), construction blasting at Green Valley Estates in Lower Heidelberg Township, **Berks County**, with an expiration date of May 31, 2004. Permit issued March 23, 2004.

38044004. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Fox Hill Estates/5456 Star Lane in South Londonderry Township, **Lebanon County**, with an expiration date of April 17, 2005. Permit issued March 23, 2004.

67044012. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Peacefields in East Manchester Township, **York County**, with an expiration date of March 31, 2005. Permit issued March 23, 2004.

15044007. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490) and **Horst Drilling & Blasting, Inc.** (141 Ranck's Church Road, New Holland, PA 17557), construction blasting at Hill Farm Housing Development in Valley and Caln Townships, **Chester County**, with an expiration date of April 17, 2005. Permit issued March 23, 2004.

67044013. Miller Warner Construction, Inc. (265 Plane Tree Drive, Lancaster, PA 17603) and **M & J Explosives** (P. O. Box 608, Carlisle, PA 17013), construction blasting at Spring Valley Manor in Dover Borough, **York County**, with an expiration date of March 31, 2005. Permit issued March 23, 2004.

36044026. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Lancaster General Health Campus in East Hempfield Township, **Lancaster County**, with an expiration date of April 9, 2005. Permit issued March 23, 2004.

45044012. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at The Estates At Tannersville in Pocono Township, **Monroe County**, with an expiration date of March 8, 2005. Permit issued March 24, 2004.

45044011. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at Franklin Hill Estates in Smithfield Township, **Monroe County**, with an expiration date of March 8, 2005. Permit issued March 24, 2004.

48044009. Labrador Construction (P. O. Box 1379, Marshalls Creek, PA 18335) and **Austin Powder Company** (559 Nor-Bath Boulevard, Northampton, PA 18067), construction blasting at the Bethlehem Civic Center in Bethlehem Township, **Northampton County**, with an expiration date of July 1, 2004. Permit issued March 24, 2004.

45044013. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at Target Homes, Inc. in Smithfield Township, **Monroe County**, with an expiration date of March 10, 2005. Permit issued March 24, 2004.

46044014. AMROC, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting at Bethel Knoll in Worcester Township, **Montgomery County**, with an expiration date of April 22, 2005. Permit issued March 24, 2004.

06044010. Schlouch Inc. (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting at Wheatfield Run in Spring Township, **Berks County**, with an expiration date of April 22, 2005. Permit issued March 24, 2004.

06044011. Schlouch Inc. (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting at Willow Glen Housing in Ontelaunee Township, **Berks County**, with expiration date April 22, 2005. Permit issued March 24, 2004.

52044002. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting on personal property on SR 4004 in Blooming Grove Township, **Pike County**, with expiration date of March 12, 2005. Permit issued March 24, 2004.

38044005. Brubacher Excavating, Inc. (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting at Detweiler Pool in North Londonderry Township, **Lebanon County**, with an expiration date of April 22, 2005. Permit issued March 24, 2004.

06044012. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting at the Peck Job in Brecknock Township, **Berks County**, with an expiration date of July 22, 2004. Permit issued March 24, 2004.

15044008. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting at Shadeland Woods in West Goshen Township, **Chester County**, with an expiration date of April 22, 2005. Permit issued March 24, 2004.

67044014. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Whisper Run Development in Windsor Township, **York County**, with an expiration date of March 31, 2005. Permit issued March 24, 2004.

36044020. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Parkside Development in East Hempfield Township, **Lancaster County**, with an expiration date of March 31, 2005. Permit issued March 24, 2004.

48044008. Austin Powder Company (P. O. Box 289, Northampton, PA 18067), construction blasting at Florey Farm Subdivision in Upper Nazareth Township, **Northampton County**, with an expiration date of April 21, 2005. Permit issued March 25, 2004.

48044011. Chrin, Inc. (635 Industrial Drive, Easton, PA 18042) and **Austin Powder Company** (P. O. Box 189 Northampton, PA 18067), construction blasting at Parkview Estates Development in Palmer Township, **Northampton County**, with an expiration date of April 26, 2005. Permit issued March 25, 2004.

64044001. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at 153 Butter-nut Flats in Berlin Township, **Wayne County**, with an expiration date of March 13, 2005. Permit issued March 25, 2004.

35044002. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting at Summerfield Development in Glenburn Township, **Lackawanna**

County, with an expiration date of March 15, 2005. Permit issued March 25, 2004.

35044003. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting at the Corner of Hack Road and Garner Road in Benton Township, **Lackawanna County**, with an expiration date of September 15, 2004. Permit issued March 25, 2004.

36044023. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting at Windamere Place in East Hempfield Township, **Lancaster County**, with an expiration date of April 23, 2005. Permit issued March 25, 2004.

36044022. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting at D. H. Funk & Sons in West Hempfield Township, **Lancaster County**, with an expiration date of April 23, 2005. Permit issued March 25, 2004.

67044015. Gerlach's Drilling & Blasting, Inc. (172 Bender Mill Road, Lancaster, PA 17603), construction blasting at Calnbridge Heights in Windsor Township, **York County**, with an expiration date of March 31, 2005. Permit issued March 25, 2004.

36044021. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Homestead Village in East Hempfield Township, **Lancaster County**, with an expiration date of April 23, 2005. Permit issued March 25, 2004.

28044011. Hempt Brothers, Inc. (205 Creek Road, Camp Hill, PA 17011) and **Senex Explosives, Inc.** (710 Millers Run Road, Cuddy, PA 15031), construction blasting on SR 30—16 Highway Reconstruction in Guilford Township, **Franklin County**, with an expiration date of September 30, 2004. Permit issued March 25, 2004.

21044009. Stewart & Tate, Inc. (1020 North Hartley Street, P. O. Box 2587, York, PA 17405) and **D. C. Guelich Explosive** (P. O. Box 245, Thomasville, PA 17364), construction blasting at Carlisle Regional Medical Center in South Middleton Township, **Cumberland County**, with an expiration date of September 30, 2004. Permit issued March 25, 2004.

45044014. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at Target Homes, Inc./Lot 12 Michelle's Grove off John's Lane in Pocono Township, **Monroe County**, with an expiration date of March 16, 2005. Permit issued March 25, 2004.

15044009. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490), construction blasting at Town Square Plaza in North Coventry Township, **Chester County**, with an expiration date of April 23, 2005. Permit issued March 25, 2004.

21044010. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013), construction blasting at Bent Creek Lots 9—11 in Silver Spring Township, **Cumberland County**, with an expiration date of September 30, 2004. Permit issued March 25, 2004.

45044015. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting at Tannersville Estates in Pocono Township, **Monroe County**, with an expiration date of March 18, 2005. Permit issued March 25, 2004.

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

11044001. AMFIRE Mining, Inc. (One Energy Place, Latrobe, PA 15650). Madison Mine Project Road En-

trance, Jackson Township, **Cambria County**. Road entrance construction. Duration 180 days. Permit issued March 26, 2004.

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

08044002. Chris Grady (2626 Lake Ariel Highway, Honesdale, PA 18431), for construction blasting in Asylum Township, **Bradford County**, with an expected duration of 100 days. Permit issued March 10, 2004.

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.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal

form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E09-855. Westrum Development Company, 370 Commerce Drive, Fort Washington, PA 19034, Richland Township, **Bucks County**, ACOE Philadelphia District.

To perform the following activities associated with the proposed Arbours at Morgan Creek residential subdivision:

1. To place and maintain fill in 0.03 acre of isolated wetlands (PEM) associated with the construction of lots 132 and 133 of the proposed residential development.

2. Construct and maintain approximately 330 linear feet of 29-inch by 45-inch RCP stream enclosure across an unnamed intermittent tributary of Morgan Creek (TSF) associated with the access road.

3. To construct two 8-inch PVC sanitary sewer utility lines across an unnamed tributary to Morgan Creek beneath the enclosure in item 2.

4. To construct a 12-inch DIP water main utility line across an unnamed tributary to Morgan Creek beneath the enclosure in item 2.

5. To construct a 4-inch PVC force main utility line across an unnamed tributary to Morgan Creek beneath the enclosure in item 2.

6. To construct a 12-inch DIP water main utility line across the Morgan Creek and adjacent wetlands (PSS).

7. To construct a 4-inch PVC force main utility line across the Morgan Creek and adjacent wetlands (PSS).

The project proposes to directly impact a total of 330 linear feet of watercourse and 0.74 acre of wetlands. The permanent wetland impact will be 0.03 acre and the temporary wetland impact will be 0.71 acre. The site is just west of the intersection of Paletown Road and Reading Railroad (Quakertown, PA USGS Quadrangle N: 9.0 inches; W: 10.3 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act.

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

E13-138. John Degenhart, 119 Seybert Street, Hazleton, PA 18201, Packer Township, **Carbon County**, Army Corps of Engineers Philadelphia District.

To maintain a private road crossing of a tributary to Quakake Creek (HQ-CWF) and 0.10 acre of PEM-EV adjacent wetlands. The crossing consists of twin 36-inch diameter culverts in the tributary and six 24-inch diameter and two 12-inch diameter culverts in the adjacent wetlands. The permittee is required to provide 0.20 acre of replacement wetlands. The project is approximately 2,000 feet northwest of SR 4010 (Quakake Road) and SR 4006 (Spring Mountain Drive) intersection (Hazleton, PA Quadrangle N: 5.0 inches; W: 6.3 inches) (Subbasin: 2B).

E45-439. Arrowhead Lake Community Association, Inc., HC88, Box 305, Pocono Lake, PA 18347, **Monroe County**, Army Corps of Engineers Philadelphia District.

To excavate and maintain navigation channels in two cove areas within Arrowhead Lake (HQ-CWF) for the purpose of improving boat access to the main portions of the lake as follows: (1) Lewis Creek Cove—a trapezoidal channel having a length of approximately 2,185 feet, a bottom width of 8 feet and a depth of 4 feet impacting a de minimis area of PEM wetlands equal to 0.04 acre; and (2) Eastern Cove—a trapezoidal channel having a length of approximately 3,960 feet, a bottom width of 15 feet and a depth of 4 feet. The project also includes a 170-foot long stream restoration project in Lewis Creek at the southern end of Lewis Creek Cove with work consisting of the construction of a rock cross vane and the installation of bioengineering streambank stabilization measures. The project will permanently impact a total of 3.55 acres of open water with temporary impacts totaling another 2.96 acres. The work will take place when the lake is drawn down and the project is approximately 0.3 mile north of SR 4003 (Thornhurst, PA Quadrangle N: 3.9 inches; W: 9.3 inches) in Coolbaugh and Tobyhanna Townships, Monroe County (Subbasin: 2A).

E66-133. Joseph C. Peters, House No. 801, Lake Winola, PA 18625, Overfield Township, **Wyoming County**, Army Corps of Engineers Baltimore District.

To modify and maintain an existing pile supported, private recreational dock in Lake Winola (CWF). The proposed work consists of increasing the length of the dock from 30 feet to 60 feet and enlarging the surface area by 222 SF to a total surface area of approximately 526 SF. The project is on the southern side of Lake Winola, approximately 0.4 mile east of the intersection of SR 0307 and SR 2004 (Factoryville, PA Quadrangle N: 1.6 inches; W: 13.9 inches) (Subbasin: 4G).

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

E02-1417. Raymond H. Smith, 825 Morewood Avenue, Apt. D, Pittsburgh, PA 15213. Brandymill Woods residential development in Robinson Township, **Allegheny County**, Pittsburgh ACOE District (Oakdale, PA Quadrangle N: 14.1 inches; W: 1.8 inches) (Latitude: 40° 27' 10" and Longitude: 80° 8' 17"). To place and maintain fill in 0.66 acre of PEM/PSS wetlands associated with unnamed tributaries to Montour Run (TSF) for the purpose of constructing the Brandymill Woods residential development. The project is on the north side of

Steubenville Pike, approximately 1,200 feet northwest from the intersection of Steubenville Pike and Beaver Grade Road. The project will also impact 1,420 linear feet of stream channel. To mitigate for wetland impacts, applicant proposes to construct and maintain 0.71 acre of replacement wetlands. Issuance of this permit constitutes approval of the environmental assessment for a nonjurisdictional, on-stream dam proposed at the project site.

E63-549. Charleroi Borough, 4th and Fallowfield Avenue, Charleroi, PA 15022. Bridge on Calvary Road in Charleroi Borough, **Washington County**, Pittsburgh ACOE District (Monongahela, PA Quadrangle N: 0.9 inch; W: 3.6 inches) (Latitude: 40° 07' 47" and Longitude: 79° 54' 06"). To remove the existing structures and to construct and maintain a conspan arch bridge having a span of 28 feet and an underclearance of 8 feet and width of 5 feet over Maple Creek (WWF). The bridge is on Calvary Road, approximately 200 feet south of its intersection with Lincoln Avenue.

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

E33-219, Department of Transportation, District 10-0, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701-0429. DuBois-Jefferson County Airport Access Road I-80 Interchange in Washington Township, **Jefferson County**, ACOE Pittsburgh District (Hazen, PA Quadrangle N: 4.8 inches; W: 1.9 inches).

To conduct the following activities associated with construction of an interchange on I-80 approximately 300 feet west of the existing T-544 overpass 4 miles west of Falls Creek Borough as part of the construction of the DuBois-Jefferson County Airport Access Road Project:

1. Fill a total of 0.885 acre of wetland (consisting of 0.446 acre PEM, 0.122 acre PSS and 0.317 acre PFO) for construction of the realignment of T-544 and the entrance and exit ramps off of I-80.
2. Extend and maintain the existing 68-foot long, 10-foot wide by 6.5-foot high reinforced concrete box culvert in Norris Run (CWF) under the eastbound lanes of I-80 an additional 34 feet on the upstream end, resulting in a total structure length of 102 feet.
3. Realign approximately 150 linear feet of the channel of Norris Run (CWF) extending upstream from the inlet of the extended box culvert under the eastbound lanes of I-80.
4. Extend and maintain the existing 74.5-foot long, 12-foot wide by 6.5-foot high reinforced concrete box culvert in Norris Run (CWF) under the westbound lanes of I-80 an additional 25 feet on the downstream end, resulting in a total structure length of 99.5 feet.

Project includes creation of 1.263 acres of replacement wetlands along I-80 in the headwaters of Kyle Run upstream of Kyle Lake.

[Pa.B. Doc. No. 04-616. Filed for public inspection April 9, 2004, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website (www.dep.state.pa.us) at the Public Participation Center page. The "Current Inventory" heading is the Governor's

list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2004.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Draft Technical Guidance

DEP ID: 580-2200-010. Title: Underground Storage of Explosives. Description: Section 702 of the Pennsylvania Bituminous Coal Mine Act (52 P.S. § 701-702) and section 1402 of the Pennsylvania Anthracite Coal Mine Act (52 P.S. § 70-1402) (collectively acts) allow mine operators to adopt or use a new technology or method if that method or technology provides equivalent protection to personnel and property as those statutory requirements contained in the acts. During the 40 years since these acts were promulgated, explosives used in underground coal mines have significantly become more stable and harder to accidentally detonate. As a result, the Department has determined that the storage of explosives in anthracite and bituminous underground mines can occur for extended periods if Department guidance is followed to store these explosives. Draft guidance document #580-2200-010 provides guidance for mine operators to store explosives in underground mines, which if followed, will afford personnel and property with the same or greater level of protection as intended under the acts. Written Comments: Interested persons may submit written comments on draft technical guidance document #580-2200-010 by May 10, 2004. 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 Joseph A. Sbaffoni, Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, jsbaffoni@state.pa.us. Questions regarding the draft technical guidance document should be directed to Joseph A. Sbaffoni, (724) 439-7469, jsbaffoni@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-617. Filed for public inspection April 9, 2004, 9:00 a.m.]

Pennsylvania Association of Sewage Enforcement Officers/Department of Environmental Protection Work Group Meeting Cancellations

The Department of Environmental Protection's (Department) Pennsylvania Association of Sewage Enforcement Officers (PASEO)/Department Work Group (Work Group) meetings scheduled for Tuesday, April 13, 2004, and Tuesday, October 5, 2004, at 10 a.m. at the Ramada Inn, State College are cancelled. The Department has determined that the subjects considered by the Work Group are more appropriate for deliberation by the Department's Sewage Advisory Committee (Committee) and has therefore disbanded the Work Group, effective April 10, 2004. Minutes of the last meeting of the PASEO/Work Group are available on the Department's website: www.dep.state.pa.us (DEP Keyword: Participate).

The next meeting of the Committee is scheduled for October 6, 2004. The agenda and meeting materials for the meeting will be posted on the Department's website.

Questions concerning this notice should be directed to John McHale, (717) 787-8184, jomchale@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-618. Filed for public inspection April 9, 2004, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Pottstown Memorial Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Pottstown Memorial Medical Center has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care, (717) 783-8980, for speech and/or hearing impaired persons, V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-619. Filed for public inspection April 9, 2004, 9:00 a.m.]

Application of West Shore Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that West Shore Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 571.2(d) (relating to modifications to HHS requirements).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care, (717) 783-8980, for speech and/or hearing impaired persons, V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-620. Filed for public inspection April 9, 2004, 9:00 a.m.]

Applications for Temporary Managers of Long-Term Care Facilities

Under section 814(b) of the Health Care Facilities Act (act) (35 P.S. § 448.814), the Department of Health (Department) may petition the Commonwealth Court or Court of Common Pleas to appoint temporary management designated as qualified by the Department to assume operation of a facility.

The Department will consider applications for temporary managers of long-term facilities who meet the following criteria.

Applicants must be prepared to demonstrate the ability to provide temporary management services in a written and oral presentation to senior level Department officials. This presentation will describe the immediate and long-term plans for bringing a designated facility into substantial compliance with State and Federal regulations. The Department reserves the right to consider this presentation as the basis for approving or denying the applicant the opportunity to act as a temporary manager.

Interested persons are encouraged to apply by submitting the required information to the Director, Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120.

For additional information, or for persons with a disability who require an auxiliary aid, service or other accommodation to apply, contact William Bordner, (717) 787-1816, for speech and/or hearing impaired persons

V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Services (800) 654-5984 (TT).

Requirements for Temporary Managers in Long-Term Care Facilities

Section 814(b) of the act specifies that the Department may petition the Commonwealth Court or Court of Common Pleas to appoint temporary management designated as qualified by the Department to assume operation of a facility. Temporary management is employed at the facility's expense to assure the health and safety of the residents until corrections are made to bring the facility into compliance with the laws and regulations for licensure or until there is an orderly closure of the facility. Applicants must not have any direct or indirect ownership interests, or controlling interest separately or in combination, amounting to an ownership interest in the facility to which they are seeking appointment as a temporary manager.

To be considered as a temporary manager, applicants must provide the following evidence of their ability to successfully manage long-term care nursing facilities:

1. Professional credentials

a. Licenses for individuals providing management services, including nursing home administrators, registered nurses and other licensed professionals.

b. Information regarding the education and experience of principals and agents of the applicant.

c. Federal Bureau of Investigations and Pennsylvania criminal history reports (Act 169) on all principals and agents.

2. Relevant experience

a. A nursing home administrator must have at least 3 years of experience as a full-time administrator of a licensed long-term care nursing facility with an established history of substantial compliance with State and Federal requirements during the administrator's tenure at the facility.

b. A director of nursing services must have at least 3 years of experience in nursing services administration and supervision in a long-term care setting.

c. Representatives of other disciplines that may be used by the temporary manager, such as the dietitian, social worker, activities coordinator or medical records practitioner, must have at least 2 years of experience in a long-term care setting.

d. Professional persons must have no record of professional disciplinary action affecting licensure and must have no action pending against licensure in this Commonwealth or any other state at the time of application for, or involvement in, temporary management.

3. Information

Applicant must provide information that addresses the following:

a. Records of management of long-term care nursing facilities or other health care facilities which might provide relevant experience that are owned or operated by the applicant. Include compliance history with particular reference to any periods in which State or Federal adverse action recommendations were made, whether or not the adverse action became final. The compliance history should include: provisional licenses, bans on admissions and readmissions, civil monetary penalties (Federal and State) and reports to licensing boards (substantiated or unsubstantiated).

b. Provide a complete rationale for periods of noncompliance and the measures that were used to prevent future noncompliance.

c. Explain how management experience will be used to implement systems, which will return a facility to substantial compliance.

d. Submit names, addresses and telephone numbers of State survey agencies, Medicaid agencies or other regulatory agencies that are familiar with the applicant's experience in bringing long-term care nursing facilities into compliance and maintaining compliance.

4. Scope of services

Description of the scope of services, which the applicant is prepared to provide, as described by the following categories:

a. *Direct comprehensive management services:* Applicants must describe their ability to provide direct services, including the ability to utilize existing resources to provide the following:

—Comprehensive assessment of residents and interventions to address the immediate needs of all residents.

—Services which may include physician evaluations, rehabilitative services, nutritional evaluations, psychiatric assessments, behavior management, physical and chemical restraint reduction, infection control and other resident-centered services.

—Financial management.

—Monitoring of staff performance.

—Replacement staff (including a detailed analysis of the use and effectiveness of agency personnel).

—Staff training.

—Clinical records audits.

—Administrative and management services including evaluation of efficacy of contracted services and replacement of contractors.

b. *Indirect comprehensive management services:* Applicants must describe their ability to obtain and retain resources to provide the services detailed in item (a) through the use of contracts or other arrangements with service providers.

c. *Limited management or educational services:* Applicants must describe specialized services that they can provide on an as-needed basis, such as:

—Nursing home administrators on a consultant or full-time basis.

—Resident assessment and care planning.

—Staff education and training.

—Development, implementation and monitoring of plans of correction.

—Infection control.

—Other services.

5. Geographic area

The specific geographic area in which the applicant is able to provide direct, indirect or limited services.

6. Cultural diversity

Applicants shall demonstrate an understanding of cultural diversity by:

a. Providing evidence of the ability to perform in a manner which does not discriminate on the basis of age, race, sex, religion, handicap or national origin.

b. Submitting copies of the applicant's nondiscrimination policy and any other documentation that may support compliance with nondiscrimination requirements.

7. Eligibility requirements

The following individuals are not eligible to serve as temporary managers at specific facilities:

a. An individual who has, or whose immediate family members have, any financial interest in the facility to be managed. Indirect ownership, such as through a mutual fund, does not constitute financial interest for the purpose of this restriction.

b. An individual who currently serves or, within the past 2 years, has served as a member of the staff of the facility.

[Pa.B. Doc. No. 04-621. Filed for public inspection April 9, 2004, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Fairview Manor
900 Manchester Road
Fairview, PA 16415

Warren Manor
682 Pleasant Drive
Warren, PA 16365

Willowbrooke Court at Fort Washington Estates
1264 Fort Washington Avenue
Fort Washington, PA 19034-1798
FAC ID 150102

Bradford Manor
50 Langmaid Lane
Bradford, PA 16701

Corry Manor
640 Worth Street
Corry, PA 16407

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.7 (relating to basement or cellar):

Willowbrooke Court at Fort Washington Estates
1264 Fort Washington Avenue
Fort Washington, PA 19034-1798
FAC ID 150102

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.37(d) (relating to equipment for bathrooms):

Shenango Presbyterian Home
238 South Market Street
New Wilmington, PA 16142

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the address or phone number listed previously, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-622. Filed for public inspection April 9, 2004, 9:00 a.m.]

WIC Public Meetings

The Department of Health (Department), Supplemental Food Program for Women, Infants and Children (WIC Program), will hold public meetings on the following dates at the locations indicated:

May 25, 2004
10 a.m.—3 p.m.
NORTH, Inc.
642 North Broad Street, Suite 101
Philadelphia, PA 19130-3409

May 27, 2004
10 a.m.—3 p.m.
Department of Health
Health and Welfare Building, Room 610
Commonwealth and Forster Streets
Harrisburg, PA 17120

The Department invites comments on all aspects of the WIC Program's operations. General comments on other issues pertinent to the WIC Program are also requested.

Persons wishing to give testimony at the public meetings are requested to preregister with the State WIC Program Office by calling Bonnie Mellott, (717) 783-1289.

Persons unable to attend the meetings may submit written comments by May 31, 2004, to the Department of Health, Division of WIC, Attention: Planning and Monitoring Section, P. O. Box 90, Harrisburg, PA 17108.

For additional information or persons with a disability who wish to attend the meeting, preregister or provide comments and require an auxiliary aid service or other accommodation to do so, contact the WIC Program Office at the previously listed number, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-6984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-623. Filed for public inspection April 9, 2004, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Expansion of the Long Term Care Capitated Assistance Program; Request for Information

The Long-Term Care Capitated Assistance Program (LTCCAP) is the Commonwealth's replication of the Program of All-inclusive Care for the Elderly (PACE) Model. Under this Request for Information, the Department of Public Welfare (Department) is asking organizations interested in participating as an LTCCAP provider to contact the Department. Providers will be responsible to provide a specific package of services to individuals enrolled in LTCCAP who are eligible for Medical Assistance (MA) and have been determined to require nursing facility services. To be considered for an LTCCAP site, organizations must be enrolled in the MA Program, meet the requirements included in the PACE Protocol and LTCCAP Provider Agreement and have a completed feasibility study through a PACE Technical Assistance Center.

The Department will consider, among other things, the following factors when determining site selection for LTCCAP:

- MA service need.
- MA service availability (such as availability of nursing facility services and home and community based services).
- Project location (such as suburban versus urban locations and existing project sites).
- Uniqueness of project design (such as closing existing nursing facility beds and collaboration efforts).

Questions regarding the PACE Protocol or the feasibility study through a PACE Technical Assistance Center should be directed to Cindy M. Proper, (717) 772-2525.

Organizations that meet the criteria listed in this notice that are interested in being considered to provide services under LTCCAP should submit a letter of interest, along with a copy of a completed feasibility study, within 90 days from the date of this publication to LTCCAP, Division of LTC Client Services, Department of Public Welfare, 6th Floor Bertolino Building, P. O. Box 2675, Harrisburg, PA 17105.

Current LTCCAP providers interested in expanding beyond their designated zip code area are also invited to respond to this request. Responses should be directed to the previous address and include a letter of interest, along with a market analysis of the area of interest.

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-384. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 04-624. Filed for public inspection April 9, 2004, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Win For Life '04 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Win For Life '04.

2. *Price:* The price of a Pennsylvania Win For Life '04 instant lottery game ticket is \$2.

3. *Play Symbols:*

(a) Each Pennsylvania Win For Life '04 instant lottery game ticket will contain three play areas known as "Game 1," "Game 2" and "Game 3" respectively. Each game has a different game play method and is played separately. Each Pennsylvania Win For Life '04 instant lottery game ticket will also contain a "Fast Cash Bonus" area.

(b) The play symbols and their captions located in the play area for "Game 1" are: \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOR DOL), \$8.⁰⁰ (EGT DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$150 (ONEHUNFTY) and LIFE (\$1,000/WEEK).

(c) The play symbols and their captions located in the play area for "Game 2" are: Keystone Symbol (KYSTN) and an X Symbol (XXX).

(d) The play area for "Game 3" will contain a "Your Numbers" area and a "Lucky Numbers" area. The play symbols and their captions located in the "Your Numbers" area and the "Lucky Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) and 9 (NINE).

4. *Prize Play Symbols:*

(a) The play area for "Game 2" will contain a "Prize" area. The prize play symbols and their captions located in the "Prize" area for "Game 2" are: \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOR DOL), \$8.⁰⁰ (EGT DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$150 (ONEHUNFTY) and LIFE (\$1,000/WEEK).

(b) The play area for "Game 3" will contain six prize play symbols. The prize play symbols and their captions in "Game 3" are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOR DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$150 (ONEHUNFTY) and LIFE (\$1,000/WEEK).

(c) The prize play symbols and their captions located in the "Fast Cash Bonus" area are: \$4.⁰⁰ (FOR DOL), \$8.⁰⁰ (EGT DOL), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY) and TRY AGAIN (NO BONUS).

5. *Prizes:* The prizes that can be won in "Game 1" and "Game 2" are \$2, \$4, \$8, \$20, \$25, \$50, \$150 and \$1,000 a week for life (\$1 million lifetime minimum). The prizes that can be won in "Game 3" are \$1, \$2, \$4, \$20, \$25, \$50, \$150 and \$1,000 a week for life (\$1 million lifetime minimum). The prizes that can be won in the "Fast Cash Bonus" area are \$4, \$8, \$20, \$25 and \$50. The player can win up to seven times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 14,400,000 tickets will be printed for the Pennsylvania Win For Life '04 instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" are:

(1) Holders of tickets with three matching play symbols of LIFE (\$1,000/WEEK) in the play area, on a single ticket, shall be entitled to a prize of \$1,000 a week for life (\$1 million lifetime minimum) which will be paid by an initial cash payment of \$52,000 plus equal annual payments of \$52,000 over the lifetime of the winner and continuing under the provisions of 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner) until the \$1 million minimum has been paid to the estate of the deceased. If the winner of the Pennsylvania Win For Life '04 prize is younger than 18 years of age, the winner will not begin to receive the prize until the winner reaches 18 years of age. Only one claimant per ticket allowed.

(2) Holders of tickets with three matching play symbols of \$150 (ONEHUNFTY) in the play area, on a single ticket, shall be entitled to a prize of \$150.

(3) Holders of tickets with three matching play symbols of \$50\$ (FIFTY) in the play area, on a single ticket, shall be entitled to a prize of \$50.

(4) Holders of tickets with three matching play symbols of \$25\$ (TWY FIV) in the play area, on a single ticket, shall be entitled to a prize of \$25.

(5) Holders of tickets with three matching play symbols of \$20\$ (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with three matching play symbols of \$8.⁰⁰ (EGT DOL) in the play area, on a single ticket, shall be entitled to a prize of \$8.

(7) Holders of tickets with three matching play symbols of \$4.⁰⁰ (FOR DOL) in the play area, on a single ticket, shall be entitled to a prize of \$4.

(8) Holders of tickets with three matching play symbols of \$2.⁰⁰ (TWO DOL) in the play area, on a single ticket, shall be entitled to a prize of \$2.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets with three matching Keystone Symbol (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of LIFE (\$1,000/WEEK) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$1,000 a week for life (\$1 million lifetime minimum) which will be paid by an initial cash payment of \$52,000 plus equal annual payments of \$52,000 over the lifetime of the winner and continuing under the provisions of 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner) until the \$1 million minimum has been paid to the estate of the deceased. If the winner of the Pennsylvania Win For Life '04 prize is younger than 18 years of age, the

winner will not begin to receive the prize until the winner reaches 18 years of age. Only one claimant per ticket allowed.

(2) Holders of tickets with three matching Keystone Symbol (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$150 (ONEHUNFTY) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$150.

(3) Holders of tickets with three matching Keystone Symbol (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$50\$ (FIFTY) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$50.

(4) Holders of tickets with three matching Keystone Symbol (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$25\$ (TWY FIV) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$25.

(5) Holders of tickets with three matching Keystone Symbol (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$20\$ (TWENTY) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with three matching Keystone Symbol (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$8.⁰⁰ (EGT DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$8.

(7) Holders of tickets with three matching Keystone Symbol (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$4.⁰⁰ (FOR DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$4.

(8) Holders of tickets with three matching Keystone Symbol (KYSTN) play symbols in the same row, column or diagonal, and a prize play symbol of \$2.⁰⁰ (TWO DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$2.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky Numbers" play symbols and a prize play symbol of LIFE (\$1,000/WEEK) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1,000 a week for life (\$1 million lifetime minimum) which will be paid by an initial cash payment of \$52,000 plus equal annual payments of \$52,000 over the lifetime of the winner and continuing under 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner) until the \$1 million minimum has been paid to the estate of the deceased. If the winner of the Pennsylvania Win For Life '04 prize is younger than 18 years of age, the winner will not begin to receive the prize until the winner reaches 18 years of age. Only one claimant per ticket allowed.

(2) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky Numbers" play symbols and a prize play symbol of \$150 (ONEHUNFTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$150.

(3) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky Numbers" play symbols and a prize play symbol of \$50\$

(FIFTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(4) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky Numbers" play symbols and a prize play symbol of \$25\$ (TWY FIV) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(5) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky Numbers" play symbols and a prize play symbol of \$20\$ (TWENTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky Numbers" play symbols and a prize play symbol of \$4.⁰⁰ (FOR DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(7) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky Numbers" play symbols and a prize play symbol of \$2.⁰⁰ (TWO DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(8) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky Numbers" play symbols and a prize play symbol of \$1.⁰⁰ (ONE DOL) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(d) Determination of prize winners for the "Fast Cash Bonus" are:

(1) Holders of tickets with a prize play symbol of \$50\$ (FIFTY) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$50.

(2) Holders of tickets with a prize play symbol of \$25\$ (TWY FIV) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$25.

(3) Holders of tickets with a prize play symbol of \$20\$ (TWENTY) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$20.

(4) Holders of tickets with a prize play symbol of \$8.⁰⁰ (EGT DOL) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$8.

(5) Holders of tickets with a prize play symbol of \$4.⁰⁰ (FOR DOL) in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$4.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Fast \$ Bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 14,400,000 Tickets</i>
		\$2		\$2	20	720,000
			\$2	\$2	20	720,000
	\$2			\$2	21.43	672,000
\$4		\$4		\$4	750	19,200
	\$4			\$4	750	19,200
			\$4	\$4	750	19,200
		\$2	\$1 × 2	\$4	1,500	9,600
	\$2		\$1 × 2	\$4	150	96,000
			\$1 × 4	\$4	150	96,000
	\$2	\$2		\$4	115.38	124,800
\$8				\$4	150	96,000
		\$8		\$8	750	19,200
	\$8			\$8	750	19,200
\$4		\$4		\$8	750	19,200
\$4			\$1 × 4	\$8	750	19,200
\$4	\$2	\$2		\$8	500	28,800
\$4		\$2	\$2	\$8	500	28,800
	\$2		\$1 × 6	\$8	500	28,800
\$20				\$20	500	28,800
	\$20			\$20	1,500	9,600
		\$20		\$20	1,500	9,600
			\$20	\$20	1,500	9,600
\$8	\$8		\$2 × 2	\$20	1,500	9,600
\$8			\$4 × 3	\$20	750	19,200
			\$4 × 5	\$20	750	19,200
\$25				\$20	750	19,200
	\$25			\$25	375	38,400
				\$25	750	19,200

<i>Fast \$ Bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 14,400,000 Tickets</i>
		\$25		\$25	750	19,200
			\$25	\$25	750	19,200
\$50				\$50	1,017	14,160
	\$50			\$50	1,200	12,000
		\$50		\$50	1,200	12,000
\$25			\$25	\$50	1,200	12,000
\$25	\$25			\$50	1,200	12,000
	\$25	\$25		\$50	1,200	12,000
\$20	\$20		\$2 × 5	\$50	1,200	12,000
	\$150			\$150	60,000	240
		\$150		\$150	60,000	240
			\$150	\$150	60,000	240
	\$50		\$50 × 2	\$150	60,000	240
\$50	\$50	\$50		\$150	60,000	240
\$50	\$50		\$50	\$150	60,000	240
	LIFE			\$1,000/WK/LIFE	14,400,000	1
		LIFE		\$1,000/WK/LIFE	14,400,000	1
			LIFE	\$1,000/WK/LIFE	14,400,000	1

9. *Claiming of Prizes.* For purposes of claiming the \$1,000 a week for life prize under the Pennsylvania Win For Life '04 game, "lifetime" for legal entities shall be defined as 20 years beginning the date the prize is claimed. Only one claimant per ticket is allowed for the \$1,000 a week for life prize.

10. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Win For Life '04 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Win For Life '04, prize money from winning Pennsylvania Win For Life '04 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Win For Life '04 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-101—3761-314), 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Win For Life '04 or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 04-625. Filed for public inspection April 9, 2004, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Chester County

Under section 2002(b) of The Administrative Code of 1929 (71 P.S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department of Transportation (Department), in cooperation with the Federal Highway Administration (FHA), plans to reconstruct the Westtown Road Bridge (SR 2007, Section EBR) that conveys Westtown Road over the East Branch of Chester Creek. The Westtown Road Bridge lies completely within the boundaries of Westtown Township and is located 0.8 mile south of the Village of Milltown.

The scope of the project involves restoring the transportation link on Westtown Road due to Westtown Road Bridge having been closed to vehicular traffic since February 2003. A State Emergency Action was issued on March 27, 2003, with the purpose of reopening Westtown Road to traffic as soon as possible.

The proposed bridge replacement project will have an adverse effect on two Section 2002 resources, the Westtown Road Bridge and the Westtown Boarding School and Farm Historic District. Both Section 2002 resources were determined eligible for listing on the Nation Register of Historic Places. Based upon these studies, there is no feasible and prudent alternative to the total replacement of the Westtown Road Bridge.

The Recommended Alternative meets the purpose and need of the project while mitigating the impacts to the historic Westtown Road Bridge and the surrounding historic district. Three mitigation measures, as per the Memorandum of Agreement (MOA), have been proposed for the project: (1) provide recordation of the existing Westtown Road Bridge to State-level recordation standards; (2) ensure that the design of the new bridge is compatible with the historic and architectural qualities of the Westtown Boarding School and Farm Historic District; and (3) avoid affecting historic properties outside of the Area of Potential Effect, specifically ruins associated

with a former dam located east of the Westtown Road Bridge and a former mill race located south of the Westtown Road Bridge. The FHA and the State Historic Preservation Officer were signatories to the MOA dated January 12, 2004, with additional concurrence from the Department, the Westtown School and the Delaware Nation, OK.

The Secretary has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code 1929, and has concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize the effect.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 04-626. Filed for public inspection April 9, 2004, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Borough of Rochester v. DEP; EHB Doc. No. 2004-075-R

The Borough of Rochester has appealed the issuance by the Department of Environmental Protection of an NPDES Phase II permit to same for a facility in the Borough of Rochester, Beaver County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board, (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 04-627. Filed for public inspection April 9, 2004, 9:00 a.m.]

PPG Industries, Inc. v. DEP; EHB Doc. No. 2004-076-R

PPG Industries, Inc. has appealed the issuance by the Department of Environmental Protection of NPDES Permit No. PA0001198 (renewal) to PPG Industries, Inc. for a facility in Springdale Borough, Allegheny County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 04-628. Filed for public inspection April 9, 2004, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, March 25, 2004, and announced the following:

Regulations Approved

Department of Agriculture #2-138: Agricultural Area Security Program; Agricultural Conservation Easement Purchase Program; Agricultural Security Area Program (amends 7 Pa. Code Chapters 138, 138e and 138l)

State Board of Education #6-287: Special Education Services and Programs (amends 22 Pa. Code Chapter 14)

Approval Order

Public Meeting held
March 25, 2004

Commissioners Voting: Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

Department of Agriculture—Agricultural Area Security Program; Agricultural Conservation Easement Purchase Program; Agricultural Security Area Program; Regulation No. 2-138

On January 29, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Agriculture (Department). This rulemaking amends 7 Pa. Code Chapters 138, 138e and 138l. The proposed regulation was published in the February 9, 2002, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 13, 2004.

This regulation updates provisions relating to the Agricultural Area Security Law to implement numerous statutory revisions including Act 14 of 2001. The Department is also codifying procedures it has been using to adminis-

ter the agricultural area security program and the agricultural conservation easement program.

We have determined this regulation is consistent with the statutory authority of the Department (3 P. S. § 915) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
March 25, 2004

Commissioners Voting: Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

State Board of Education—Special Education Services and Programs; Regulation No. 6-287

On August 18, 2003, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Education (Board). This rulemaking amends 22 Pa. Code Chapter 14. The proposed regulation was published in the August 30, 2003, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on February 13, 2004.

By promulgating this regulation, the Board is bringing its special education regulations into compliance with the federal regulations established by the United States Department of Education's Office of Special Education Programs. The final-form regulation bars a local educa-

tion agency from initiating due process hearings when parents have not consented to the initiation of special education services for their children.

We have determined this regulation is consistent with the statutory authority of the Board (24 P. S. § 13-1372(1)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 04-629. Filed for public inspection April 9, 2004, 9:00 a.m.]

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
2-142	Department of Agriculture Sheep and Lamb Marketing Program; Wine Marketing and Research Program (34 Pa.B. 561 (January 31, 2004))	3/1/04	3/31/04
16A-5313	State Board of Osteopathic Medicine Continuing Medical Education (34 Pa.B. 563 (January 31, 2004))	3/1/04	3/31/04
16A-448	State Board of Podiatry Sexual Misconduct (34 Pa.B. 565 (January 31, 2004))	3/1/04	3/31/04

Department of Agriculture Regulation No. 2-142

Sheep and Lamb Marketing Program; Wine Marketing and Research Program

March 31, 2004

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Department of Agriculture (Department) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on March 1, 2004. If the final-form regulation is

not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 104.71. Scope.—Clarity.

Section 104.71 states that persons who produce or sell wine under the authority of a limited winery license will be required to pay producer charges to the Wine Marketing and Research Program (Program). The Department should add a citation in this section to 47 P. S. § 5-505.2 regarding limited wineries in the Liquor Code.

2. Section 104.72. Definitions.—Need; Clarity.

The terms "marketing contract," "PLCB" and "ACMA" are defined in this section but not used elsewhere in the regulation. We question the need for defining these terms.

The Department should delete these terms from this section in the final-form regulation.

3. Section 104.75. Accounting and payment.—Clarity.

Subsection (a)(2)

This subsection includes the language “or other time period designated by the Program.” What would be an “other time period” besides what is stated in the definition of “marketing season”? The Department should either specify what an “other time period” would be or delete it from this subsection.

Subsection (e)

This subsection requires producers to pay a penalty for nonpayment of producer charges “of at least \$100 but not more than \$5,000, and as nearly equivalent to 100% of the amount of the delinquent producer charges as is practicable.” We note in the Vegetable Marketing and Research Program and the Peach and Nectarine Research Program the maximum fine levied is \$500. Why has the Department chosen to implement a much higher fine for this Program? The preamble should include the Department’s reasoning for the fines in this subsection.

**State Board of Osteopathic Medicine Regulation
No. 16A-5313**

Continuing Medical Education

March 31, 2004

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Board of Osteopathic Medicine (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on March 1, 2004. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 25.1. Definitions.—Reasonableness; Clarity.

Approved course

There are two concerns pertaining to this definition. First, it limits “approved courses” to those accredited by the Accreditation Council on Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA). Will the Board accept courses accredited by other organizations such as State medical associations or the American Medical Association?

Second, the definition of “approved course” should include credits that are not formally accredited by the ACCME and the AOA. Alternatively, the Board could amend the language of § 25.271 to allow other credits for the remaining credit hours.

2. Section 25.271. Requirements for renewal.—Implementation procedures; Feasibility; Reasonableness; Clarity.

Sufficient notice

The House Professional Licensure Committee questions whether licensees have received sufficient notice to complete continuing education by the deadline for license renewal. The Board should explain:

- The specific date a licensee will be required to certify completion of ten continuing education credits in the area of patient safety and risk management to renew a license.

- What notice the Board has given to licensees of this continuing education obligation.

- How licensees can reasonably comply with this requirement by the Board’s deadline.

Approved courses in the area of patient safety and risk management

Related to our comment on the definition of “approved course,” are the 10 credit hours in patient safety and risk management required to be Category I or Category II courses?

Remaining credit hours

Subsection (c)(1) has a typographical error. It should state “. . . the remaining 70 credit hours. . . .”

State Board of Podiatry Regulation No. 16A-448

Sexual Misconduct

March 31, 2004

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The State Board of Podiatry (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on March 1, 2004. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 29.21a. Sexual misconduct.—Protection of the public health, safety and welfare; Reasonableness.

Paragraph (1)(ii) prohibits sexual exploitation of a current patient by a podiatrist. This prohibition, however, does not include former patients or immediate family members of current or former patients.

In its comments, the House Professional Licensure Committee (Committee) recommended that the Board adopt sexual misconduct regulations that are similar to those adopted by the State Board of Medicine in 49 Pa. Code § 16.110. The Committee notes that those regulations address situations involving immediate family members of patients and former patients.

The provision in the State Board of Medicine’s regulations regarding sexual exploitation in 49 Pa. Code § 16.110(a) addresses family members of patients. We agree with the Committee that the approach adopted by the State Board of Medicine regarding sexual exploitation is more protective of the public health, safety and welfare than a prohibition that applies solely to current patients. Therefore, we suggest that the Board amend paragraph (1)(ii) to prohibit sexual exploitation of current and former patients, as well as their immediate family members.

2. Section 29.1. Definitions.—Clarity.

Sexual exploitation

If the Board agrees with our suggestion to apply the prohibition on sexual exploitation to current and former patients, as well as their immediate family members,

then it should amend the definition of "sexual exploitation." Specifically, the phrase "with a current patient" should be deleted.

Immediate family member

If the Board applies the prohibition on sexual exploitation to immediate family members of patients, then the term "immediate family member" should be defined in the final-form regulation. We suggest that the Board adopt the definition found in the State Board of Medicine's regulations in 49 Pa. Code § 16.1 which reads "A parent or guardian, child, sibling, spouse, or other family member, whether related by blood or marriage, with whom a patient resides."

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 04-630. Filed for public inspection April 9, 2004, 9:00 a.m.]

INSURANCE DEPARTMENT

Application to Modify Structure of Insurance Holding Company System Containing Three Domestic Insurers

PMA Capital Corporation, a Pennsylvania domiciled insurance holding company, has filed a request for a determination that section 1402 of the Insurance Holding Companies Act (act) (40 P. S. § 991.1402) does not apply to, or in the alternative, for an order of exemption under section 1402(g) of the act in connection with a proposed modification of the structure of its holding company system so that its wholly owned indirect subsidiaries, Pennsylvania Manufacturers Association, Insurance Company, Pennsylvania Manufacturers Indemnity Company and Manufacturers Alliance Insurance Company, will become its direct subsidiaries. Copies of the request are available for public inspection during normal business hours by appointment at the Insurance Department's (Department) regional office in Harrisburg. Persons wishing to comment on the issuance of the Department's order approving this request for determination are invited to submit a written statement for receipt by the Department within 45 days of the date of this issue of the *Pennsylvania Bulletin*. Written statements must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-631. Filed for public inspection April 9, 2004, 9:00 a.m.]

Jeffrey Myers; Hearing

License Denial; Doc. No. AG04-03-029

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Ad-

ministrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure).

A prehearing telephone conference initiated by this office is scheduled for May 13, 2004, at 10 a.m. Each party shall provide the Hearings Administrator a telephone number to be used for the telephone conference on or before April 5, 2004. A hearing shall occur on June 2, 2004, at 10 a.m. in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA.

On or before April 22, 2004, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for that party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before May 19, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before May 26, 2004.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodations to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-632. Filed for public inspection April 9, 2004, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Esther B. Jordon; file no. 04-181-00058; Progressive Insurance Company; doc. no. P04-03-026; May 6, 2004, 1:30 p.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Brian Buckson; file no. 04-215-00296; Allstate Insurance Company; doc. no. PH04-03-025; May 12, 2004, 12:30 p.m.

Appeal of Michael Martin; file no. 04-280-00508; Keystone Insurance Company; doc. no. PH04-03-024; May 12, 2004, 1:30 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-633. Filed for public inspection April 9, 2004, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Kimberly McLaughlin; file no. 04-181-01713; State Farm Fire and Casualty Insurance Company; doc. no. P04-03-023; April 27, 2004, 1:30 p.m.

The following hearing will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Ann Kreines; file no. 04-280-00911; Travelers Insurance Company; doc. no. PH04-03-036; May 11, 2004, 3 p.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-634. Filed for public inspection April 9, 2004, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Bucks County, Wine & Spirits Store #0932, Warrington Mews S. C., Suite 31, 111 Easton Road, Warrington, PA 18976.

Lease Expiration Date: June 30, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 to 8,000 net useable square feet of new or existing retail commercial space in a 1-mile radius of the intersection of Easton and Bristol Roads, Warrington Township.

Proposals due: April 30, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: Robert J. Jolly, (215) 482-9671

Philadelphia County, Wine & Spirits Store #5183, 3601 N. 22nd Street, Philadelphia, PA 19140.

Lease Expiration: 90-day status effective March 1, 2004
Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new

or existing retail commercial space in a 1/2-mile radius of the intersection of Hunting Park Avenue and 22nd Street, Philadelphia.

Proposals due: April 30, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128

Contact: Robert J. Jolly, (215) 482-9671

The Liquor Control Board seeks the following new sites:

Montgomery County, Wine & Spirits Store #4641, Upper Dublin Township, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space within a 1-mile radius of the intersection of Route 152 and Dreshertown Road, Upper Dublin Township.

Proposals due: April 30, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128

Contact: Robert J. Jolly, (215) 482-9671

Philadelphia County, Wine & Spirits Store #5112, Philadelphia, PA 19131.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a 1/2-mile radius of the intersection of 55th Street and Girard Avenue, Philadelphia.

Proposals due: April 30, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128

Contact: Robert J. Jolly, (215) 482-9671

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 04-635. Filed for public inspection April 9, 2004, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Telecommunications

A-310971F7001. Verizon North Inc. and Comtech21, LLC. Joint petition of Verizon North Inc. and Comtech21, LLC for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon North Inc. and Comtech21, LLC, by its counsel, filed on March 24, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days

after the date of publication of this notice. Copies of the Verizon North Inc. and Comtech21, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-636. Filed for public inspection April 9, 2004, 9:00 a.m.]

Telecommunications

A-310971F7000. Verizon Pennsylvania Inc. and Comtech21, LLC. Joint petition of Verizon Pennsylvania Inc. and Comtech21, LLC for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Comtech21, LLC, by its counsel, filed on March 24, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Comtech21, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-637. Filed for public inspection April 9, 2004, 9:00 a.m.]

Telecommunications

A-311010F7000. Verizon Pennsylvania Inc. and Trans National Communications International, Inc. Joint petition of Verizon Pennsylvania Inc. and Trans National Communications International, Inc. for approval of an interconnection agreement and amendment no.1 under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Trans National Communications International, Inc., by its counsel, filed on March 23, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement and amendment no. 1 under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Trans National Communi-

cations International, 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. 04-638. Filed for public inspection April 9, 2004, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #04-039.4, Shore Power Upgrade at Packer Avenue Marine Terminal (PAMT) until 2 p.m. on Thursday, April 29, 2004. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available April 13, 2004. The cost of the bid document is \$35 (includes 7% Pennsylvania sales tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations.

A mandatory prebid onsite meeting will be held on April 22, 2004, at 11 a.m. at the South Guard House, 3201 S. Columbus Blvd. (PAMT Service Road), Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 04-639. Filed for public inspection April 9, 2004, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

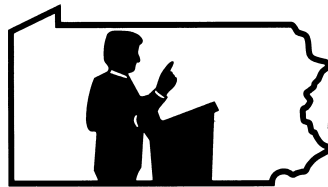
30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
PA Department of Community and Economic Development
374 Forum Building
Harrisburg, PA 17120
800-280-3801 or (717) 783-5700

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

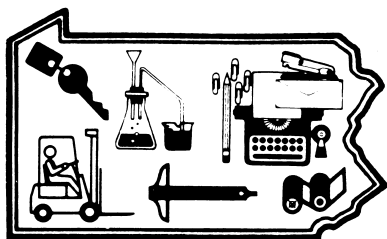
PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**

Pennsylvania State Treasury
Room 201 Finance Building
Harrisburg, PA 17120
717-787-4586
1-800-252-4700
BizOutlet@ptreasury.org

BARBARA HAFFER,
State Treasurer



Commodities

SU-03-17 Printing of Admissions Recruitment materials: Printer must be equipped with two 4-color offset presses, one that can accommodate a 25 x 38 inch sheet, must be capable of reading a designer-supplied QuarkXpress 6.0 application file (on MAC disk), printer must be capable of printing a 175-line screen, must be capable of direct to plate, must be able to correct images in Photoshop, all separations require 175-line screen for 4-color pieces, 150-line screen for application and envelopes and all printing must be completed on the premise of the printer awarded the job. Printer must be able to guarantee that all deadlines can be met. Bids are due at 4:00 PM on May 5, 2004. Vendors interested in receiving a bid package must fax a request to Mona Holtry, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257; Fax (717) 477-1350 or email mmholt@wharf.ship.edu. All responsible bidders are invited to participate including MBE/WBE firms.

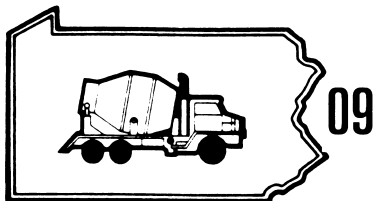
Department: State System of Higher Education

Location: Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257

Duration: Delivery required by June 11, 2004.

Contact: Mona M. Holtry, (717) 477-1386

SERVICES



Construction & Construction Maintenance

W-0552-0303 Fabricate three (3) large coal hoppers to fit boilers 1, 2 and 3, triangle shaped, open bottom with angle framing and angle clips attached for bolting to support columns. Estimated size 4' x 6' x 9' long, metal tube. Also 3 receiver hoppers to fit below larger hopper, with burn out holes as required size (estimate) 20" x 18" x 9' 7" long. Delivered to Boiler House. All prospective bidders shall attend a scheduled pre-bid meeting. The pre-bid meeting minutes shall become part of this specification.

Department: Public Welfare

Location: Polk Center, P. O. Box 94, Polk, PA 16342

Duration: May 1, 2004 - August 1, 2004

Contact: Amy Tatarek, Purchasing Agent, (814) 432-0229

30283 Repairs to the deteriorated concrete spillway of the Carbaugh Run Dam.

Department: Public Welfare

Location: South Mountain Restoration Center, 10058 South Mountain Rd., South Mountain, PA 17261

Duration: Bid date 4/8/2004

Contact: Ben Meyers, (717) 749-4030

30282 Repairs to the final clarifier tanks at the South Mountain Restoration Center wastewater treatment plant. Repairs necessary due to deterioration of concrete at final clarifier and leveling problems associated with the wire plates. Please reference project # W-0557-0301.

Department: Public Welfare

Location: South Mountain Restoration Center, 10058 South Mountain Rd., South Mountain, PA 17261

Duration: Not known

Contact: Ben Meyers, (717) 749-4030

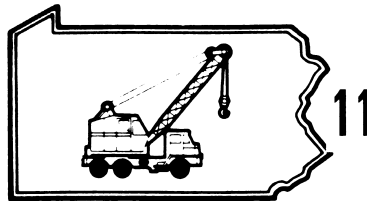
W-0552-0302 Furnish all labor, materials, equipment, tools and supervision for the replacement of the front refractory walls in Boilers 1 and 3, located at Polk Center, Polk, PA. All prospective bidders shall attend a scheduled pre-bid meeting. The pre-bid meeting minutes shall become part of this specification.

Department: Public Welfare

Location: Polk Center, P. O. Box 94, Polk, PA 16342

Duration: May 1, 2004 - August 1, 2004

Contact: Amy Tatarek, Purchasing Agent, (814) 432-0229



Demolition—Structural Only

061009 Demolition and removal of all structures and improvements on one parcel.

Department: Transportation

Location: 1 Quail Drive

Duration: Open

Contact: Linda Bunt, (610) 205-6784

064143 Demolition of all structures and improvements on one parcel.

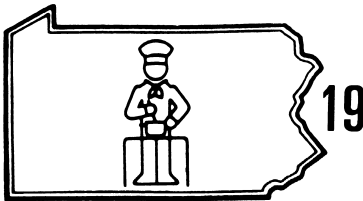
Department: Transportation
Location: 354 Freed Road, Harleysville, PA
Duration: Open
Contact: Linda Bunt, (610) 205-6784



Financial and Insurance Consulting

RFP #2004-OCFA-1 The Pennsylvania State System of Higher Education, Office of the Chancellor, is soliciting proposals from vendors to provide Financial Advisory Services for the Capital Debt Program. Historically, the State System has received proposals only from the largest national firms, and it is seeking to expand the number and type of firms that submit proposals. The State System welcomes proposals from regional firms that are qualified to perform the Financial Advisory Services requested. Interested parties should send an e-mail with contact information to sbailey@sshechan.edu prior to April 2, 2004. Proposals must be submitted by 2 P.M. on April 20, 2004. Participation by Minority/Women Business Enterprises is encouraged. Mail Request for Proposals responses to: Scott Bailey, Procurement Manager, Pennsylvania State System of Higher Education, Office of the Chancellor, Dixon University Center, 2986 North Second Street, Harrisburg, PA 17110.

Department: State System of Higher Education
Location: Harrisburg, PA
Contact: Scott Bailey, (717) 720-4155



Food

CN00008121 The vendor will provide cola, diet cola, root beer, lemon-lime syrups in five (5) gallon disposable "Bag-In-Box" containers for use in dispensing machines and CO₂ in 20 lb. returnable and refillable squat cylinders for use with dispensing machines. Estimated quantity usage over a three year period is 864 containers of cola, 576 containers of root beer, 720 containers of lemon-lime, 36 containers of diet cola and 864 containers of CO₂. Delivery will be the first Tuesday of every month starting July 06, 2004.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, P.O. Box 99901, Pittsburgh, PA 15233
Duration: July 06, 2004 to June 30, 2007 unless closure of institution occurs within that time period
Contact: Carol Schaeffer/Purchasing Agent, (412) 761-1955, Ext. 291

CN00008164 Vendor to provide meat and meat products to Warren State Hospital.

Department: Public Welfare
Location: Warren State Hospital, 33 Main Dr., N. Warren, PA 16365-5099
Duration: July - Sept. 2004
Contact: John D. Sample, PA I, (814) 726-4448

CN00008162 Vendor to provide misc. foods for Warren State Hospital.

Department: Public Welfare
Location: Warren State Hospital, 33 Main Dr., N. Warren, PA 16365-5099
Duration: July - Sept. 2004
Contact: John D. Sample, PA I, (814) 726-4448

CN00008163 Vendor to provide frozen fruits and vegetables for Warren State Hospital.

Department: Public Welfare
Location: Warren State Hospital, 33 Main Dr., N. Warren, PA 16365-5099
Duration: July - Sept. 2004
Contact: John D. Sample, PA I, (814) 726-4448

CN00008120 The vendor will provide juice and ice tea base concentrate in five (5) gallon disposable "bag-in-box" for use with dispensing machines at the State Correctional Institution at Pittsburgh. Delivery will be every Tuesday of every month starting July 06, 2004. Juice and ice tea base will consist per delivery of 20 containers each of orange, cherry, strawberry and ice tea.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, P.O. Box 99901, Pittsburgh, PA 15233
Duration: July 06, 2004 to June 30, 2007 unless closure of institution occurs within that time period
Contact: Carol Schaeffer/Purchasing Agent, (412) 761-1955, Ext. 291



Janitorial Services

FM 8761 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Troop G, Huntingdon Station, R. D. #1, Box 10A, Huntingdon, PA 16652
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8749 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at the location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Tionesta Station, R. D. #1, Box 43 DD, Tionesta, PA 16353
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

CN00008119 Provide janitorial, recycling and trash removal services, and furnish all materials and equipment required to perform services outlined in Bid CN00008119 specifications. Services are required for the OAG Philadelphia Essington offices which encompass 22,700 sq. ft. of space, 1st and 2nd floors. A mandatory office visitation will be conducted during the week of April 12, 2004. Please contact Facilities Management at 717-787-7830 for information regarding the office visitation.

Department: Attorney General
Location: 7801 Essington Ave., Philadelphia, PA 19153
Duration: Two year contract beginning 7/1/04-6/30/06 with 3 one-year options to extend at a price increase per the North East Consumer Price Index
Contact: Jean M. Kreiser, (717) 783-2369

FM 8748 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at the location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Dubois Station, 101 Preston Way, Falls Creek, PA 15840
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8744 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at the location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Waynesburg Station, 255 Elm Drive, Waynesburg, PA 15370
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8743 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at the location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Greensburg Regional and DNA Lab, 99 N. Westmoreland Avenue, Greensburg, PA 15601
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8745 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at the location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Belle Vernon Station, 560 Circle Drive, Belle Vernon, PA 15012
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8746 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at the location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Clarion Station, 209 Commerce Road, Clarion, PA 16214
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8751 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Franklin Station, 6724 US 322, Franklin, PA 16323
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8753 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Erie Crime Lab, 4320 Iroquois Avenue, Erie, PA 16511
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8760 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Troop G, Philipsburg Station, 3104 Port Matilda Highway, Philipsburg, PA 16866
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8757 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Troop F, Selingsgrove Station, R. D. 1, Box 131, Selingsgrove, PA 17870
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8742 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Ebensburg Station, 100 Cassale Court, Ebensburg, Pa 15931
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

465400 Provide janitorial services for the Roadway Management Division, Annex Building, located at Rear 907 Elmerton Avenue, Harrisburg, PA 17110. Any contractor who desires to see the facility where the services will be performed may do so by contacting Dean J. Faulk at (717) 787-7291, no later than 2:00 p.m. on Wednesday, May 5, 2004. This is a two-year contract with 1 two-year renewal option.

Department: Transportation
Location: Rear 907 Elmerton Avenue, Harrisburg, PA 17110
Duration: Two year contract with 1 two-year renewal option.
Contact: Mary Wilson, (717) 787-1199

FM 8763 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Troop H, Lykens Station, 301 State Road, Lykens, PA 17023
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8759 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Troop G, Rockview Station, 745 South Eagle Valley Road, Bellefonte, PA 16823
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8758 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Troop F, Milton Station, 50 Lawton Lane, Milton, PA 17847
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8752 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

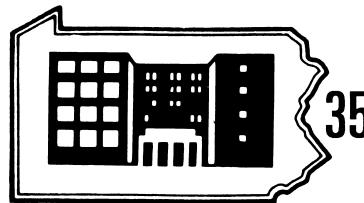
Department: State Police
Location: Pennsylvania State Police, Meadville Station, 11176 Murray Road, Meadville, PA 16335
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8754 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Girard Station, 5950 Meadville Road, Girard PA 16417
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8756 Furnish materials, equipment, and labor to perform janitorial services three (3) visits per week at location listed below. The detailed work schedule and Bid Specifications must be obtained from the Facility Management Division at 717-705-5952.

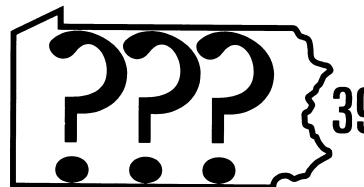
Department: State Police
Location: Pennsylvania State Police, Troop F, Lamar Station, 7127 Nittany Valley Drive, Mill Hall, PA 17751
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952



Real Estate Services

93676 Lease warehouse space to the Commonwealth of PA. Proposals are invited to provide the Department of General Services with 10,000 useable square feet of warehouse space in Allegheny County, PA, with a minimum parking for 20 vehicles. Downtown locations will be considered. For more information on SFP #93676 which is due on April 26, 2004 visit www.dgs.state.pa.us and click on "Real Estate" to download an SFP package or call (717) 787-0952.

Department: General Services
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: Mrs. Cynthia T. Lentz, (717) 787-0952



Miscellaneous

W-0552-0301 Replace single pane windows in Cottages 10 and 11 at Polk Center with thermopane windows.

Department: Public Welfare
Location: Polk Center, P. O. Box 94, Polk, PA 16342
Duration: April 30, 2004
Contact: Amy Tatarek, Purchasing Agent, (814) 432-0229

[Pa.B. Doc. No. 04-640. Filed for public inspection April 9, 2004, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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DONALD T. CUNNINGHAM, Jr.
Secretary

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 207]

Noncoal Underground Mines

The Environmental Quality Board (Board) amends Chapter 207 (relating to noncoal underground mines) to read as set forth in Annex A. Chapter 207 is amended by deleting the current regulations addressing the use of explosives at noncoal mines and adding regulations addressing safety at underground noncoal mines and mined-out underground noncoal mines housing other businesses.

The final-form rulemaking was adopted by order of the Board at its meeting of December 16, 2003.

A. *Effective Date*

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

B. *Contact Persons*

For further information, contact Paul Hummel, Chief, Anthracite and Industrial Minerals Mine Safety Division, Bureau of Deep Mine Safety, 5 West Laurel Blvd., Pottsville, PA 17901, (570) 621-3139; or Marc A. Roda, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us.

C. *Statutory Authority*

The final-form rulemaking is being made under the authority of sections 2(f) and 12 of the act of May 18, 1937 (P. L. 654, No. 174) (43 P. S. §§ 25-2(f) and 25-12), known as the General Safety Law (act), Reorganization Plan No. 2 of 1975 (71 P. S. § 751-22) and sections 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-17 and 510-20). Section 2(f) of the act requires inter alia all pits, quarries and mines other than coal mines to be operated and conducted to provide adequate protection to workers. Sections 1917-A and 1920-A of The Administrative Code of 1929 authorize the Board to adopt regulations to prevent the occurrence of a nuisance and to promulgate rules and regulations as are necessary for the proper work of the Department.

D. *Background and Summary*

This final-form rulemaking amends Chapter 207 by deleting the existing regulations and adding regulations addressing safety at noncoal underground mines. The deleted provisions are outdated regulations addressing the use of explosives at noncoal mines. The use of explosives at noncoal surface mines is addressed in Chapters 77 and 211 (relating to noncoal mining; and storage, handling and use of explosives). The new regulations address safety in underground noncoal mines (including the use of explosives) and in mined-out underground noncoal mines used to house other businesses.

Since 1975, the Department has regulated noncoal mines and mined-out noncoal underground mines used for

other businesses to ensure the safety of persons at these facilities. Mined-out limestone underground mines are used to house businesses. Examples of these businesses include mushroom farms, record storage facilities and offices. The authority and duty to maintain these programs is established by section 2(f) of the act regarding safety at pits, quarries, underground mines other than coalmines, trenches and similar operations. To carry out these programs, the Department has been using 34 Pa. Code Chapter 33 (relating to mines and other excavations), promulgated by the Department of Labor and Industry (L&I). L & I was the agency responsible for enforcing section 2(f) of the act prior to 1975.

The final-form rulemaking does not recodify the L & I regulations addressing safety in active noncoal underground mines. The L & I regulations are out of date and redundant in light of more recent Federal regulations. The final-form rulemaking incorporates by reference the United States Department of Labor, Mine Safety and Health Administration's (MSHA) regulations addressing safety in metal and nonmetal underground mines. By using the MSHA regulations, rather than maintaining two sets of standards, safety at noncoal underground mines will be enhanced and there will be a reduction in the operator's regulatory obligations. The MSHA regulations provide a fairly complete regulatory scheme. However, there are three issues not addressed by the MSHA regulations that are addressed by the final-form rulemaking.

First, a person working as a mine foreman is responsible for ensuring that the day-to-day operation of the mine is performed in a manner that protects worker safety and complies with the final-form rulemaking. Also, the foreman must demonstrate the competency to meet this obligation by obtaining a certificate of qualification from the Department. Making the foreman responsible for safety and compliance with the regulations recodifies requirements in the L & I regulations. Requiring the mine foreman to obtain a certificate of qualification merely codifies current practice; all noncoal underground mines use foremen who have voluntarily obtained a certificate of qualification from the Department. Similar requirements are applicable to foremen for underground coal mines.

Second, the final-form rulemaking retains the requirement that any surface explosive storage magazine must be licensed in accordance with Chapter 211. The risks associated with storing explosives are significant enough to warrant retaining this minimal licensing requirement.

Finally, due to the ultra-hazardous nature of storing, using and handling explosives, the final-form rulemaking retains the requirement that the person responsible for the blasting activity be licensed by the Department.

The final-form rulemaking addressing safety in mined-out noncoal underground mines used to house other businesses is primarily a recodification of the L & I regulations. Most of the changes from the L & I regulations are for clarity and simplicity, not for the purpose of changing substantive standards.

This final-form rulemaking will affect 13 underground noncoal mining operations employing approximately 350 persons and 17 mined-out underground noncoal mines housing other businesses that employ approximately 700 persons.

The Department discussed the proposed rulemaking with the underground industrial mineral mining roundtable (roundtable). The roundtable, which is open to all representatives from the underground industrial mineral mining industry, reviewed in detail the proposed rulemaking for underground noncoal mines. The roundtable is in favor of incorporating by reference the MSHA regulations rather than promulgating a separate, potentially conflicting set of requirements.

The roundtable raised one concern. It wanted to know whether the Department inspectors will be monitoring the noncoal underground mines for compliance with the MSHA standards for exposure to air contaminants in 30 CFR 57.5001 (relating to exposure limits for airborne contaminants) and occupational noise standards in 30 CFR Part 62 (relating to occupational noise exposure). Due to the MSHA's greater expertise in this area, the Department will leave compliance monitoring for these exposure standards to the MSHA. The Department's inspectors will continue to monitor the mine for appropriate levels of oxygen, carbon monoxide, carbon dioxide, methane and other noxious or dangerous gasses, as well as adequate quantity of air flow.

E. Summary of Comments and Responses on the Proposed Rulemaking and Changes in the Final-Form Rulemaking

Chapter 207 was published as proposed rulemaking at 31 Pa.B. 6672 (December 8, 2001). There was a 60-day comment period. Only the Independent Regulatory Review Commission (IRRC) submitted comments. The Department has considered IRRC's comments and has prepared a comment and response document. The comment and response document is available on the Department's website and from the contact persons in Section B.

§ 207.211 (relating to safety requirements)

This section, inter alia, requires copies of all materials submitted to the MSHA to be submitted to the Department. IRRC suggested that the final-form rulemaking should identify which Department office the materials are to be sent to. The Department agrees, and the final-form rulemaking has been revised to identify the Department's Anthracite and Industrial Mineral Safety Division Office in Pottsville.

§§ 207.212 and 207.215 (relating to employment of foreman; and standards for issuing certificates of qualification)

These sections establish, for the first time, the requirement that noncoal underground foremen must possess a certificate of qualification from the Department and that persons seeking a certificate must take and pass an examination. Currently, all noncoal underground mines use foremen who have voluntarily obtained a certificate of qualification from the Department. IRRC asked if these individuals will have to take the examination. This final-form rulemaking does not negate existing certificates of qualification to be a noncoal underground mine foreman. Therefore, persons already possessing a certificate of qualification do not have to retake the examination.

§ 207.214 (relating to certificate of qualification application requirements)

Under paragraph (2), persons who are certified officials under the Pennsylvania Anthracite Coal Mine Act (52 P. S. §§ 70-101—70-1405) or the Pennsylvania Bituminous Coal Mine Act (52 P. S. §§ 701-101—701-706) have sufficient experience to take the written examination to

obtain a certificate of qualification to be a noncoal underground mine foreman. IRRC commented that the term "certified official" is undefined and unclear. The Department's intention is to allow persons possessing a certificate of qualification to be a mine foreman under the Pennsylvania Anthracite Coal Mine Act or the Pennsylvania Bituminous Coal Mine Act to be eligible to take the written examination to obtain a certificate of qualification to be a noncoal mine foreman. The final-form rulemaking has been amended to embody this intention.

§ 207.302 (relating to definitions)

As discussed in § 207.318 (relating to storage of flammable liquids), a "safety container" can be used to store up to 5 gallons of gasoline in a mined-out underground noncoal mine used to house another type of business. A definition for "safety container" has been added to this section to avoid confusion as to the type of container authorized for storing small quantities of gasoline.

§ 207.303 (relating to approvals)

This section establishes the requirement that the Department must first approve a developed facility as complying with the applicable regulations before a business can be operated in that developed facility. As noted by IRRC, this section does not specify the process for obtaining the Department's approval. The final-form rulemaking has been amended to specify an approval process.

A person seeking to open a new developed facility is required to submit a request to the Department. This request identifies the nature of the developed facility, its location, the owner and a contact person. The request also includes a map or drawings depicting the facility. The Department's determination whether to approve the developed facility will be based upon a review of the maps or drawings and, if necessary, an inspection of the developed facility. To facilitate the application process, the Department is available for consultation during the design and construction phases for a new developed facility or expansion of an existing developed facility.

§ 207.312 (relating to lighting)

This section requires the operator to install a permanent lighting system and an emergency lighting system or provide personal lamps. IRRC noted that the proposed rulemaking did not specify or cross-reference applicable standards for these lighting systems. The existing developed facilities use permanent and emergency lighting systems that comply with a Nationally recognized safety code, such as the National Electric Code established by the United States of America Standards Institute. The final-form rulemaking has been amended to state that permanent and emergency lighting systems constructed in accordance with a Nationally recognized standard will be approvable.

IRRC also asked what was a personal lighting system. The final-form rulemaking has been revised to state that a miner's cap lamp constructed in accordance with MSHA standards is deemed approved as a personal lighting system. Any alternative personal lighting system must be as safe and reliable as the cap lamp.

§ 207.314 (relating to ventilation)

This section requires the Department's approval of a mechanical ventilation system. IRRC questioned how the owner obtains Department approval. The final-form rulemaking has been revised to require the operator to submit drawings depicting the ventilation system. Based on these drawings and, if necessary, an inspection of the

developed facility, the Department will make a determination whether to approve the ventilation system.

§ 207.317 (relating to record of inspection)

This section requires the owner or operator to ensure there is a log containing the findings of inspections by the operator's employees and any resulting repairs or corrective actions. This log shall be signed and dated by a person designated by the operator to be responsible for the day-to-day operation of the developed facility. Orders issued by the Department's representative shall also be made part of the log.

IRRC questioned whether the responsible person signs the entire log or each individual entry. The final-form rulemaking has been amended to make it clear that the operator maintains a daily log. The log will be signed and dated for each day of operation regardless of the number of entries for that day.

IRRC also questioned whether the Department's representative will have the authority to issue orders. The Department's representatives have the authority to issue correction or enforcement orders at developed facilities. The Department's authority to issue orders to developed facilities was upheld in *Com., Dept. of Environmental Resources v. Butler County Mushroom Farm*, 454 A.2d 1, 499 Pa. 509 (1982). How the Department will exercise this authority is more fully explained in § 207.104 (relating to enforcement).

Finally, IRRC questioned whether the Department's representative is to sign and date the log for corrections or orders. The final-form rulemaking requires that the order becomes part of the log, not that the Department's representative is to sign or date the log.

§ 207.318

This section limits an operator to storing no more than 5 gallons of flammable liquids in a developed facility. This flammable liquid must be stored in a safety can. Either requirement can be varied with the Department's approval.

IRRC questioned whether the Department's representative will have the authority to make these approvals. All actions of the Department are taken through authorized representatives.

IRRC questioned the procedures for obtaining the Department's approval. The final-form rulemaking has been amended to provide an approval process.

If the operator is to use any type of container other than a safety container approved by the MSHA for use in an underground metal or nonmetal mine, the operator shall submit to the Department either a photograph, drawing or sketch of the container and an explanation as to why this alternative container is safe to store flammable liquids. If the operator wishes to store more than 5 gallons of flammable liquid in a developed facility, the request shall depict the storage device, identify the location where the flammable liquid is to be stored and describe measures for preventing and fighting fires and spills. The final-form rulemaking provides that the Department will respond in writing to approve or deny the request for approval.

F. Benefits and Costs

Benefits

The benefits, albeit unquantifiable, are those that result from having regulations modernized, clarified and simplified. For persons working at these facilities, the benefit will be fewer accidents and injuries. This will

result because the safety standards in the final-form rulemaking will be more effectively implemented. The greatest impact will be on the 350 workers at underground noncoal mines where the proposed rulemaking will eliminate duplicative and out-of-date requirements. For the regulated community, the benefit will be greater certainty in implementing the regulations. The operators will no longer have to implement two different sets of standards.

Compliance Costs

The compliance costs for the noncoal underground mine operators should be reduced. Replacing the L & I regulations with the MSHA regulations eliminates duplicative reporting requirements. Under the final-form rulemaking, the operator only has to submit to the Department a copy of the materials required by the MSHA.

For the most part, the final-form rulemaking does not affect substantive or reporting requirements. There might be a minimal increase in the compliance costs faced by operators of businesses located in mined-out noncoal underground mines. For the first time, the final-form rulemaking requires an operator to obtain the Department's approval of a developed facility before opening or expanding a business in a mined-out noncoal underground mine. The application requirements for this approval are minimal, as they involve the cost of copying existing drawings or maps of the developed facility and answering a few questions about the nature and location of the business. Also, the final-form rulemaking, for the first time, specifies a process for obtaining the Department's approval for mechanical ventilation and alternate methods of storing flammable liquids in the developed facility. The process and information specified in the final-form rulemaking is the same process and information the Department would have used prior to the final-form rulemaking.

Compliance Assistance

The Department is not planning to initiate a new compliance assistance program to assist with the implementation of the final-form rulemaking. The final-form rulemaking is not imposing new requirements. It either incorporates by reference existing Federal requirements or recodifies existing L & I requirements. The Department will continue its practice of meeting with owners/operators of noncoal underground mines and developed facilities to ensure compliance with the final-form rulemaking.

Paperwork Requirements

The paperwork requirements applicable to the noncoal underground mining industry will be reduced. The duplicative paperwork requirements established by the L & I regulations are being eliminated. The operator will only have to maintain the MSHA record or submit to the Department a copy of the materials submitted to the MSHA. For mined-out noncoal underground mines housing other businesses, the paperwork requirements are minimal. Operators are still required to maintain a record of inspections of their facilities and all repairs made thereto. As previously described, the final-form rulemaking will also impose a few minimal application requirements for obtaining the Department's approval of a developed facility, mechanical ventilation system or alternate method for storing flammable liquids.

G. Sunset Review

This final-form rulemaking will be reviewed in accordance with the sunset review schedule published by the

Department to determine whether the final-form rulemaking effectively fulfills the goals for which it was intended.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 27, 2001, the Department submitted a copy of the notice of proposed rulemaking, published at 31 Pa.B. 6672, to IRRC and the Chairpersons of the Senate and House Environmental Resources and Energy Committees for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on February 25, 2004, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 26, 2004, and approved the final-form rulemaking.

I. *Findings*

The Board finds that:

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

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

(3) The modifications to the final-form rulemaking do not enlarge the purpose of the proposed rulemaking published at 31 Pa. B. 6672.

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

J. *Order*

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

(a) The regulations of the Department, 25 Pa. Code Chapter 207, are amended by deleting §§ 207.1, 207.2, 207.11—207.22 and 207.31—207.46 and adding §§ 207.101—207.104, 207.201, 207.202, 207.211—207.217, 207.301—207.303 and 207.311—207.319 to read as set forth in Annex A.

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

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

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

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

KATHLEEN A. MCGINTY,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 1525 (March 13, 2004).)

Fiscal Note: Fiscal Note 7-357 remains valid for final adoption of the subject regulations.

Annex A

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

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

CHAPTER 207. NONCOAL UNDERGROUND MINES

§ 207.1. (Reserved).

§ 207.2. (Reserved).

§§ 207.11—207.22. (Reserved).

§§ 207.31—207.46. (Reserved).

Subchap.

- A. GENERAL
- B. NONCOAL UNDERGROUND MINES
- C. MINED-OUT AREAS

Subchapter A. GENERAL

Sec.

- 207.101. Scope.
- 207.102. Definitions.
- 207.103. Responsible party.
- 207.104. Enforcement.

§ 207.101. Scope.

This chapter applies to underground noncoal mines and mined-out underground noncoal mines used to house other businesses in this Commonwealth. The purpose of this chapter is for the protection of life, the promotion of health and safety and the prevention of accidents.

§ 207.102. Definitions.

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

Developed facility—The portion of a mined-out underground noncoal mine developed or being developed for storage, manufacturing or other activities requiring a person to enter the mined-out area. The term includes all roads and means of entering and leaving the mined-out area of the underground noncoal mine.

Mined-out—A portion of the noncoal underground mine where no further mining is planned.

Noncoal underground mine—

(i) Lands, excavations, underground passageways, shafts, slopes, tunnels and workings, structures, facilities, equipment, machines, tools or other property including impoundments, retention dams and tailings ponds, on the surface or underground, used in, or to be used in, or resulting from, the work of extracting metals or minerals other than coal from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in, or to be used in, the milling of the metals or minerals, or the work of preparing metals or minerals other than coal, and includes custom preparation facilities.

(ii) Private ways and roads appurtenant to the areas set forth in subparagraph (i).

Person—A natural person, partnership, association or corporation or any agency, instrumentality or entity of Federal or State government. When used in any clause prescribing and imposing a penalty, or imposing a fine or imprisonment, or both, the term "person" does not exclude the members of an association and the directors, officers or agents of a corporation.

§ 207.103. Responsible party.

The person who is the owner or operator of a noncoal underground mine or developed facility shall ensure that the noncoal underground mine or developed facility is constructed and operated in accordance with this chapter. A subcontractor who conducts all or part of the operation shall be jointly and severally responsible with the owner or operator.

§ 207.104. Enforcement.

(a) The Department has the authority to issue orders necessary to ensure compliance with section 2(f) of the act of May 18, 1937 (P. L. 654, No. 174) (43 P. S. § 25-2(f)), known as the General Safety Law, and this chapter. This authority includes orders:

- (1) Revoking or suspending a certificate of qualification to be a foreman.
- (2) Ceasing or suspending the operation of a noncoal underground mine or developed facility.
- (3) Requiring the abatement of an unsafe condition or practice.

(b) Except for orders abating a condition that is an imminent hazard or ceasing, in whole or in part, the operation of a noncoal underground mine or developed facility due to the existence of an imminent hazard, the Department will not issue an order abating a condition or correcting a violation of this chapter until the owner or operator has had an opportunity to meet with the Department to discuss the matter and the owner or operator has had a reasonable opportunity to abate the condition or correct the violation.

Subchapter B. NONCOAL UNDERGROUND MINES

GENERAL

- Sec.
207.201. Applicability.
207.202. Definitions.

PERFORMANCE STANDARDS

- 207.211. Safety requirements.
207.212. Employment of foreman.
207.213. Duties of foreman.
207.214. Certificate of qualification application requirements.
207.215. Standards for issuing certificates of qualification.
207.216. Examining committee.
207.217. Blasting activity.

GENERAL

§ 207.201. Applicability.

This subchapter applies to the development, construction and operation of noncoal underground mines in this Commonwealth.

§ 207.202. Definitions.

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

MSHA—The United States Department of Labor, Mine Safety and Health Administration, its employees and its officers.

Magazine—A structure used for the storage of explosives.

PERFORMANCE STANDARDS

§ 207.211. Safety requirements.

(a) The provisions of 30 CFR Part 57 (relating to safety and health standards—underground metal and nonmetal mines) are incorporated herein by reference.

(b) Alternative safety and health standards for underground metal and nonmetal mines, established by MSHA under section 101(c) of the Federal Mine Safety and Health Act of 1977 (30 U.S.C.A. § 811(c)) and 30 CFR Part 44 (relating to rules of practice for petitions for modification of mandatory safety standards), are incorporated herein by reference.

(c) The provisions of 30 CFR Part 57 requiring the submission of a map, plan, notification, report, program description or other materials to MSHA are amended to require the same submission to the Department. A copy of the documents required by 30 CFR Part 57 to be submitted to MSHA and any other material requested by MSHA under 30 CFR Part 57 shall also be submitted to the Department's Anthracite and Industrial Mineral Mine Safety Division at 5 West Laurel Blvd., Pottsville, PA 17901.

(d) An owner or operator of a noncoal underground mine maintaining a magazine located on the surface shall comply with the magazine licensing requirements of Chapter 211 (relating to storage, handling and use of explosives).

§ 207.212. Employment of foreman.

The owner or operator of an underground noncoal mine shall employ a foreman who possesses the Department's certificate of qualification to be a foreman.

§ 207.213. Duties of foreman.

The foreman shall have full charge of the inside portions of the noncoal underground mine and the persons employed therein. The foreman's duty shall be to ensure compliance with the Commonwealth's mine safety laws and the regulations promulgated thereunder, as well as to secure and promote the health and safety of persons employed in the noncoal underground mine.

§ 207.214. Certificate of qualification application requirements.

To be eligible to apply for a certificate of qualification, the individual shall:

(1) Be at least 21 years of age.

(2) Have at least 2 years of practical experience as a noncoal underground miner or have 1 year of practical experience as a noncoal underground miner and either possess a Bachelor of Science Degree in mining engineering, possess a certificate of qualification under section 205 of the Pennsylvania Anthracite Coal Mine Act (52 P. S. § 70-205) or section 206 of the Pennsylvania Bituminous Coal Mine Act (52 P. S. § 701-206) or possess an acceptable certificate of qualification issued by another state.

§ 207.215. Standards for issuing certificates of qualification.

(a) The Department will only issue certificates of qualification to be a foreman to applicants who have demonstrated the ability to ensure the safety of persons and the inside portions of a noncoal underground mine under their supervision. Applicants make this demonstration by correctly answering at least 80% of the Department's written examination covering applicable mine safety laws and regulations of the Commonwealth.

(b) The Department may refuse to issue to an applicant a certificate of qualification when the applicant has demonstrated an inability or unwillingness to comply with the mine safety laws and regulations of the Commonwealth or the mine safety laws or regulations administered by MSHA.

§ 207.216. Examining committee.

(a) The Department will appoint a committee consisting of a noncoal underground mine foreman and a representative of the Department to prepare the initial draft of the examination to be given to applicants for the mine foreman's certificate of qualification. A bank of questions shall be developed by the committee. The Department will assemble the examination from this bank of questions.

(b) This committee shall review and score the results of the examinations given to applicants for the foreman's certificate of qualification. These results shall be transmitted to the Department for issuance of the certificate.

§ 207.217. Blasting activity.

The storage, handling and use of explosives at a noncoal underground mine shall be under the supervision and control of a person licensed as a blaster under Chapter 210 (relating to blasters' licenses).

Subchapter C. MINED-OUT AREAS

GENERAL PROVISIONS

Sec.	
207.301.	Applicability.
207.302.	Definitions.
207.303.	Approvals.

SPECIFICATIONS

207.311.	Roof areas.
207.312.	Lighting.
207.313.	Entrances and exits.
207.314.	Ventilation.
207.315.	Closing underground sections.
207.316.	Inspections.
207.317.	Record of inspection.
207.318.	Storage of flammable liquids.
207.319.	Check in/check-out system.

GENERAL PROVISIONS

§ 207.301. Applicability.

This subchapter applies to the use of mined-out underground noncoal mines in this Commonwealth. The activities covered by this subchapter include storage, manufacturing or other activities requiring a person to enter the mined-out area.

§ 207.302. Definitions.

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

Outside air—Air moving through the mined-out passageways after entering them through the main or accessory portals by mechanical or natural forces.

Pure air—Air containing not less than 19.5% oxygen, not more than 0.5% carbon dioxide and no harmful quantities of other noxious or poisonous gases, dust, soot or particulates.

Safety container—A container not over 5 gallons capacity, having a spring closing lid and spout cover.

§ 207.303. Approvals.

(a) A person may not operate a business in a mined-out area unless that mined-out area is part of a developed

facility, which has been approved by the Department in writing and is constructed and operated in accordance with this subchapter.

(b) The owner or operator of the developed facility shall submit to the Department a written request which:

- (1) Identifies the owner of the developed facility.
- (2) Identifies the location of the developed facility.
- (3) Describes the purpose of the developed facility.
- (4) Identifies a responsible person at the developed facility.
- (5) Contains a map or drawings depicting the developed facility, including the following:

(i) The information required by § 207.314(b) (relating to ventilation) if the developed facility will be using mechanical ventilation.

(ii) The information required by § 207.318(b) (relating to storage of flammable liquids) if more than 5 gallons of flammable liquid are to be stored in the developed facility.

(c) One or more inspections of the developed facility may be part of the Department's review of the operator's request.

(d) The Department's approval may include conditions necessary to ensure compliance with section 2(f) of the act of May 18, 1937 (P. L. 654, No. 174) (43 P. S. § 25-2(f)), known as the General Safety Law, the requirements of this subchapter and protect the public health, safety and welfare.

SPECIFICATIONS

§ 207.311. Roof areas.

The owner or operator of a developed facility shall ensure that the developed facility's roof shall be scaled, bolted or otherwise supported.

§ 207.312. Lighting.

(a) *Permanent*. The owner or operator of a developed facility shall ensure that a permanent lighting system is installed in the developed facility to provide adequate lighting for the activities to be conducted in the developed facility. An adequate permanent lighting system is one constructed in accordance with a Nationally recognized safety code such as the *National Electric Code* established by the United States of America Standards Institute.

(b) *Emergency*. The owner or operator of a developed facility shall ensure that a person is not allowed to work in a developed facility unless either an emergency lighting system meeting the requirements of the Department has been installed in that area or each worker is provided with an approved personal lamp.

(1) The emergency lighting system shall be powered by an emergency generator. The emergency lighting system shall also be constructed in accordance with a Nationally recognized safety code such as the *National Electric Code* established by the United States of America Standards Institute.

(2) Cap lamps constructed and maintained in accordance with 30 CFR 19.5 (relating to general requirements for approval) are approved as personal lamps. The Department may approve the use of other types of personal lamps provided the other lamps are as safe as a personal cap lamp constructed and operated in accordance with 30 CFR 19.5.

§ 207.313. Entrances and exits.

The owner or operator of a developed facility shall ensure that two separate passages, connecting each area of the developed facility to the surface, shall be provided for personnel use and shall be maintained in a safe, passable condition at all times.

§ 207.314. Ventilation.

(a) *General requirement.* The owner or operator of a developed facility shall ensure that an adequate supply of pure air is provided and maintained in the developed facility as provided in subsection (c). If the Department or the operator determines it is necessary to install mechanical means of ventilation, these mechanical means for providing pure air shall be approved by the Department in writing before the mechanical ventilation system is operated.

(b) *Ventilation system requirements.* The owner or operator of the developed facility shall submit to the Department drawings depicting the proposed ventilation system. One or more inspections of the developed facility may be part of the Department's review of the proposed mechanical ventilation system. Any Department approval may include conditions necessary to ensure the ventilation system is providing pure air to all portions of the developed facility.

(c) *Quantity of air.* A minimum of 20 cubic feet of outside air shall be supplied to every occupied or enclosed space in a developed area, per minute, per person present in that area.

§ 207.315. Closing underground sections.

If it becomes necessary to permanently close or enclose a section or portion of the developed facility, the owner or operator of the developed facility shall ensure that non-combustible material is used to permanently close or enclose that section or portion of the developed facility.

§ 207.316. Inspections.

The owner or operator of a developed facility shall ensure that inspections are made at the following times, and defective conditions that are discovered shall be corrected:

(1) *Monthly.* The ceiling, pier and walls shall be inspected monthly for new cracks. The entrances, shafts, slopes, drifts and roadways leading to them, and the doors or gates shall be inspected monthly to insure they are in safe, usable condition.

(2) *Biweekly.* Emergency lighting systems and approved personal lamps shall be tested biweekly to assure they

are in operating condition. Charge, fluid, terminals and visual conditions of batteries shall be checked.

(3) *Weekly.* The ventilating system shall be inspected weekly to ensure that motors and controls are in operating condition.

§ 207.317. Record of inspection.

The owner or operator of the developed facility shall ensure that daily logs containing the findings of inspections and the repairs and corrective action taken are maintained and kept on file at the developed facility's office. These logs shall be available for inspection by the Department at any time during working hours. Each day's log shall be dated and signed by a person designated by the owner or operator to be responsible for the day-to-day operation of the developed facility. Corrections or orders required by the Department representative shall be in writing and shall become a part of the log.

§ 207.318. Storage of flammable liquids.

(a) The owner or operator of the developed facility shall ensure that flammable liquids are stored in a safety container unless otherwise approved in writing by the Department. To request the Department's approval, the owner or operator shall submit to the Department a photograph, drawing or sketch of the container and an explanation as to why this alternative container is safe for storing flammable liquids. Department approvals may include conditions necessary to ensure that the container will safely store flammable liquids.

(b) The owner or operator of a developed facility shall ensure that flammable liquids in excess of 5 gallons are not stored in the developed facility unless otherwise approved in writing by the Department.

(c) The request for storing more than 5 gallons of flammable liquid shall include a drawing depicting the location, size and nature of storage. The request shall also state the reason it is necessary to store more than 5 gallons of flammable liquids and describe the materials which will be used to construct the container, as well as measures to be taken to detect, prevent or respond to a fire or a spill.

§ 207.319. Check in/check-out system.

The owner or operator of the developed facility shall ensure that there is a check-in/check-out system, which will inform personnel on the surface of the mine as to who is currently in the developed facility.

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