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# PENNSYLVANIA BULLETIN

Volume 32

Number 19

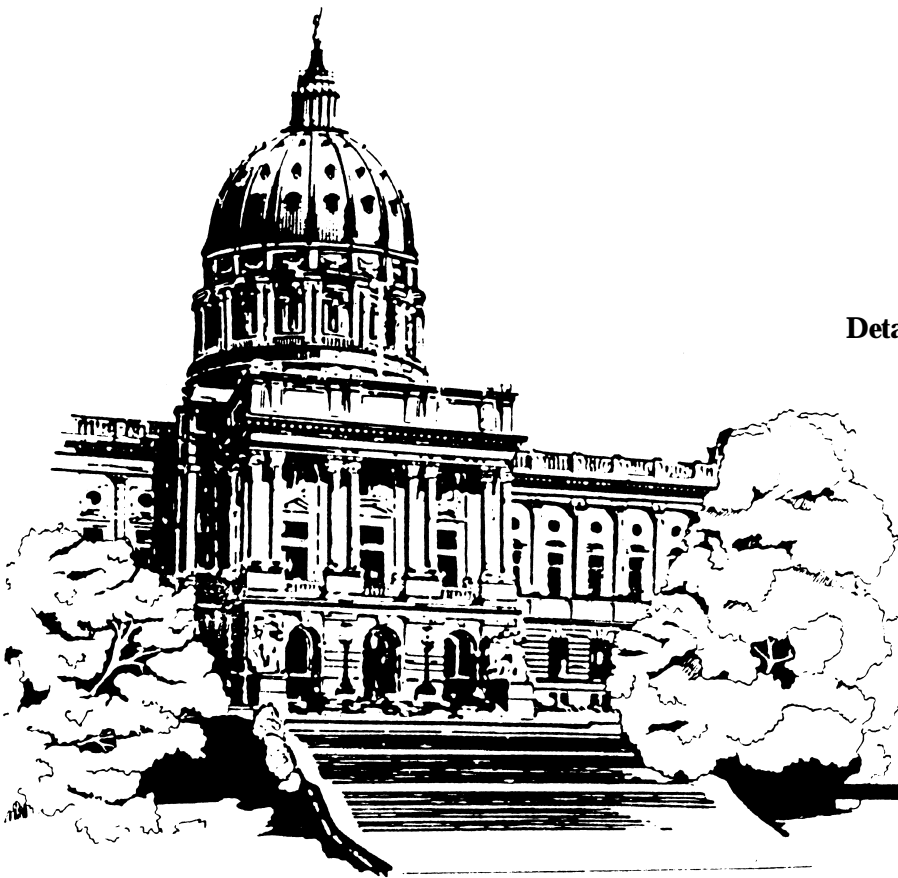
Saturday, May 11, 2002 • Harrisburg, Pa.

Pages 2307—2400

**Agencies in this issue:**

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Department of Agriculture  
Department of Banking  
Department of Community and Economic  
Development  
Department of Conservation and Natural  
Resources  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Labor and Industry  
Environmental Quality Board  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Pennsylvania Public Utility Commission  
Philadelphia Regional Port Authority  
Public School Employees' Retirement Board  
Securities Commission

**Detailed list of contents appears inside.**



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

**No. 330, May 2002**

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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 2002.

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# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [231 PA. CODE CH. 1000]

#### Rescission of Rule 1023 and Promulgation of New Rules 1023.1—1023.4; No. 364 Civil Procedural Rules; Doc. No. 5

#### Order

*Per Curiam:*

And Now, this 22 day of April 2002, the Pennsylvania Rules of Civil Procedure are amended as follows:

1. Rule 1023 is rescinded.
2. Rule 1023.1 et seq. is promulgated to read as follows.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 2002.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1000. ACTIONS AT LAW

#### Subchapter A. CIVIL ACTION

#### PLEADINGS

#### Rule 1023.1. Scope. Signing of Documents. Representations to the Court. Violation.

(a) Rules 1023.1 through 1023.4 do not apply to disclosures and discovery requests, responses, objections and discovery motions that are subject to the provisions of general rules.

(b) Every pleading, written motion, and other paper directed to the court shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. This rule shall not be construed to suspend or modify the provisions of Rule 1024 or Rule 1029(e).

(c) The signature of an attorney or pro se party constitutes a certificate that the signatory has read the pleading, motion, or other paper. By signing, filing, submitting, or later advocating such a document, the attorney or pro se party certifies that, to the best of that person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances,

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation,

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law or the establishment of new law,

(3) the factual allegations have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual allegations are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

(d) If, after notice and a reasonable opportunity to respond, the court determines that subdivision (c) has been violated, the court may, subject to the conditions stated in Rules 1023.2 through 1023.4, impose an appropriate sanction upon any attorneys, law firms and parties that have violated subdivision (c) or are responsible for the violation.

**Official Note:** The court in its discretion at any stage of the proceedings may deny a motion for sanctions without hearing or argument.

The grant or denial of relief (e.g., grant or denial of preliminary objections, motion for summary judgment or discovery application) does not, of itself, ordinarily warrant the imposition of sanctions against the party opposing or seeking the relief.

In most circumstances, a motion for sanctions with respect to factual allegations should be addressing whether there is evidentiary support for claims or defenses rather than whether there is evidentiary support for each specific factual allegation in a pleading or motion.

The inclusion in the rule of a provision for "an appropriate sanction" is designed to prevent the abuse of litigation. The rule is not a fee-shifting rule per se although the award of reasonable attorney's fees may be an appropriate sanction in a particular case.

The provision requiring that a motion under this rule be filed before the entry of final judgment in the trial court is intended to carry out the objective of expeditious disposition and to eliminate piecemeal appeals. Where appropriate, such motions should be filed as soon as practicable after discovery of the violation.

The following provisions of the Judicial Code, 42 Pa.C.S., provide additional relief from dilatory or frivolous proceedings: (1) Section 2503 relating to the right of participants to receive counsel fees and (2) Section 8351 et seq. relating to wrongful use of civil proceedings.

(e) Section 8355 of the Judicial Code, 42 Pa.C.S. § 8355, is suspended absolutely, in accordance with the provisions of the Constitution of 1968, Article V, Section 10(c).

**Official Note:** Section 8355 of the Judicial Code provides for the certification of pleadings, motions and other papers.

See also Order of January 17, 1997, Civil Procedural Rules Docket No. 5, No. 269, suspending the following sections of the Health Care Services Malpractice Act, added by Act No. 1996-135; Section 813-A, 40 P.S. § 1301.813-A, providing for the signing and certification of pleadings, motions and other papers and Section 821-A, 40 P.S. § 1301.821-A, providing for the signing and certification of a complaint.

#### Rule 1023.2. Motion for Sanctions.

(a) An application for sanctions under this rule shall be made by motion, shall be made separately from other applications and shall describe the specific conduct alleged to violate Rule 1023.1(c).

(b) No such motion shall be filed unless it includes a certification that the applicant served written notice and

demand to the attorney or pro se party who signed or filed the challenged pleading, motion or other paper. The certification shall have annexed a copy of that notice and demand, which shall identify with specificity each portion of the document which is believed to violate the provisions of this rule, set forth the basis for that belief with specificity, include a demand that the document or portion of the document, be withdrawn or appropriately corrected. An application for sanctions may be filed if the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected within twenty-eight days after service of the written demand. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion.

(c) A motion requesting sanctions under this rule shall be filed in the trial court before the entry of final judgment.

**Rule 1023.3. Sanctions upon Rule to Show Cause.**

On its own initiative, the court may enter an order describing the specific conduct that appears to violate Rule 1023.1(c) and directing an attorney, law firm or party to show cause why it has not violated Rule 1023.1(c) with respect thereto.

**Rule 1023.4. Sanctions.**

(a)(1) A sanction imposed for violation of Rule 1023.1 shall be limited to that which is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.

(2) Subject to the limitations in subdivision (b), the sanction may consist of, or include,

(i) directives of a nonmonetary nature, including the striking of the offensive litigation document or portion of the litigation document,

(ii) an order to pay a penalty into court, or,

(iii) if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

(3) Except in exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates and employees.

(b)(1) Monetary sanctions may not be awarded against a represented party for violation of Rule 1023.1(c)(2).

(2) Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.

(c) When imposing sanctions, the court shall describe the conduct determined to be a violation of Rule 1023.1 and explain the basis for the sanction imposed.

**Explanatory Comment**

**I. Obligations under the rule**

New Rule 1023.1 requires that a pleading, written motion or other paper directed to the court be signed. The signing, or the filing, submitting or later advocating, a document is a certification as described in the rule. A court may impose sanctions for violation of the certification. Thus the rule imposes the duty on the attorney or, if unrepresented, the party signing the document to satisfy himself or herself that there is a basis in fact and in law for the claim or defense set forth in the document.

Rule 1023.1, therefore, requires some prefiling inquiry into both the facts and the law to satisfy the affirmative duty imposed by the rule. However, this rule is not intended to chill an attorney's enthusiasm or creativity in pursuing factual or legal theories. The standard is one of reasonableness under the circumstances.

A court should avoid using the wisdom of hindsight and should test the signer's conduct by inquiring what was reasonable to believe at the time the pleading, motion, or other paper was submitted. What constitutes a reasonable inquiry depends on factors which may include

- how much time for investigation was available to the signer;

- whether the signer had to rely on a client for information as to the facts underlying the pleading, motion, or other paper;

- whether the pleading, motion, or other paper was based on a plausible view of the law; or

- whether the signer depended on forwarding counsel or another member of the bar.

This rule recognizes that sometimes a litigant may have good reason to believe that a claim or defense is valid but may need discovery, formal or informal, to gather and confirm the evidentiary basis for the claim or defense. If evidentiary support is not obtained after a reasonable opportunity for further investigation or discovery, the party has a duty under the rule not to persist with that contention. Rule 1023.1(c) does not require a formal amendment to pleadings for which evidentiary support is not obtained, but rather calls upon a litigant not thereafter to advocate such claims or defenses.

**II. Practice under the rule**

The rule leaves for resolution on a case-by-case basis, considering the particular circumstances involved, the question as to when a motion for violation of Rule 1023.1 should be served and when, if filed, it should be decided. Ordinarily the motion should be served promptly after the inappropriate paper is filed, and, if delayed too long, may be viewed as untimely. In other circumstances, it should not be served until the other party has had a reasonable opportunity for discovery. Given the "safe harbor" provisions discussed below, a party cannot delay serving its Rule 1023.1 motion until conclusion of the case (or judicial rejection of the offending contention).

Rule 1023.1 motions should not be made or threatened for minor, inconsequential violations of the standards prescribed by subdivision (c). They should not be employed as a discovery device or to test the legal sufficiency or efficacy of allegations in the pleadings; other motions are available for those purposes. Nor should Rule 1023.1 motions be prepared to emphasize the merits of a party's position, to exact an unjust settlement, to intimidate an adversary into withdrawing contentions that are fairly debatable, to increase the costs of litigation, to create a conflict of interest between attorney and client, or to seek disclosure of matters otherwise protected by the attorney-client privilege or the work-product doctrine. The court may defer its ruling (or its decision as to the identity of the persons to be sanctioned) until final resolution of the case in order to avoid immediate conflicts of interest and to reduce the disruption created if a disclosure of attorney-client communications is needed to determine whether a violation occurred or to identify the person responsible for the violation.

The rule provides that requests for sanctions must be made as a separate motion, i.e., not simply included as an additional prayer for relief contained in another motion. The motion for sanctions cannot be filed until at least 28 days (or such other period as the court may set) after being served. If, during this period, the alleged violation is corrected, as by withdrawing (whether formally or informally) some allegation or contention, the motion may not be filed with the court. These provisions are intended to provide a type of “safe harbor” against motions under Rule 1023.1 in that a party will not be subject to sanctions under Rule 1023.1 on the basis of another party’s motion unless, after receiving the motion, it refuses to withdraw that allegation or contention or to acknowledge that it does not currently have evidence to support it. The timely withdrawal of an allegation or contention will protect a party against a motion for sanctions.

To stress the seriousness of a motion for sanctions and to define precisely the conduct claimed to violate the rule, the “safe harbor” period begins to run only upon service of the motion. In most cases, however, counsel should give informal notice to the other party, whether in person or by a telephone call or letter, of a potential violation before proceeding to prepare and serve a Rule 1023.1 motion.

### III. Sanctions

The rule does not attempt to enumerate the factors a court should consider in deciding whether to impose a sanction or what sanctions would be appropriate in the circumstances. The factors that a court may consider include the following:

- whether the improper conduct was willful or negligent;
- whether it was part of a pattern of activity or an isolated event;
- whether it infected the entire pleading or only one particular count or defense;
- whether the person has engaged in similar conduct in related litigation;
- whether it was intended to injure;
- what effect it had on the litigation process in time or expense;
- whether the responsible person is trained in the law;
- what amount is needed to deter that person from repetition in the same case; and
- what amount is needed to deter similar activity by other litigants.

The court has significant discretion in determining what sanctions, if any, should be imposed for a violation, subject to the principle that the sanctions should not be more severe than reasonably necessary to deter repetition of the conduct by the offending person or comparable conduct by similarly situated persons.

There are two provisions for the award of attorney’s fees and expenses. The first provision, Rule 1023.2(b), authorizes the court, if requested in a motion and if so warranted, to award to the prevailing party “the reasonable expenses and attorney’s fees incurred in presenting or opposing the motion.”

The second provision, Rule 1023.4(a)(2)(iii), however, authorizes the court, “if imposed on motion and warranted for effective deterrence,” to order payment to the movant of “some or all of the reasonable attorney’s fees and other expenses incurred as a direct result of the violation.” Any such award to the movant, however, should not exceed the expenses and attorney’s fees for the services directly and unavoidably caused by the violation of the certification requirement. If, for example, a wholly unsupported count is included in a multi-count complaint or counterclaim for the purpose of needlessly increasing the cost of litigation, any award of expenses should be limited to those directly caused by inclusion of the improper count, and not those resulting from the filing of the complaint or answer itself. The award should not provide compensation for services that could have been avoided by an earlier disclosure of evidence or an earlier challenge to the groundless claims or defenses. Moreover, partial reimbursement of fees may constitute a sufficient deterrent.

The sanction should be imposed on the persons—whether attorneys, law firms, or parties—who have violated the rule or who may be determined to be responsible for violation. The person signing, filing, submitting, or advocating a document has a nondelegable responsibility to the court and, in most situations, is the person to be sanctioned for a violation. Absent exceptional circumstances, a law firm is to be held also responsible when one of its partners, associates, or employees is determined to have violated the rule. Since such a motion may be filed only if the offending paper is not withdrawn or corrected within 28 days after service of the motion, it is appropriate that the law firm ordinarily be viewed as jointly responsible under established principles of agency.

Explicit provision is made for litigants to be provided notice of the alleged violation and an opportunity to respond before sanctions are imposed. Whether the matter should be decided solely on the basis of written submissions or should be scheduled for oral argument (or for evidentiary presentation) will depend on the circumstances. If the court imposes a sanction, it must, unless waived, indicate its reasons in a written order or on the record; a court is not required to explain its denial of a motion for sanctions.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 02-837. Filed for public inspection May 10, 2002, 9:00 a.m.]

## PART I. GENERAL

### [231 PA. CODE CH. 2350]

#### Rule 2355—Notice of Death of a Party; Substitution of Personal Representative; Proposed Recommendation No. 179

The Civil Procedural Rules Committee proposes that new Rule of Civil Procedure 2355 governing the procedure upon the death of a party be promulgated as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than June 7, 2002 to Harold K. Don, Jr., Counsel, Civil Procedural Rules Committee, 5035 Ritter Road, Suite 700, Mechanicsburg, Pennsylvania 17055, or e-mail to [civil.rules@supreme.court.state.pa.us](mailto:civil.rules@supreme.court.state.pa.us).

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

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 2350. SUBSTITUTION OF PARTIES

#### Rule 2355. Notice of Death of a Party. Substitution of Personal Representative.

(a) If a named party dies after the commencement of an action, the attorney of record for the deceased party shall file a notice of death with the prothonotary. The procedure to substitute the personal representative of the deceased party shall be in accordance with Rule 2352.

**Official Note:** Counsel for the deceased party should file the notice of death promptly upon learning of the death of the party and serve a copy upon every other party to the action.

See Section 3375 of the Decedents, Estates and Fiduciaries Code, 20 Pa.C.S. § 3375 which provides that if a plaintiff dies and a personal representative is not appointed within one year after a suggestion of the death, the court, upon petition, shall abate the action if the delay in taking out letters is not reasonably explained.

This rule does not address the case law discussing whether the commencement of an action by or against a deceased person is a nullity and therefore does not toll the running of the statute of limitations.

(b) The notice of death required by subdivision (a) shall be substantially in the following form:

#### (CAPTION)

#### NOTICE OF DEATH

The death of \_\_\_\_\_, a party to the above action, on \_\_\_\_\_ during the pendency of this action is noted upon  
Date  
the record.

\_\_\_\_\_  
Attorney for the Deceased Party

\_\_\_\_\_  
Address

#### Explanatory Comment

The rules of civil procedure presently make no mention of the procedure upon the death of a party to an action. New Rule 2355 is proposed to alert the parties to the necessity of notifying other parties to the action of the death, of noting the death upon the record and of substituting as a party to the action the personal representative of the deceased party. The rule provides a form of notice which is to be filed with the prothonotary. The rule does not propose a new procedure to substitute the personal representative but rather incorporates the familiar existing procedure of Rule 2352 governing substitution of a successor.

The proposed rule applies to an action as to which a party dies after its commencement. As suggested by the note, the rule has no application when an action is commenced against a person who is deceased at the time it is commenced.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 02-838. Filed for public inspection May 10, 2002, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### Part I. GENERAL

#### [246 PA. CODE CHS. 300 AND 1000]

#### Venue

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Pa. R.C.P.D.J. Nos. 302 and 1009 and revise the Note to Rule 314 to clarify that improper venue must be raised by objection or else it is waived; to provide for the transfer of cases to and from other courts when venue is found to be improper in the originating court; to abolish improper venue as grounds for issuance of a writ of certiorari; and to make other technical or "housekeeping" amendments to these rules. The Committee has not 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 official Committee Notes to the rules. The Supreme Court does not adopt the Committee's Notes or the contents of the explanatory Reports.

The text of the proposed changes precedes the Report. Unless otherwise specified, 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,

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

or e-mail to: [minorcourt.rules@supreme.court.state.pa.us](mailto:minorcourt.rules@supreme.court.state.pa.us) no later than Monday, June 3, 2002.

*By the Minor Court Rules Committee:*

THOMAS E. MARTIN, Jr.,  
*Chair*

#### Annex A

### TITLE 246. MINOR COURT CIVIL RULES

#### PART I. GENERAL

#### CHAPTER 300. CIVIL ACTION

#### Rule 302. Venue.

A. An action against an individual may be brought in and only in a magisterial district where:

(1) [ he ] the individual may be served, or

\* \* \* \* \*

H. [ If the district justice in the magisterial district in which the complaint was filed finds that venue in that magisterial district is improper, he shall transfer the complaint to a magisterial district having proper venue. ] Improper venue shall be raised by objection prior to the conclusion of the hearing and if not so raised shall be waived. If an objection to venue is sustained and there is a court of proper venue within Pennsylvania, the complaint shall not be dismissed but shall be transferred to the court having proper venue.

**Official Note:** This rule replaces the temporary venue provisions of § 14 of the Schedule to Article V, Pennsylvania Constitution, 1968. It combines, with some minor changes, the Pennsylvania Rules of Civil Procedure relating to venue. See:

(1) Individuals: Pa. R.C.P. [ Nos. ] No. 1006(a) [ , 2078(a)(2) ].

\* \* \* \* \*

For a definition of "transaction or occurrence" see *Craig v. W. J. Thiele & Sons, Inc.*, 395 Pa. 129, 149 A.2d 35 (1959).

Subdivision G is intended to take care of indistinct, "center line" or other confusing boundaries in the respects mentioned. When a complaint is transferred under subdivision H, it is treated as if originally filed in the transferee [ magisterial district ] court on the date first filed in a [ magisterial district ] court. If service of the complaint has already been made, no new service [ is ] may be necessary, but the [ district justice in the ] transferee [ magisterial district ] court must set a new date, time and place for the new hearing and notify the parties thereof. It is the intent of this rule that cases may be transferred to any Pennsylvania court with appropriate jurisdiction and venue, including the Philadelphia Municipal Court. Likewise, nothing in this rule prohibits a court other than a district justice court from transferring a case to a district justice court with proper jurisdiction and venue, in accordance with the procedural rules of the transferring court. The jurisdictional limits of the district justice courts and the Philadelphia Municipal Court are governed by Sections 1515 and 1123 of the Judicial Code, respectively. 42 Pa.C.S. §§ 1515 and 1123.

There [ is ] are no [ fee ] costs for transfer of the complaint and no additional filing [ fee ] costs when a case is transferred from one district justice court to another district justice court. There are no additional filing costs when a case is transferred from the Philadelphia Municipal Court to a district justice court. There may be additional service costs when a case is transferred.

Amended June 1, 1971; amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended \_\_\_\_\_, effective \_\_\_\_\_.

**Rule 314. Return, Waiver and Failure of Service; Reinstatement.**

\* \* \* \* \*

**Official Note:** The provision concerning appearance not being a waiver of venue was inserted in subdivision C of this rule to prevent the concentration of business in the office of a favorable district justice. Also, the public cannot generally be expected to be aware of venue provisions. See Rule 302H regarding objections to venue.

\* \* \* \* \*

Amended October 17, 1975, effective in 90 days; amended effective March 24, 1977; amended April 25, 1979, effective in 30 days; June 30, 1982 effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992; amended February 12, 2002, effective immediately; Note revised \_\_\_\_\_, effective \_\_\_\_\_.

**CHAPTER 1000. APPEALS  
CERTIORARI**

**Rule 1009. Praeceptum for Writ of Certiorari.**

A. (1) [ Unless he was the plaintiff in the action before the district justice ] Except as provided in subparagraph (2), a party aggrieved by a judgment may file with the prothonotary of the court of common pleas a praecipe for a writ of certiorari claiming that the judgment should be set aside because of

(a) lack of jurisdiction over the parties or subject matter, [ improper venue ] or

(b) such gross irregularity of procedure as to make the judgment void.

(2) [ If the ] A party aggrieved by the judgment who was the plaintiff in the action before the district justice [ , he ] may file a praecipe for a writ of certiorari only on the [ last mentioned ground ] grounds set forth in subparagraph (1)(b).

B. [ If lack of jurisdiction over the parties or the subject matter is claimed, the praecipe may be filed at any time after judgment. Otherwise, it shall be filed within thirty (30) days from the date of the judgment. ] (1) A praecipe for a writ of certiorari based on the grounds set forth in subparagraph A(1)(a) may be filed at any time after the date of entry of the judgment.

(2) A praecipe for a writ of certiorari based on the grounds set forth in subparagraph A(1)(b) must be filed within 30 days after the date of entry of the judgment.

C. [ The praecipe shall identify the judgment complained of and the district justice in whose office the record of the proceedings containing the judgment is filed. ] Rescinded.

D. [ The praecipe and the writ shall be on a form which shall be prescribed by the State Court Administrator. ] The praecipe and the writ shall be substantially in the following form:

(Common Pleas Caption and Docket Number)
WRIT OF CERTIORARI TO DISTRICT JUSTICE
PRAECIPE FOR WRIT OF CERTIORARI

Magisterial District No. \_\_\_\_\_ District Justice Docket No. \_\_\_\_\_

Name of Party Filing This Praecept and Obtaining This Writ \_\_\_\_\_

Date of Entry of Judgment \_\_\_\_\_

In the Case of \_\_\_\_\_ (Plaintiff) vs. \_\_\_\_\_ (Defendant)

The party named above claims that with respect to the above proceeding there was:

(Check applicable box or boxes)

- lack of jurisdiction over the subject matter
lack of jurisdiction over (name of party)
such gross irregularity as to make the judgment void

PRAECIPE: To the Prothonotary

Issue a Writ of Certiorari directing \_\_\_\_\_, District Justice, to transmit to you a certified true copy of the record of the proceedings named above.

Signature of Party Filing Praecept or Attorney

WRIT OF CERTIORARI

TO: \_\_\_\_\_, District Justice

(1) You are hereby directed by this writ to transmit to the Prothonotary of this Court of Common Pleas, within ten days after you receive this writ, a certified true copy of the record of the proceedings named above.

(2) This writ, when received by you, will operate as a SUPERSEDEAS to the judgment for possession in this case.

This block will be checked ONLY when this notation is required pursuant to Pa. R.C.P.D.J. No. 1013B.

Date delivered for service \_\_\_\_\_, 20\_\_

Signature of Prothonotary or Deputy

PROOF OF SERVICE OF WRIT OF CERTIORARI

This proof of service must be filed within five days after delivery of the writ for service. Check applicable boxes.

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF \_\_\_\_\_: ss

AFFIDAVIT: I hereby verify that I served the Writ of Certiorari, Common Pleas Docket No. \_\_\_\_\_, upon the District Justice to whom it was directed on (date of service) \_\_\_\_\_, 20\_\_, by personal service or by (certified) (registered) mail, sender's receipt attached hereto, and that I served a copy of the writ upon the opposite party(ies) (name(s)) \_\_\_\_\_, on (date of service) \_\_\_\_\_, by personal service or by (certified) (registered) mail, sender's receipt attached hereto.

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

Date: \_\_\_\_\_, 20\_\_

Signature of Affiant

Official Note: Subdivision A sets forth the grounds for certiorari. See the comments concerning the limited nature of certiorari in the note to Rule 1001. The plaintiff in the action before the district justice [ , and ] (the word "plaintiff" as used in this rule does not include a defendant who has sued on a cross-complaint [ , ]) may file a praecipe for a writ of certiorari only on the ground of gross irregularity. Having instituted the proceedings before the district justice, the plaintiff should not be permitted to challenge jurisdiction [ or venue ].

Under subdivision B, the praecipe for the writ of certiorari must be filed within [ thirty ] 30 days after

the date of entry of the judgment, except when a question of jurisdiction is raised. There is no time limit on raising a question of jurisdiction by certiorari. Flaherty v. Atkins, 189 Pa. Super. 550, 152 A.2d 280 (1959). A party who files [ his ] a praecipe after the [ thirty ] 30 day period has run can be heard only on the question of jurisdiction (if permitted to raise that question under subdivision A) even though [ he ] the party claims [ improper venue or ] gross irregularity along with [ his ] the claim of lack of jurisdiction.

Subdivision D prescribes the content of the praecipe and writ, which is pre-printed on a

**“manual” form. Former Subdivision C was rescinded as unnecessary because the content of the form is prescribed by Subdivision D.**

Adopted June 1, 1971. Amended Jan. 29, 1976, effective in 30 days; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; **amended \_\_\_\_\_, effective \_\_\_\_\_.**

## REPORT

*Proposed Amendments to Pa. R.C.P.D.J. Nos. 302 and 1009; and Revision to the Note to Pa. R.C.P.D.J. No. 314*

**OBJECTION TO VENUE; WAIVER; TRANSFER OF CASES TO AND FROM OTHER COURTS WHEN VENUE IS FOUND TO BE IMPROPER IN THE ORIGINATING COURT; ABOLITION OF IMPROPER VENUE AS GROUNDS FOR ISSUANCE OF A WRIT OF CERTIORARI**

### I. Background

The Committee undertook a review of Pa. R.C.P.D.J. No. 302 in response to a request from the Administrative Office of Pennsylvania Courts (AOPC). The AOPC reported that it had received an inquiry from the court administrator's office of a suburban Philadelphia county about apparent conflicts between the Rules of Civil Procedure Governing Actions and Proceedings Before District Justices (Pa. R.C.P.D.J.) and the Philadelphia Municipal Court Rules of Civil Practice (Phila.M.C.R. Civ.P.) with regard to the transfer of cases when venue is found to be improper in the originating court. Also, the Committee had received a suggestion from a district justice that raised the question of how and by whom improper venue is to be raised under Rule 302, and whether improper venue can be waived under that Rule.

After consideration of the issues raised, the Committee concluded that an amendment to Rule 302 was needed, as described below, to clarify that improper venue must be raised by objection or else it is waived, and to provide for the transfer of cases to and from other courts when venue is found to be improper in the originating court. Also, in light of the proposed amendments to Rule 302 to require that improper venue be raised by objection, the Committee concluded that Rule 1009 should be amended to abolish improper venue as grounds for the issuance of a writ of certiorari. Finally, the Committee identified a need to make other minor correlative, technical, or “housekeeping” amendments to these rules and the Note to Rule 314.

### II. Objection to Venue; Waiver

As a result of the suggestion that it had received, the Committee discussed whether or not improper venue could be waived under Rule 302 if the issue is not raised as an objection.

Venue in civil matters at the common pleas level is generally governed by Pa.R.C.P. No. 1006(e), which states, inter alia, “[i]mproper venue shall be raised by preliminary objection and if not so raised shall be waived.” In construing this rule, the Superior Court has held that, “the question of which county in the state may entertain the action is a ‘question . . . of venue and not jurisdiction and venue may always be waived. It is a matter of procedure and not substance.’” *Hohlstein v. Hohlstein*, 296 A.2d 886, 888 (Pa. Super. Ct. 1972) (emphasis added) (quoting *Blair v. Blair*, 171 A.2d 854, 855 (Pa. Super. Ct. 1961)). Further, the court in *Hohlstein* stated, “it has been held by our Court that the right to raise the objection to venue is a mere Personal [sic] privilege belonging to the defendant which may be waived by him. Unlike the question of subject matter jurisdiction, it has

generally been held that the Court on its own motion may not order a change of venue, nor may it dismiss for improper venue.” *Hohlstein*, 296 A.2d at 889 (citations omitted) (emphasis added).

The Committee noted, however, that the district justice venue rule (Rule 302) differs from the common pleas rule in that Rule 302 does not appear to place the burden on the defendant to raise an objection to venue and does not appear to provide for a waiver of venue. Rule 302H (as currently written) states, “[i]f the district justice in the magisterial district in which the complaint was filed finds that venue in that magisterial district is improper, he shall transfer the complaint to a magisterial district having proper venue.” Pa. R.C.P.D.J. No. 302H (emphasis added). It became apparent to the Committee that some district justices are construing this rule to mean if, during the hearing, the district justice makes a sua sponte determination that venue is improper the issue cannot be waived, the hearing must cease, and the case must be transferred to another district justice court with proper venue.

In light of these findings, the Committee proposes to amend Rule 302 to clarify that an objection to venue must be raised by the defendant prior to the conclusion of the hearing or else be waived. The Committee determined that the defendant should be given until the end of the hearing to raise the objection because the face of the complaint may not give the defendant enough information about the claim to raise to the objection earlier, given the simplified notice pleadings used in district justice civil cases.

The Committee believes that such an amendment to Rule 302 would make practice in the district justice courts more consistent with practice in the courts of common pleas and would be more in keeping with the current state of the law, thus benefiting the parties and attorneys.

A correlative amendment to Rule 1009 is discussed below.

### III. Transfer of Cases When Venue is Found to Be Improper

In its request, the AOPC asked that the Committee consider the following issues:

a. Whether a district justice court has the authority to accept a civil case transferred from the Philadelphia Municipal Court?

b. Whether a district justice court has the authority to transfer a civil case to the Philadelphia Municipal Court when the district justice finds that venue properly lies with the Municipal Court?

c. If transfers between the district courts and the Municipal Court are permissible, whether either party is required to pay additional filing costs?

With regard to the first issue, the Committee noted that Phila.M.C.R.Civ.P. No. 108(c) states, “[i]f objection to venue is sustained and there is a court of proper venue within Pennsylvania, the action shall not be dismissed but shall be transferred to the appropriate District Justice Court or Court of Common Pleas.” The Committee agreed that, under this rule, the Municipal Court may transfer, and a district justice may accept, a civil case where venue is found to be improper in the Municipal



Court (assuming, of course, that the amount in controversy is within the jurisdictional limit of the district justice court).<sup>1</sup>

As to the second issue, however, the Committee noted that Pa. R.C.P.D.J. No. 302H states, “[i]f the district justice in the magisterial district in which the complaint is filed finds that venue in that magisterial district is improper, he shall transfer the complaint to a *magisterial district* having proper venue.” (Emphasis added.) It was the Committee’s opinion that this rule, as currently written, restricts district justices to transferring cases only to other magisterial district courts, and does not give authority to transfer cases to courts outside the district justice system, including the Philadelphia Municipal Court. The Committee further concluded that if a district justice finds that venue lies with a court outside the district justice system, such as the Philadelphia Municipal Court, the district justice’s only alternative may be to dismiss the case without prejudice and require the plaintiff to refile the case in the appropriate court. In so concluding, the Committee was not unmindful that the plaintiff could be barred from refile if the case is dismissed after the statute of limitations has run.

Consideration of the third issue, with regard to the payment of additional filing costs, resulted in the most discussion within the Committee. The Committee noted that when a case is transferred between district justice courts, the transferring court sends the filing costs along with the case to the receiving court. Further, the Note to Rule 302, with regard to transfers between district justice courts, states, “[t]here is no fee for transfer of the complaint and no additional filing fee.” Pa. R.C.P.D.J. No. 302, Note. The Committee was aware, however, that the disposition of filing costs has created confusion and problems when cases have been transferred to a district justice court from Municipal Court, especially since the statutorily set district justice court filing costs are different than Municipal Court costs. After discussion, the Committee agreed that the current procedure of transferring costs between district justice courts should remain the same. As for transfers to and from Municipal Court, the Committee concluded that no additional filing costs are to be collected when a case is transferred from Municipal Court to a district justice court. Further, any procedure regarding costs collected by the Municipal Court when a case is transferred from a district justice court to the Municipal Court is governed by the Municipal Court rules.

#### IV. Discussion of Rule Changes

##### A. Rule 302

###### 1. *Objection to Venue; Waiver*

As stated above, the Committee concluded that an amendment to Rule 302 is needed to clarify that improper venue must be raised by objection or else it is waived. Accordingly, the Committee proposes that the language in Rule 302 be amended to more closely resemble that of Pa.R.C.P. No. 1006(e) and Phila.M.C.R.Civ.P. No. 108(c) with regard to objections to venue and waiver.

###### 2. *Transfer of Cases When Objection to Venue is Sustained; Costs*

The Committee further proposes that the Note to Rule 302 be revised to make clear that it is the intent of the

rule that cases may be transferred to any Pennsylvania court with appropriate jurisdiction and venue, including the Philadelphia Municipal Court. Likewise, nothing in the Rule prohibits a court outside of the district justice system from transferring a case to a district justice court with proper jurisdiction and venue, in accordance with the procedural rules of the transferring court. The Rule and Note would be amended to delete the references to “magisterial district” and replace them with more generic references to “court.” Finally, the Committee proposes that the Note be revised to make clear that there are no costs for transfer of a complaint and no additional filing costs when a case is transferred from one district justice court to another district justice court. Also, there are no additional filing costs when a case is transferred from the Philadelphia Municipal Court to a district justice court.

##### B. Correlative Amendments to Rule 1009—Writ of Certiorari

###### 1. *Abolition of Improper Venue as Grounds for Issuance of Writ*

In light of the proposed amendment to Rule 302 to clarify that improper venue can be waived if not raised as an objection, the Committee concluded that Rule 1009 needed to be amended to restrict the ability of a defendant to seek a writ of certiorari on the grounds of improper venue. The Committee noted that without such an amendment to Rule 1009, a defendant could waive improper venue at the hearing before the district justice (by not raising an objection) but then seek a writ of certiorari on those same grounds, thereby defeating the purpose of the Rule 302 requirements.

The Committee noted that writs of certiorari to the district justice courts are governed by Pa. Const. Sched. art. V, § 26 (Writs of Certiorari) which states:

Unless and until changed by rule of the Supreme Court, in addition to the right of appeal under section nine of this article, the judges of the courts of common pleas, within their respective judicial districts, shall have power to issue writs of certiorari to the municipal court in the City of Philadelphia, justices of the peace and inferior courts not of record and to cause their proceedings to be brought before them, and right and justice to be done.

Pa. Const. Sched. art. V, § 26 (West 1994). The substance of this Schedule section has also been included in the Judicial Code, 42 Pa.C.S. § 934. The Committee concluded that the Schedule section and the statute empower the Supreme Court to change or abolish, by rule, the power to issue writs of certiorari. The Committee also concluded that since an aggrieved party is entitled to a broad form of appeal de novo, further restrictions on the use of certiorari will not adversely affect litigants.

Accordingly, the Committee proposes that improper venue be abolished as a grounds for the issuance of a writ of certiorari in Rule 1009.

###### 2. *Specifying Content of Writ of Certiorari Form in Rule 1009*

In a matter unrelated to the venue issues discussed above, but related to Rule 1009, the Committee proposes that the content of the Praecepte and Writ of Certiorari form be specified in Rule 1009. The Committee is in the process of making a number of revisions to the rules relating to forms used in district justice proceedings. For example, the Committee plans to recommend that the Supreme Court adopt a new general rule governing the

<sup>1</sup> The jurisdictional limit in civil cases in the Municipal Court (\$10,000) is different from that of the district justice courts (\$8,000). See 42 Pa.C.S. § 1123(a)(4) and 42 Pa.C.S. § 1515(a)(3). This does not create a problem with regard to the transfer of cases from the Municipal Court, as that court’s Rule 108(c) provides for transfer to the “appropriate District Justice Court or *Court of Common Pleas*.” Phila.M.C.R.Civ.P. No. 108(c) (emphasis added).

design of forms. In doing so, the Committee plans to delete references to forms in individual rules except where the content of a form needs to be expressly dictated by rule. It would be necessary to dictate the content of a form by rule where the form is a "manual" form; that is, a form not produced by the automated District Justice (computer) System. One such manual form is the Praeceptum and Writ of Certiorari.

The AOPC has recently informed the Committee that this form is outdated and in need of revision. In order to promote uniformity and widespread dissemination of form updates, the AOPC has suggested, and the Committee agrees, that the content of this form should be specified by rule. Accordingly, the Committee proposes that Rule 1009D be amended to include the contents of an updated Praeceptum and Writ of Certiorari form. The proposed abolition of improper venue as grounds for the issuance of a writ is reflected in the updated form.

**C. Correlative Revision to the Note to Rule 314**

In light of the proposed amendment to Rule 302 to clarify that improper venue can be waived if not raised as an objection, the Committee deemed it advisable to add a cross-reference to Rule 302 in the Note to Rule 314. Rule 314C provides that "[t]he appearance of a defendant . . . shall be deemed a waiver of any defect in service but not a waiver of a defect in venue." Pa. R.C.P.D.J. No. 314C (emphasis added).

**D. Technical and "Housekeeping" Amendments**

In conjunction with the proposed amendments to Rules 302 and 1009 discussed above, the Committee also recognized the need for minor changes to the rules to address gender neutrality issues, to correct or add appropriate citations and cross references, and to conform with modern drafting style.

[Pa.B. Doc. No. 02-839. Filed for public inspection May 10, 2002, 9:00 a.m.]

**Title 252—ALLEGHENY COUNTY RULES**

**ALLEGHENY COUNTY**

**Rule 1910.6—Entry Appearance; Family Division; Rules Doc. No. 6 of 2002**

**Order of Court**

And Now, to-wit, this 22nd day of April, 2002, pursuant to action of the Board of Judges, the following new local Rule 1910.6 affecting the Family Division of the Court of Common Pleas is adopted, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

ROBERT A. KELLY,  
*President Judge*

**Local Rule 1910.6 Entry of Appearance**

(a) Any attorney who files and/or serves a legal paper or appears on behalf of a client in any cause of action in Family Division—Adult Section must complete, file and serve a praecipe for appearance, substantially in the form set forth in (b), identifying the cause or causes of action in which he/she will be acting as counsel and identifying by name the party whom the attorney is representing.

(b) Caption

**PRAECIPE FOR APPEARANCE**

Kindly enter my appearance as counsel for \_\_\_\_\_  
Name of Party\*

in the above-captioned cases in the following:

- \_\_\_\_\_ All matters
- \_\_\_\_\_ Divorce (& all claims raised pursuant thereto) Only
- \_\_\_\_\_ Support Only
- \_\_\_\_\_ Custody Only
- \_\_\_\_\_ Protection From Abuse Only
- \_\_\_\_\_ Other: \_\_\_\_\_

Once my appearance is entered, I understand that I must appear at all proceedings and accept service for my client unless I obtain Court permission to withdraw my appearance.

Supreme Court #: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

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

\*Your client must be identified by name, not solely as Plaintiff or Defendant.

(c) Praeceptum of appearance forms shall be available from Domestic Relations Officers, Hearing Officers, Judges' staff, Room 4020, and the Office of the Prothonotary on the 1st floor of the City-County Building.

(d) The attorney must appear at all Family Division proceedings and receive service on behalf of his/her client with respect to all causes of action in which the attorney has indicated on the praecipe for appearance he/she is representing his/her client. If the attorney fails to appear, the court may impose sanctions including but not limited to fines and counsel fees.

(e) Entering an appearance or filing any legal paper in a divorce action obligates the attorney to represent the client in any and all claims or counterclaims which are raised pursuant to the divorce action.

(f) No pro se motions will be accepted involving a cause of action in which a litigant is represented by counsel.

(g) Each attorney shall file and serve a praecipe for appearance with respect to each of his/her cases which are pending as of January 1, 2002.

[Pa.B. Doc. No. 02-840. Filed for public inspection May 10, 2002, 9:00 a.m.]

**Title 255—LOCAL COURT RULES**

**CARBON COUNTY**

**Revision of Local Rule of Civil Procedure L1915.3—Prosecution of Action; No. 01-1115**

**Administrative Order 7-2002**

And Now, this 25th day of April, 2002, it is hereby Ordered and Decreed that, effective thirty (30) days after publication in the *Pennsylvania Bulletin*, the Court of

Common Pleas of Carbon County *Revises* Local Rule of Civil Procedure L1915.3 governing Prosecution of Action in custody cases.

The Carbon County District Court Administrator is *Ordered and Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Civil Procedural Rules Committee.
4. Forward one (1) copy for publication in the *Carbon County Law Journal*.
5. Forward one (1) copy to the Carbon County Law Library.
6. Keep continuously available for public inspection copies of the Order in the Prothonotary's Office.

By the Court:

RICHARD W. WEBB,  
*President Judge*

**Rule L1915.3. Prosecution of Action.**

When a claim for custody, partial custody or visitation is made in a complaint, petition, or counterclaim, such pleading shall comply with Pa.R.C.P. 1915.15(a) or (b) and shall have attached an Order of the Court referring the claim to the Hearing Officer for a conference and a Pre-trial Conciliation Information Form which will be substantially in the same form as "Form A" and "Form B" following this rule. A second order shall be attached to the front of the complaint/petition as required by Local Rule L1915.4 Form - "B" and L1915.4-1 - Form "A." The moving party shall follow the Motion practice as set forth in L206.1(2) in the filing and service of the custody pleading.

**"FORM A"**

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW

vs. :  
: NO.  
: CUSTODY  
:

ORDER OF COURT

You, \_\_\_\_\_, Defendant, have been sued in Court to obtain custody, partial custody or visitation of the child(ren), \_\_\_\_\_.

Pursuant to Carbon County Rule L1915.4 and L1915.4-1, you are ordered to appear in person at the First Floor Conference Room, Carbon County Courthouse, Jim Thorpe, Pennsylvania, 18229, on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_, \_\_\_\_m., prevailing time, for a CONCILIATION or MEDIATION CONFERENCE before Carbon County Custody Conference Officer \_\_\_\_\_.

If you fail to appear as provided by this Order, the Court or Custody Conference Officer may grant leave to the party who appears to present testimony and the Court may proceed to enter an Order for Custody, Partial Custody or Visitation based solely upon such testimony or

the Court may issue a warrant for your arrest. No stenographic record shall be made of this conference.

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

Legal Services of Northeastern Pennsylvania, Inc.  
122 Iron Street  
Lehighton, PA 18235  
(610) 377-5400

BY THE COURT:

DATED: \_\_\_\_\_ J.

**"FORM B"**

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CIVIL ACTION—LAW

vs. :  
: NO.  
: CUSTODY  
:

PRE-TRIAL CONCILIATION INFORMATION  
(To be submitted at conciliation conference)

GENERAL INFORMATION:

1. Names, addresses, ages and employment of parents:  
FATHER MOTHER  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Names and ages of all children involved; state with whom living:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Names and addresses of other parties involved (if any—children's services, grandparents, foster parents, etc.)  
\_\_\_\_\_  
\_\_\_\_\_

4. Status of current custody orders or custody arrangements:  
\_\_\_\_\_  
\_\_\_\_\_

5. Addresses of children for past 5 years; state who had custody at each location:  
\_\_\_\_\_  
\_\_\_\_\_

Position of Party Submitting Memorandum:

1. State what living arrangements you consider to be in child(ren)'s best interests (i.e. where children should spend weekdays, weekends, holidays, vacation, attend school, matters of that sort):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. State kind of environment you can provide under above arrangement (home, school, other children in neighborhood, your availability at various times):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Other factors you consider relevant to resolution of dispute:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Efforts at mediation, conciliation, counseling:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TRIAL INFORMATION:

1. List of witnesses you would intend to call:

Fact Witnesses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Experts: (attach copies of any reports currently available to the memorandum):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Issues for resolution: (e.g., suitability of physical environment, suitability of parent, unusual opportunities for enrichment, particular skills of availability of one parent as opposed to another):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Remarks:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Counsel for \_\_\_\_\_

COPIES TO BE SENT TO: Court  
Opposing Counsel

[Pa.B. Doc. No. 02-841. Filed for public inspection May 10, 2002, 9:00 a.m.]

**DISCIPLINARY BOARD OF  
THE SUPREME COURT**

**Notice of Suspension**

Notice is hereby given that James Samuel DeBosh, having been suspended from the practice of law in the State of New Jersey for a period of three months, the Supreme Court of Pennsylvania issued an Order dated April 29, 2002 suspending James Samuel DeBosh from the practice of law in this Commonwealth consistent with the Order of the Supreme Court of New Jersey. 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. 02-842. Filed for public inspection May 10, 2002, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 22—EDUCATION

### PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

[22 PA. CODE CH. 213]

#### Contributions and Benefits

The Public School Employees' Retirement Board (Board) has adopted this final-form rulemaking amending Chapter 213 (relating to contributions and benefits). The final-form amendments delete the restrictions for purchasing retirement credit thereby allowing the costs of purchase to be deducted from the actuarial value of the retirement account.

These final-form amendments are being made to conform the Board's regulations with the policy adopted by the Board at its December 2, 1998, meeting allowing actuarial debt reduction for purchases of service.

#### A. *Effective Date*

These amendments will go into effect upon publication in the *Pennsylvania Bulletin* as a final-form rulemaking.

#### B. *Contact Person*

For further information, contact Frank Ryder, Director of Government Relations, Public School Employees' Retirement System, 5 North Fifth Street, P. O. Box 125, Harrisburg, PA 17108, (717) 720-4733; or Charles K. Serine, Deputy Chief Counsel, Public School Employees' Retirement System, 5 North Fifth Street, P. O. Box 125, Harrisburg, PA 17108, (717) 720-4679.

#### C. *Statutory Authority*

These final-form amendments are authorized under the authority of the Public School Employees' Retirement Code, 24 Pa.C.S. §§ 8502(h) and 8507(d) (code).

#### D. *Background and Purpose*

The Board is responsible for implementing the purchase of service provisions of the code and a component of that purchase program is a method of paying for the purchase by eligible members, that is, their contributions. Although the code authorizes the contributions to be made in any manner agreed upon by the Board and member, the current regulations limit payment methods. Deletion of these provisions will restore the Board's statutory authority to authorize the actuarial debiting of the member's account as an agreed upon way to make these contributions.

The purpose of this rulemaking is to permit the member and Board to agree upon how member contributions for the purchase of service can be made. Members would still have the option of paying by lump sum or payroll deduction but also would have the option to authorize an actuarial reduction in the value of their account to pay for the requested purchase. This would substantially reduce or eliminate out-of-pocket costs for members to avail themselves of service purchases authorized by the code. As previously noted, by policy of the Board, the Public School Employees' Retirement System (PSERS) currently permits the actuarial reduction of school member accounts for service purchases. These regulatory actions will conform the regulations to the current administrative policy. The PSERS has promulgated a similar rescission of similar provisions published

at 31 Pa.B. 4170 (August 4, 2001) that allows purchases of service to be paid by actuarial debt of State employees' accounts. This final-form rulemaking will harmonize the regulations of the PSERS and the State Employees' Retirement System, especially with regard to multiple service members.

#### E. *Benefits, Costs and Compliance*

Executive Order 1996-1, "Regulatory Review and Promulgation" requires a cost/benefit analysis of the rulemaking.

#### *Benefits*

This final-form rulemaking will benefit school employees eligible for service purchases under the code. By reducing the potential out-of-pocket costs to members with an offsetting actuarial reduction in the value of their accounts, easier access to statutorily authorized service purchases would ensue without any loss in the fiscal integrity of the PSERS. Customer service will be improved together with a corresponding reduction in book-keeping and record keeping to the extent that payroll deductions are reduced.

#### *Costs*

There are nominal additional costs to the Commonwealth, its citizens or school employees associated with these final-form amendments. There will be additional cost savings for both school employers and the PSERS associated with these final-form amendments.

#### *Compliance Costs*

These final-form amendments are not expected to impose any additional compliance costs on school employees or employers.

#### F. *Sunset Review*

A sunset date has not been established by the Board for this final-form rulemaking.

#### G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 7, 2002, the Board submitted a copy of the notice of proposed rulemaking published at 31 Pa.B. 5711 (October 13, 2001), to IRRC and to the Chairpersons of the House Education Committee and the Senate Finance Committee for review and comment.

No comments were received from the IRRC, the Committees or the public for the Board to consider in preparing this final-form rulemaking.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on March 27, 2002, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved effective April 4, 2002, by IRRC.

#### H. *Public Comments*

There were no public comments.

#### I. *Findings*

The Board finds that:

(1) Public notice of intention to amend these regulations was given under 1 Pa. Code § 7.1 (relating to notice of proposed rulemaking required) by publication at 31 Pa.B. 5711.

(2) The final-form amendments are necessary and appropriate for the administration of the code.

*J. Order*

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

(a) The regulations of the Board, 22 Pa. Code Chapter 213, are amended by amending §§ 213.2 and 213.23—213.25 to read as set forth at 31 Pa.B. 5711.

(b) This order and 31 Pa.B. 5711 shall be submitted to the Office of Attorney General for approval as to legality as required by law.

(c) The Secretary of the Board shall certify this order and 31 Pa.B. 5711 and deposit them with the Legislative Reference Bureau as required by law.

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

DALE H. EVERHART,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 2041 (April 20, 2002).)*

**Fiscal Note:** Fiscal Note 43-8 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 02-843. Filed for public inspection May 10, 2002, 9:00 a.m.]

## Title 25—ENVIRONMENTAL PROTECTION

### ENVIRONMENTAL QUALITY BOARD [25 PA. CODE CHS. 121 AND 126]

#### Heavy-Duty Diesel Emissions Control Program

The Environmental Quality Board (Board) amends Chapters 121 and 126 (relating to general provisions; and motor vehicle and fuels programs) to read as set forth in Annex A.

The final-form rulemaking establishes a new Heavy-Duty Diesel (HDD) Emissions Control Program (HDD Program) designed to primarily reduce emissions of carbon monoxide, oxides of nitrogen (NOx), volatile organic compounds (VOCs), particulate matter (PM) and air toxics from new HDD engines and vehicles. The final-form amendments adopt and incorporate by reference certain requirements of the California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Model Year Heavy-Duty Engines and Vehicles as authorized under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) (CAA).

This order was adopted by the Board at its meeting of March 19, 2002.

*A. Effective Date*

These amendments will be effective immediately upon publication in the *Pennsylvania Bulletin* as final-form rulemaking.

*B. Contact Persons*

For further information, contact Arleen Shulman, Chief, Mobile Sources Section, Division of Air Resource Management, Bureau of Air Quality, Rachel Carson State Office

Building, 12th Floor, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-9495; or Bo Reiley, Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, Rachel Carson State Office Building, 9th Floor, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

*C. Statutory Authority*

This action is being made under the authority of section 5(a)(1) of the Air Pollution Control Act (act) (35 P. S. § 4005(a)(1)), which grants the Board the authority to adopt rules and regulations for the prevention, control, reduction and abatement of air pollution in this Commonwealth. The Board is also expressly authorized by section 5(a)(7) of the act to adopt regulations designed to reduce emissions from motor vehicles.

*D. Background and Purpose*

HDD engines and vehicles contribute greatly to a number of serious health and welfare problems. First, they emit pollutants like PM, sulfur oxides (SOx), toxic compounds, such as formaldehyde, and ozone precursors, such as NOx and VOCs, whose documented adverse health effects include premature mortality, aggravation of respiratory and cardiovascular disease, changes in lung function and increased respiratory symptoms, changes to lung tissues and structures, altered respiratory defense mechanisms, chronic bronchitis and decreased lung function. Second, ozone pollution causes crop and forestry losses, and PM causes damage to materials and soiling of commonly used building materials and culturally important items such as statues and works of art. Third, NOx, SOx and PM contribute to visibility impairment. Fourth, NOx emissions from HDD vehicles contribute to the acidification, nitrification and eutrophication of water bodies. Fifth, the United States Environmental Protection Agency (EPA) has concluded that diesel exhaust is likely to be carcinogenic to humans. Finally, while vehicles powered by HDD engines account for about only 1% of all motor vehicles and equipment, they are responsible for nearly 1/4 of NOx emissions.

Emissions from HDD engines and vehicles account for a substantial portion of ambient PM and ground-level ozone levels. These proportions are higher in some urban areas. Urban areas, which include many poorer neighborhoods, can be disproportionately impacted by HDD vehicle emissions because of heavy traffic in densely populated urban areas.

In addition, due to its location in the northeast, this Commonwealth is a conduit for a large amount of truck traffic. Without the benefits of this final-form rulemaking, this Commonwealth can expect an additional 12.5 tons of NOx emissions per average summer day in 2006 State-wide from the trucks manufactured in 2005 and 2006. In the five-county Philadelphia area alone, model year 2005 and 2006 trucks are expected to emit an additional 2 tons of NOx per average summer day in 2006 without these additional controls.

HDD engines and vehicles have not been subject to many environmental regulations since passage of the CAA in 1970. The EPA's regulation of HDD engines and vehicles did not begin until 1984, when the EPA adopted a 10.7 grams/brake horsepower-hour (g/bhp-hr) NOx standard. The EPA's NOx emissions standards for 1998 to 2003 model year HDD engines are 4 g/bhp-hr. The EPA currently requires testing of the engine (with emission control systems in place) rather than the entire vehicle. Thus the standards are expressed in units of g/bhp-hr (that is, grams of emission per unit of work the engine

performs over a period of time), rather than the grams per mile unit used for testing passenger cars and light-duty trucks.

Before being offered for sale, new engines must be certified to compliance with Federal emissions standards. Engines are tested for certification using an engine dynamometer. The performance test cycle or cycles for determining compliance with numerical standards plays an important part in determining the stringency of the existing standards. It is the performance test that serves as the basis for determining this compliance.

Currently, the EPA only tests engines with the Federal test procedure (FTP) to determine compliance with the HDD engine standards. The FTP, however, only represents a small portion of "real world" driving conditions. For example, the FTP does not include elevated high temperatures and highway cruise patterns. Therefore, it is inadequate in testing emissions under these conditions.

Several years ago, the United States Department of Justice, the EPA and the California Air Resources Board (CARB) brought major enforcement actions alleging that seven of the largest HDD engine and vehicle manufacturers (representing approximately 60% of HDD engine sales) violated Federal and California engine certification regulations by "defeating" or turning off diesel emission control devices during in-use highway driving. The manufacturers employed "defeat devices" in the HDD engines for model years 1988—1998. With these defeat devices, emission controls typically were turned off during cruising conditions to save fuel. This allowed NOx emissions as high as three times the emission standard. It is estimated that in 1998 alone, the "defeat devices" caused approximately 1.3 million tons of excess NOx emissions Nationally.

The Federal government and the seven HDD engine and vehicle manufacturers resolved the cases through settlement agreements. In 1998, they entered into judicial consent decrees (binding settlement orders) that imposed substantial penalties upon the seven manufacturers and required them to achieve additional emission reductions.

In the consent decrees, the settling manufacturers are required, among other things, to produce HDD engines and vehicles that comply with prescribed emission standards that are lower than those required in current California and Federal regulations, as measured by the FTP. Specifically, these engines must meet a 2.5 g/bhp-hr standard for nonmethane hydrocarbons plus NOx emissions by October 1, 2002. This will require production of new engines that are approximately 50% cleaner than current engines.

The majority of these settling engine manufacturers (Caterpillar, Cummins, Detroit Diesel, Mack Trucks, Renault (RVI) and Volvo Trucks) have also agreed to produce HDD engines by October 1, 2002, that meet supplemental certification test procedures. Together with the FTP test, the supplemental test procedures will require control of emissions during the majority of real world operating conditions, insuring that in the future "defeat devices" will no longer be employed. This will result in significant additional emission reductions of NOx and other pollutants during "real world" conditions. These supplemental test procedures are designed to make up for the deficiencies of the FTP.

The California rules require manufacturers to perform supplemental test procedures, in addition to the existing FTP. The two components of the supplemental test are known as the Not to Exceed (NTE) test and the EURO III

European Stationary Cycle (ESC) test. The ESC test also has associate requirements known as maximum achievable emission limits (MAEL).

The NTE test procedure can be run in a vehicle on the road or in an emissions testing laboratory using an appropriate dynamometer. The vehicle or engine is operated under conditions that may reasonably be expected in normal vehicle operation and use, including operation under steady-state or transient conditions and under varying ambient conditions. Emissions are averaged over a minimum time of 30 seconds and then compared to the applicable emission limits.

The ESC test simulates cruising conditions better than either the FTP or the NTE procedures. This can help prevent excess emissions increasing during highway driving. This test consists of 13 modes of speed and power, primarily covering the typical highway cruise operating range of HDD engines. During each mode of operation, the concentration of the gaseous pollutant is measured and weighted. The weighted average emissions for each pollutant, as calculated by this test, may not be greater than the applicable FTP emission standard.

The MAEL requirements can be considered an adjunct to the ESC test because they are utilized during the 12 nonidle test modes of that test. The MAEL specifications prevent manufacturers from complying with the ESC using computer programs that recognize when the engine is being tested at specific test points, and then recalibrating for better fuel economy (which results in higher emissions) between test points. The MAEL requirements ensure that emissions do not exceed a cap when operating within the nonidle ESC test modes.

Since certifying HDD engines using the NTE and ESC tests produces much higher reductions than the reductions achieved when only the FTP is used, the EPA issued a final rule to adopt these supplemental test procedures for 2004 and subsequent model year HDD engines and vehicles. See 65 FR 59895 (October 6, 2000). However, due to timing constraints that the CAA imposes on the EPA under section 202 of the CAA (42 U.S.C.A. § 7521), manufacturers will not be required to comply with the NTE and ESC test procedures until the 2007 model year. Therefore, there will be a 2-year gap between the expiration of these test procedures for the settling manufacturers following the 2004 model year and the commencement of the test procedures for model year 2007 under the EPA's final rule.

As a result, for 2 entire model years there may be serious backsliding, that is, diesel exhaust emissions could increase significantly above the previous levels mandated by the consent decrees. For this reason, California decided to fill the gap by requiring compliance with the NTE and ESC test procedures in addition to the FTP test procedure during the 2005 and 2006 model years. Moreover, this final-form rulemaking will apply to all manufacturers, not just those affected by the consent decrees, who may want to enter the United States HDD engine market to gain an unfair competitive advantage.

A number of other states have also recognized the benefits of adopting these test procedures to prevent any backsliding attempts by HDD engine and vehicle manufacturers and to maintain improved air quality. To date, Delaware, North Carolina, Maryland, Georgia, Massachusetts, Texas, New Jersey, New York, Maine, Rhode Island and the District of Columbia have adopted the California rules under section 177 of the CAA. Truck sales in these states account for 37% of National truck sales.

The Commonwealth also recognizes the benefits of adopting these test procedures. It is estimated that an additional 12.5 tons of NO<sub>x</sub> emissions per average summer day Statewide from trucks manufactured in 2005 and 2006 will be reduced through the adoption of this final-form rulemaking.

Section 209 of the CAA (42 U.S.C.A. § 7543) allows only California to obtain a waiver of Federal preemption to continue to set its own motor vehicle standards. The CAA was amended in 1977 under section 177 of the CAA to allow states to adopt emission standards for motor vehicles if the standards are identical to the California standards and a state adopts the standard at least 2 years before commencement of the model year.

Congress amended section 177 of the CAA in 1990 to prohibit states from taking any action that would have the effect of creating a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards or otherwise create a "third vehicle."

The final-form rulemaking establishes an HDD Program consistent with the requirements of section 177 of the CAA and will serve as the framework for the Commonwealth's program to control emissions from new HDD engines and vehicles.

The Commonwealth's proposed HDD Program does not mandate the sale or the use of special diesel fuel which complies with the specifications adopted by California. The courts have held that a state's failure to adopt California fuel requirements does not violate section 177 of the CAA requirement that state emission standards be "identical to the California standards for which a waiver has been granted." *Motor Vehicle Manufacturers Association of the United States (MVMA) v. New York State Department of Environmental Conservation (NYSDEC)*, 17 F. 3d 521 (2d Cir. 1994).

Since HDD engines are engine certified, currently there is no mechanism in California to ensure that either a replacement engine or rebuild complies with requirements at least as stringent as the original engine. However, nonregulatory common practice dictates that when an engine is replaced, it is typically replaced with a newer, lower-emitting engine due to hardware and electronics compatibility concerns. Additionally, modern electronically controlled engines typically operate for more than 500,000 miles (and in many cases more than 1 million miles) before requiring replacements/rebuilds. By the time a typical replacement/rebuild occurs, engines older than the original engines are generally too old to be used or are not available.

Following promulgation of the proposed new HDD Program regulations, amendments to Chapters 121 and 126 will be submitted to the EPA as a revision to the State Implementation Plan.

Under section 5(a)(7) of the act, the Department of Environmental Protection (Department) consulted with the Department of Transportation during the development of the proposed amendments. The Department also consulted with the Air Quality Technical Advisory Committee (AQTAC) on the final-form rulemaking. On January 17, 2002, the AQTAC recommended that the final-form rulemaking be submitted to the Board for consideration. AQTAC also suggested that the Department continue its aggressive efforts with other states to support uniform Federal standards for HDD vehicles to ensure progress in significantly reducing truck emissions during this decade.

This final-form rulemaking is consistent with the mandate under Executive Order 1996-1, "Regulatory Review and Procedure." The final-form rulemaking is necessary to achieve and maintain the ambient air quality standard for ozone and is justified as a compelling and articulable State interest as required under Executive Order 1996-1.

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

The Board received 198 sets of comments on the regulatory proposal. The following discussion summarizes the major issues and the Board's response.

Of the 198 commentators, 193 expressed general support for the rulemaking. Of the 193 commentators, 177 sent a form letter, which expressed general support for the rulemaking.

Two commentators expressed the view that adopting California's emission standards for HDD engines would provide states an opportunity to obtain substantial and cost effective emission reductions. The Board agrees. The cost for a ton of reductions is approximately \$400, which compares favorably with emission controls placed on industrial sources of several thousand dollars per ton.

A substantial number of commentators thought that a great opportunity exists for engine manufacturers to "backslide" to previous less stringent emission limits for model years 2005 and 2006. The Board agrees and believes that this is one of the main reasons why many states have decided to adopt the NTE standards. The economic and competitive incentives for engine manufacturers who sign the consent decrees could be too great not to backslide into the emissions standards developed prior to the signing of the consent decrees. The Board also believes that manufacturers would offer for sale engines that pollute excessively during the steady state portion of the engines' operations unless the NTE requirements are enforced in this Commonwealth.

One commentator believed that the NTE program is nothing more than a patchwork state-by-state program. The commentator further believed that the Commonwealth can expect significant negative economic impacts if these regulations are adopted because truck purchasers will take their business to other states. The Board does not agree with this comment for several reasons. First, there are a number of states that have already adopted this rulemaking including California, Delaware, North Carolina, Maryland, Georgia, Massachusetts, Texas, New Jersey, New York, Maine, Rhode Island and the District of Columbia. There are also a number of states that are working to adopt these regulations. Those states include the Commonwealth, Arizona and Minnesota. The Board believes that once these and other states adopt the requirements that nearly 50% of all new trucks will be required to comply with the supplemental test procedures. Moreover, the Board does not believe there will be a significant economic impact for several reasons. As previously stated, the NTE standards are becoming a de facto National program. The extra cost per truck required to comply with this rulemaking will be less than several hundred dollars. In addition, this rulemaking is only intended to cover a 2-year interim window between when the test procedures in the consent decrees expire and the new Federal regulations take place.

One commentator is concerned that the Commonwealth will not realize the expected emission reduction gains and that engines from outside the State will dominate the population of engines inside the State. As the Board has previously noted, this program is fast becoming a de facto



National program with over 37% of the National sales being covered by this rulemaking by the end of 2001. In addition, the Board believes that the Commonwealth will receive emission reduction benefits which will help the Commonwealth improve its air quality. Specifically, it is estimated that an additional 12.5 tons of NO<sub>x</sub> per average summer day will be reduced with the adoption of this rulemaking.

A number of commentators believed that if enough states adopt the NTE supplemental testing requirements that a level regulatory playing field will be created for all engine manufacturers and states. The Board agrees. Nonconsent decree and consent decree manufacturers will be required to follow the same regulations, and all states will have the same low-emitting vehicles available for sale.

One commentator was concerned that the cost for the Commonwealth to adopt, implement and enforce the California requirements far outweigh the potential air quality benefits from their adoption. The Board disagrees. First, the cost to adopt, implement and enforce this rulemaking will be low for the Commonwealth since enforcement will be handled by a small number of inspectors. Second, initial reductions that will be achieved as a result of this rulemaking will cost \$400 per ton, which compares favorably to stationary source reductions that usually cost \$1,000 or more per ton. Third, NO<sub>x</sub> emission reductions in this Commonwealth will approach 12 tons per day in 2006, which makes the adoption of the rulemaking worthwhile.

The CARB regulation has been challenged in the case *International Truck and Engine Corp v. California Air Resources Board et al.* (Case No. SIVS-01-1245GED GGH U.S. District Court, Eastern District of California). The commentator believed that the challenge will be successful and that the Board should not adopt the rulemaking. The Board notes that on October 24, 2001, the Court issued an order in the previously referenced case denying the Plaintiff's motion for summary judgment and granting the Defendant's motion to dismiss the case based on the grounds that the lawsuit is not "ripe" for adjudication.

Several commentators contended that California's adoption of the NTE standards are in violation of the statutory lead-time and stability requirements under section 202 of the CAA. Since there are no proposed changes to the emission standards that CARB adopted in 1999, the CAA requirements under section 202 of the CAA did not apply to that rulemaking. Moreover, since section 202(a)(3)(C) of the CAA is only applicable to standards promulgated under section 202(a) of the CAA and California promulgates its standards under section 209(b) of the CAA, the provision does not apply to California. However, as a practical matter, since the NTE standards were adopted in 2000 and do not apply until 2005, manufacturers have the 4-year lead-time they requested of California. As to stability, while the requirements of California certification testing changed between 2004 and 2005, the underlying standards are the 2004 standards as set forth in Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8(a). These standards are unchanged by the adoption of the supplemental test procedures as incorporated by reference in Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8(a). Furthermore, California has the authority to adopt a separate state program, including a certification program, for new motor vehicles and new motor vehicle engines under section 209(b) of the CAA. California has the authority to adopt test procedures that ensure that new motor vehicles and new motor vehicle engines meet California's state emission controls.

One commentator believed that the Commonwealth will need to ensure that the appropriate diesel fuel is available in this Commonwealth for HDD vehicles subject to the supplemental test procedures. The commentator went on to say that the California test fuel used to certify the engines must be the predominate fuel that in-use vehicles employ. The Board believes that these concerns are not valid. The provisions about certification of test fuel have been adopted to ensure that the fuel used during the certification is "not cleaner" than the fuel which is available in the California market, not this Commonwealth market. During certification, if a very clean fuel is used to meet the emission standards, the standards may not be met in reality because that particular clean fuel may not be available on the market. If the Commonwealth performs any type of compliance testing, the Department will obtain California fuel used in the certification process.

This commentator further stated that failure to adopt California fuels appears to be in violation of the identicality requirement under section 177 of the CAA. The Board disagrees. The courts have held that a state's failure to adopt California fuel requirements does not violate section 177 of the CAA requirements that state emission standards be identical to the California standards. *MVMA v. NYSDEC*, 17 F. 3d 521, 523 (2d Cir 1994).

Several commentators believe that this Commonwealth is constrained by section 177 of the CAA from adopting the California regulations before California has obtained a Federal waiver of exemption. The Board disagrees. CARB already has an existing EPA waiver for HDD engines and vehicles. 53 FR 7021 (March 4, 1998). On December 26, 2001, CARB submitted to the EPA a "scope of the waiver request" to confirm that the NTE tests are within the scope of the previously granted waiver of Federal preemption under section 209(b) of the CAA. Moreover, a Federal court has ruled that states may adopt, but not enforce, CARB regulations before the EPA has acted on the waiver request. *MVMA v. NYSDEC*, 17 F. 3d 521, 534 (2d Cir 1994). As a result, the Commonwealth believes that adopting the CARB standards at this time is not precluded under the CAA.

One commentator believed that the proposed rulemaking constitutes new emission standards and not test procedures. The Board disagrees. The supplemental test procedures constitute additional test procedures to the FTPs since the requirement only provides extended methods for testing HDD engines and vehicles. Emission results from the tests are compared to the existing emission standard rather than a new emission standard. The underlying standards are the 2004 standards as set forth in Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8(a). These standards are unchanged by the adoption of the supplemental test procedures as incorporated by reference in Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8(a).

One commentator was concerned that the CARB regulation goes well beyond the supplemental test procedure requirements contained in the CARB settlement agreement and was rushed to completion without adequate technical input and discussion with stakeholders. Under section 177 of the CAA, the Commonwealth can only adopt those standards that have been adopted by California. The Board believes that California's regulation, which incorporates the Federal standards with supplemental test procedures, represents the best way to reduce emissions from new on-highway HDD engines at this time.

Several commentators believed that California has not found that the supplemental test procedures are technologically feasible as required under the CAA. The Board disagrees. Six of the seven settling manufacturers will comply with the NTE test procedures beginning in 2002. From February to June of 2000 CARB participated in a series of meetings with engine manufacturers and with the EPA regarding the supplemental tests. The major concerns raised by the engine manufacturers were extreme operating conditions. If there are feasibility concerns, the deficiency provisions under the California rule may be used for additional lead-time for compliance. Moreover, the Board notes that CARB received over 80 public comments on their supplement test procedure rules. Most comments originated from engine manufacturers or the manufacturers' representatives. Out of that public comment process, manufacturers were granted additional flexibilities by CARB for meeting some of the technical challenges.

One commentator believed that the Board should cooperate with California to adopt standards to include stricter enforcement of standards for urban buses and emergency vehicles, which are exempt under this final-form rulemaking. The Board recognized that urban buses and emergency vehicles are a significant source of diesel exhaust in heavily populated areas, and the Board will work diligently to reduce their emissions. Nevertheless, the Board believes that emission reductions would be insignificant as a result of incorporating urban buses and emergency vehicles into this final-form rulemaking.

A number of commentators believed that effectively limiting excess emissions from HDD vehicles and engines needed to be addressed from a regional or National level. The Board agrees. States, particularly those in the northeast, share a heavy volume of diesel traffic along with persistent elevated summertime ozone levels. Consequently this is one of the main reasons why the Board and other states have promulgated this final-form rulemaking.

A number of commentators believed that diesel exhaust is a large contributor to adverse health effects among members of the population. The Board agrees. Diesel engines produce large amounts of NO<sub>x</sub>, which is a precursor for the formation of ozone. Children, the elderly and individuals with preexisting respiratory problem are most at risk. This final-form regulation will greatly limit NO<sub>x</sub> production from diesel engines.

A number of the commentators share the Commonwealth's concern about persistent air pollution problems like ground level ozone, fine PM, regional haze and acid deposition. The Board agrees. All of the pollutants previously listed contribute to adverse health effects or interfere with the quality of life in some of the most populated areas of this Commonwealth and neighboring states.

#### F. Summary of Regulatory Requirements

This final-form rulemaking establishes the requirements for the implementation of a new HDD Program. A summary of the final-form rulemaking follows.

##### Chapter 121

The final-form amendment to § 121.1 (relating to definitions) includes terms and phrases applicable to the HDD Program. The definitions include "heavy-duty diesel engine" and "heavy-duty diesel vehicle."

The final-form rulemaking also amends the definition of "new motor vehicle or new light-duty vehicle" to include vehicles subject to the requirements of the HDD Program.

##### Chapter 126

The title of Chapter 126 is changed from "standards for motor fuels" to "motor vehicle and fuels programs."

##### Subchapter E. Pennsylvania Heavy-Duty Diesel Emissions Control Program

Subchapter E contains provisions that establish a new HDD Program in this Commonwealth to reduce the emissions of NO<sub>x</sub>, SO<sub>x</sub>, PM and air toxics from HDD engines and vehicles under section 177 of the CAA.

Section 126.501 (relating to purpose) establishes an HDD Program consistent with section 177 of the CAA. It adopts and incorporates by reference certain provisions of the California exhaust emissions standards and test procedures for 1985 and subsequent model year HDD engines and vehicles. It also provides for certain exemptions from the HDD Program.

Section 126.502(a) (relating to general requirements) provides that the Commonwealth's HDD Emission Control Program applies to engines and vehicles with the model year beginning May 11, 2004, with a gross vehicle weight rating (GVWR) greater than 14,000 pounds that are sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received in this Commonwealth.

Section 126.502(b) adopts and incorporates by reference the California Exhaust Emissions Standards and Test Procedures for 1985 and Subsequent Heavy-Duty Engines and Vehicles to the extent that they pertain to the applicable model years for HDD engines and vehicles with a GVWR of greater than 14,000 pounds.

Section 126.502(c) adopts and incorporates by reference the California Enforcement of Vehicle Emission Standards and Surveillance Testing under Title 13 CCR, Division 3, Chapter 2, Article 1.5, § 2065.

Section 126.503 (relating to emission requirements) provides that a person may not sell, import, deliver, purchase, lease, rent, acquire or receive an HDD engine or vehicle starting with the applicable model year that is subject to the HDD Program that has not received a CARB Executive Order for all applicable requirements of Title 13 CCR.

Section 126.503(b) allows manufacturers the option to include any of the HDD engines or vehicles it sells in this Commonwealth to participate in the averaging, banking and trading programs as provided under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8.

Section 126.503(c) allows manufacturers the option to certify any of its HDD engines and vehicles delivered for sale in this Commonwealth to the optional emission standards as provided under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8.

Section 126.503(d) requires that all new heavy-duty engines and vehicles subject to the requirements of this subject chapter shall possess a valid emissions control label which meets the requirements of Title 13 CCR, Division 3, Chapter 1, § 1965.

Section 126.504 (relating to exemptions) provides that the following are exempt from the HDD Program in this Commonwealth: emergency vehicles; an HDD engine or vehicle transferred by a dealer to another dealer; an HDD vehicle transferred for use exclusively off highway; an HDD vehicle granted a National security or testing exemption under section 203(b)(1) of the CAA (42 U.S.C.A. § 7522(b)); an HDD vehicle defined as a military tactical vehicle or engine under Title 13 CCR, Division 3,

Chapter 1, Article 1, § 1905; an HDD vehicle sold after May 11, 2004, if it was registered in this Commonwealth before May 11, 2004; an HDD engine or vehicle for the model years 2005 and 2006 manufactured by an ultra-small volume manufacturer as defined under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1976(f)(2); an urban bus as defined under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.2(b)(4) for model years 2005 and 2006; and an HDD engine that following a technology review, CARB determines it to be inappropriate to require compliance with the emissions standards under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8 for that particular model year.

Section 126.511 (relating to new engine and vehicle certification testing) requires that prior to being offered for sale or lease in this Commonwealth, new HDD engines and vehicles shall be certified as meeting the motor vehicle requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8.

Section 126.512 (relating to new engine and vehicle compliance testing) requires that prior to being offered for sale or lease in this Commonwealth, new HDD engines and vehicles shall be certified as meeting the HDD engine and vehicle requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8 as determined by Title 13 CCR, Division 3, Chapter 2, Article 2, §§ 2101—2110. An additional subsection was added to clarify that all CARB testing determinations apply for compliance testing with subsection (a).

Section 126.513 (relating to assembly line testing) provides that each manufacturer of new HDD engines and vehicles subject to the Commonwealth's HDD Emission Control Program shall conduct assembly line testing in accordance with Title 13 CCR, Division 3, Chapter 2, Article 1. An additional subsection was added to clarify that all CARB testing determinations apply for compliance testing with subsection (a).

Section 126.514 (relating to in-use engine and vehicle enforcement testing) provides that for the purposes of detection and repair of engines and vehicles that fail to meet the emission requirements of the HDD Program, the Department may, after consultation with CARB, conduct in-use vehicle enforcement testing in accordance with the protocol and testing procedures under Title 13 CCR, Division 3, Chapter 2, Article 2.3, §§ 2136—2140.

Section 126.515 (relating to in-use surveillance testing) provides that the Department may conduct in-use surveillance testing after consultation with CARB.

Section 126.521 (relating to warranty and recall) provides that manufacturers of new HDD engines and vehicles shall warrant to the owner that each engine or vehicle complies over its period of warranty coverage with the requirements of Title 13 CCR, Division 3, Chapter 1, Article 6, §§ 2036 and 2039—2041.

Under § 126.521(b), each manufacturer shall submit to the Department failure of emission-related component reports for engines or vehicles subject to the HDD Program.

Under § 126.521(c), any voluntary or influenced emission related recall programs initiated by an HDD engine or vehicle manufacturer shall extend to all new HDD engines or vehicles in this Commonwealth.

Under § 126.521(d), any in-use vehicle ordered recalls under Title 13 CCR, Division 3, Chapter 2, Article 2.2, §§ 2122—2135 shall extend to all new HDD engines and vehicles sold, leased or offered for sale or lease in this Commonwealth.

Section 126.522 (relating to reporting requirements) provides that each manufacturer shall submit annually to the Department a report documenting the total deliveries for sale of HDD engines and vehicles for each engine family of that model year in this Commonwealth.

Under § 126.522(b), each HDD engine and vehicle manufacturer shall submit annually to the Department a report of all of its HDD engines or vehicles delivered for sale that were included in any of the emissions averaging, banking and trading programs for HDD vehicles within the requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1965.

Section 126.531 (relating to responsibilities of heavy-duty diesel highway vehicle dealers) provides that a dealer must convey to the owner of a new HDD engine or vehicle subject to the requirements of this subchapter a valid emission control label which meets the requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1965.

Under § 126.531(b), a dealer may not sell, offer for sale or lease or deliver a new HDD engine or vehicle subject of this subchapter unless the engine or vehicle conforms to the standards and requirements under Title 13 CCR, Division 3, Chapter 2, Article 3, § 2151.

Under § 126.531(c), a dealer who imports, sells, delivers, leases or rents any HDD engines or vehicles subject to this subchapter shall retain records concerning the transaction for at least 3 years following the transaction.

#### G. *Benefits and Costs*

Executive Order 1996-1 requires a cost benefit analysis of the final-form rulemaking.

*Benefits.* The new HDD Program will contribute to the attainment and maintenance of the ozone health-based standard in this Commonwealth due to emission reductions from the operation of lower-emitting HDD vehicles. Modeling data from the Philadelphia area indicates that daily emissions of NO<sub>x</sub> will be reduced by 2 tons per average summer day and 12.5 tons per average summer day Statewide from trucks that are subject to the HDD Program. In addition, it is anticipated that the health of the citizens of this Commonwealth will benefit from these reductions as well as through reduced exposure of air toxics, NO<sub>x</sub> and other air pollutants, which place people's health at risk.

*Compliance Costs.* The primary cost to the trucking industry will be incurred when purchasing a new truck or engine. For those model years affected in 2005, this final-form rulemaking could increase the average cost of an engine, which has a useful life of 15 to 20 years, by as much as \$800 and increase operating costs by up to \$9 per year. Because it is difficult to separate the incremental cost of the supplemental tests from other aspects of complying with Federal and California standards, the actual cost is anticipated to be much lower.

*Compliance Assistance Plan.* Compliance assistance will be provided to affected parties, primarily automobile dealers, by distributing pamphlets and conducting public meetings and workshops to explain the regulatory requirements. The Department will involve appropriate State trade organizations in the distribution of information to their membership. Information concerning the HDD Program will also be provided to affected consumers.

*Paperwork Requirements.* HDD engine and vehicle manufacturers will be required to submit paperwork demonstrating compliance with the emissions standards

and other requirements of the Commonwealth's HDD Program. HDD engine and vehicle dealers, leasing and rental agencies and purchasers of HDD engines and vehicles must demonstrate to the Department that new vehicles subject to the rulemaking meet the emissions standards.

H. *Sunset Review*

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

I. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 26, 2002, the Department submitted a copy of the notice of proposed rulemaking published at 31 Pa.B. 4958 (September 1, 2001), to the Independent Regulatory Review Commission (IRRC) and to 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 this final-form rulemaking, the Department has considered the comments received from IRRC, the Committees and the public. These comments are addressed in the comment and response document and Section E of this Preamble.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on April 15, 2002, this 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 April 19, 2002, and approved the final-form rulemaking.

J. *Finding*

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of the proposal published at 31 Pa.B. 4958.

(4) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble and is reasonably necessary to achieve and maintain the National ambient air quality standards for ozone.

K. *Order*

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

(a) The regulations of the Department, 25 Pa. Code Chapters 121 and 126, are amended by amending §§ 121.1 and by adding §§ 126.501—126.504, 126.511—126.515, 126.521, 126.522 and 126.531 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Chairperson of the Board shall submit this order and Annex A to the Office of General Counsel and

the Office of Attorney General for review and approval as to legality and form, as required by law.

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

(d) The Chairperson 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 immediately upon publication in the *Pennsylvania Bulletin*.

DAVID E. HESS,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 2285 (May 4, 2002).)*

**Fiscal Note:** 7-365. No fiscal impact; (8) recommends adoption. There will be some costs to departments to comply with this regulation. Total estimated cost to comply with the regulation for 2003-04 is \$90,431, for 2004-05 is \$185,941 and for 2005-06 is \$95,554. These costs will be shared by the Department of General Services, Department of Transportation, Turnpike Commission, Fish and Boat Commission and Game Commission.

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE III. AIR RESOURCES**

**CHAPTER 121. GENERAL PROVISIONS**

**§ 121.1. Definitions.**

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*Heavy-duty diesel engine*—A diesel engine that is used to propel a motor vehicle with a GVWR of greater than 14,000 pounds.

*Heavy-duty diesel vehicle*—A diesel-powered motor vehicle with a GVWR of greater than 14,000 pounds.

\* \* \* \* \*

*New motor vehicle or new light-duty vehicle*—A motor vehicle for which the equitable or legal title has never been transferred to the ultimate purchaser. For purposes of the Pennsylvania Clean Vehicles Program and the Pennsylvania Heavy-Duty Diesel Emissions Control Program, the equitable or legal title to a motor vehicle with an odometer reading of 7,500 miles or more shall be considered to be transferred to the ultimate purchaser. If the equitable or legal title to a motor vehicle with an odometer reading is less than 7,500 miles, the vehicle will not be considered to be transferred to the ultimate purchaser.

\* \* \* \* \*

**CHAPTER 126. MOTOR VEHICLE AND FUELS PROGRAMS**

**Subchapter E. PENNSYLVANIA HEAVY-DUTY DIESEL EMISSIONS CONTROL PROGRAM**

**GENERAL PROVISIONS**

- Sec.  
126.501. Purpose.  
126.502. General requirements.  
126.503. Emission requirements.  
126.504. Exemptions.

**APPLICABLE HEAVY-DUTY ENGINE AND VEHICLE TESTING**

- 126.511. New engine and vehicle certification testing.  
126.512. New engine and vehicle compliance testing.  
126.513. Assembly line testing.  
126.514. In-use engine and vehicle enforcement testing.  
126.515. In-use surveillance testing.

**ENGINE AND VEHICLE MANUFACTURERS' OBLIGATIONS**

- 126.521. Warranty and recall.  
126.522. Reporting requirements.

**MOTOR VEHICLE DEALER RESPONSIBILITIES**

- 126.531. Responsibilities of heavy-duty diesel highway vehicle dealers.

**GENERAL PROVISIONS**

**§ 126.501. Purpose.**

(a) This subchapter establishes a heavy-duty diesel emissions control program under section 177 of the Clean Air Act (42 U.S.C.A. § 7507) designed primarily to achieve emission reductions of the precursors of ozone, particulate matter, air toxics and other air pollutants from new heavy-duty diesel engines and vehicles.

(b) This subchapter adopts and incorporates by reference certain provisions of the California Exhaust Emission Standards and Test Procedures for Heavy-Duty Diesel Engines and Vehicles.

(c) This subchapter also exempts certain new heavy-duty diesel engines and vehicles from this new emissions control program.

**§ 126.502. General requirements.**

(a) The Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements apply to new heavy-duty diesel engines and vehicles with a GVWR of greater than 14,000 pounds that are sold, leased, offered for sale or lease, imported, delivered, purchased, rented, acquired or received in this Commonwealth starting with the model year beginning after May 11, 2004, and each model year thereafter.

(b) The California Exhaust Emission Standards and Test Procedures for 1985 and Subsequent Heavy-Duty Engines and Vehicles, Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8 are adopted and incorporated by reference to the extent that they pertain to the requirements for heavy-duty diesel engines and vehicles with a GVWR of greater than 14,000 pounds.

(c) The California Enforcement of Vehicle Emission Standards and Surveillance Testing, Title 13 CCR, Division 3, Chapter 2, Article 1.5, § 2065, are adopted and incorporated by reference.

**§ 126.503. Emission requirements.**

(a) Starting with the model year beginning after May 11, 2004, a person may not sell, import, deliver, purchase, lease, rent, acquire or receive a new heavy-duty diesel engine or vehicle, subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements, in

this Commonwealth that has not received a CARB Executive Order for all applicable requirements of Title 13 CCR, adopted and incorporated by reference.

(b) Starting with the model year beginning after May 11, 2004, a manufacturer may elect to include its heavy-duty diesel engines or vehicles delivered for sale in this Commonwealth in the emissions averaging, banking and trading programs for heavy-duty diesel engines or vehicles as provided under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8, adopted and incorporated by reference.

(c) Starting with the model year beginning after May 11, 2004, a manufacturer may elect to certify any of its heavy-duty diesel engines or vehicles delivered for sale in this Commonwealth to the optional emission standards as provided under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8, adopted and incorporated by reference.

(d) New heavy-duty diesel engines and vehicles subject to this subchapter shall possess a valid emissions control label that meets the requirements of Title 13 CCR, Division 3, Chapter 1, § 1965, adopted and incorporated by reference.

**§ 126.504. Exemptions.**

The following new heavy duty diesel engines and vehicles are exempt from the Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements of this subchapter:

- (1) Emergency vehicles.
- (2) A heavy-duty diesel vehicle transferred by a dealer to another dealer.
- (3) A heavy-duty diesel vehicle transferred for use exclusively off-highway.
- (4) A heavy-duty diesel vehicle granted a National security or testing exemption under section 203(b)(1) of the Clean Air Act (42 U.S.C.A. § 7522(b)(1)).
- (5) A heavy-duty diesel vehicle defined as a military tactical vehicle or engine under Title 13 CCR, Division 3, Chapter 1, Article 1, § 1905, adopted and incorporated by reference.
- (6) A heavy-duty diesel vehicle sold after May 11, 2004, if the vehicle was registered in this Commonwealth before May 11, 2004.
- (7) A heavy-duty diesel engine or vehicle for the model years 2005 and 2006 manufactured by an ultra-small volume manufacturer as defined under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1976(f)(2), adopted and incorporated by reference.
- (8) For model years 2005 and 2006, an urban bus as defined under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.2(b)(4), adopted and incorporated by reference.
- (9) A heavy-duty diesel engine or vehicle that, following a technology review, CARB determines is inappropriate to require compliance with the emission standards and other requirements under Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8 for a particular model year.

**APPLICABLE HEAVY-DUTY ENGINE AND VEHICLE TESTING**

**§ 126.511. New engine and vehicle certification testing.**

(a) Prior to being offered for sale or lease in this Commonwealth, new heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel

Emissions Control Program requirements of this subchapter shall be certified as meeting the heavy-duty diesel engine and vehicle requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8 as determined by Title 13 CCR, Division 3, Chapter 2, Article 2, §§ 2101—2110, adopted and incorporated by reference.

(b) For purposes of complying with subsection (a), new vehicle certification testing determinations and findings made by CARB apply.

**§ 126.512. New engine and vehicle compliance testing.**

(a) Prior to being offered for sale or lease in this Commonwealth, new heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements of this subchapter shall be certified as meeting the heavy-duty diesel engine and vehicle requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8 as determined by Title 13 CCR, Division 3, Chapter 2, Article 2, §§ 2101—2110, adopted and incorporated by reference.

(b) For purposes of compliance with subsection (a), new engine and vehicle compliance testing determinations and findings made by CARB apply.

**§ 126.513. Assembly line testing.**

(a) Each manufacturer of new heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emission Control Program requirements of this subchapter, certified by CARB and sold or leased in this Commonwealth, shall conduct assembly line testing in accordance with Title 13 CCR, Division 3, Chapter 2, Article 1, adopted and incorporated by reference.

(b) For purposes of compliance with subsection (a), assembly line testing determinations and findings made by CARB apply.

**§ 126.514. In-use engine and vehicle enforcement testing.**

(a) For the purposes of detection and repair of engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program requirements which fail to meet the emission requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8, the Department may, after consultation with CARB, conduct in-use vehicle enforcement testing in accordance with the protocol and testing procedures in Title 13 CCR, Division 3, Chapter 2, Article 2.3, §§ 2136—2140, adopted and incorporated by reference.

(b) For purposes of compliance with subsection (a), in-use engine and vehicle enforcement testing determinations and findings made by CARB apply.

**§ 126.515. In-use surveillance testing.**

(a) For the purposes of testing and monitoring, the overall effectiveness of the Pennsylvania Heavy-Duty Diesel Emissions Control Program in controlling emissions, the Department may conduct in-use surveillance testing after consultation with CARB, in accordance with Title 13 CCR, Division 3, Chapter 2, Article 3, §§ 2150—2153, adopted and incorporated by reference.

(b) For purposes of program planning, in-use surveillance testing determinations and findings made by CARB apply.

**ENGINE AND VEHICLE MANUFACTURERS' OBLIGATIONS**

**§ 126.521. Warranty and recall.**

(a) A manufacturer of new heavy-duty diesel engines or vehicles subject to the Pennsylvania Heavy-Duty Diesel

Emissions Control Program requirements of this subchapter which are sold, leased, or offered for sale or lease in this Commonwealth shall warrant to the owner that each engine or vehicle shall comply over its period of warranty coverage with the requirements of Title 13 CCR, Division 3, Chapter 1, Article 6, §§ 2036, 2039—2041 and 2046, adopted and incorporated by reference.

(b) Each manufacturer of new heavy-duty diesel engines or vehicles shall submit to the Department failure of emission-related components reports, as defined in Title 13 CCR, Division 3, Chapter 2, Article 2.4, § 2144, adopted and incorporated by reference, for engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program in compliance with the procedures in Title 13 CCR, Division 3, Chapter 2, Article 2.4, §§ 2141—2149, adopted and incorporated by reference.

(c) For heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emissions Control Program, a voluntary or influenced emission-related recall campaign initiated by any heavy-duty diesel engine or vehicle manufacturer under Title 13 CCR, Division 3, Chapter 2, Article 2.1, §§ 2111—2121, adopted and incorporated by reference, shall extend to all new heavy-duty diesel engines or vehicles sold, leased or offered for sale or lease in this Commonwealth.

(d) For heavy-duty diesel engines and vehicles subject to the Pennsylvania Heavy-Duty Diesel Emission Control Program, an in-use vehicle ordered recall under Title 13 CCR, Division 3, Chapter 2, Article 2.2, §§ 2122—2135, adopted and incorporated by reference, shall extend to all new heavy-duty diesel engines or vehicles sold, leased or offered for sale or lease in this Commonwealth.

**§ 126.522. Reporting requirements.**

(a) For the purposes of determining compliance with the Pennsylvania Heavy-Duty Diesel Emissions Control Program, commencing with the model year beginning after May 11, 2004, each manufacturer shall submit annually to the Department, within 60 days of the end of each model year, a report documenting the total deliveries for sale of engines and vehicles for each engine family over that model year in this Commonwealth.

(b) For the purposes of determining compliance with the Pennsylvania Heavy-Duty Diesel Emissions Control Program, each heavy-duty diesel engine and vehicle manufacturer shall submit annually to the Department, by March 1 of the calendar year following the close of the completed calendar year, a report of its heavy-duty diesel engines and vehicles delivered for sale in this Commonwealth that were included in the emissions averaging, banking and trading programs for heavy-duty diesel engines and vehicles within the provisions of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1956.8.

**MOTOR VEHICLE DEALER RESPONSIBILITIES**

**§ 126.531. Responsibilities of heavy-duty diesel highway vehicle dealers.**

(a) A dealer may not sell, offer for sale or lease, or deliver a new heavy-duty diesel engine or vehicle subject to this subchapter without a valid emissions control label which meets the requirements of Title 13 CCR, Division 3, Chapter 1, Article 2, § 1965, adopted and incorporated by reference.

(b) A dealer may not sell, offer for sale or lease, or deliver a new heavy-duty diesel engine or vehicle subject to this subchapter unless the engine or vehicle conforms to the standards and requirements under Title 13 CCR, Division 3, Chapter 2, Article 3, § 2151, adopted and incorporated by reference.

(c) A dealer who imports, sells, delivers, leases or rents an engine or vehicle subject to this subchapter shall retain records concerning the transaction for at least 3 years following the transaction.

[Pa.B. Doc. No. 02-844. Filed for public inspection May 10, 2002, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF AGRICULTURE

### Continuation of the Pennsylvania Apple Marketing Program

Under the applicable provisions of the Agricultural Commodities Marketing Act, a review referendum was held from April 1, 2002, to April 15, 2002, to determine if the producers affected by the Pennsylvania Apple Marketing Program (program) desired to continue the program for an additional 5 years. To pass, a majority of eligible producers voting had to vote in favor of the program's continuation. An impartial Teller Committee met on April 25, 2002, to count the ballots. The following results were submitted to me by the Teller Committee: a total of 181 eligible votes were cast with 105 producers voting in favor of and 76 voting against the continuation of the program. Votes favoring continuation of the program by number of producers represented 58% of eligible votes and votes against continuation of the program represented 42% of eligible votes. There were two ineligible ballots due to postmarks dated after the designated voting deadline. Because a majority of the votes were cast in favor of the program, the program shall continue for 5 years, effective immediately.

SAMUEL E. HAYES, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-845. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Interstate/International Quarantine Order

*Whereas*, avian influenza is an infectious disease of poultry;

*Whereas*, avian influenza is designated a "Dangerous Transmissible Disease" of animals under the provisions of the Domestic Animal Law (3 Pa.C.S.A. §§ 2301—2389), at 3 Pa.C.S.A. § 2321(d);

*Whereas*, the Pennsylvania Department of Agriculture ("PDA") has broad authority under the Domestic Animal Law to regulate the keeping and handling of domestic animals in order to exclude, contain or eliminate dangerous transmissible diseases;

*Whereas*, avian influenza has caused significant loss in the past to the Pennsylvania poultry industry;

*Whereas*, avian influenza is of particular concern to the entire Pennsylvania poultry industry and may severely limit the market for Pennsylvania product;

*Whereas*, avian influenza, H7N2, currently exists in a mildly virulent form (low or mildly pathogenic) in commercial poultry in Virginia, North Carolina and in the live bird marketing system in the Northeastern United States;

*Whereas*, avian influenza sub-types H5 and H7 are of particular concern due to their potential for developing into a virulent (highly pathogenic) form of disease;

*Whereas*, the strains of avian influenza that are of concern (H5 and H7) are not known to exist in the Commonwealth;

*Whereas*, the Domestic Animal Law allows (at 3 Pa.C.S.A. § 2329(c)) for the establishment of an Interstate/International Quarantine under the circumstances described above;

*Now, therefore*, the Pennsylvania Department of Agriculture, pursuant to the authority granted it under the Domestic Animal Law and § 1702 of the Administrative Code of 1929 (71 P. S. § 442), orders the establishment of an interstate/international quarantine with respect to the shipment of live poultry and hatching eggs into the Commonwealth. The quarantine restrictions are as follows:

1. Poultry and hatching eggs shall only be allowed into the Commonwealth under either of the following circumstances:

a. The poultry and hatching eggs originate from a flock that participates in the National Poultry Improvement Plan "U.S. Avian Influenza Clean" program and the shipment is accompanied by a USDA form 9-3 or other NPIP form; or,

b. The poultry and hatching eggs originate from a flock that participates in a state sponsored avian influenza monitoring program and the shipment is accompanied by a document from the state of origin indicating participation; or,

c. The poultry and hatching eggs originate from a flock in which a minimum of twenty birds, four weeks of age, or older, were tested serologically negative for avian influenza within ten days of shipment and the shipment is accompanied by the test report; or,

d. The poultry and hatching eggs originate from a flock that participates in an equivalent testing/surveillance program, as approved by the Pennsylvania State Veterinarian.

2. Poultry and hatching eggs from flocks that are serologically positive shall not be imported unless the flock is determined to be free of virus by virtue of a negative virus isolation test of tracheal and/or cloacal specimens from a minimum of 150 birds.

3. Poultry and hatching eggs imported into the Commonwealth shall meet all other import requirements required under Title 7, PA Code.

4. This Order shall not be construed as limiting PDA's authority to establish additional quarantine or testing requirements on imported poultry and hatching eggs.

5. This Order is effective April 29, 2002.

SAMUEL E. HAYES, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-846. Filed for public inspection May 10, 2002, 9:00 a.m.]



# DEPARTMENT OF BANKING

## Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending April 30, 2002.

### BANKING INSTITUTIONS

#### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
4-29-02	Berkshire Financial Holdings, Inc., Collegeville, to acquire 100% of voting shares of USABancShares.com, Inc., Philadelphia	Collegeville	Filed

#### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-22-02	Community Banks Millersburg Dauphin County	2685 S. Queen St. York York County	Opened
4-29-02	First Susquehanna Bank & Trust Sunbury Northumberland County	24 North Cedar St. Lititz Lancaster County	Filed
4-30-02	Northside Bank Pittsburgh Allegheny County	1112 Freeport Rd. O'Hara Township Allegheny County	Approved
4-30-02	The Fidelity Deposit and Discount Bank Dunmore Lackawanna County	511 Scranton— Carbondale Highway Eynon Lackawanna County	Approved

### SAVINGS INSTITUTIONS

No activity.

### CREDIT UNIONS

No activity.

JAMES B. KAUFFMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-847. Filed for public inspection May 10, 2002, 9:00 a.m.]

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### Weatherization Assistance Program Meetings

The Department of Community and Economic Development (DCED) hereby publishes notice of a public hearing to be held at 10 a.m. on Thursday, May 30, 2002, in Room H-East, 4th Floor, Commonwealth Keystone Building, 400

North Street, Harrisburg, PA. The purpose of this hearing is to receive comments on the Weatherization Assistance Program's proposed State Plan to be submitted to the United States Department of Energy for the program year 2002-2003.

A copy of this plan may be obtained by contacting the Department of Community and Economic Development, Office of Community Services, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120, (717) 787-1984. A copy may also be obtained at the following DCED Regional Offices:

DCED  
Central Regional Office  
4th Floor, Comm. Keystone  
Building  
400 North Street  
Harrisburg, PA 17120  
(717) 787-1984

DCED  
Southwest Regional Office  
1405 State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222  
(412) 565-5002

DCED  
Southeast Regional Office  
908 State Office Building  
Broad and Spring Garden  
Streets  
Philadelphia, PA 19130  
(215) 560-2256

DCED  
Northeast Regional Office  
201 Samters Building  
101 Penn Avenue  
Scranton, PA 18503-2025  
(717) 963-4571

DCED  
Northwest Regional Office  
Rothrock Building  
1200 Lovell Place  
Erie, PA 16503  
(814) 871-4241

Written comments may be submitted to Dennis Darling, Director, Office of Community Services, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120 until 5 p.m. on May 30, 2002.

Persons with a disability who wishes to attend this hearing and require auxiliary aid, service or other accommodations to participate in the proceedings should contact Dennis Darling at (717) 787-1984 to discuss how the DCED may accommodate their needs. Alternative formats

of the document (such as large print or cassette tape) can be made available to the public upon request.

SAMUEL A. MCCULLOUGH,  
*Secretary*

[Pa.B. Doc. No. 02-848. Filed for public inspection May 10, 2002, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, May 22, 2002, at 10 a.m. in the 2nd Floor Training Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf at (717) 705-0031. Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Claire Guisewite at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN C. OLIVER,  
*Secretary*

[Pa.B. Doc. No. 02-849. Filed for public inspection May 10, 2002, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

#### NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

#### NPDES APPLICATIONS

#### PART I PERMITS

Under the Federal Clean Water Act and The Clean Streams Law, the following parties have applied for an NPDES permit or to renew their current permit to discharge controlled wastewaters into the waters of this Commonwealth or to conduct other activities required by the NPDES permit. For renewal applications listed 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 all new permit applications, renewal application with major changes or applications for permits not waived by the EPA, the Department, based upon preliminary reviews, also made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications listed in Section II. 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 this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement, to the office noted before the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. The 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. A public hearing may be held if the responsible office considers the public response significant. Following the comment period, the Department's Water Management Program

Manager will make a final determination regarding these applications. 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 renewal application, including proposed effluent limitations and special conditions, is available on file. For new permit applications, information submitted with the applications is available on file. The information may be inspected and arrangements made for copying at the office indicated before the application.

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

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

NPDES No. (Type)	Facility Name & Address	County & Municipality	Stream Name (Watershed #)	EPA Waived Y/N ?
PA0042943	Owen J. Roberts School District 901 Ridge Road Pottstown, PA 19465	Chester County East Coventry Township	UNT to Schuylkill River	Y

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

**PA0222089**, Sewage, **Dale Littlefield**, Box 247, Route 346, Duke Center, PA 16729. This existing facility is located in Otto Township, **McKean County**.

Description of Proposed Activity: renewal of an NPDES permit for an existing discharge.

The receiving stream, Tram Hollow Run (57545), is in watershed 16-C and classified for: CWF, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Allegheny River and is used by the State of New York which is 13.1 miles below point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.000800 MGD.

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	10		20
Total Suspended Solids	20		40
Fecal Coliform (all year)		200/100 ml as a geometric average	
Total Residual Chlorine	0.5		1.2
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

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

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**No. PA0026298**, Sewage, **Whitemarsh Township Authority**, 616 Germantown Pike, Lafayette Hill, PA 19444-1821. This application is for renewal of an NPDES permit to discharge treated sewage from sewage treatment plant in Whitemarsh Township, **Montgomery County**. This is existing discharge to Schuylkill River.

The receiving stream is classified for the following uses: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 2.0 MGD are as follows:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	25	38	50
Suspended Solids	30	45	60
Ammonia (as N)	20	30	40
Nitrate and Nitrate (as N) (7-1 to 10-31)			
Phosphorus (as P)			
Total Residual Chlorine	0.5		1.2
Fecal Coliform		200 colonies/100 ml as a geometric average	
Dissolved Oxygen		minimum of 5.0 mg/l at all times	
pH		Within limits of 6.0—9.0 Standard Units at all times	

The EPA is not in effect.

**No. PA0026794 A1**, Sewage, **Conshohocken Borough Authority**, 601 East Elm Street, Conshohocken, PA 19428. This application is for amendment of an NPDES permit to discharge treated sewage from Conshohocken Borough Authority STP in Conshohocken Borough, **Montgomery County**. This is an existing discharge to Schuylkill River.

The receiving stream is classified for the following uses: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 2.3 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
Ammonia (as N) (5-1 to 10-31)	8		16
(11-1 to 4-30)	20		40
Total Residual Chlorine	0.5		1.6
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	Monitor only		
pH	Within limits of 6.0—9.0 Standard Units at all times		
Copper, Total	Monitor/Report		
Lead, Total	Monitor/Report		
Zinc, total	Monitor Report		

Other Conditions:

The EPA Waiver is not in effect.

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

**PA-0062219**, Sewage, **Frackville Area Municipal Authority**, 41 North Lehigh Avenue, Frackville, PA 17931. This proposed facility is located in Butler Township, **Schuylkill County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage from their existing treatment plant. The receiving stream, Little Mahanoy Creek, is in the State Water Plan watershed #6B and is classified for: aquatic life, CWF, water supply and recreation. The nearest downstream public water supply intake for Ashland Borough is located on Ashland Reservoir is 1 mile below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 1.4 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD <sub>5</sub>	10.0	15.0	20.0
Total Suspended Solids	30.0	45.0	60.0
NH <sub>3</sub> -N (5-1 to 10-31)	2.5	3.5	5.0
(11-1 to 4-30)	7.5	11.0	15.0
Phosphorus as "P"	1.0	1.5	2.0
Dissolved Oxygen	A minimum of 6.0 mg/l at all times		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times		
NO <sub>2</sub> plus NO <sub>3</sub> -N	11.0	16.0	22.0

The EPA wavier is not in effect.

**PA# 0052850**, Sewage, **Stockertown Borough**, P. O. Box 174, 209 Main Street, Stockertown, PA 18083. This proposed facility is located in Stockertown Borough, **Northampton County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage from their existing treatment plant.

The receiving stream, Little Bushkill Creek, is in the State Water Plan watershed #1F and is classified for: HQ-CWF. The nearest downstream public water supply intake for Neshaminy Water Resources Authority is located in Delaware is approximately 40 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .0865.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD <sub>5</sub> (5-1 to 10-31)	20	30	40
(11-1 to 4-30)	25	37.5	50
Total Suspended Solids	30	45	60

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Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Maximum Daily (mg/l)
NH <sub>3</sub> -N (5-1 to 10-31)	3		6
(11-1 to 4-30)	9		18
Phosphorus as "P"	2		4
Dissolved Oxygen	A minimum of 4 mg/l at all times		
Fecal Coliform	200/100 ml as a geometric mean		
pH	6.0 to 9.0 standard units at all times		

**PA-0036463**, Sewage, **OMNOVA Solutions, Inc.**, 175 Gheat Road, Fairlawn, OH 44373. This proposed facility is located in West Brunswick Township, **Schuylkill County**.

Description of Proposed Activity: Renewal of NPDES Permit to discharge treated sewage and noncontact cooling water from their existing treatment plant.

The receiving stream, wet weather channel to the Schuylkill River, is in the State Water Plan watershed #3A and is classified for CWF. The nearest downstream public water supply intake for Pottstown Water Authority is located on Schuylkill River is approximately 40 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .018 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily
pH	6 to 9 Standard Units			
Dissolved Oxygen	Minimum of 2 mg/l at all times			
Oil and Grease			15	30

*Internal Monitoring Point 101*

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily
CBOD <sub>5</sub>			25	50
TSS			30	60
Fecal Coliform (5-1 to 9-30)			200/100 ml	Geometric Avg.
(10-1 to 4-30)			2,000/100 ml	Geometric Avg.
pH	6 to 9 Standard Units			
TRC			1.2	2.8

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

**PA 0088943**, CAFO, **Hostetter Management Company, LLC**, P. O. Box 526, Ephrata, PA 17522; **James Eisenhour Jr.**, 721 Spring Valley Road, Wellsville, PA 17365; and **Terry Sweitzer**, 120 Harbold-Atland Road, Wellsville, PA 17365. Hostetter Management Company, LLC, James Eisenhour Jr. and Jerry Sweitzer have submitted an application for an Individual NPDES permit for an existing CAFO known as Cedar Hill Farm.

The CAFO is situated near Wolf Run in Watershed 7-F, which is classified for WWF. The CAFO is designed to maintain an animal population of approximately 1,435 AEU's consisting of 3,650 swine (total for sows, grower pigs and nursery pigs), 550 beef steers, 100 beef cows and calves and 60,000 chickens. The swine, beef and poultry operations are separate and each has its own manure storage facilities. At the swine operation, manure is stored in a 819,000-gallon circular concrete tank and in a 150' x 150' x 7' deep concrete pit beneath the nursery barn. Dry manure from the poultry operation is composted and then spread on fields. Solid manure from the beef operation is scraped and hauled to fields, with some manure runoff is collected in an underground storage tank. All manure from the operations is land-

applied in accordance with an approved Nutrient Management Plan.

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

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Individuals may make an appointment to review the files by calling the File Review Coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

Following the 30-day comment period, the Water Management Program Manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin*

at which time the determination may be appealed to the Environmental Hearing Board.

**PA 0246662**, CAFO, **Burkholder Reality (Reinholds Farm)**, 1440 Division Highway, Ephrata, PA 17522-8832. Leon Burkholder has submitted an application for an Individual NPDES permit for an existing CAFO known as Reinholds Farm, 1375 West Route 897, Reinholds, PA 17569 in West Cocalico Township, **Lancaster County**.

The CAFO is situated near an unnamed tributary to Cocalico Creek in Watershed 7-J, which is classified for HQ-WWF. The CAFO is designed to maintain an animal population of approximately 985 AEU's consisting of 8,000 finishing swine. The animals will be housed in four finishing swine barns. Manure is stored in an HDPE-lined lagoon. The total capacity of the manure storage facilities is 3,148,000 gallons. A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

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

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Individuals may make an appointment to review the files by calling the File Review Coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

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

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

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

**PAS604801**, Industrial Stormwater SIC 5015, **Abramson Auto Wrecking**, 3149 Nittany Valley Drive, Howard, PA 16841. This existing facility is located in Walker Township, **Centre County**.

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*Outfall 001: existing discharge, design flow of 3.0 mgd.*

Parameter	Average Monthly	Concentration (mg/l)		Instantaneous Maximum
		Average Weekly	Maximum Daily	
CBOD <sub>5</sub>	25	38		50
Suspended Solids	30	45		60

Description of Proposed Activity: This proposed action is for issuance of a NPDES permit for an existing discharge of industrial stormwater.

The receiving stream, Little Fishing Creek, is in the State Water Plan watershed 9-C and is classified for: HQ-CWF. The nearest downstream public water supply intake for the Pennsylvania-American Water Company is located on the West Branch Susquehanna River at Milton.

The proposed effluent limits are based on Best Management Practices (BMPs).

**PAS224801**, Industrial Stormwater SIC 2421, **Patterson Lumber Co., Inc.**, P. O. Box 57, Wellsboro, PA 16901. This existing facility is located in West Branch Township, **Potter County**.

Description of Proposed Activity: This proposed action is for issuance of a NPDES permit for an existing discharge of industrial stormwater.

The receiving stream, West Branch Pine Creek, is in the State Water Plan watershed 9-A and is classified for: HQ-CWF. The nearest downstream public water supply intake for the Pennsylvania-American Water Company is located on the West Branch Susquehanna River at Milton.

The proposed effluent limits are based on BMPs.

**PAS204801**, Industrial Stormwater SIC 3399, **GKN Sinter Metals, Inc.**, R. R. 2 Box 47, Emporium, PA 15834. This existing facility is located in Emporium Borough, **Cameron County**.

Description of Proposed Activity: This proposed action is for issuance of a NPDES permit for an existing discharge of industrial stormwater.

The receiving stream, West Creek, is in the State Water Plan watershed 8-A and is classified for: HQ-CWF. The nearest downstream public water supply intake for the Pennsylvania-American Water Company is located on the West Branch Susquehanna River at Milton.

The proposed effluent limits are based on BMPs.

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

**PA0026891**, Sewage, **Authority of the Borough of Charleroi**, 325-327 McKean Avenue, Box 211, Charleroi, PA 15022. This application is for renewal of an NPDES permit to discharge treated sewage from Charleroi Sewage Treatment Plant in Charleroi Borough, **Washington County**.

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

Parameter	Average Monthly	Concentration (mg/l)		Instantaneous Maximum
		Average Weekly	Maximum Daily	
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	20,000 as a geometric mean			
Total Residual Chlorine	.5			1.6
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: Outfalls 002—013 will serve as combined sewer overflows.

The EPA waiver is not in effect.

**PA0205681**, Sewage, **Somerset Township Municipal Authority**, 2209 North Center Avenue, P. O. Box 247, Somerset, PA 15501-0247. This application is for renewal of an NPDES permit to discharge treated sewage from Somerset Correctional Facility Sewage Treatment Plant in Black Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Laurel 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 Ohiopyle Municipal Wastewater Authority located on the Youghiogheny River.

*Outfall 001*: existing discharge, design flow of 0.42 mgd.

Parameter	Average Monthly	Concentration (mg/l)		Instantaneous Maximum
		Average Weekly	Maximum Daily	
CBOD <sub>5</sub>	10	15		20
Suspended Solids	10	25		20
Ammonia Nitrogen (5-1 to 10-31)	1.9	2.9		3.8
(11-1 to 4-30)	2.8	4.2		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	0.06			0.18
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA0238694**, Sewage, **Christopher N. Miller, Miller Subdivision**, 12536 East Lake Road, North East, PA 16428. This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Activity: discharge of treated sewage from a five-unit subdivision.

The receiving stream, unnamed tributary of Lake Erie, is in Lake Erie watershed and classified for: CWF, MF. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>—NO<sub>3</sub>, fluoride and phenolics, there is no downstream public water supply affected by this discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.002 MGD.

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	10		20
Total Suspended Solids	20		40
Phosphorus	1.0		
Total Residual Chlorine	1.4		3.3
Fecal Coliform	200/100 ml as a geometric average		
pH	6.0 to 9.0 standard units at all times		

The EPA Waiver is in effect.

**PA0238775**, Sewage, **Rob Kurczewski**, 2142 North Manor Drive, Erie, PA 16505. This proposed facility is located at 8140 Old French Road, Summit Township, **Erie County**.

Description of Proposed Activity: This is a new discharge of treated sewage from a single residence, sewage treatment plant using a boiler-slag sand filter and ultraviolet disinfection.

The receiving stream, unnamed tributary of Walnut Creek, is in Walnut Creek watershed and classified for: CWF, MF. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>—NO<sub>3</sub>, fluoride and phenolics, there is no existing/proposed downstream potable water supply (stream and public water supplier) to consider until Lake Erie.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0005 MGD.

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	10		20
Total Suspended Solids	20		40
Fecal Coliform		200/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

**WATER QUALITY MANAGEMENT  
PERMITS  
CONTROLLED INDUSTRIAL WASTE AND SEWAGE  
WASTEWATER  
APPLICATIONS UNDER THE CLEAN STREAMS  
LAW  
PART II PERMITS**

The following permit applications or requests for plan approval have been received by the Department of Environmental Protection (Department).

Persons wishing to comment on any of the applications are invited to submit a statement to the office noted before the application within 15 days from the date of this public notice. Comments received within this 15-day comment period will be considered in making the final decision regarding the application. The 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 reserves the right to hold a public hearing 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 of the area. If no hearing is held, the Department's Water Management Program Manager will make a final determination regarding the applications after a complete review. 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.

A copy of the permit application or proposed plan is on file in the office indicated and is open to public inspection. Appointments to review the application may be made by contacting Records Management at the indicated telephone number.

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

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

**WQM Permit No. 4802403, Palmer Township Municipal Sewer Authority**, 3 Weller Place, Palmer, PA 18043. This proposed facility is located in Palmer and Bethlehem Townships, **Northampton County**.

Description of Proposed Action/Activity: This project consists of the construction of a sewer extension to serve 45 existing homes on Ridgewood Road, North Fulton Ave. and Green Pond Road in Palmer Township. The 45 homes in Palmer Township are presently served by individual onlot sewage disposal systems. The project, which involves the construction of approximately 9,200 feet of

8-inch diameter sewer main in Palmer and Bethlehem Townships, will also eliminate the Palmer Township Municipal Authority's (PTMA) Ridgewood Road pumping station, which currently serves 36 existing homes. In addition, the sewers to be constructed will pass by 12 existing homes and a church in Bethlehem Township that currently have onlot septic systems. Wastewater will be conveyed to the Easton Area Joint Sewer Authority wastewater treatment plant via the PTMA North Intercepting Sewer, the Forks Township Municipal Sewer Authority's Bushkill Creek Interceptor and downstream wastewater conveyance facilities in the City of Easton.

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

**WQM Permit No. 0802401**, Sewerage SIC 4952, **Valley Joint Sewer Authority**, One South River Street, Athens, PA 18810-1701. This proposed facility is located in Athens Borough, **Bradford County**.

Description of Proposed Action/Activity: Renovation of sewage plant, application received on March 25, 2002.

**WQM Permit No. 4102403**, Sewerage SIC 4952, **Jeanette L. Fraser**, 901 Harvey Road, Williamsport, PA 17701. This proposed facility is located in Eldred Township, **Lycoming County**.

Description of Proposed Action/Activity: Construction and operation of residential sewage treatment plant, application received on April 3, 2002.

**WQM Permit No. 5902403**, Sewerage SIC 4952, **Blossburg Municipal Authority**, 245 Main Street, Blossburg, PA 16912. This proposed facility is located in Blossburg Borough, **Tioga County**.

Description of Proposed Action/Activity: Renovation of sewage plant, application received on February 22, 2002.

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

**Application No 0202406**, Industrial Waste, **Duke Energy North America LLC**, 5400 Westheimer Court, Houston, TX 77056. Application for the construction and operation of a Wastewater Treatment Plant to serve the Fayette County Area located in German Township, **Fayette County**.

**Application No. 0202406**, Sewerage, **Ross Township, Municipal Building**, 5325 Perrysville Avenue, Pittsburgh, PA 15225. Application for the replacement and operation of a Sanitary Sewer System to serve the Ross Township, Borough of Bellevue and City of Pittsburgh located in Ross Township, **Allegheny County**.

**Application No. 3202401**, Sewerage, **Burrell Township Sewer Authority**, 4345 Park Drive, Black lick, PA 15716. Application for the construction and operation of a pump station and sanitary sewer system to serve 95 existing and/or proposed single family dwellings located in Burrell Township, **Indiana County**.



**Application No. 566S051-A1, Sewerage, Borough of Patton, P. O. Box 175, Patton, PA 16668.** Application for the modification and operation of the Patton Borough Sewage Treatment Plant to serve the Patton Borough area located in Patton Borough, **Cambria County.**

**NPDES Stormwater Individual Permit**

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit conditions. These proposed determinations are tentative. Limitations are provided as erosion and sediment control best management practices which restrict the rate and quantity of sediment discharged.

Where indicated, the EPA Region III Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.24(d).

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office noted before the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations

regarding this application. Responses 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 relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate Department Regional Office during the 30-day public comment period.

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

The application and related documents, including the erosion and sediment control plan for the earth disturbance activity, are on file and may be inspected at the office identified in this notice.

Persons with a disability that require an auxiliary aid, service or other accommodation to participate during the 30-day public comment period should contact the specified Regional Office. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

*Wayne County Conservation District: Ag Service Center, 470 Sunrise Ave., Honesdale, PA 18431, (570) 253-0930.*

<i>NPDES No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS107421-1	Waymart Wind Farm, LP 405 14th St. Oakland, CA 94612	Canaan and Clinton Townships Wayne County Carbondale Township Lackawanna County	Middle Creek HQ-CWF, MF

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

*Lawrence Conservation District: Lawrence County Government Center, 430 Court Street, New Castle, PA 16101, (724) 652-4512.*

<i>NPDES No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS103714	Department of Environmental Protection Bureau of Abandon Mine Reclamation Cambria Office 286 Industrial Park Ebensburg, PA 15931	Lawrence County New Beaver Borough	North Fork Little Beaver Creek (HQ)

**PUBLIC WATER SUPPLY (PWS) PERMIT**

Under the Pennsylvania Safe Drinking Water Act, the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on the 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 this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Comment responses 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. 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 available for public review. Arrangements for inspection

and copying information should be made with the office listed before the application.

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

### SAFE DRINKING WATER

#### Applications List Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

*Southeast Region: Water Supply Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

##### Permit No. 0903503, Public Water Supply.

Applicant	<b>Pennsylvania-American Water Company</b>
Township	Lower Makefield
Responsible Official	Steven J. Seidl 800 W. Hersheypark Drive Hershey, PA 17033
Type of Facility	PWS
Consulting Engineer	American Water Works Service Company, Inc. 1025 Laurel Oak Road Voorhees, NJ 08043
Application Received Date	April 25, 2002
Description of Action	Installation of anionic polymer feed systems for use during periods of high raw water turbidity at the Mill Road Treatment Plant.

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

##### Permit No. 6602501, Public Water Supply.

Applicant	<b>Westgate Water &amp; Sewer Municipal Authority</b>
Township or Borough	Washington Township, <b>Wyoming County</b>
Responsible Official	Edward Coleman, Chairperson Westgate Water & Sewer Municipal Authority 184 Keiserville Road Tunkhannock, PA 18677
Type of Facility	PWS
Consulting Engineer	Paul B. Milnes, P.E. Milnes Engineering, Inc. 12 Frear Hill Road Tunkhannock, PA 18657
Application Received Date	January 18, 2002
Description of Action	Upgrade existing water supply, storage, treatment and distribution facilities.

##### Permit No. 4802501, Public Water Supply.

Applicant	<b>East Allen Township Municipal Authority</b>
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Township or Borough	East Allen Township <b>Northampton County</b>
Responsible Official	Dr. Scott Cericola East Allen Township Municipal Authority 5340 Nor-Bath Blvd. Northampton, PA 18607
Type of Facility	PWS
Consulting Engineer	Ronald B. Madison Hanover Engineering Assoc., Inc. 252 Brodhead Road, Suite 100 Bethlehem, PA 18017
Application Received Date	January 8, 2002
Description of Action	Construction of a replacement well and a main line to connect to existing distribution system.

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

##### Permit No. 0602502, Public Water Supply.

Applicant	<b>Tulpehocken Area School District—Bethel Elementary School</b>
Municipality	Bernville Borough
County	<b>Berks</b>
Responsible Official	Dr. Augie Grant, Superintendent 428 New Schaefferstown Road Bernville, PA 19506 8939
Type of Facility	PWS
Consulting Engineer	Thomas E. Roberts, P.E. Spotts Stevens & McCoy Inc. 345 North Wyomissing Boulevard Reading, PA 19610-0307
Application Received Date	April 1, 2002
Description of Action	Addition of soda ash and ortho/polyphosphate for corrosion control.

##### Permit No. 0102504, Public Water Supply.

Applicant	<b>Adams County Board of Commissioners</b>
Municipality	Straban Township
County	<b>Adams</b>
Responsible Official	Thomas J. Weaver, Chairperson Board of Commissioners 111-117 Baltimore Street Gettysburg, PA 17325
Type of Facility	PWS
Consulting Engineer	Gene C. Koontz, P.E. Gannett Fleming, Inc. P. O. Box 67100 Harrisburg, PA 17106-7100
Application Received Date	April 8, 2002

Description of Action Construction Permit application for a new community water system. The water system will serve the County's new prison, emergency services center and recycling center. The water system will consist of two wells, sodium hypochlorite disinfection and an elevated finished water storage tank.

**Permit No. 6702507**, Public Water Supply.

Applicant **The York Water Company**  
Municipality Spring Garden Township  
County **York**  
Responsible Official William T. Morris P.E., President  
CEO  
130 East Market Street  
York, PA 17405-7089

Type of Facility PWS  
Consulting Engineer William T. Morris, P.E.  
The York Water Company  
130 East Market Street  
York, PA 17405-7089

Application Received Date April 5, 2002

Description of Action PWS Construction Permit Application for the proposed Southern Repump Booster Station. The 4.75 MGD station will utilize two pumps to supply the southern repump segment of the York Water distribution system.

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

**Permit No. 1102503**, Public Water Supply.

Applicant **Reade Township Municipal Authority**  
1032 Skyline Drive, P. O. Box 506  
Blandburg, PA 16619-0506

Township or Borough Reade Township  
Responsible Official James Krause, Chairperson  
Reade Township Municipal Authority  
1032 Skyline Drive, P. O. Box 506  
Blandburg, PA 16619-0506

Type of Facility WTP  
Consulting Engineer Gannett Fleming, Inc.  
Foster Plaza III, Suite 200  
601 Holiday Drive  
Pittsburgh, PA 15220

Application Received Date April 22, 2002

Description of Action Emergency interconnection with BCI system, construction of a meter chamber and pressure reducing valve chamber and modification to disinfection/pump station piping.

**Permit No. 1189501-A1**, Public Water Supply.

Applicant **Nanty Glo Water Authority**  
872 Chestnut Street  
Nanty Glo, PA 15943-1200

Township or Borough Nanty Glo Borough  
Responsible Official Diane Holby, Chairperson  
Nanty Glo Water Authority  
872 Chestnut Street  
Nanty Glo, PA 15943-1200

Type of Facility WTP  
Consulting Engineer Stiffler, McGraw & Associates, Inc.  
19 N. Juniata Street, P. O. Box 462  
Hollidaysburg, PA 16648

Application Received Date April 11, 2002

Description of Action The addition of powdered activated carbon pretreatment in lieu of chlorine.

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

**Permit No. 2402501**, Public Water Supply.

Applicant **Johnsonburg Municipal Authority**  
520A Market Street  
Johnsonburg, PA 15845

Township or Borough Ridgway Township, **Elk County**  
Responsible Official Dale DeLong, Authority Chairperson

Type of Facility PWS  
Consulting Engineer Uni-Tec Consulting Engineers, Inc.  
2007 Cato Avenue  
State College, PA 16801

Application Received Date April 19, 2002

Description of Action Backwash tank and pump station to recycle backwash water to the mix tank at the front end of the filtration system.

**Permit No. 2502502**, Public Water Supply.

Applicant **Erie City Water Authority**  
340 West Bayfront Parkway  
Erie, PA 16507

Township or Borough City of Erie, **Erie County**  
Responsible Official James J. Rudy, Chief Operating Officer

Type of Facility WTP  
Consulting Engineer Kemal Niksic  
5173 Campbells Run Road  
Pittsburgh, PA 15205

Application Received April 22, 2002  
Date  
Description of Action Construction of fluoridation facilities at the Sommerheim WTP.

**Permit No. 2502503**, Public Water Supply.

Applicant **Erie City Water Authority**  
340 West Bayfront Parkway  
Erie, PA 16507  
Township or Borough City of Erie, **Erie County**  
Responsible Official James J. Rudy, Chief Operating Officer  
Type of Facility WTP  
Consulting Engineer Kemal Niksic  
5173 Campbells Run Road  
Pittsburgh, PA 15205

Application Received April 22, 2002  
Date  
Description of Action Construction of fluoridation facilities at the Chestnut Street WTP.

*Central Office: Bureau Director, Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467.*

**Permit No. 9996491**, Public Water Supply.

Applicant **Great Spring Waters of America, Inc.**  
Borough Hollis, ME  
Responsible Official Tamara Risser, Quality Control Manager  
Type of Facility Out-of-State Bottled Water System  
Application Received April 16, 2002  
Date  
Description of Action Applicant requesting Department approval to add the Sterling Spring source to their permit. Bottled water from this source to be sold in this Commonwealth under the brand names Deer Park Spring Water and Ice Mountain Natural Spring Water.

**Permit No. 9996217**, Public Water Supply.

Applicant **Great Spring Waters of America, Inc.**  
Borough Poland Spring, ME  
Responsible Official Pamela Fischer, Quality Control Manager  
Type of Facility Out-of-State Bottled Water System  
Application Received April 16, 2002  
Date  
Description of Action Applicant requesting Department approval to add the sterling Spring source to their permit. Bottled water from this source to be sold in this Commonwealth under the brand names; Deer Park Spring Water and Ice Mountain Natural Spring Water.

## 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 any 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, or 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 under 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 listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Commerce Bank N.A. (Former Auto Service Station)**, Warwick Township, **Bucks County**. Jason D. Plucinski, React Environmental Services, Inc., 6901 Kingsessing Ave., Philadelphia, PA 19142, on behalf of Commerce Bank N.A., 1700 Atrium Way, Mount Laurel, NJ 08054, has submitted a Notice of Intent to Remediate site soil contaminated with benzene and site groundwater contaminated with lead and benzene. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier Times* on April 17, 2002.

**Booth Property—Phase I**, Bethel Township, **Delaware County**. John J. Ennis, Esq., Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, on behalf of Thomas Booth, Sr. and Thomas Booth, Jr., 3221 Foulk Rd., Boothwyn, PA 19061, has submitted a Notice of Intent to Remediate site groundwater contaminated with BTEX, naphthalene, MTBE and cumene. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Delaware County Daily Times* on April 9, 2002.

**Former Cochrane, Inc.**, Upper Merion Township, **Montgomery County**. Craig Herr, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Sugartown Worldwide, Inc., 500 American Ave., King of Prussia, PA 19406, has submitted a Notice of Intent to Remediate site soil contaminated with BTEX. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *King of Prussia Courier* on April 23, 2002.

**SYSCO Food Services Facility (Expansion)**, City of Philadelphia, **Philadelphia County**. Jonathan E. Rinde, Manko, Gold & Katcher, LLP, on behalf of the City of Philadelphia, 1401 JFK Blvd., Philadelphia, PA 19102, has submitted a Notice of Intent to Remediate site soil contaminated with lead, heavy metals, BTEX and petroleum; site groundwater contaminated with lead, heavy metals, polycyclic aromatic hydrocarbons, solvents, MTBE and petroleum; and site surface water contaminated with heavy metals and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet special industrial area requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on December 20, 2001.

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

**Rite Aid Steelton Site**, Borough of Steelton, **Dauphin County**. BL Companies, 830 Sir Thomas Court, Harrisburg, PA 17109, on behalf of Rite Aid Corporation, 30 Hunter Lane, Camp Hill, PA 17011, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with PAHs, BTEX and PHCs. The applicant proposes to remediate the site to meet a combination of the requirements for the Statewide Health and Site-Specific standards.

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

**Baldwin Brothers, Inc.**, 3730 Sterrettania Rd., Erie, PA, Millcreek Township, **Erie County** and Environmen-

tal & Geological Consultants, Inc., 455 W. 2nd St., P. O. Box 512, Waterford, PA 16441, have submitted a Notice of Intent to Remediate soil and groundwater contaminated with BTEX. The applicant proposes to remediate the site to meet the Statewide Health Standard.

#### 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 Residual Waste Regulations to Operate Solid Waste Processing or Disposal Area or Site.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit Application No. 301246. Innovative Supply, Inc.**, R. R. 9, Box 323, Latrobe, PA 15650. Innovative Supply, Inc., R. D. 5 at Humphreys, Greensburg, PA 15601. A major permit modification for a Radiation Protection Plan at a residual waste processing facility in Unity Township, **Westmoreland County**, was received in the Regional Office on April 22, 2002.

**Permit Application No. 301238. Allegheny Recovery Corporation**, One Library Place, Box #2, Duquesne, PA 15110. ARC Transfer/Processing Facility, City Center of Duquesne, Duquesne, PA 15110. A major permit modification for a Radiation Protection Plan at a residual waste processing facility in the City of Duquesne, **Allegheny County** was received in the Regional Office on April 25, 2002.

*Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.*

**Permit Application No. 101603. Onyx Waste Services, Inc.**, R. D. 1, Route 6, Pittsfield, PA 16340, Pittsfield Township, **Warren County**. Permit reissuance application to transfer ownership of Warren County Transfer Station from Superior Waste Services of Pennsylvania, Inc. to Onyx Waste Services, Inc. The application was received by the Northwest Regional Office on April 18, 2002.

Comments concerning the application should be directed to A. Patrick Boyle, Program Manager, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335. Persons interested in obtaining more information about the general permit application may contact the Northwest Regional Office at (814) 332-6848. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of these 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 the 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. Any 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. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act and regulations adopted under the Act.

#### PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.*

**48-318-133: Milliken Valve Co., Inc.** (1995 Highland Avenue, Suite 500, Bethlehem, PA 18020) for construction of a Binks paint spray booth and associated air cleaning device in Bethlehem Township, **Northampton County**.

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

**21-03006A: Nestle Purina PetCare Co.** (6509 Brandy Lane, Mechanicsburg, PA 17050) for installation of a boiler and pet food processing line in Hampden Township, **Cumberland County**.

**ER-22-03008: Buckeye Pipe Line Co., L.P.** (P. O. Box 368, 5002 Buckeye Road, Emmaus, PA 18049) for the Emission Reduction Credit Registry from six pipeline breakout tanks at the shutdown Inglenook Station in Reed Township, **Dauphin County**. The facility has requested 12 tons of VOC emission reduction credit.

**36-03138A: OpSec Advantage, Inc.** (P. O. Box 10155, Lancaster, PA 17605-0155) for construction of two plastic film printing lines at its Security Technologies facility in East Lampeter Township, **Lancaster County**.

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

**55-399-005: Professional Building Systems, Inc.** (72 East Market Street, Middleburg, PA 17842) for construction of manufactured housing operations in Middleburg Borough, **Snyder County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**65-00837B: Dominion Transmission, Inc.** (CNG Tower, 625 Liberty Avenue, Pittsburgh, PA 15222) for installation of cleanburn equipment on Engine #6 at the Oakford Station in Salem Township, **Westmoreland County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.*

**61-185A: Heath Oil Co.** (Route 8, P. O. Box 941, Oil City, PA 16301) for minor modification to Plan Approval 61-185A to change monitoring requirements for an oil refinery in Barkeyville, **Venango County**.

**10-027B: Penreco** (138 Petrolia Street, Karns City, PA 16041) to replace an aboveground agitator mixing vessel in Karns City Borough, **Butler County**. The vent from this vessel will be connected to a scrubber system that also serves Penreco's oleum and spent acid tanks. This facility is a Title V facility.

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

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**46-0037M: Cabot Performance Materials** (P. O. Box 1608, County Line Road, Boyertown, PA 19512-1608) for modification of its processes in Buildings 47 and 101 in Douglass Township, **Montgomery County**. This company is a Title V facility. This modification will not result in any emission increase of any pollutants. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements. The 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.

**23-00031: Mercy Fitzgerald Hospital** (1500 Lansdowne Avenue, Darby, PA 19023) for operation of a hospital in Darby Borough, **Delaware County**. The permit is for a non-Title V (State only) facility. The hospital has the potential to emit 24.9 TPY of NOx. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the hospital operating within all applicable air quality requirements.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.*

**35-309-004: Northeastern Safety Products, Inc.** (405 Railroad Avenue, P. O. Box 444, East Rutherford, NJ 07073-8647) for construction of glass bead production process in the City of Carbondale, **Lackawanna County**. This facility is a non-Title V facility. This construction will result in emissions of 15.12 tons per year of particulate matter. The plan approval will include all appropriate monitoring, record keeping and reporting requirements designed to keep the source operating within all applicable air quality requirements.

**40-312-041: Eldorado Properties Corp.** (Petroleum Products Corp., P. O. Box 2621, Harrisburg, PA 17105) for modification of two petroleum distillate storage tanks to store gasoline, as well as petroleum distillates at the Dupont Terminal in Pittston Township, **Luzerne County**. This gasoline terminal is a Title V facility. This modification will result in emissions of 5.36 tons per year of VOCs and 0.56 ton per year of HAPs. The modification is also subject to NSPS Subpart Kb of the Federal Standards of Performance for Volatile Organic Liquid Storage Vessels, 40 CFR 60.110b—60.117b. The plan approval will include all appropriate monitoring, record keeping, inspection and reporting requirements designed to keep the source operating within all applicable air quality requirements. The plan approval will be incorporated into the Title V Operating Permit through an Administrative Amendment in accordance with 25 Pa. Code § 127.450.

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

**01-05025C: Valley Quarries, Inc.** (P. O. Box J, Chambersburg, PA 17201-0809) for replacement of a 51 inch crusher with an 84 inch crusher, the addition of an air classifier, baghouse and requisite conveyors at the Gettysburg Quarry, Cumberland Township, **Adams County**. The quarry is a non-Title V facility. Completion of this project will result in less than 2 tons per year of PM. The facility is subject to 40 CFR Part 60, Subpart 000—Standards of Performance for Nonmetallic Mineral Processing Plants, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities and Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction or Modification Commenced After July 23, 1984. The permit will contain appropriate conditions designed to keep the facility operating within all applicable air quality requirements.

**22-05046A: Haines and Kibblehouse, Inc.** (P. O. Box 196 Skippack, PA 19474) for construction of a fabric filter at its Handwerk Materials, Asphalt plant in Lower Swatara Township, **Dauphin County**. This asphalt plant is a non-Title V facility. This construction will result in less than 1 ton per year of PM<sub>10</sub>. The facility is subject to 40 CFR Part 60, Subpart 000—Standards of Performance for Nonmetallic Mineral Processing Plants. The permit will contain standard monitoring, recordkeeping and operating restrictions designed to keep the facility operating within applicable air quality requirements.

**28-03039: Warrior Roofing Manufacturing of Pennsylvania, LLC** (323 Development Avenue, Chambersburg, PA 17201) for construction of an asphalt roofing felt manufacturing plant in Greene Township,

**Franklin County**. The facility's potential emissions of VOC are less than 10 tons annually; annual emissions of all other pollutants are less than 1 ton per pollutant. The asphalt saturator and liquid asphalt storage tanks are subject to 40 CFR Part 60, Subpart UU—Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture. The liquid asphalt storage tanks are also subject to 40 CFR Part 60, Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984. The plan approval and operating permit will contain emission limits along with conditions for testing, monitoring, recordkeeping and reporting to ensure the facility complies with the applicable air quality requirements.

**28-05030: Industrial Power Generating Corp.** (2250 Dabney Road, Richmond, VA 17011) for construction of an electrical power generating facility in Peters Township, **Franklin County**. The facility's potential emissions are 6.6 tons per year of CO; 99 tons per year of NO<sub>x</sub>; 0.7 ton per year of VOC; 0.6 ton per year of PM, 11.1 tons per year of SO<sub>x</sub>. The Synthetic Minor operating permit shall contain additional testing, monitoring, record keeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

**18-00011D: Croda, Inc.** (8 Croda Way, Mill Hall, PA 17751-9601) for construction of four VOC and hazardous air pollutant (HAP)-containing storage tanks and four associated distribution systems in Bald Eagle Township, **Clinton County**.

The Croda facility is a major facility which has been issued a Title V Operating Permit (#18-00011). The four storage tanks and associated distribution systems will result in combined VOC and HAP emissions of approximately 1.02 tons per year. All of the VOC emissions are also classified as HAP emissions.

The Department has determined that the storage tanks and distribution systems will comply with all applicable regulatory requirements pertaining to air contaminant sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12 and 40 CFR Subpart PPP—National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production. The Department consequently intends to issue a plan approval for the construction of the respective storage tanks and distribution systems. Additionally, if the Department determines that the storage tanks and distribution systems are operating in compliance with all applicable plan approval conditions and regulatory requirements, the conditions established in this plan approval will be incorporated into Title V Operating Permit 18-00011 via administrative amendment under 25 Pa. Code § 127.450.

The Department intends to place conditions in the plan approval to be issued pertaining to the operation and monitoring of the equipment. These conditions are intended to assure proper operation of the equipment as well as compliance with all applicable air quality regulatory requirements. The following is a summary of these conditions:

1. The total combined VOCs emitted from the four storage tanks and associated distribution systems shall not exceed 1.02 tons in any 12 consecutive month period.

The total combined HAPs emitted from the four storage tanks and associated distribution systems shall not exceed 1.02 tons in any 12 consecutive month period.

2. The pressure relief valve associated with the propylene oxide storage tank shall be set to release at 90 psig of pressure.

3. The pressure relief valve associated with the epichlorohydrin storage tank shall be set to release at 60 psig of pressure.

4. The vapor space of the dimethyl sulfate storage tank shall be kept under a nitrogen blanket to minimize emissions of dimethyl sulfate due to breathing losses.

5. The dimethyl sulfate and diethanolamine storage tanks shall not be vented except through their respective distribution system, return line to their respective tank truck or breather vent.

6. The propylene oxide and epichlorohydrin storage tanks shall not be vented except through their respective distribution system, return line to their respective tank truck or pressure relief valve.

7. The permittee shall minimize the number of agitators, connectors/flanges, pumps, pressure relief valves and valves associated with the distribution systems as much as practicable to minimize the number of potential sources of equipment leak emissions.

8. The permittee shall first connect the flexible hose from a dedicated inlet fill line from the tank truck to each of the propylene oxide, epichlorohydrin, dimethyl sulfate and diethanolamine storage tanks before loading from each respective tank truck is initiated. In addition, the permittee shall first connect a vapor return line from the propylene oxide, epichlorohydrin and dimethyl sulfate storage tanks to each respective tank truck before loading is initiated. Once the loading of each of the propylene oxide and epichlorohydrin storage tanks is completed, all respective transfer lines shall be flushed with nitrogen before they are disconnected. All propylene oxide and epichlorohydrin vapors flushed directly from the transfer lines shall be captured and not emitted directly to the atmosphere.

9. The permittee shall obtain Department approval in writing prior to the storage of any other materials in the respective storage tanks and distribution systems.

10. The storage tanks and distribution systems are subject to 40 CFR Subpart PPP—National Emission Standards for Hazardous Air Pollutant Emissions for Polyether Polyols Production.

#### 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.**

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**62-00141: National Fuel Gas Supply Corp.—Roystone Compressor Station** (Star Route Box 574, Sheffield, PA 16347) for a Title V Operating Permit Renewal to operate a Natural Gas Compressor Station in Sheffield Township, **Warren County**.

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

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Saffo, Facilities Permitting Chief, (570) 826-2531.*

**54-313-081: Air Products and Chemicals, Inc.** (R. R. 1, P. O. Box 351, Tamaqua, PA 18252) for operation of the West Nitrogen Tri-fluoride Plant and associated air cleaning devices in Rush Township, **Schuylkill County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**36-03056: Weaver Industries, Inc.** (425 South Fourth Street, Denver, PA 17517) for operation of a graphite machining facility controlled by fabric collectors in Denver Borough, **Lancaster County**. Actual emissions of PM are estimated at less than 6 tons annually. Emissions for other criteria pollutants will be well below Title V thresholds. The operating permit will contain testing, monitoring, record keeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**36-05008: Tyson Foods, Inc.** (403 South Custer Avenue, New Holland, PA 17557) for operation of two poultry fryers in Earl Township, **Lancaster County**. The operation of the new poultry fryers will increase facility emissions of PM by approximately 500 lbs/year. The Synthetic Minor operating permit will include testing, monitoring, record keeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**36-05096: McMinn's Asphalt Co., Inc.** (P. O. Box 4688, Lancaster, PA 17604-4688) for operation of an asphalt batch plant controlled by a knockout box/fabric collector at its Paradise Plant in Paradise Township, **Lancaster County**. Actual emissions for criteria pollutants will be below Title V thresholds. This will be accomplished by limiting the annual production of hot mix asphalt. The operating permit will contain appropriate conditions designed to keep the facility operating within all applicable air quality requirements. This source is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

**36-05097: McMinn's Asphalt Co., Inc.** (P. O. Box 4688, Lancaster, PA 17604-4688) for operation of an asphalt batch plant controlled by a knockout box/fabric collector at the Mason-Dixon Plant in Fulton Township, **Lancaster County**. Actual emissions for criteria pollutants will be below Title V thresholds. This will be accomplished by limiting the annual production of hot mix asphalt. The operating permit will contain appropriate conditions designed to keep the facility operating within all applicable air quality requirements. This source is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

**36-05098: McMinn's Asphalt Co., Inc.** (P. O. Box 4688, Lancaster, PA 17604-4688) for operation of an asphalt batch plant controlled by a cyclone/fabric collector at the Elizabethtown Plant in Mount Joy Township, **Lancaster County**. Actual emissions for criteria pollutants will be below Title V thresholds. This will be accomplished by limiting the annual production of hot mix asphalt. The operating permit will contain appropriate



ate conditions designed to keep the facility operating within all applicable air quality requirements. This source is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

**36-05099: McMinn's Asphalt Co., Inc.** (P. O. Box 4688, Lancaster, PA 17604-4688) for operation of an asphalt batch plant controlled by a knockout box/fabric collector at the East Petersburg Plant in East Hempfield Township, **Lancaster County**. Actual emissions for criteria pollutants will be below Title V thresholds. This will be accomplished by limiting the annual production of hot mix asphalt. The operating permit will contain appropriate conditions designed to keep the facility operating within all applicable air quality requirements. This source is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

**36-05100: McMinn's Asphalt Co., Inc.** (P. O. Box 4688, Lancaster, PA 17604-4688) for operation of an asphalt batch plant controlled by a cyclone/fabric collector at the Lancaster Plant in Lancaster City, Manheim Township, **Lancaster County**. Actual emissions for criteria pollutants will be below Title V thresholds. This will be accomplished by limiting the annual production of hot mix asphalt. The operating permit will contain appropriate conditions designed to keep the facility operating within all applicable air quality requirements. This source is subject to 40 CFR Part 60, Subpart I—Standards of Performance for Hot Mix Asphalt Facilities.

**38-03035: V & S Lebanon Galvanizing, LLC** (1000 Buckeye Park Road, Columbus, OH 43207) for operation of its hot dip galvanizing facility in Union Township, **Lebanon County**. The facility has potential annual emissions of 2 tons per year of CO, 1 ton per year of NOx and 0.3 ton per year of PM-10. The Natural Minor operating permit will include testing, monitoring, record keeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**67-03027: PVC Container Corp., Airopak Division** (One Devco Drive, Manchester, PA 17345-1337) for operation of the plastic blow molding facility in East Manchester Township, **York County**. Actual emissions of VOC are less than 1 ton per year. The permit will include testing, monitoring, record keeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

**65-00064: Latronics Corp.** (1001 Lloyd Avenue, Box 469, Latrobe, PA 15650) for manufacture of semiconductor housings in Unity Township, **Westmoreland County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**33-00155: Trail King Industries, Inc.** (R. D. 5, Box 48, Brookville, PA 15825) for a Natural Minor Operating Permit for a truck trailer manufacturing facility in Pine Creek Township, **Jefferson County**.

## MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); 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 Con-

trol Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated before each 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 or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34 (relating to public notices of filing of permit applications, opportunity for comment and informal conferences).

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 described in the Department's regulations—25 Pa. Code §§ 77.522, 87.102, 88.92, 88.187, 88.242, 89.52 and 90.102) for iron, manganese, suspended solids, settleable solids, alkalinity and pH. In addition to the previous, more restrictive effluent limitations, restrictions on discharge volume, or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies which have requested review of the NPDES permit requirements for a particular mining activity within the previously-mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

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

### Coal Applications Received

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**26000104 Patterson Coal Company** (41 Elizabeth Drive, Smithfield, PA 15478). Application received to revise permit to extend the mining area to include the

area north of the haulroad for mining of the Pittsburgh coal seam at a bituminous surface mining site located in German, Georges and South Union Townships, **Fayette County**, affecting 138 acres. Receiving streams: unnamed tributary to Jennings Run, to Jennings Run, to the Monongahela River, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is greater than 10 miles from the proposed site. Application received April 24, 2002.

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

**11020101 and NPDES Permit No. PA0249203. E. P. Bender Coal Company, Inc.**, P. O. Box 594, Carrolltown, PA 15722, commencement, operation and restoration of a bituminous surface and auger mine and for discharge of treated mine drainage in Reade Township, **Cambria County**, affecting 141.0 acres. Receiving streams: Fallentimber Run, unnamed tributaries to Fallentimber Run classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 16, 2002.

**11860101 and NPDES Permit No. PA0599191. Laurel Land Development, Inc.**, P. O. Box 629, Carrolltown, PA 15722, permit renewal for reclamation only for continued restoration of a bituminous surface mine in Blacklick Township, **Cambria County**, affecting 67.0 acres. Receiving streams: Coalpit Run classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 19, 2002.

**32020103 and NPDES Permit No. PA0249211. S & M Mining**, 15 Rayne Run Road, Marion Center, PA 15759, commencement, operation and restoration of a bituminous surface and auger mine and for discharge of treated mine drainage in Cherryhill Township, **Indiana County**, affecting 143.4 acres. Receiving streams: unnamed tributaries to Two Lick Reservoir—PWS to Two Lick Creek to Blacklick Creek to the Conemaugh River classified for the following uses: WWF. There are no potable water supply intakes within 10 miles downstream. Application received April 15, 2002.

**56703107 and NPDES Permit No. PA0605956. Hoffman Mining, Inc.**, P. O. Box 130, 118 Runway Road, Fridens, PA 15541, permit revision to conduct mining activities within 100-foot of SR 601 in Paint Township, **Somerset County**, affecting 863.0 acres. Receiving streams: unnamed tributary to Paint Creek; to Kaufman Run; to unnamed tributaries to Kaufman Run; to Stony Creek; and to Shade Creek classified for the following uses: CWF. The first downstream potable water supply intake from the point of discharge is Cambria/Somerset Water Authority Border Dam. Application received April 19, 2002.

**32870101 and NPDES Permit No. PA0597899. Urey Coal Company**, 222 Forest Ridge Road, Indiana, PA 15701, permit renewal for reclamation only and for restoration of a bituminous surface and auger mine in Banks and Montgomery Townships, Glen Campbell Borough, **Indiana County**, affecting 156.4 acres. Receiving streams: unnamed tributaries to Cush Creek and Cush Creek classified for the following uses: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 22, 2002.

#### *Noncoal Applications Received*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**58980830. William Sparks** (R. R. 2 Box 45, Thompson, PA 18465) Stage I bond release for a small quarry operation in Harford Township, **Susquehanna County** affecting 1.0 acre for \$750 on property owned by Thomas Pinto. Application received April 17, 2002.

**55960802. Scott E. Garrison Excavating** (R. R. 1 Box 2064, Beavertown, PA 17813) Stage I and II release for a small quarry operation in Spring Township, **Snyder County** affecting 1.0 acre for \$1,000 on property owned by Joseph J. Byler. Application received April 24, 2002.

**4975SM5A1C3 and NPDES Permit #PA0612430. Glen-Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19610-6001) NPDES renewal in Oxford Township, **Adams County**, affecting 113.0 acres. Receiving stream: unnamed tributary to South Branch Conewago Creek, classified for the following use: WWF. The first potable water supply intakes downstream of the discharge point include Littlestown Borough and Hanover Municipal Water Works. Application received April 22, 2002.

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**08020803. Heeman Quarries, Inc.**, R. R. 2, Box 227H, Wyalusing, PA 18853. Commencement, operation and restoration of a Small Industrial Minerals (Bluestone/Flagstone) permit in Tuscarora Township, **Bradford County** affecting 5 acres. Receiving streams: unnamed tributary to Mill Creek, tributary to Mill Creek. Application received March 19, 2002.

**59020301. Clifford Cross, Jr.**, P. O. Box 240, Mainesburg, PA 16932-0240. Commencement, operation and restoration of a Large Industrial Minerals (Gravel) permit in Lawrence Township, **Tioga County** affecting 13.8 acres. Receiving streams: Harts Creek, tributary to Tioga River. Application received March 22, 2002.

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

**56970301. Fieg Brothers Coal Company**, 3070 Stoystown Road, Stoystown, PA 15563, renewal of NPDES Permit No. PA0234362, Black and Summit Townships, **Somerset County**, receiving stream Casselman River. NPDES Renewal application received April 19, 2002.

*McMurray District Mining Office: 3913 Washington Road, McMurray, PA 15317, (724) 941-7100.*

**32841601. NPDES Permit #PA0214159, Robindale Energy Services, Inc.** (1001 Broad St., Suite 130, Johnstown, PA 15906) to revise the permit for the Dilltown Prep. Plant in Brushvalley Township, **Indiana County** for land use change on 24 acres, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Application received April 2, 2002.

**56851303. NPDES Permit #PA0214850, RoxCoal, Inc.** (P. O. Box 149, Friedens, PA 15541) to renew the permit for the Barbara No. 1 and No. 2 Mines in Stoneycreek and Brothersvalley Townships, **Somerset County**, renewal, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, clas-

sified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A, Application received April 8, 2002.

**56910701. NPDES Permit #PA0213560, PBS Coals, Inc.** (P. O. Box 260, Friedens, PA 15541) to renew the permit for the Job 10 CRDA in Brothersvalley and Somerset Townships, **Somerset County**, renewal Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A, Application received April 15, 2002

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**43020302 and NPDES Permit No. PA 0242110. White Rock Silica Sand Company, Inc.** (331 Methodist Road, Greenville, PA 16125) Commencement, operation and restoration of a gravel operation in Hempfield Township, **Mercer County** affecting 45.0 acres. Receiving streams: Mathay Run, classified for the following uses: Statewide water uses: WWF. No public water supplies are within 10 miles downstream of this proposed operation. Application received April 22, 2002.

### FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications and requests for Environmental Assessment approval and requests for 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(a)) 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. Initial requests for 401 Water Quality Certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit, or the approval of an Environmental Assessment must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual 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 the hours of 8 a.m. and 4 p.m. on each working day at the office noted before the application.

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

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

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**E46-912. Whitpain Township**, P. O. Box 800, Blue Bell, PA 19422, Whitpain Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following activities associated with the improvement and widening of the North Wales Road (T-377). This site is located approximately 1,800 feet southwest of the intersection of SR 073 and North Wales Road (Lansdale, PA Quadrangle N: 8.9 inches; W: 8.8 inches). To replace and maintain an existing culvert consisting of twin 26 linear-foot long and 54-inch diameter ductile iron pipes with a twin 39 linear-foot of 21 foot wide and 7 foot high concrete box culverts in and along Stony Run (TSF) under North Wales Road at the same locations. Work also includes 140 linear feet of channel change and incidental fill within the floodway to accommodate the roadway improvements.

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

**E01-233. Laverne Leese, BJML Enterprises**, 982 Bollinger Road, Littlestown, PA 17304 in Conewago Township, **Adams County**, ACOE Baltimore District.

To construct and maintain a stormwater discharge which will eventually discharge to an unnamed tributary to the South Brach Conewago Creek (WWF) for the purpose of the Chapel Ridge Residential Development. The repair of a sinkhole and liner installation will permanently impact 0.065 acre of wetlands (McSherrystown, PA Quadrangle N: 13.6 inches; W: 4.8 inches) in Conewago Township, Adams County.

**E06-566. Terry Manmiller, Maiden creek Township**, 1 Quarry Road, Blandon, PA 19510 in Maiden creek Township, **Berks County**, ACOE Philadelphia District.

To: (1) remove an existing 60-inch diameter corrugated metal pipe and construct and maintain a 5-foot by 11-foot precast concrete box culvert with end walls and remove an existing 4-foot by 7-foot precast concrete box culvert; and (2) construct and maintain a 25-foot span pedestrian footbridge at a point along Hoch Road (T-754) (Fleetwood, PA Quadrangle N: 13.3 inches; W: 15.7 inches and N: 13.0 inches; W: 15.5 inches respectively) in Maiden creek Township, Berks County.

**E06-567. Edward Gonzales, Texas Eastern Transmission LP**, 5400 Westheimer Court, Houston, TX 77058 in Pike and District Townships, **Berks County**; Perry County Conservation District, P. O. Box 36, 31 W. Main Street, New Bloomfield, PA 17068, (717) 582-8988 in Pike and District Townships, Berks County, ACOE Philadelphia District.

To construct and maintain approximately 4 miles of pipeline loops 36 inches in diameter connecting to the existing pipelines beginning at a point approximately 1.9 miles northeast of the intersection of Mine and Oysterville Roads extending approximately 3.9 miles east crossing Oysterville Creek (EV), four unnamed tributaries to Oysterville Creek (EV) and the Northwest Branch of

the Perkiomen Creek (EV) to a point 0.44 mile northeast of the intersection of Deer Run and Hardt Hill Roads (Manatawny, PA Quadrangle N: 7.1 inches; W: 11.5 inches and N: 7.8 inches; W: 1.2 inches respectively) in Pike and District Townships, Berks County.

**E50-211. Christine Potteiger, Wheatfield Township,** R. R. 2 Box 248B, Newport, PA 17074 in Wheatfield Township, **Perry County,** ACOE Baltimore District

To remove an existing culvert pipe and to construct and maintain an 81-inch by 59-inch, 35-foot long corrugated metal pipe arch culvert with riprap rock to prevent channel scouring in Dark Run (CWF) and 0.03 de minimis acre of associated wetlands for the purpose of Township Road maintenance located on Roseglen Road (T-345) about 200 feet west of its intersection with Dark Hollow Road (T-452) (Duncannon, PA Quadrangle N: 2.50 inches; W: 15.55 inches) in Wheatfield Township, Perry County.

**E67-719. Mike Fobes, York County Commissioners,** York County Park, 400 Mundle Race Road, York, PA 17402 in York Township, **York County,** ACOE Baltimore District

To construct and maintain a 2142 square foot wooden dock which will extend on to Lake Redman (WWF) (York, PA Quadrangle N: 1.1 inches; W: 8.9 inches) in York Township, York County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3574.*

**E14-419. John E. Glantz,** 101 Norma Mae Circle, Port Matilda, PA 16870. Echo Hill Road Stream Crossing, in Patton Township, **Centre County,** ACOE Baltimore District (Julian, PA Quadrangle N: 12.0 inches; W: 10.5 inches).

To construct and maintain a 117-inch by 79-inch by 90-foot long Arch Corrugated Metal Pipe and associated approach fill to cross Waddle Run, located 2,200 feet east-northeast from the intersection of Sellers Lane and Meeks Lane. The project proposes to permanently impact 110 linear feet of the unnamed tributary to Buffalo Run (Waddle Run), which is classified as a HQ-CWF.

**E12-129. Department of Conservation and Natural Resources, Bureau of Forestry,** 258 Sizerville Road, Emporium, PA 15834. Bridge over Wykoff Run, in Gibson Township, **Cameron County,** ACOE Baltimore District (Driftwood, PA Quadrangle N: 5.25 inches; W: 2 inches).

The applicant proposes to construct a footbridge over Wykoff Run, which is designated as a HQ-CWF. The structure is intending to have a span of 38 feet and have an underclearance of 5 feet in the center and 3 feet along the stream banks. The new structure is intended to be built 30 yards downstream of the existing structure and will be constructed of pressure treated lumber. The project proposes to disturb 25 linear feet of stream and does not intend to impact any wetlands.

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

**E 10959. Dominion Transmission, Inc.,** 445 West Main Street, Clarksburg, WV 26301. Big Beaver Borough, New Sewickley Township, North Sewickley Township, Koppel Borough and Marion Township, **Beaver County,** ACOE Pittsburgh District.

To amend permit E10959 which authorized the construction of a pipeline crossing under the bed of the Beaver River (WWF) located approximately 10 miles above its mouth, to include the operation and maintenance

of this crossing and to operate and maintain approximately 25 miles of the same 20 inch natural gas pipeline (LN 25). The following stream crossings will be added to the permit: tributary to Jordan Run (HQ-CWF), Stockman Run (WWF), ten tributaries to Brush Creek (WWF) and Brush Creek (WWF). The project starts in Big Beaver Borough at the border of Lawrence County and Beaver County and ends in New Sewickley Township at the Beaver County and Butler County border (the project starts at Beaver Falls, PA Quadrangle N: 18.6 inches; W: 15.5 inches and ends at Baden, PA Quadrangle N: 21.6 inches; W: 3.8 inches).

**E02-1375. Dominion Transmission, Inc.,** 445 West Main Street, Clarksburg, WV 26301. Plum Borough, **Allegheny County,** ACOE Pittsburgh District.

To operate and maintain approximately 4.5 miles of an existing 20 inch natural gas pipeline (LN 25). The pipeline crosses the following streams: six tributaries to Little Plum Creek (WWF) and a tributary to Bodies Run (WWF). The project starts in Plum Borough at the Allegheny County and Westmoreland border and ends in Plum on the east side of the Allegheny River (the project starts at Murrysville, PA Quadrangle N: 21.7 inches; W: 10.7 inches and ends at New Kensington West, PA Quadrangle N: 6.5 inches; W: 2.1 inches).

**E02-817-A1. Snyder Brothers,** 4695 Campbells Run Road, Pittsburgh, PA 15205. Collier Township, **Allegheny County,** ACOE Pittsburgh District.

To amend permit E02-817 which authorized the construction and maintenance of a 16' x 7' 11" CMP arch culvert as part of an existing stream enclosure in the channel of Campbell's Run (WWF) located on the north side of the Parkway West (Routes 22 and 30) at the Campbell Run Road exit ramp to facilitate the construction of an auto service building at the site in Collier Township, Allegheny County. This amendment will authorize the construction of 16' x 7' 11" CMP arch culvert by 98' long extension to the existing stream enclosure to provide additional parking for the existing service station, food mart and auto repair shop (Oakdale, PA Quadrangle N: 10.0 inches; W: 1.2 inches).

**E02-1374. South Park School District,** 2178 Ridge Road, South Park, PA 15219. South Park Township, **Allegheny County,** ACOE Pittsburgh District.

To place and maintain fill in 0.55 acre of wetlands adjacent to Catfish Run (WWF) for the purpose of constructing a new high school. The project is located on the east side of Brownsville Road, approximately 1,400 feet northeast from the intersection of Brownsville Road and Wallace Road. The applicant proposes to construct 0.55 acre of replacement wetlands. (Glassport, PA Quadrangle N: 9.0 inches; W: 16.3 inches).

**E04-285. Dominion Transmission, Inc.,** 445 West Main Street, Clarksburg, WV 26301. South Beaver Township, Big Beaver Borough and Chippewa Township, **Beaver County,** ACOE Pittsburgh District.

To operate and maintain approximately 12 miles of an existing 30 inch natural gas pipeline (TL-400). The pipeline crosses the following streams: four tributaries to the North Fork Little Beaver Creek (HQ-CWF), six tributaries to Brush Run (HQ-CWF), Brush Run (HQ-CWF), Painters Run (HQ-CWF), two tributaries to Clark Run (tributary to the Beaver River, WWF), one tributary to Clarks Run (tributary to the North Fork Little Beaver Creek, HQ-CWF), Clarks Run (tributary to the Beaver River, WWF) and Stockman Run (WWF). The project starts at the Pennsylvania and Ohio border and ends at

the Big Beaver Borough and Koppel Borough border (the project starts at East Liverpool North PA-WV Quadrangle N: 20.8 inches; W: 2.7 inches and ends at Beaver Falls, PA N: 15.1 inches; W: 11.1 inches).

**E11-295. Pennsylvania Department of Transportation, Engineering District 9-0**, 1620 North Juniata Street, Hollidaysburg, PA 16648. Jackson Township, Cambria County, ACOE Pittsburgh District.

To remove existing structures and to construct and maintain the following structures and activities as part of the SR 0022, Section 005 Transportation Improvement Project:

To construct and maintain a 200 foot long, 36 inch diameter reinforced concrete pipe in an unnamed tributary to Rummel Run (CWF). Station 17 + 800; this pipe qualifies for Department waiver 105.12 (a)(2). (Vintondale, PA Quadrangle N: 10.9 inches; W: 6.6 inches).

To construct and maintain a 147 foot long, 24 inch diameter reinforced concrete pipe in an unnamed tributary to Laurel Run (HQ-CWF). Station 19 + 740; this pipe qualifies for Department waiver 105.12(a)(2). (Vintondale, PA Quadrangle N: 11.6 inches; W: 3.5 inches).

To construct and maintain a 246 foot long, 36 inch diameter pipe in an unnamed tributary to Laurel Run (HQ-CWF). Station 20 + 500; this pipe qualifies for Department waiver 105.12(a)(2). (Vintondale, PA Quadrangle N: 12.1 inches; W: 2.4 inches).

To relocate and maintain 112.0 feet of Laurel Run (HQ-CWF). Station 21 + 134. (Vintondale, PA Quadrangle N: 12.6 inches; W: 1.6 inches).

To construct and maintain a 194 foot long, 66 inch diameter culvert in Laurel Run (HQ-CWF). The invert of the culvert will be depressed 12 inches and will contain baffles. Station 21 + 134. (Vintondale, PA Quadrangle N: 12.6 inches; W: 1.6 inches).

To construct and maintain a 310 foot long, 42 inch diameter reinforced concrete pipe in an unnamed tributary to Hinckston Run (WWF). Station 22 + 680, this pipe qualifies for Department waiver 105.12(a)(2). (Nanty Glo, PA Quadrangle N: 13.9 inches; W: 16.9 inches).

To relocate and maintain 78.74 feet of Hinckston Run (WWF). Station 23 + 356. (Nanty Glo, PA Quadrangle N: 13.7 inches; W: 15.8 inches).

To construct and maintain a 323 foot long, 98.43 inch by 98.43 inch precast reinforced concrete box culvert in Hinckston Run (WWF). The invert of the box culvert will be depressed 12.0 inches and will contain baffles. Station 23 + 356. (Nanty Glo, PA Quadrangle N: 13.7 inches; W: 15.8 inches).

To place and maintain fill in 2.26 acres of wetland (1.27 acres PEM, 0.85 acre PEM/PSS, 0.04 acre PEM/PFO, 0.10 acre PEM/PSS/PFO). Replacement wetlands will be created at a 1:1 ratio at the AMD and ART Vintondale Demonstration Project. Begin (Vintondale, PA Quadrangle N: 12.1 inches; W: 10.0 inches and end at Nanty Glo, PA Quadrangle N: 13.7 inches; W: 15.6 inches).

**E26-294. Fayette County Commissioners**, Courthouse, 61 East Main Street, Uniontown, PA 15401. Henry Clay Township, Fayette County, ACOE Pittsburgh District.

To rehabilitate and maintain the Fayette County Bridge No. 174 having a clear span of 22 feet and an underclearance of 4 feet across Beaver Creek (HQ-CWF). The rehabilitation consists of replacement and widening of the

bridge deck. The project is located on T-381 approximately 1.3 miles west of its intersection with T-873 (Ohiopyle, PA Quadrangle N: 7.9 inches; W: 15.3 inches).

**E32-440. Pennsylvania Electric Company, a FirstEnergy Company**, 2800 Pottsville Pike, P. O. Box 16001, Reading, PA 19612-6001. East Wheatfield Township, Indiana County, ACOE Pittsburgh District.

To expand and maintain the existing Seward substation by installing a transformer, breakers and support structures along the Conemaugh River (WWF) for the purpose of accommodating the additional electrical equipment required for the new power plant located on the current Seward Station property (New Florence, PA Quadrangle N: 5.8 inches; W: 4.2 inches).

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

**E10-344. Landmark Properties, Inc.**, 4848 Route 8, Allison Park, PA 15101. Emeryville Drive Lots 1 and 2 Wetland Fill in Cranberry Township, Butler County, ACOE Pittsburgh District (Mars, PA Quadrangle N: 9.3 inches; W: 14.1 inches).

To fill 0.13 acre of wetland on Emeryville Drive Lots 1 and 2 for construction of a five story office building and associated parking area along Emeryville Drive approximately 0.25 mile east of Margarite Drive. Project includes contribution to the Pennsylvania Wetland Replacement Fund for replacement of impacted wetland.

**E25-649. Pennsylvania Department of Transportation, District 1-0**, 255 Elm Street P. O. Box 398, Oil City, PA 16301. SR 3017, Segment 0090, Offset 0188 across tributary to Temple Creek, in Elk Creek, Erie County, ACOE Pittsburgh District (Albion, PA Quadrangle N: 2.9 inches; W: 11.9 inches).

To remove the existing structure and to construct and maintain a prestressed spread box beam bridge having a clear span of 46.4 feet and an underclearance of 9.5 feet on a 70 degree skew across tributary to Temple Creek approximately 200 feet north of SR 6N.

**E42-293. University of Pittsburgh Bradford**, 300 Campus Drive, Bradford, PA 16701. Frame-Westerberg Commons Building Addition, in Bradford Township, McKean County, ACOE Pittsburgh District (Bradford, PA-NY, PA Quadrangle N: 12.3 inches; W: 6.6 inches).

To construct and maintain an addition onto the northwest corner of the existing Frame-Westerberg Commons building measuring approximately 80 feet wide by 90 feet long and associated landscaping and paving partially within the 100-year flood plain of West Branch Tunungwant Creek east of Campus Drive approximately 1,500 feet west of Dorothy Lane.

## ENVIRONMENTAL ASSESSMENTS

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

**EA65-006SW. Sewickley Creek Watershed Association**, P. O. Box 323, Youngwood, PA 15697-0323. Mt. Pleasant Township, Westmoreland County, ACOE Pittsburgh District.

To relocate approximately 800—1,000 linear feet of an unnamed tributary to Sewickley Creek (WWF) to divert surface water around a proposed acid mine drainage (AMD) treatment system. The watercourse currently flows into a large wetland complex (approximately 8.20 acres) that is affected by AMD. The proposed channel relocation will reportedly have direct impacts to 0.11 acre

of this wetland, but may have additional secondary impacts to the wetland, due to this proposed diversion of hydrology. Future impacts are also anticipated to the wetland from the construction of the proposed AMD treatment system, but the project sponsor is only currently seeking 401 Water Quality Certification for the proposed channel relocation. The project is located along Sewickley Creek, south of the Village of Brinkerton. (Mt. Pleasant, PA Quadrangle N: 17.2 inches; W: 3.0 inches)

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

**D45-182. Paradise Falls Lutheran Association,** 1320 Paradise Falls, Cresco, PA 18326. Paradise Township, **Monroe County**, ACOE Philadelphia District.

Project proposes to remove approximately 7 acres of accumulated silts and sediments from the reservoir of Lake Crawford Dam. The dam is located across Paradise Creek (HQ-CWF) at the Paradise Falls Lutheran Association Center (Mount Pocono, PA Quadrangle, N: 20.1 inches, W: 2.4 inches).

**EA38-005CO. Franklin Greiner, Jr.,** 700 Cornwall Mountain Road, Lititz, PA 17543. South Lebanon Township, **Lebanon County**, ACOE Baltimore District.

Project proposes to construct a nonjurisdictional dam across a tributary to Shearers Creek (HQ-CWF) for wildlife habitat and recreation impacting approximately 0.07 acre of wetland (PFO) and providing 0.07 acre of replacement wetland within the impounded reservoir. The proposed dam will be located approximately 2,300 feet southeast of the intersection of Boyd Street and SR 0322 (Lebanon, PA Quadrangle, N: 0.3 inch, W: 0.3 inch).

**EA36-0013CO. Ambassadors for Christ, Inc.,** 3256 Lincoln Highway East, Paradise, PA 17562. Paradise Township, **Lancaster County**, ACOE Baltimore District.

To remove an existing jurisdictional dam across Eshleman Run (CWF) provide bank stabilization at the location of the dam and install grade control structures in the reservoir area upstream of the dam. Installation of a water intake structure and dredging of an existing off stream pond to its original storage capacity also are proposed to maintain water for a mill race that is linked to the dam. The dam is located approximately 4,000 feet upstream of the Lincoln Highway (US Route 30) Bridge across Eshleman Run (New Holland, PA Quadrangle, N: 0.1 inch, W: 15.4 inches).

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## ACTIONS

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### FINAL ACTIONS TAKEN UNDER THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT—NPDES AND WQM PART II PERMITS

#### INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications and requests for plan approval.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the

Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

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#### I. Municipal and Industrial Permit Actions under The Clean Streams Law (35 P. S. §§ 691.1— 691.1001).

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

**NPDES Permit No. PA0043273,** Sewage, **Holidaysburg Sewer Authority**, 401 Blair Street, Holidaysburg, PA 16648. This proposed facility is located in Frankstown Township, **Blair County**.

Description of Proposed Action/Activity: Authorization to discharge to Frankstown Branch Juniata River in Watershed 11-A.

**NPDES Permit No. PA0021865,** Sewage, **Adamstown Borough Authority of Lancaster County**, 98 Lancaster Avenue, Adamstown, PA 19501. This proposed facility is located in East Cocalico Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Little Muddy Creek in Watershed 7-J.

**NPDES Permit No. PA0021202,** Sewage, **East Berlin Borough**, 128 Water Street, East Berlin, PA 17316. This proposed facility is located in East Berlin Borough, **Adams County**.

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

**NPDES Permit No. PA0083801,** Sewage, **Gateway Unlimited, Inc.**, 871 Range End Road, Dillsburg, PA 17019. This proposed facility is located in Franklin Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of North Branch Bermudian Creek in Watershed 7-F.

**WQM Permit No. 3802401,** Sewerage, **City of Lebanon Authority**, 400 South Eighth Street, Lebanon, PA 17042. This proposed facility is located in Lebanon City, **Lebanon County**.

Description of Proposed Action/Activity: Authorization for the construction/operation of sewers and appurtenances and pump stations.

**WQM Permit No. 2102404**, Sewerage, **South Middleton Township Municipal Authority**, 345 Criswell Drive, Boiling Springs, PA 17007-0008. This proposed facility is located in South Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization for the construction/operation of pump stations.

**WQM Permit No. 6785418 (Amendment 02-1)**, Sewerage, **Phillip Briddell, York City Sewer Authority**, c/o Blakey, Yost, Bupp and Rusch, 17 E. Market Street, York, PA 17401. This proposed facility is located in Manchester Township, **York County**.

Description of Proposed Action/Activity: Authorization for modifications to the construction/operation of their sewage treatment facilities.

**NPDES Permit No. 3602401**, Sewerage, **Fred Wissler, Chairperson, Earl Township Sewer Authority**, 517 North Railroad Avenue, New Holland, PA 17557. This proposed facility is located in Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization for the construction/operation of new design industrial park pump station.

**WQM Permit No. 2802401**, Industrial Waste, **John Holloway, Guilford Township Authority**, 115 Spring Valley Road, Chambersburg, PA 17201. This proposed facility is located in Guilford Township, **Franklin County**.

Description of Proposed Action/Activity: Authorization for the construction/operation of sewers and appurtenances/pump stations.

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

**WQM Permit No. 1496411-T2**, Sewerage SIC 4952, **Randy Harpster**, 770 Steele Hollow Road, Julian, PA 16844. This existing facility is located in Huston Township, **Centre County**.

Description of Proposed Action/Activity: Transfer of water quality management permit for single residence.

**WQM Permit No. 5998408-T2**, Sewerage, **Max and Faith Johnson**, R. R. 6, Box 128A, Wellsboro, PA 16901. This existing facility is located in Delmar Township, **Tioga County**.

Description of Proposed Action/Activity: Transfer of water quality management permit for single residence.

**NPDES Permit No. PA0002640**, Industrial Waste 3255, **TYK America Inc.**, 301 Brickyard Road, Clairton, PA 15025. This proposed facility is located in Irvona Borough, **Clearfield County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit to discharge noncontact cooling water.

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

**NPDES Permit No. PA0216399**, Industrial, **Conemaugh Township Municipal Authority**, 113 South Main Street, Davidsville, PA 15928-0429 is authorized to discharge from a facility located in Jenner Township, **Somerset County** to receiving waters named South Fork Ben's Creek.

**NPDES Permit No. PA0001775**, Sewerage, **McFadden Machine Company, Inc.**, 160 Hill Road, Blairsville, PA 15717 is authorized to discharge from a facility located at

McFadden Machine Company STP, Blacklick Township, **Indiana County** to receiving waters named unnamed tributary of Muddy Run.

**NPDES Permit No. PA0028452**, Sewerage, **Dunkard Bobtown Municipal Authority**, P. O. Box 352, Bobtown, PA 15315 is authorized to discharge from a facility located at Dunkard Bobtown STP, Dunkard Township, **Greene County** to receiving waters named Dunkard Creek.

**NPDES Permit No. PA0038172**, Sewerage, **Hempfield Township Municipal Authority**, R. D. 6, P. O. Box 501, Greensburg, PA 15601 is authorized to discharge from a facility located at Rolling Hills STP, Hempfield Township, **Westmoreland County** to receiving waters named Andrews Run.

**NPDES Permit No. PA0096733**, Sewerage, **Lance L. Safran**, 5800 Steele Road, Murrysville, PA 15668 is authorized to discharge from a facility located at Pleasant View Mobile Home Park Sewage Treatment Plant, Saltlick Township, **Fayette County** to receiving waters named Indian Creek.

**Permit No. 0202404**, Sewerage, **Daniel Kuniak**, 1541 Bakerstown Road, Tarentum, PA 15084. Construction of a sewage treatment plant located in Frazer Township, **Allegheny County** to serve Daniel Kuniak single resident STP.

**Permit No. 0202405**, Sewerage, **Andrew Bell**, 405 Edgewood Drive, Sarver, PA 16055. Construction of a single residence sewage treatment facility located in Frazer Township, **Allegheny County** to serve Bell single residence.

**Permit No. 0301404-A1**, Sewerage, **Apollo Ridge School District**, Route 56 East, P. O. Box 219, Spring Church, PA 15686. Construction of Sewage Treatment Plant located in Kiskiminetas Township, **Armstrong County** to serve Apollo Ridge School District Wastewater Treatment Plant.

**Permit No. 6590416-A2**, Sewerage, **Penn Township Sewage Authority**, 1032 Nike Site Road, Irwin, PA 15642. Construction of sewage pumping station modifications located in Penn Township, **Westmoreland County** to serve Nike site pump station.

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

**NPDES Permit No. PA0006343**, Industrial Waste, **AK Steel Corporation—Butler Operations**, P. O. Box 832, Route 8 South, Butler, PA 16003-0832. This proposed facility is located in Butler Township and City of Butler, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Connoquenessing Creek, Sawmill Run, Rocklick Run and Sullivan Run.

**NPDES Permit No. PA0238767**, Sewerage, **Stoneworth Apartments**, 124 Eastwood Drive, Butler, PA 16001. This proposed facility is located in Worth Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Slippery Rock Creek.

**WQM Permit No. 1002407**, Sewerage, **Moniteau School District, Dassa McKinney Elementary School**, 1810 West Sunbury Road, West Sunbury, PA 16061. This proposed facility is located in Clay Township, **Butler County**.

Description of Proposed Action/Activity: This project is for the replacement of a sewage treatment plant with a pump station.

**WQM Permit No. 1601405**, Sewerage, **Rimersburg Borough Municipal Authority**, P. O. Box 413, Rimersburg, PA 16248. This proposed facility is located in Madison Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for the construction and installation of a chlorine contact tank and control building at the Rimersburg sewage treatment plant.

**APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS**

The following parties have submitted: (1) Notices of Intent for Coverage under (1) General NPDES Permits to Discharge Wastewater into the Waters of the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations. Monitoring, reporting requirements and other conditions set forth in the general permit: (2) General Permits for Beneficial Use of Sewage Sludge or Residen-

tial Septage by Land Application in this Commonwealth; (3) General NPDES Permit Authorizing the Discharge of Stormwater Associated with Construction Activities to Waters of the Commonwealth; (4) Notification for First Use Application of Sewage Sludge.

The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. The Department of Environmental Protection approves the following coverage under the specific General Permit.

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).

The application 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.

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

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge 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	Concentrated Animal Feeding Operations (CAFOs)

*General Permit Type—PAG-1*

<i>Facility Location &amp; Municipality</i>	<i>Approval No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
McKean County Bradford Township	4202001	Cline Oil Company One Longfellow Avenue Bradford, PA 16701-2140	East Branch Tunungwant Creek (CWF)	Northwest Regional Office 230 Chestnut Street Meadville, PA 16335 (814) 332-6860

*General Permit Type—PAG-2*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Lackawanna County Old Forge Borough	PAR10N136	Anthony Pero Old Forge Borough 314 S. Main St. Old Forge, PA 18518	Lackawanna River WWF	Lackawanna County Conservation District (570) 281-9495
Luzerne County Hanover Township	PAR10R248	Stork Holdings, Inc. 110 St. Mary's Rd. Hanover Township, PA 18706	Solomon Creek CWF	Luzerne County Conservation District (570) 674-7991



<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Lehigh County North Whitehall Township	PAR10Q164	Fred Jandl Jandl Land Co. 3150 Coffeetown Rd. Orefield, PA 18069	Jordan Creek TSF, MF	Lehigh County Conservation District (610) 391-9583
Clinton County Wayne Township	PAR101924	James W. Johnson B & B Sites 457 Shoemaker Rd. Lock Haven, PA 17745	W. Branch Susquehanna River WWF	Clinton County Conservation District 216 Spring Run Rd. Room 104 Mill Hall, PA 17751 (570) 726-3798 X5
Clinton County Wayne Township	PAR101926	Big Woods Land Co. Fryer Tract MHP Shoemaker Rd. McElhattan, PA 17748	W. Branch Susquehanna River WWF	Clinton County Conservation District 216 Spring Run Rd. Room 104 Mill Hall, PA 17751 (570) 726-3798 X5
Columbia County Roaring Creek Township	PAR102154	Hillside Acres Project Michael Petro 159 Martin Dr. Catawissa, PA 18720	Tributary to Roaring Creek	Columbia County Conservation District 702 Sawmill Rd. Suite 105 Bloomsburg, PA 17815 (570) 784-1310
Tioga County Delmar Township	PAR106641	Delmar Township R. R. 5, Box 70A Wellsboro, PA 16901	Marsh Creek WWF	Tioga County Conservation District 29 East Ave. Wellsboro, PA 16901 (570) 724-1801
Allegheny County Pine Township	PAR10A301-1	Northway Christian Community, Inc. 12121 Perry Highway Wexford, PA 15090	Wexford Run CWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Collier and Moon Townships Carnegie, Crafton, Ingram and Rosslyn Farms Boroughs City of Pittsburgh	PAR10A520-1	Port Authority of Allegheny County 345 Sixth Street Pittsburgh, PA 15222-2527	Chartiers Creek WWF Campbells Run WWF Ohio River WWF McClaren Run WWF Montour Run TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Franklin Park Borough	PAR10A560	Franklin Park Properties, LLC 25 Crestview Hills Mall Crestview, KY 41017	Fish Run CWF Bear Run TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Marshall Township	PAR10A565	Mitsubishi Electric Power Industries, Inc. 512 Keystone Drive Warrendale, PA 15086	Brush Creek WWF	Allegheny County Conservation District (412) 241-7645
Cambria County Cambria Township	PAR10L076	Edwin Long 3133-73 New German Rd. Ebensburg, PA 15931	South Branch Blacklick Creek CWF	Cambria County Conservation District (814) 472-2120
Fayette County South Union Township	PAR10L077	Abundant Life Church of Uniontown 55E Church Street Uniontown, PA 15401	UNT Redstone Creek WWF	Fayette County Conservation District (724) 438-4497
Fayette County City of Uniontown	PAR10L078	Greater Uniontown Joint Sewage Authority 90 Romaro Lane Uniontown, PA 15401	Redstone Creek WWF	Fayette County Conservation District (724) 438-4497

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Butler County Butler Township	PAR10E181	Gary Pinkerton Butler County Parks and Recreation Butler County Courthouse Butler, PA 16003-1208	Connoquenessing Creek WWF	Butler County Conservation District (724) 284-5270
Butler County Middlesex Township	PAR10E161-1	Allan Randolph 1140 Blank Road Freedom, PA 15042	Glade Run WWF	Butler County Conservation District (724) 284-5270
Erie County Washington Township	PAR10K194	General McLane Bus Garage 11771 Edinboro Road Edinboro, PA 16412	Tributary to Conneauttee Creek WWF	Erie County Conservation District (814) 796-6700
Mercer County Wolf Creek Township	PAR104372	Ishraq Hafiz 12525 Akron-Canfield Road North Jackson, OH 44451	Black Run CWF	Mercer County Conservation District (724) 662-2242
Warren County Conewango Township	PAR107209	Gary Stoops Dairy Queen Brazier of Warren 1067 Market Street Extension Warren, PA 16365	Follett Run CWF	Warren County Conservation District (814) 563-3117

*General Permit Type—PAG-3*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Lehigh County Allentown	PAR122204	General Mills, Inc. 2132 Downyflake Lane Allentown, PA 18103	Unnamed tributary to Trout Creek WWF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511
Susquehanna County Oakland Township	PAR602237	Boughton's Auto Salvage, Inc. R. R. 2 Box 39 Susquehanna, PA 18847	Unnamed feeder to Susquehanna River CWF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511
Luzerne County Hanover Township	PAR602221	Louis Cohen & Son, Inc. P. O. Box 1004 Wilkes-Barre, PA 18703	Solomon Creek CWF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511
Lebanon County Jonestown Borough	PAR203597	V & S Galvanizing 1000 Buckeye Park Road Columbus, OH 43207	Detention Pond	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Hempfield Township Westmoreland County	PAR326110	Better Materials Corp. P. O. Box 721 Berkeley Springs, WV 25411	UNT to Little Sewickley Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-4*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Huston Township Centre County	PAG044899	Randy Harpster 770 Steele Hollow Road Julian, PA 16844	Steele Hollow Run CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Delmar Township Tioga County	PAG044984	Max and Faith Johnson R. R. 6, Box 128A Wellsboro, PA 16901	E. Branch Stony Fork Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Frazer Township Allegheny County	PAG046250	Daniel Kuniak 1541 Bakerstown Road Tarentum, PA 15084	Tributary to Days Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222- 4745 (412) 442-4000
Frazer Township Allegheny County	PAG046251	Andrew Bell 405 Edgewood Drive Sarver, PA 16055	Tributary to Bull Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222- 4745 (412) 442-4000

*General Permit Type—PAG-5*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
York County Manchester Township	PAG053564	Schmidt Baking Company 7801 Fitch Lane Baltimore, MD 21236	Codorus Creek via grass lined ditch WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Monroeville Borough Allegheny County	PAG056171	Sheetz Inc. 5700 Sixth Avenue Altoona, PA 16602	Turtle Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222- 4745 (412) 442-4000

*General Permit Type—PAG-8 (SSN)*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Contact Office &amp; Telephone No.</i>
Ramer #1 Farm Biosolids Site Buffington Township Indiana County	PAG086106	City of Johnstown 241 Asphalt Road Johnstown, PA 15906	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

**PUBLIC WATER SUPPLY PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Safe Drinking Water Act for the construction, substantial modification or operation of a public water system.

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

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

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

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

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

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

**Operations Permit** issued to **Far Away Auburn**, 71 West Jefferson Lane, Auburn, PA 17922, PWS I.D. #3546502, South Manheim Township, **Schuylkill County**, on April 16, 2002, for the operation of facilities approved under Construction Permit #5401507.

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

#### **Permit No. 0600506**, Public Water Supply.

Applicant	<b>Western Berks Water Authority</b>
Municipality	Spring Township
County	<b>Berks</b>
Type of Facility	New dissolved air floatation clarification units.
Consulting Engineer	Deborah M. Watkins, P.E. Roy F. Weston, Inc. 1400 Weston Way West Chester, PA 19380
Permit to Operate Issued	April 15, 2002

#### **Permit No. 0101509**, Public Water Supply.

Applicant	<b>Appler Limited Partnership</b>
Municipality	Littlestown
County	<b>Adams</b>
Type of Facility	A construction permit for Well No. 4 to be operated as part of the Littlestown Borough Authority community water system at a rate of 68 gallons per minute. Treatment, limited to disinfection, will be provided at an existing facility.
Consulting Engineer	Jack A. Raudenbush, P.E. Raudenbush Engineering Inc. 29 South Union Street Middletown, PA 17057
Permit to Construct Issued	April 19, 2002

#### **Permit No. 2801509**, Public Water Supply.

Applicant	<b>Department of Conservation and Natural Resources, Bureau of State Parks—Caledonia</b>
Municipality	Green Township
County	<b>Franklin</b>

Type of Facility	Operation permit for lead and copper corrosion control facilities. Revised facilities include equipment to add soda ash and zinc orthophosphate.
Consulting Engineer	David J. Brenneman, P.E. Department of Conservation and Natural Resources Bureau of Facility Design and Construction P. O. Box 8451 Harrisburg, PA 17105-8451

Permit to Operate Issued	April 18, 2002
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#### **Permit No. 2800507**, Public Water Supply.

Applicant	<b>Guilford Water Authority</b>
Municipality	Greene Township
County	<b>Franklin</b>
Type of Facility	Operation Permit for Cold Spring Wells No. 12 and 14. The Cold Spring Wells will be operated at rates up to 300 and 1,200 gpm, respectively. Treatment will be provided at existing, previously permitted facilities.

Consulting Engineer	Diana Young, P.E. Buchart-Horn, Inc. P. O. Box 15040 York, PA 17405-7040
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Permit to Operate Issued	February 19, 2002
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#### **Permit No. 3102501 MA, Minor Amendment**, Public Water Supply.

Applicant	<b>Three Springs Borough Huntingdon</b>
County	
Type of Facility	Construction of a new above ground 50,000 steel finished water storage tank and modifications to the existing disinfection facilities.

Consulting Engineer	Mark V. Glenn, P.E. Gwin, Dobson & Foreman, Inc. 3121 Fairway Dr. Altoona, PA 16602-4475
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Permit to Construct Issued	April 10, 2002
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#### **Permit No. 2102503 MA, Minor Amendment**, Public Water Supply.

Applicant	<b>United Water Pennsylvania</b>
Municipality	Mechanicsburg Borough
County	<b>Cumberland</b>
Type of Facility	Painting of clearwell, clarifier and filter

Consulting Engineer	R. Michael Gephart, P.E. United Water Pennsylvania 4211 East Park Circle Harrisburg, PA 17111
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Permit to Construct Issued	April 15, 2002
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**Permit No. 7380417**, Public Water Supply.

Applicant **Fredericksburg United Methodist Church**  
 Municipality Bethel Township  
 County **Lebanon**  
 Type of Facility Operation of a cation exchange (softening) system and an anion exchange system for nitrate removal for an existing well source for the church building and the parsonage.  
 Permit to Operate April 15, 2002  
 Issued

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

**Operations Permit** issued to **Municipal Authority of the Township of Robinson**, P. O. Box 15539, Pittsburgh, PA 15244-0539, PWS #5020045, Robinson Township, **Allegheny County** on April 29, 2002, for the operation of facilities approved under Construction Permit #0201505.

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

**Operations Permit** issued to **North East Township Water and Sewer Authority**, 10300 West Main Road, North East, PA 16428, PWS ID#6250086, North East Township, **Erie County** on April 30, 2002, for the operation of facilities approved under Construction Permit 2588511-MA3.

**Permit No. 3799502, MA1, Minor Amendment.** Public Water Supply.

Applicant **Pennsylvania-American Water Company**  
 800 West Hersheypark Drive  
 P. O. Box 888  
 Hershey, PA 17033  
 Borough or Township Mahoning and Union Townships  
 County **Lawrence**  
 Type of Facility PWS  
 Consulting Engineer HRG, Inc.  
 290 Executive Drive, Suite 1A  
 Cranberry, PA 16066  
 Permit to Operate April 24, 2002  
 Issued

**WATER ALLOCATIONS****Application received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of this Commonwealth.**

**WA 06-533A**, Water Allocations, **Wernersville Municipal Authority, Berks County**. Application to continue withdrawal of 90,000 gallons per day from a collection of 11 springs in South Heidelberg Township, **Berks County**. Consulting Engineer: Steven E. Riley, P.E., Spotts Stevens and McCoy. Permit Issued April 3, 2002.

**SEWAGE FACILITIES ACT PLAN APPROVAL****Plan Approval Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a).**

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

## Plan Location:

Borough or Township	Borough or Township Address	County
Grove City Borough	Grove City Borough 123 Main Street Grove City, PA 16127	Mercer

Plan Description: The approved plan provides for provide for taking steps to reduce infiltration and inflow, construct a new digester, construct a third high flow retention pond and rehabilitate various equipment and tankage at the sewage treatment plant. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

**LAND RECYCLING AND ENVIRONMENTAL REMEDIATION****UNDER ACT 2, 1995****PREAMBLE 2****The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where one of the Act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Booth Property—Phase I**, Bethel Township, **Delaware County**. John J. Ennis, Esq., Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 500, Bala

Cynwyd, PA 19004, on behalf of Thomas Booth, Sr. and Thomas Booth, Jr., 3221 Foulk Rd., Boothwyn, PA 19061, has submitted a Final Report concerning remediation of site groundwater contaminated with BTEX, naphthalene, MTBE and cumene. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Knipe Estate**, Cumru Township, **Berks County**. Hafer Environmental Services, Inc., P. O. 4418, Reading, PA 19606, on behalf of Knipe Estate, c/o Allfirst Trust, 110 South Paca Street, Mail Code 109-742, Baltimore, MD 21210, has submitted a final report concerning remediation of site soils contaminated with lead, BTEX and PAHs. The report is intended to document remediation of the site to the Statewide Health 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) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Act. Plans and reports required by provisions of the Act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. 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. 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 under 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 listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Chester Waterfront Redevelopment Project Site**, City of Chester, **Delaware County**. Kimberly Peck, Excelon Power, 200 Excelon Way, Suite 140, Kennett Square, PA 19348, has submitted a Cleanup Plan concerning the remediation of site soil contaminated with PCBs, lead, heavy metals, pesticides, solvents, BTEX, PHCs and PAHs; and groundwater contaminated with lead, heavy metals, pesticides, solvents, BTEX, PHCs and PAHs. The Plan was approved with modifications by the Department on April 26, 2002.

**Liquor Control Board Warehouse/Distribution Center**, City of Philadelphia, **Philadelphia County**. Daniel Richard, Quad Three Group, Inc., 116 N. Washington Ave., Scranton, PA 18503, on behalf of the Liquor Control Board, Northwest Office Building, Harrisburg, PA 17124, has submitted a Final Report concerning remediation of site soil contaminated with lead. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on April 15, 2002.

**Philadelphia Business & Technology Center**, City of Philadelphia, **Philadelphia County**. David J. Arber, American Resources Consultants, Inc., P. O. Box 1809, Doylestown, PA 18901, on behalf of Philadelphia Business & Technical Center, 5070 Parkside Ave., Philadelphia, PA 19131, has submitted a Baseline Environmental Report concerning the remediation of site soil contaminated with BTEX and petroleum hydrocarbons; and site groundwater contaminated with petroleum hydrocarbons. The site is located in a special industrial area. The Report was approved by the Department on April 15, 2002.

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

**General Cigar**, City of Lancaster, **Lancaster County**. Fuss & O'Neill, Inc., 146 Hartford Road, Manchester, CT 06040-5921, on behalf of Brown & Williamson Tobacco, 209 Pitney Road, Lancaster, PA and General Cigar Holdings, Inc., 35 Griffin Road South, Bloomfield, CT 06002-1398, submitted a final report concerning remediation of site soils and groundwater contaminated with BTEX. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on April 16, 2002.

**Former Fruehauf Trailer Corporation Drive-A-Way Terminal**, Lower Swatara Township, **Dauphin County**. Earth Tech, Two Market Plaza Way, Mechanicsburg, PA 17055, on behalf of Harrisburg Realty, Inc., 1740 Broadway, 16th Floor, New York, NY 10019 and Middletown Area School District, 55 West Water Street, Middletown, PA 17057, submitted an amendment to a Baseline Environmental Report concerning the remediation of site soils and groundwater contaminated with PCBs, lead, heavy metals, pesticides, solvents and PAHs. The amendment was approved by the Department on April 19, 2002.

**Harrisburg International Airport/Middletown Airfield**, Lower Swatara Township and Middletown Borough, **Dauphin County**. Susquehanna Area Regional Airport Authority, 513 Airport Drive, Middletown, PA 17057

submitted a final report concerning the remediation of site soils and groundwater contaminated with PCBs, heavy metals, solvents and PAHs. The final report demonstrated attainment of the Site-Specific standard and was approved by the Department on April 23, 2002.

**Modern Dry Cleaners**, Chambersburg Borough, **Franklin County**. Alternative Environmental Solutions, 930 Pointview Avenue, Suite B, Ephrata, PA 17522, on behalf of Emory Becker, Modern Dry Cleaners, 130 Lincoln Highway West, Chambersburg, PA 17201, submitted final report concerning the remediation of site soils and groundwater contaminated with BTEX and PHCs. The final report demonstrated attainment of a combination of the Site-Specific and Statewide Health Standards and was approved by the Department on April 23, 2002.

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

**Pennsylvania House—White Deer Facility**, White Deer Township, **Union County**, Meiser & Earl, Inc., on behalf of Pennsylvania House, Inc. 137 North Tenth Street, Lewisburg, PA 17837-1388, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with PHCs. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on April 26, 2002.

#### HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

**Bond reduced 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.**

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

*Intent to Reduce a Bond*

**PAD000739672. U. S. Steel Corporation**, Delwar Road, West Mifflin Borough, **Allegheny County**. On February 8, 2002, the Department received a request for a bond reduction from U.S. Steel Corporation for its closed hazardous waste landfill. The Department has reviewed the request and has determined that it is consistent with 25 Pa. Code § 264a.165 and intends to approve the request.

Persons wishing to comment on the proposed action are invited to submit a statement to the Regional Office indicated as the office responsible, within 45 days from the date of this public 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; and concise statement to inform the Regional Office of the exact basis of any 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. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

#### RESIDUAL WASTE GENERAL PERMITS

**Application Withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGR071. Wickett & Craig of America, Inc.**, 120 Cooper Road, Curwensville, PA 16833. The applicant has requested that their application for a general permit for the beneficial use of leather trimmings and leather scrap from a tannery operation to manufacture fertilizer for agricultural purposes be withdrawn. The withdrawal of the application was effective April 24, 2002.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permit 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, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Permit No. 100549. Waste Management Disposal Services of Pennsylvania, Inc.**, 1425 Sell Road, Pottstown, PA 19464, Douglass and West Pottsgrove Townships, **Berks and Montgomery Counties**. Language in Conditions 4 and 5 of the permit amendment issued on June 14, 2001, has been modified by the Department to amicably resolve issues raised in the permittees' appeal (EHB Docket No. 2001-165-MG) of the referenced 2001 amendment action. The permit was modified by the Southeast Regional Office on April 24, 2002.

#### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.*

**54-302-070GP: Air Products and Chemicals, Inc.** (R. R. 1, Box 351, Tamaqua, PA 18252) for construction and operation of Cleaver Brooks Boiler #1 in Rush Township, **Schuylkill County**.

**54-302-071GP: Air Products and Chemicals, Inc.** (R. R. 1, Box 351, Tamaqua, PA 18252) for construction and operation of Cleaver Brooks Boiler #2 in Rush Township, **Schuylkill County**.

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

**33-00155: Trail King Industries, Inc.** (R. D. 5, Box 48, Brookville, PA 15825) for a Natural Minor Operating Permit for a truck trailer manufacturing facility in Pine Creek Township, **Jefferson County**.

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**46-0041A: Jefferson Smurfit Corp. US** (1035 Longford Road, Phoenixville, PA 19460) on April 24, 2002, for operation of a lithographic printing press in Upper Providence Township, **Montgomery County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.*

**39-301-081: Lehigh Valley Hospital** (1200 South Cedar Crest Boulevard, Allentown, PA 18103) on April 19, 2002, for construction of a medical waste incinerator and associated air cleaning device in Allentown, **Lehigh County**.

**48-313-090: Elementis Pigments, Inc.** (1525 Wood Avenue, Easton, PA 18042) on April 16, 2002, for modification of the lower blending plant system and associated air cleaning devices at the Easton Plant in Wilson Township, **Northampton County**.

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

**06-05069A: East Penn Manufacturing Co., Inc.** (P. O. Box 147, Lyon Station, PA 19536) on April 24, 2002, for installation of two replacement mist eliminators to control the battery formation operation at the Industrial Battery Plant in Richmond Township, **Berks County**.

**34-05017A: Jay Fulkroad and Sons, Inc.** (R. D. 2 Box 125, McAlisterville, PA 17049) on April 23, 2002, for installation of two secondary crushers, a sand classifier and two fabric collectors in Fayette Township, **Juniata County**. The sources are subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

**36-03135A: Shared Mail Acquisitions, LLC** (72 Industrial Circle, Leola, PA 17540-0129) on April 22, 2002, for construction of two heatset offset web lithographic presses and associated dryers controlled by an oxidizer in Upper Leacock Township, **Lancaster County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**03-00229A: Rosebud Mining Co.** (R. D. 9, Box 379A, Kittanning, PA 16201) on April 22, 2002, for construction of a coal preparation plant at Logansport Mine in Bethel Township, **Armstrong County**.

**30-00099A: Allegheny Energy Supply Co., LLC—Hatfield Power Station** (4350 Northern Pike, Monroeville, PA 15146) on April 22, 2002, for installation of NOx control projects on Units 1—3 in Monongahela Township, **Greene County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**46-0037C: Cabot Performance Materials** (County Line Road, Boyertown, PA 19512) on April 24, 2002, for operation of a tantalum scrap digestion in Douglass Township, **Montgomery County**.

**46-313-057E: Republic Environmental Systems, Inc.** (2869 Sandstone Drive, Hatfield, PA 19440) on April 24, 2002, for operation of a hazardous waste TSD in Hatfield Township, **Montgomery County**.

**15-0112: Merck and Co., Inc.** (466 Devon Park Drive, Wayne, PA 19087) on April 26, 2002, for operation of a diesel generator in Tredyffrin Township, **Chester County**.

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

**67-05092: Starbucks Coffee Co.** (3000 Espresso Way, York, PA 17402) on April 22, 2002, for construction of two coffee roasters each controlled by a catalytic oxidizer and a cyclone in East Manchester Township, **York County**. This plan approval was extended.

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

**49-307-003A: Istil (USA) Milton, Inc.** (P. O. Box 298, Milton, PA 17847) on April 16, 2002, to extend the expiration date for plan approval to reactivate a steel billet reheat furnace and bar rolling mill in Milton Borough, **Northumberland County**.

**08-302-039: CraftMaster Manufacturing, Inc.** (P. O. Box 311, Towanda, PA 18848) on April 17, 2002, to convert nitrogen oxides and carbon monoxide emission limitations for a woodwaste-fired boiler and associated air cleaning devices (an electrostatic precipitator and a selective noncatalytic reduction system) from a pounds per million Btu basis to a parts per million basis and to establish a continuous emission monitoring system data substitution requirement in Wysox Township, **Bradford County**.

**19-304-003B: S & B Foundry Co.** (3825 Columbia Boulevard, Bloomsburg, PA 17815) on April 22, 2002, to extend the plan approval expiration date for the construction of two iron-melting electric induction furnaces and associated air cleaning device (a fabric collector) to April 30, 2003, in South Centre Township, **Columbia County**.

**49-331-001: Merck and Co., Inc.** (P. O. Box 600, Danville, PA 17821-0600) on April 22, 2002, to add a condition to clarify that the continuous combustion chamber outlet temperature monitoring system and continuous carbon monoxide emission monitoring system associated with a fluidized bed hazardous waste incinerator must provide valid data at all times waste is actually being burned in the incinerator in Riverside Borough, **Northumberland County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*



**30-127B: MonTee Hydraulics L.P.** (3 Paisley Industrial Park, Carmichaels, PA 15320) on April 23, 2002, for installation of a rectifier and copper bus bars in Cumberland Township, **Green County**. This plan approval was extended.

**65-602A: Derry Construction Co. Inc.** (R. D. 5, Box 34, Latrobe, PA 15650) on April 23, 2002, to complete stack testing for a baghouse in Derry Township, **Westmoreland County**. This plan approval was extended.

**65-661A: Derry Construction Co. Inc.** (R. D. 5 Box 34, Latrobe, PA 15650) on April 23, 2002, to complete stack testing for a baghouse in Salem Township, **Westmoreland County**. This plan approval was extended.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.*

**10-021D: Indspec Chemical Corp.** (133 Main Street, Petrolia, PA 16050) on April 30, 2002, for a Copeland Incinerator in Petrolia, **Butler County**.

**10-313-028B: Indspec Chemical Corp.** (133 Main Street, Petrolia, PA 16050) on April 30, 2002, for a resorcinol flaker/bagging and packaging system in Petrolia, **Butler County**.

**25-648B: NEPA Energy** (South Lake Street 10915 Ackerman, North East, PA 16428) on April 30, 2002, for a boiler in North East, **Erie County**.

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

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**07-05004: Eldorado Properties Corp.** (P. O. Box 2621, Harrisburg, PA 17105) on April 26, 2002, for the administrative amendment to Title V Operating Permit No. 07-05004 for the Altoona Terminal to incorporate Tank 30, a storage tank for gasoline and distillate, installed as per Plan Approval 07-05004A, in Allegheny Township, **Blair County**. This is revision number one.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**36-05119: Signature Custom Cabinetry, Inc.** (434 Springville Road, P. O. Box 208, Ephrata, PA 17522) on April 22, 2002, for operation of a wood cabinet manufacturing facility and paint booths in Ephrata Township, **Lancaster County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**10-00305: Recmix of PA, Inc.** (359 North Pike Road, Sarver, PA 16055) issued a Natural Minor Operating Permit for a slag processing facility in Winfield Township, **Butler County**.

**37-00152: Dixon Ticonderoga Co./New Castle Refractories Co.** (915 Industrial Street, New Castle, PA

16102) issued a Natural Minor Operating Permit for a silicon-carbide refractory in the City of New Castle, **Lawrence County**.

**25-00090: Zurn Industries, Inc.** (1301 Raspberry Street, Erie, PA 16502) on April 25, 2002, for a Natural Minor Operating Permit for a gray iron foundry in Erie City, **Erie County**.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**46-0176: A. Talone, Inc.** (318 West Lancaster Avenue, Ardmore, PA 19003) on April 24, 2002, for Synthetic Minor VOC Facility in Lower Merion Township, **Montgomery County**.

**ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); 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); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes; the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

*Coal Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118*

**49950202R. Gilberton Coal Company** (P. O. Box 423, Gilberton, PA 17934), renewal of an existing coal refuse reprocessing operation in Mt. Carmel Township, **Northumberland County** affecting 142.0 acres, receiving stream: none. Application received February 15, 2002. Renewal issued April 25, 2002.

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**17960106 and NPDES Permit No. PA 0220302. Bell Resources, Inc.,** R. R. 2, Box 281, Curwensville, PA 16833. Transfer of an existing bituminous surface mine permit from Cloe Mining Company, Inc. located in Penn and Pike Townships, **Clearfield County** affecting 124.8 acres. Receiving streams: Porter Run to West Branch Susquehanna River; unnamed tributaries of Passmore Run to Passmore Run to West Branch Susquehanna River; unnamed tributaries of Kratzer Run to Kratzer Run to Anderson Creek, Anderson Creek to West Branch Susquehanna River. Application received April 12, 2001. Permit issued April 8, 2002.

**17940103. King Coal Sales, Inc.**, P. O. Box 712, Philipsburg, PA 16866. Revision to an existing bituminous surface mine permit for a change in land use from current postmining land use of forestland to pastureland or land occasionally cut for hay. The permit is located in Decatur Township, **Clearfield County** and affects 158 acres. Application received February 8, 2002. Permit issued April 5, 2002.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**03960101 and NPDES Permit No. PA0201758. T. C. Mining, Inc.** (R. D. 2, Box 301B, Kittanning, PA 16201). Permit renewal issued for continued reclamation only of a bituminous surface/auger/refuse preparation and processing facility located in Valley Township, **Armstrong County**, affecting 121.2 acres. Receiving streams: unnamed tributaries to South Fork, Pine Creek to South Fork of Pine Creek. Application received March 20, 2002. Reclamation only renewal issued April 25, 2002.

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

**32010106 and NPDES Permit No. PA0248983, Walter L. Houser Coal Company, Inc.**, 13448 State Route 422, Suite 1, Kittanning, PA 16201, commencement, operation and restoration of a bituminous surface and auger mine and for discharge of treated mine drainage, in Washington Township, **Indiana County**, affecting 62.0 acres. Receiving streams: unnamed tributaries of South Branch Plum Creek and South Branch Plum Creek to Plum Creek to Crooked Creek to the Allegheny River classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 19, 2001. Permit issued April 22, 2002.

*McMurray District Mining Office: 3913 Washington Road, McMurray, PA 15317, (724) 941-7100.*

**30841312. NPDES Permit #PA0013790, Consolidation Coal Co.** (P. O. Box 100, Osage, WV 26543), to renew the permit for the Blacksville Mine No. 2 in Wayne, Gilmore and Jackson Townships, **Greene County**, 5 year renewal, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Permit issued April 16, 2002.

**30841316. NPDES Permit #PA0213535, Consol PA Coal Co.** (172 Route 519, Eighty Four, PA 15330), to revise the permit for the Bailey Mine in Richhill Township, **Greene County** to add 384 acres underground and 643 acres SCP, Surface Acres Proposed N/A, Underground Acres Proposed 384, SCP Acres Proposed 643, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Permit issued April 17, 2002.

#### *Noncoal Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118*

**4874SM2C7 and NPDES Permit #PA0123544. CEMEX, Inc.** (P. O. Box 220, Thomasville, PA 17364-0220), renewal of NPDES Permit in Jackson Township,

**York County**, receiving stream: Little Conewago Creek. Application received March 6, 2002. Renewal issued April 23, 2002.

**22880301C2. Rocky Licensing Corporation** (1001 Paxton Street, Harrisburg, PA 17104), correction to an existing quarry operation in Lower Swatara Township, **Dauphin County** affecting 143.1 acres, receiving stream: Swatara Creek. Application received May 14, 2001. Correction issued April 24, 2002.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**62010302. I. A. Construction Corporation** (P. O. Box 8, Concordville, PA 19331) Commencement, operation and restoration of a sand and gravel operation in Pittsfield Township, **Warren County** affecting 99.5 acres. Receiving streams: Hosmer Run. Application received August 7, 2001. Permit Issued April 12, 2002.

**1910-62010302-E-1. I. A. Construction Corporation** (P. O. Box 8, Concordville, PA 19331) Application for a stream encroachment to mining activities within 100 feet of unnamed tributary No. 3 to Brokenstraw Creek for support activities in Pittsfield Township, **Warren County**. Receiving streams: Hosmer Run. Application received August 7, 2001. Permit Issued April 12, 2002.

**37010304. Glacial Sand & Gravel** (P. O. Box 1022, Kittanning, PA 16201) Commencement, operation and restoration of a sand and gravel operation in Plain Grove Township, **Lawrence County** affecting 61.0 acres. Receiving streams: Jamison Run. Application received August 15, 2001. Permit Issued April 22, 2002.

#### **ACTIONS ON BLASTING ACTIVITY APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 (43 P. S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). 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.**

#### *Blasting Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**39024005. Cedar Hill Memorial** (1700 Airport Road, Allentown, PA 18109) and **Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414) blasting for burial site in Whitehall Township, **Lehigh County** with an expiration date of June 12, 2002. Permit issued April 23, 2002.

**48024006. Labrador Construction** (P. O. Box 1379, Marshalls Creek, PA 18335) construction blasting in Northampton Township, **Northampton County** with an expiration date of July 1, 2002. Permit issued April 23, 2002.

**45024020. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting in Jackson Township, **Monroe County** with an expiration date of April 1, 2003. Permit issued April 23, 2002.

**06024017. Schlouch Incorporated** (Excelsior Industrial, P. O. Box 69, Blandon, PA 19510), construction blasting in Exeter Township, **Berks County** with an expiration date of January 15, 2003. Permit issued April 24, 2002.

**21024025. Conewago Enterprises, Inc.** (660 Edgegrove Road, Hanover, PA 17331), construction blast-

ing in Lower Allen Township, **Cumberland County** with an expiration date of July 17, 2002. Permit issued April 24, 2002.

**36024035. Keystone Blasting Service** (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting in East Hempfield Township, **Lancaster County** with an expiration date of June 15, 2002. Permit issued April 24, 2002.

**38024010. Keystone Blasting Service** (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting in Jackson Township, **Lebanon County** with an expiration date of June 15, 2002. Permit issued April 24, 2002.

**38024011. Keystone Blasting Service** (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting in Richland Borough, **Lebanon County** with an expiration date of May 15, 2004. Permit issued April 24, 2002.

**46024022. Appaloosa Development Corp.** (P. O. Box 126, 1501 Conshohocken Street Road, Gladwyne, PA 19035) and **Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting in Lower Merion Township, **Montgomery County** with an expiration date of November 30, 2002. Permit issued April 24, 2002.

**46024023. Brubacher Excavating, Inc.** (825 Reading Road, Bowmansville, PA 17507), construction blasting in Plymouth Township, **Montgomery County** with an expiration date of May 16, 2003. Permit issued April 24, 2002.

**35024005. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting in Madison Township, **Lackawanna County** with an expiration date of April 2, 2003. Permit issued April 25, 2002.

**09024008. Eastern Blasting Company, Inc.** (1292 Street Road, New Hope, PA 18938), construction blasting in Northampton Township, **Bucks County** with an expiration date of November 17, 2002. Permit issued; April 25, 2002.

**09024009. Eastern Blasting Company, Inc.** (1292 Street Road, New Hope, PA 18938), construction blasting in Warrington Township, **Bucks County** with an expiration date of November 17, 2002. Permit issued; April 25, 2002.

**09024010. Eastern Blasting Company, Inc.** (1292 Street Road, New Hope, PA 18938), construction blasting in Newtown Township, **Bucks County** with an expiration date of November 17, 2002. Permit issued; April 25, 2002.

**09024011. Eastern Blasting Company, Inc.** (1292 Street Road, New Hope, PA 18938), construction blasting in Northampton Township, **Bucks County** with an expiration date of November 17, 2002. Permit issued April 25, 2002.

**09024012. Eastern Blasting Company, Inc.** (1292 Street Road, New Hope, PA 18938), construction blasting in Newtown Township, **Bucks County** with an expiration date of November 17, 2002. Permit issued April 25, 2002.

**06024018. Schlouch Incorporated** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Amity Township, **Berks County** with an expiration date of May 15, 2003. Permit issued April 25, 2002.

**28024013. John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting in Upper Allen Township, **Franklin County** with an expiration date of July 15, 2002. Permit issued April 25, 2002.

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**08024001. Lines Utility Construction**, 2330 Greensburg Road, New Kensington, PA 15068, for construction blasting in South Creek Township, **Bradford County**, with an expected duration of 5 days. Permit issued April 17, 2002. Permit expires: November 30, 2002.

**59024001. Lines Utility Construction**, 2330 Greensburg Road, New Kensington, PA 15068, for construction blasting in Rutland Township, **Tioga County**, with an expected duration of 5 days. Permit issued April 16, 2002. Permit expires: June 30, 2002.

**14024008. Tressler and Fedor Excavating**, 26 Sandrock Court, Port Matilda, PA 16870, for construction blasting in College Township, **Centre County**, with an expected duration of 3 days. Permit issued April 17, 2002. Permit expires: April 30, 2002.

**14024009. Kerstetter Excavating**, 1536 Zion Road, Bellefonte, PA 16823, for construction blasting in Walker Township, **Centre County**, with an expected duration of 30 days. Permit issued April 17, 2002. Permit expires: December 31, 2002.

**14024010. Glenn O. Hawbaker, Inc.**, 1952 Waddle Road, P. O. Box 135, State College, PA 16804-0135, for construction blasting in Patton Township, **Centre County**, with an expected duration of 8 months. Permit issued April 19, 2002. Permit expires: December 2, 2002.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**02024002. Allegheny Excavating, Inc.** (2591 Wexford-Bayne Road, Sewickley, PA 15143). Permit issued for construction of McCormick Farms new housing plan, located in Moon Township, **Allegheny County**, with an expected duration of 21 days. Permit issued April 25, 2002.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously

received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)).

Except as otherwise noted, the Department certifies that the construction and operation herein described will comply with the applicable provisions of sections 301-303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State Water Quality Standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).** (Note: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description).

*Permits Issued and Actions on 401 Certifications:*

#### **WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E64-224. Pennsylvania Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501. Damascus Township, **Wayne County**, Army Corps of Engineers Philadelphia District.

To remove the existing structure and to construct and maintain a stream enclosure of Hollister Creek, consisting of approximately 120 linear feet of 12.0-foot by 9.0-foot concrete box culvert with its invert depressed 1.0 foot below streambed elevation. The project is located along SR 1016, Section 670, Segment 0050, approximately 0.8 mile downstream of Snyder Pond (Long Eddy, NY-PA Quadrangle N: 2.9 inches; W: 3.0 inches).

**E64-227. Gerald P. Falotico**, 65 Palisade Avenue, Emerson, NJ 07630. Preston Township, **Wayne County**, Army Corps of Engineers Philadelphia District.

To modify and maintain an existing 0.29-acre pond, with work including expansion of the pond area by approximately 0.44 acre. The pond expansion will impact approximately 150 linear feet of a tributary to Riley Creek and will convert the pond from offstream to onstream. Issuance of this permit also constitutes approval of the Environmental Assessment for a nonjurisdictional dam. The project is located on the east side of SR 4033 (South Preston Road), approximately 300 feet south of the intersection of Township Road T-571 (Czapnik Road) and SR 4033 (Orson, PA Quadrangle N: 10.2 inches; W: 2.7 inches).

**E48-315. Palmer Township**, P. O. Box 3039, Palmer, PA 18043-3039. Palmer Township, **Northampton County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a pedestrian bridge having a single span of 40 feet and a maximum underclearance of approximately 6 feet across Schoeneck Creek. The project is located in Wolf's Run Subdivision between Camelot Drive and Melissa Drive (Nazareth, PA Quadrangle N: 16.5 inches; W: 1.3 inches).

**E45-408. Golden Generation Students Association**, 1857 Mt. Eaton Road, Saylorsburg, PA 18353. Ross Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To construct and maintain two private pedestrian bridges, each having a single span of approximately 20 feet and underclearance of approximately 2.5 feet across Ross Common Creek and to repair and maintain existing stone masonry walls along each streambank having a length of 130 feet and height of approximately 3 feet. The project is located at Camp Chestnut, approximately 0.3 mile southwest of the intersection of SR 3015 and SR 3017 (Wind Gap, PA Quadrangle N: 21.7 inches; W: 10.0 inches).

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

**E05-298. Keith Van Horn**, 1020 Wertz Road, Bedford, PA 15522 in Colerain Township, **Bedford County**, ACOE Baltimore District

To maintain a bridge having a span of 25 feet and an underclearance of 5.0 feet across the channel of Cove Creek (EV) at a point at Wertz Road (Beans Cove, PA Quadrangle N: 22.4 inches; W: 8.2 inches) in Colerain Township, Bedford County.

**E07-356. Logan Township**, 800 38th Street, Altoona, PA 16602 in Logan Township, **Blair County**, ACOE Baltimore District

To remove the existing two span steel I-beam bridge and to construct and maintain a single span prestressed adjacent box beam bridge having a normal clear span of 43.8 feet with an average underclearance of 4.8 feet across Burgoon Run (TSF) on 58th Street near its intersection with Valley Avenue (Hollidaysburg, PA Quadrangle N: 20.12 inches; W: 8.15 inches) in Logan Township, Blair County.

**E67-711. Robert Wozniwicz**, 14 Pin Oak Drive, Boiling Springs, PA 17007 in Fairview Township, **York County**, ACOE Baltimore District

To construct and maintain an open-bottom corrugated steel plate low profile box culvert having a span of 20.67 feet, a rise of 6.17 feet and a length of 21.0 feet across an

unnamed tributary to the Yellow Breeches Creek (CWF) for the purpose of providing access to a private residential property located along Brenneman Drive about 1.5 miles west of its intersection with Lisburn Road (Lemoyne, PA Quadrangle N: 5.28 inches; W: 5.09 inches) in Fairview Township, York County.

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

**E57-087A. Game Commission**, P. O. Box 220, Dallas, PA 18612. State Game Lands Number 13 Forestry Management Road crossing Bloody Run in Davidson Township, **Sullivan County**, ACOE Baltimore District (Elk Grove, PA Quadrangle N: 10.5 inches; W: 7.3 inches).

To amend existing Water Obstruction and Encroachment Permit E57-087 to authorize the construction, operation and maintenance of minor road crossing Bloody Run (HQ-CWF) for forestry management operations in State Game Lands Number 13. The minor road crossing shall be constructed with a corrugated steel arch culvert pipe that has a minimum span of 9.3-feet, rise of 6.2-feet and length of 40-feet. The road crossing shall also be constructed with the culvert pipe depressed a minimum of 0.5-foot, a rock scour pool at the outlet and R-4 rock lining of the upstream and downstream roadway embankment. Construction of the road crossing shall be conducted during stream low flow. The construction of the road crossing will not impact wetlands while impacting 50-feet of Bloody Run. This permit also authorizes the removal of soil, rock and timber slash from floodplain, floodway and flood channel areas for the restoration of the flood carrying capacity of the waterway. Permit No. E57-087 and thus this permit amendment, was issued under section 105.13(e) "Small Projects." Permit No. E57-087 and this amendment also include 401 Water Quality Certification.

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

**E02-1369. Dormont Appliance Centers**, 3447 Babcock Boulevard, Pittsburgh, PA 15237. Ross Township, **Allegheny County**, ACOE Pittsburgh District.

To operate and maintain a concrete structure approximately 70' long and having a span of 14' and rise of 8' and an attached downstream concrete structure approximately 50' long and having a span of 13' and rise of 7' within Girty's Run (WWF). The structures are located in the parking lot of the Dormont Appliances Center located on the west side of Babcock Boulevard approximately 200 feet north of its intersection with Bernice Avenue. The removal of the original deteriorating upstream structure and the construction of the replacement structure is authorized under EP0202202. (Emsworth, PA Quadrangle N: 7.3 inches; W: 3.6 inches).

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

**E25-638, Greater Erie Industrial Development Corporation**, 5240 Knowledge Parkway, Erie, PA 16510-4658. Fairview Business Park—GEIDC, in Fairview Township, **Erie County**, ACOE Pittsburgh District (Swanville, PA Quadrangle N: 1.5 inches; W: 16.0 inches).

To fill a total of 3.53 acres of seven nonexceptional value wetlands at the Fairview Business Park—GEIDC for lot development on the former Commodore Downs property located northeast of the intersection of I-90 and SR 98 (Exit 16). Project includes creation of 4.22 acres of replacement wetlands.

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## SPECIAL NOTICES

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### Bureau of Deep Mine Safety Request For Variance

The Department of Environmental Protection (Department), Bureau of Deep Mine Safety (Bureau), has received a request for variance from Maple Creek Mining, Inc. The following notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the Bureau website at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

The Department is publishing a summary of the request to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted for 30 days following the publication of this notice. Comments should be addressed to Richard E. Stickler, Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401.

Section 702 of the Pennsylvania Bituminous Coal Mine Act (act) (52 P.S. § 702) provides a mechanism for operators to obtain variances from specific requirements of the act to accommodate the adoption of new machinery, equipment, tools, supplies, methods or processes.

Section 268(b) of the act (52 P.S. § 702) states that shelter holes shall be provided on the clearance side along designated traveling ways, which are also used as haulage entries, other than belt conveyor haulage entries. The shelter holes shall be spaced not more than 80 feet apart.

*Summary of the Request:* Maple Creek Mining, Inc. requested a variance from section 268(b) of the act to allow shelter hole intervals in excess of 80 feet but not to exceed 165 feet along the track haulage in all development areas of the High Quality Mine.

[Pa.B. Doc. No. 02-850. Filed for public inspection May 10, 2002, 9:00 a.m.]

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### Availability of Part 1 Application for Section 112(j) MACT—Affected Sources

The United States Environmental Protection Agency (EPA) has not promulgated maximum achievable control technology (MACT) standards to control emissions of hazardous air pollutants (HAPs) from a number of source categories as required under section 112 of the Clean Air Act Amendments of 1990 (CAA). The 10-year-bin MACT standards were to be promulgated by November 15, 2000. The EPA may fail to promulgate 32 standards covering 60 source categories.

The Department of Environmental Protection (Department) is required under section 112(j) of the CAA, section 6.6(b) of the Air Pollution Control Act (35 P.S. § 4006.6(f) and 25 Pa. Code § 127.35(c) (relating to maximum achievable control technology standards for hazardous air pollutants) to make MACT determinations on a case-by-case basis for all major sources falling into categories for which the EPA fails to issue final MACT standards by May 15, 2002. Any stationary air contamination source located on contiguous or adjacent properties that are under common control that emits or has the potential to emit 10 tons per year of a single HAP or 25 tons per year of total HAPs is considered a major source.

On April 5, 2002, the EPA promulgated "Section 112(j) Rule" amendments. (See 67 CFR 16582—16611.) These amendments revised the section 112(j) of the CAA to create a two-part MACT application process. Part 1 MACT applications are due by May 15, 2002, from all major source categories for which the EPA has failed to issue a MACT standard. The Part 1 applications will include basic information such as source type and location.

The Part 2 MACT applications will include the relevant process, pollutant and control information to allow permitting authorities to develop MACT standards for the facility equivalent to what the EPA would have developed. The Part 2 MACT applications will be due to the Department no later than May 15, 2004. However, the EPA expects to promulgate all remaining MACT standards before any facility would be required to submit a Part 2 application.

The owner/operator of the MACT-affected source must submit the completed Part 1 application to the Department's regional offices by May 15, 2002. Additional information concerning section 112(j) of the CAA applicability is available on the EPA's air toxics website at <http://www.epa.gov/ttn/atw/eparules.html>.

For additional information, contact Krishnan Ramamurthy at (717) 787-4325 or e-mail at [kramamurth@state.pa.us](mailto:kramamurth@state.pa.us). The Part 1 MACT application and a sample application are also available on the Department website at <http://www.dep.state.pa.us>.

DAVID E. HESS,  
*Secretary*

[Pa.B. Doc. No. 02-851. Filed for public inspection May 10, 2002, 9:00 a.m.]

### **Proposed Reauthorization of and Revisions to the General NPDES Permit for Stormwater Discharges Associated with Construction Activities (PAG-2)**

The Department of Environmental Protection (Department) by this notice is proposing to renew the General NPDES Permit for Stormwater Discharges Associated with Construction Activities (PAG-2) issued on October 10, 1997, involving 5 acres or more of earth disturbance, which shall expire on October 9, 2002, unless extended by the Department.

The renewed general permit, as with the existing general permit, will generally apply to eligible existing and new stormwater discharges associated with construction activities including clearing and grading and excavation activities involving 5 acres or more of earth disturbance or an earth disturbance on any portion, part or during any stage of, a larger common plan of development or sale that involves 5 acres or more of earth disturbance over the life of the project.

The proposed reauthorization relates to the Phase I (5 acres or more) permit requirements only and does not incorporate the Phase II requirements of NPDES permit coverage for construction activities between 1 and 5 acres with a point source discharge, which must be in place by December 2002. The draft Phase II program requirements will be published in a subsequent notice. The revised PAG-2 does incorporate clarifications related to the design and implementation of postconstruction stormwater controls. Other minor revisions include:

- General information and requirements have been added to clarify what information is required for an NPDES General Permit for Stormwater Discharges Associated with Construction Activities.

- Definitions of "erosion and sediment control plan" and "authorized county conservation district" have been added. The definition for "reviewing entity" has been deleted.

The proposed revisions to PAG-2 have been sent to the EPA Region III Administrator.

Persons wishing to comment on the proposed revisions are invited to obtain a copy of the revised permit from and/or submit a written statement to Kenneth Murin, Chief, Technical Support Section, Department of Environmental Protection, Bureau of Watershed Management, Division of Waterways, Wetlands and Erosion Control, 10th Floor, Rachel Carson State Office Building, P. O. Box 8775, Harrisburg, PA 17105-8775 or e-mail [kmurin@state.pa.us](mailto:kmurin@state.pa.us).

Comments must be submitted within 30 days from the date of this notice. The period for comment may be extended at the discretion of the Department for one additional 15-day period. Comments received within this 30-day period will be considered in the formulation of the Final Notice of Availability of Amendments to PAG-2. 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 the comment and the relevant facts upon which it is based. A public hearing may be held if there is significant public interest and request identified by the comments.

Following the 30-day comment period, the Department will make a final determination regarding the proposed revisions to PAG-2. Notice of this determination will be published in the *Pennsylvania Bulletin*.

A draft of the permit with the proposed revisions and related documents is on file at the Central Office of the Bureau of Watershed Management at the location previously noted. Persons wishing to review or receive further information should contact the Central Office of the Bureau of Watershed Management at (717) 787-6827. Persons with a disability may use the AT&T relay service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

DAVID E. HESS,  
*Secretary*

[Pa.B. Doc. No. 02-852. Filed for public inspection May 10, 2002, 9:00 a.m.]

## **DEPARTMENT OF HEALTH**

### **Application of Saint Vincent Health Center for Exception**

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Saint Vincent Health Center has requested an exception to the requirements of 28 Pa. Code § 107.62(b) (relating to oral orders).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from 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, e-mail address: [DH, PAExcept](mailto:DH, PAExcept).

Those 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 Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,  
Secretary

[Pa.B. Doc. No. 02-853. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Application of Shamokin Area Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Shamokin Area Community Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum requirements), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.2.A3 (relating to windows in each patient room), 7.28.A10 (relating to operable windows in patient rooms) and 12-3.8.1 (relating to special features of windows in patient rooms).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from 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, e-mail address: DH, PAExcept.

Those 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 Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ROBERT S. ZIMMERMAN, Jr.,  
Secretary

[Pa.B. Doc. No. 02-854. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Application of Temple University Children's Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Temple University Children's Medical Center has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from 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, e-mail address: DH, PAExcept.

Those 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 Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ROBERT S. ZIMMERMAN, Jr.,  
Secretary

[Pa.B. Doc. No. 02-855. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Application of Temple University Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) hereby gives notice that Temple University Hospital has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from 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, e-mail Address: DH, PAExcept.

Those 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 Director, Division of Acute and

Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-856. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Availability of Draft Maternal and Child Health Services Block Grant Application for Federal Fiscal Year 2003

The Draft Maternal and Child Health Services Block Grant (Grant) application for Federal Fiscal Year 2003, under 42 U.S.C.A. § 705(a)(5)(F), is available for review and comment on the Department of Health website (Department). This application is the Commonwealth's request to the United States Department of Health and Human Services for block grant funding.

The grant application describing proposed services, program goals and objectives and activities can be obtained on the Department's website at <http://www.health.state.pa.us/php/2003Blockgrant.htm>.

The draft grant application can also be obtained by contacting the Bureau of Family Health (Bureau) at (717) 787-7262. Persons with a disability who require an alternative format of the previously mentioned application (such as large print, audio tape or Braille) should also contact the Bureau at (717) 787-7192, V/TT: (717) 783-6514 or Pennsylvania AT&T Relay Service at (800) 654-5584 (TT).

Comments may be submitted to Ivonne C. Bucher, Director, Bureau of Family Health, Department of Health, P. O. Box 90, 7th Floor East, Health and Welfare Building, Harrisburg, PA 17108. Comments are due by May 31, 2002. Persons with a disability who desire to comment in alternative format should notify the Bureau at (717) 787-7192, TDD: (717) 783-6514.

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-857. Filed for public inspection May 10, 2002, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Office of Vocational Rehabilitation; Innovation and Expansion Grant to Provide a Coordinated State-wide Advocacy Network for Persons with Disabilities

The Department of Labor and Industry, Office of Vocational Rehabilitation (OVR), under the Rehabilitation Act of 1973, as amended in 1992, announces that competing applications to establish, expand or improve community rehabilitation programs serving persons with the most significant disabilities will be accepted. This competition is authorized under the Rehabilitation Act of 1973, as amended.

Funding for this competition is under the auspice of the State Board of Vocational Rehabilitation and the OVR,

which will serve as administrator and fiscal agent for the grant awarded under this competition. Applications will be written to accomplish the following area of emphasis:

To provide a coordinated Statewide advocacy network for persons with disabilities including:

- Coordinate, administer and provide guidance to an advocacy service capable of identifying and addressing independent living and disability-related needs/issues of persons with disabilities at the local and State levels.
- Working exclusively with recognized Centers for Independent Living (CILs) in this Commonwealth, the grantee will provide facilitation of a network of local/regional disability advocates integrated with, and coordinated by, a State-level advocacy service.
- Development of an advocacy agenda, advocacy plan and advocacy service cost allocation plan to be submitted to OVR annually throughout the life of the grant.
- Compilation, and submission to the OVR, of quarterly and year-end reports presenting advocacy service statistics, expenditure/revenue activity and progress/problems related to the accomplishment of project goals and objectives.
- Grantee will enter subcontracts with authorized CILs in this Commonwealth for purposes of providing disability-related advocacy services at the local level. The subcontracts will be funded at the level of \$35,500 per center. Grantee will administer disbursement of a combined CIL subcontract budget in excess of \$532,500 per year.
- Grantee will conduct annual onsite compliance reviews of project-supported local advocacy services as provided through subcontracted CILs. Grantee will review no fewer than 50% of the subcontracting CIL advocacy services per year.

#### *Service Information*

This competition will result in one award beginning October 1, 2002, with option for a single 12-month renewal. Activities required under this grant competition include those noted in the preceding section.

For purposes of this competition, an eligible applicant is an individual or a nonprofit organization incorporated under the laws of the Commonwealth, experienced in effectively implementing and managing advocacy efforts, particularly where the services have been undertaken on behalf of persons with significant disabilities.

An applicant must have experience in activities, as noted, for a minimum of 3 years prior to the date of application to be considered for this competition. A successful applicant must be able to demonstrate the effectiveness of previous experience in its grant application.

#### *Application Information*

Applications received by 5 p.m. on June 24, 2002, which are complete and conform to established specifications, will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose.

The effective dates for the contract will be October 1, 2002, through September 30, 2003. Final awards made through this competition are subject to the approval of the Executive Director of the OVR.

A complete application package, which includes more detailed information, is available by contacting Jacqueline



B. Lucas, Office of Vocational Rehabilitation, Contracts and Grants Management Section, 1521 North Sixth Street, Harrisburg, PA 17102-2913, (717) 787-7016, TDD: (717) 783-8917, fax: (717) 705-9345.

#### *Preproposal Conference*

A preproposal conference to deal specifically with technical questions regarding applications will be held for applicants on Tuesday, May 21, 2002, at 10 a.m. at the OVR Central Office, 1521 North Sixth St., Harrisburg, PA. Copies of the application package will also be available at this conference.

Persons planning to attend the conference who have special needs that should be considered to participate fully in the conference should contact Jacqueline B. Lucas at (717) 787-7016 no later than 1 week in advance of the conference date.

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 02-858. Filed for public inspection May 10, 2002, 9:00 a.m.]

### **Office of Vocational Rehabilitation; Innovation and Expansion Grant to Provide Job Creation Assistance on Behalf of Persons with Significant Disabilities in Berks, Bradford, Columbia, Luzerne, Lackawanna, Pike, Schuylkill, Sullivan, Susquehanna, Wayne and Wyoming Counties**

The Department of Labor and Industry, Office of Vocational Rehabilitation (OVR), under the Rehabilitation Act of 1973, as amended in 1992, announces that competing applications to establish, expand or improve community rehabilitation programs serving persons with the most significant disabilities will be accepted. This competition is authorized under the Rehabilitation Act of 1973, as amended.

Funding for this competition is under the auspice of the State Board of Vocational Rehabilitation and the OVR, which will serve as administrator and fiscal agent for the grant awarded under this competition. Applications will be written to accomplish the following area of emphasis:

- To increase employment and career opportunities for persons with significant disabilities in mainstream industry jobs in Berks, Bradford, Columbia, Luzerne, Lackawanna, Pike, Schuylkill, Sullivan, Susquehanna, Wayne and Wyoming Counties.
- To stimulate development, retention and growth of commerce and industry in Berks, Bradford, Columbia, Luzerne, Lackawanna, Pike, Schuylkill, Sullivan, Susquehanna, Wayne and Wyoming Counties.

#### *Service Information*

This competition will result in one award and funding for a 4-year period, beginning September 30, 2002. Activities allowable under this grant competition include disbursement and management of project moneys, through the OVR grantee, to qualified local businesses for purchase of equipment. The equipment must create jobs for and be operated by persons with significant disabilities.

The successful applicant will enter a contract with the OVR to serve as the Commonwealth's agent administering a job creation project budget of no more than \$200,000 during the first year of the award. Job creation

project budgets will vary during subsequent contract years during the life of the award.

Eligible applicants are recognized Economic Development Groups (EDG), defined as any group, corporation or consortium which exists for the purpose of providing economic development funding, including capital equipment purchases, in the region for which the EDG has been designed.

For purposes of this competition, an eligible applicant may also be a nonprofit or governmental organization experienced in successfully collaborating with business and industry located in Berks, Bradford, Columbia, Luzerne, Lackawanna, Pike, Schuylkill, Sullivan, Susquehanna, Wayne and Wyoming Counties. The collaboration must have been in regard to development of employment, employment opportunities, placement of hard-to-place populations, workforce development or comparable areas of endeavor.

An applicant must have operated in these capacities for a minimum of 3 years for its application to be considered for this competition.

An applicant must demonstrate an understanding of the economy, market characteristics and market potential in the service area that encompasses Berks, Bradford, Columbia, Luzerne, Lackawanna, Pike, Schuylkill, Sullivan, Susquehanna, Wayne and Wyoming Counties.

For purposes of this competition, Job Creation Assistance on Behalf of Persons with Significant Disabilities, services focus upon activities that result in increased competitive employment of OVR-eligible persons with significant disabilities.

The grantee funded under this competition must comply with the following:

- Individuals placed in employment through this program must be eligible OVR customers.
- Job creation services must be implemented with the close coordination of the Wilkes-Barre or Reading OVR District Office, as appropriate, functioning in a leadership capacity. Proposals submitted for consideration under this grant competition must reflect this ongoing joint effort.
- The District Administrator in the Wilkes-Barre or Reading OVR District Office or that person's designee must personally be involved in all decisions regarding provision of equipment to applicant businesses in the respective counties. The corresponding District Administrator must cosign all disbursements made by the grantee to qualifying businesses.

#### *Application Information*

Applications received by 5 p.m. on June 19, 2002, which are complete and conform to established specifications, will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose.

The effective dates for the contract will be September 30, 2002, through September 29, 2003. Final awards made through this competition are subject to the approval of the Executive Director of the OVR.

A complete application package, which includes more detailed information, is available by contacting Jacqueline B. Lucas, Office of Vocational Rehabilitation, Contracts and Grants Management Section, 1521 North Sixth Street, Harrisburg, PA 17102-2913, (717) 787-7016, TDD: (717) 783-8917, fax: (717) 705-9345.

*Preproposal Conference*

A preproposal conference to deal specifically with technical questions regarding applications will be held for applicants on Friday, May 17, 2002, at 10:30 a.m. at the Wilkes-Barre OVR District Office, 665 Carey Avenue, Suite 1, Wilkes-Barre, PA. Copies of the application package will also be available at this conference.

Persons planning to attend the conference who have special needs that should be considered to participate fully in the conference should contact Jacqueline B. Lucas at (717) 787-7016 no later than 1 week in advance of the conference date.

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 02-859. Filed for public inspection May 10, 2002, 9:00 a.m.]

**Office of Vocational Rehabilitation; Innovation and Expansion Grant to Provide Job Creation Assistance on Behalf of Persons with Significant Disabilities in Carbon, Lehigh, Monroe and Northampton Counties**

The Department of Labor and Industry, Office of Vocational Rehabilitation (OVR), under the Rehabilitation Act of 1973, as amended in 1992, announces that competing applications to establish, expand or improve community rehabilitation programs serving persons with the most significant disabilities will be accepted. This competition is authorized under the Rehabilitation Act of 1973, as amended.

Funding for this competition is under the auspice of the State Board of Vocational Rehabilitation and the OVR, which will serve as administrator and fiscal agent for the grant awarded under this competition. Applications will be written to accomplish the following area of emphasis:

- To increase employment and career opportunities for persons with significant disabilities in mainstream industry jobs in Carbon, Lehigh, Monroe and Northampton Counties.
- To stimulate development, retention and growth of commerce and industry in Carbon, Lehigh, Monroe and Northampton Counties.

*Service Information*

This competition will result in one award and funding for a 4-year period, beginning September 30, 2002. Activities allowable under this grant competition include disbursement and management of project moneys, through the OVR grantee, to qualified local businesses for purchase of equipment. The equipment must create jobs for and be operated by persons with significant disabilities.

The successful applicant will enter a contract with the OVR to serve as the Commonwealth's agent administering a job creation project budget of no more than \$200,000 during the first year of the award. Job creation project budgets will vary during subsequent contract years during the life of the award.

Eligible applicants are recognized Economic Development Groups (EDG), defined as any group, corporation or consortium which exists for the purpose of providing economic development funding, including capital equipment purchases, in the region for which the EDG has been designed.

For purposes of this competition, an eligible applicant may also be a nonprofit or governmental organization experienced in successfully collaborating with business and industry located in Carbon, Lehigh, Monroe and Northampton Counties. The collaboration must have been in regard to development of employment, employment opportunities, placement of hard-to-place populations, workforce development or comparable areas of endeavor.

An applicant must have operated in these capacities for a minimum of 3 years for its application to be considered for this competition.

An applicant must demonstrate an understanding of the economy, market characteristics and market potential in the service area that encompasses Carbon, Lehigh, Monroe and Northampton Counties.

For purposes of this competition, Job Creation Assistance on Behalf of Persons with Significant Disabilities, services focus upon activities that result in increased competitive employment of OVR-eligible persons with significant disabilities.

The grantee funded under this competition must comply with the following:

- Individuals placed in employment through this program must be eligible OVR customers.
- Job creation services must be implemented with the close coordination of the Allentown OVR District Office functioning in a leadership capacity. Proposals submitted for consideration under this grant competition must reflect this ongoing joint effort.
- The District Administrator, Allentown OVR District Office or that person's designee must personally be involved in all decisions regarding provision of equipment to applicant businesses. The District Administrator must cosign all disbursements made by the grantee to qualifying businesses.

*Application Information*

Applications received by 5 p.m. on June 18, 2002, which are complete and conform to established specifications, will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose.

The effective dates for the contract will be September 30, 2002, through September 29, 2003. Final awards made through this competition are subject to the approval of the Executive Director of the OVR.

A complete application package, which includes more detailed information, is available by contacting Jacqueline B. Lucas, Office of Vocational Rehabilitation, Contracts and Grants Management Section, 1521 North Sixth Street, Harrisburg, PA 17102-2913, (717) 787-7016, TDD: (717) 783-8917, fax: (717) 705-9345.

*Preproposal Conference*

A preproposal conference to deal specifically with technical questions regarding applications will be held for applicants on Wednesday, May 15, 2002, at 10 a.m. at the Allentown OVR District Office, 160 Hamilton Street, Suite 100, Allentown, PA. Copies of the application package will also be available at this conference.

Persons planning to attend the conference who have special needs that should be considered to participate fully in the conference should contact Jacqueline B. Lucas at (717) 787-7016 no later than 1 week in advance of the conference date.

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 02-860. Filed for public inspection May 10, 2002, 9:00 a.m.]

**Office of Vocational Rehabilitation; Innovation and Expansion Grant to Provide Job Creation Assistance on Behalf of Persons with Significant Disabilities in Clinton, Lycoming, Montour, Northumberland, Potter, Snyder, Tioga and Union Counties**

The Department of Labor and Industry, Office of Vocational Rehabilitation (OVR), under the Rehabilitation Act of 1973, as amended in 1992, announces that competing applications to establish, expand or improve community rehabilitation programs serving persons with the most significant disabilities will be accepted. This competition is authorized under the Rehabilitation Act of 1973, as amended.

Funding for this competition is under the auspice of the State Board of Vocational Rehabilitation and the OVR, which will serve as administrator and fiscal agent for the grant awarded under this competition. Applications will be written to accomplish the following area of emphasis:

- To increase employment and career opportunities for persons with significant disabilities in mainstream industry jobs in Clinton, Lycoming, Montour, Northumberland, Potter, Snyder, Tioga and Union Counties.
- To stimulate development, retention and growth of commerce and industry in Clinton, Lycoming, Montour, Northumberland, Potter, Snyder, Tioga and Union Counties.

*Service Information*

This competition will result in one award and funding for a 4-year period, beginning September 30, 2002. Activities allowable under this grant competition include disbursement and management of project moneys through the OVR grantee to qualified local businesses for purchase of equipment. The equipment must create jobs for and be operated by persons with significant disabilities.

The successful applicant will enter a contract with OVR to serve as the Commonwealth's agent administering a job creation project budget of no more than \$200,000 during the first year of the award. Job creation project budgets will vary during subsequent contract years during the life of the award.

Eligible applicants are recognized Economic Development Groups (EDG), defined as any group, corporation or consortium which exists for the purpose of providing economic development funding, including capital equipment purchases, in the region for which the EDG has been designed.

For purposes of this competition, an eligible applicant may also be a nonprofit or governmental organization experienced in successfully collaborating with business and industry located in Clinton, Lycoming, Montour, Northumberland, Potter, Snyder, Tioga and Union Counties.

The collaboration must have been in regard to development of employment, employment opportunities, placement of hard-to-place populations, workforce development or comparable areas of endeavor.

An applicant must have operated in these capacities for a minimum of 3 years for its application to be considered for this competition.

An applicant must demonstrate an understanding of the economy, market characteristics and market potential in the service area that encompasses Clinton, Lycoming, Montour, Northumberland, Potter, Snyder, Tioga and Union Counties.

For purposes of this competition, Job Creation Assistance on Behalf of Persons with Significant Disabilities, services focus upon activities that result in increased competitive employment of OVR-eligible persons with significant disabilities.

The grantee funded under this competition must comply with the following:

- Individuals placed in employment through this program must be eligible OVR customers.
- Job creation services must be implemented with the close coordination of the Williamsport OVR District Office functioning in a leadership capacity. Proposals submitted for consideration under this grant competition must reflect this ongoing joint effort.
- The District Administrator, Williamsport OVR District Office or that person's designee must personally be involved in all decisions regarding provision of equipment to applicant businesses. The OVR District Administrator must cosign all disbursements made by the grantee to qualifying businesses.

*Application Information*

Applications received by 5 p.m. on June 20, 2002, which are complete and conform to established specifications, will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose.

The effective dates for the contract will be September 30, 2002, through September 29, 2003. Final awards made through this competition are subject to the approval of the Executive Director of the OVR.

A complete application package, which includes more detailed information, is available by Jacqueline B. Lucas, Office of Vocational Rehabilitation, Contracts and Grants Management Section, 1521 North Sixth Street, Harrisburg, PA 17102-2913, (717) 787-7016, TDD: (717) 783-8917, fax: (717) 705-9345.

*Preproposal Conference*

A preproposal conference to deal specifically with technical questions regarding applications will be held for applicants on Thursday, May 16, 2002, at 10 a.m. at the Williamsport OVR District Office, The Grit Building, Suite 102, 208 W. 3rd Street, Williamsport, PA. Copies of the application package will also be available at this conference.

Persons planning to attend the conference who have special needs that should be considered to participate fully in the conference should contact Jacqueline B. Lucas at (717) 787-7016 no later than 1 week in advance of the conference date.

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 02-861. Filed for public inspection May 10, 2002, 9:00 a.m.]

**Office of Vocational Rehabilitation; Innovation and Expansion Grant to Provide Logistical Support and Coordination Services to the Pennsylvania Rehabilitation Council**

The Department of Labor and Industry, Office of Vocational Rehabilitation (OVR), under the Rehabilitation Act of 1973, as amended in 1992, announces that competing applications to establish, expand or improve community rehabilitation programs serving persons with the most significant disabilities will be accepted. This competition is authorized under the Rehabilitation Act of 1973, as amended.

Funding for this competition is under the auspice of the State Board of Vocational Rehabilitation and the OVR, which will serve as administrator and fiscal agent for the grant awarded under this competition. Applications will be written to accomplish the following area of emphasis:

To provide logistical support and coordination services to the Pennsylvania Rehabilitation Advisory Council (PaRC) including:

- To arrange, coordinate, facilitate and produce minutes for a minimum of four quarterly meetings of the PaRC.
- To arrange, coordinate, facilitate and produce minutes for PaRC committee meetings. Committee meetings will be conducted via conference calls.
- To assist PaRC review information, solicit input and provide feedback related to OVR policy, procedures, and the like, as appropriate to its role as advisory to the OVR
- To assist PaRC prepare and disseminate information, solicit input and comply with reporting requirements as may be imposed upon it by the Federal government and/or the OVR.
- To coordinate and arrange logistics associated with any PaRC function sanctioned by the Commonwealth, including scheduling of events, lodging arrangements, related travel arrangements, maintenance of travel records, travel reimbursement and reasonable disability-related accommodations for PaRC members or others approved by the Commonwealth.

*Service Information*

This competition will result in one award and funding for a 4-year period, beginning October 1, 2002. Activities allowable under this grant competition include those noted in the preceding section.

The successful applicant will enter a contract with the OVR to serve as the Commonwealth's agent administering logistical and coordinative services as described, including management of a project budget in excess of \$250,000 during the first year of the award. PaRC project budgets may vary in subsequent contract years during the life of the award.

For purposes of this competition, an eligible applicant is a for-profit or nonprofit organization, incorporated under the laws of the Commonwealth or government agency or political subdivision experienced in effectively managing the budget and operations for, and facilitating the activities of, advisory boards or other advisory bodies, particularly entities as may be government-appointed and charged with affecting services for persons with significant disabilities.

An applicant must have experience in activities, as noted, for a minimum of 3 years prior to the date of application to be considered for this competition. In its grant application, a successful applicant must be able to demonstrate the effectiveness of previous experience.

*Application Information*

Applications received by 5 p.m. on June 22, 2002, which are complete and conform to established specifications, will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose.

The effective dates for the contract will be October 1, 2002, through September 30, 2003. Final awards made through this competition are subject to the approval of the Executive Director of the OVR.

A complete application package, which includes more detailed information, is available by Jacqueline B. Lucas, Office of Vocational Rehabilitation, Contracts and Grants Management Section, 1521 North Sixth Street, Harrisburg, PA 17102-2913, (717) 787-7016, TDD: (717) 783-8917, fax: (717) 705-9345.

*Preproposal Conference*

A preproposal conference to deal specifically with technical questions regarding applications will be held for applicants on Monday, May 20, 2002, at 1:30 p.m. at the OVR Central Office, 1521 North Sixth St., Harrisburg, PA. Copies of the application package will also be available at this conference.

Persons planning to attend the conference who have special needs that should be considered to participate fully in the conference, should contact Jacqueline B. Lucas at (717) 787-7016 no later than 1 week in advance of the conference date.

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 02-862. Filed for public inspection May 10, 2002, 9:00 a.m.]

**Office of Vocational Rehabilitation; Innovation and Expansion Grant to Provide Logistical Support and Coordination Services to the Pennsylvania Statewide Independent Living Council**

The Department of Labor and Industry, Office of Vocational Rehabilitation (OVR), under the Rehabilitation Act of 1973, as amended in 1992, announces that competing applications to establish, expand or improve community rehabilitation programs serving persons with the most significant disabilities will be accepted. This competition is authorized under the Rehabilitation Act of 1973, as amended.

Funding for this competition is under the auspice of the State Board of Vocational Rehabilitation and the OVR,

which will serve as administrator and fiscal agent for the grant awarded under this competition. Applications will be written to accomplish the following area of emphasis:

To provide logistical support and coordination services to the Statewide Independent Living Council (SILC) including:

- To arrange, coordinate, facilitate and produce minutes for a minimum of four quarterly meetings of the SILC.
- To arrange, coordinate, facilitate and produce minutes for SILC committee meetings. Committee meetings will be conducted via conference calls.
- To assist SILC conduct a minimum of three public forums per year soliciting consumer input regarding the State Plan for Independent Living (SPIL) for the Federal fiscal years ending September 30, 2003, and September 30, 2004.
- To assist SILC conduct a minimum of four public forums soliciting consumer input regarding the SPIL for the Federal fiscal years 2005-2007.
- To assist SILC to complete the United States Department of Education, Rehabilitation Services Administration (RSA), Section 704 Annual Performance Report for Independent Living Programs (Section 704 Report) and submit that report to OVR and RSA no later than January 31 of each year. The Section 704 Report reflects annual independent living services and accomplishments through September 30 of the preceding calendar year.
- To assist SILC prepare and disseminate information, solicit input and comply with reporting requirements imposed upon it by the Federal government or the OVR.
- To coordinate and arrange logistics associated with any SILC function sanctioned by the Commonwealth, including scheduling of events, lodging arrangements, related travel arrangements, including maintenance of travel records, travel reimbursement and reasonable disability-related accommodations for SILC members or others approved by the Commonwealth.

#### *Service Information*

This competition will result in one award and funding for a 4-year period, beginning October 1, 2002. Activities allowable under this grant competition include those previously noted.

The successful applicant will enter a contract with the OVR to serve as the Commonwealth's agent administering logistical and coordinative services as described, including management of a project budget of approximately \$275,000 during the first year of the award. SILC project budgets may vary in subsequent contract years during the life of the award.

For purposes of this competition, an eligible applicant is a for-profit or nonprofit organization, incorporated under the laws of the Commonwealth or a government agency or political subdivision experienced in effectively managing the budget and operations for, and facilitating the activities of, advisory boards or other advisory bodies.

A successful applicant must be able to demonstrate the effectiveness of previous experience in its grant application.

#### *Application Information*

Applications received by 5 p.m. on June 21, 2002, which are complete and conform to established specifications, will be accepted for review. Applications submitted after this date and time will be ineligible for consideration.

Applications will be evaluated by a panel of reviewers convened for that purpose.

The effective dates for the contract will be October 1, 2002, through September 30, 2003. Final awards made through this competition are subject to the approval of the Executive Director of the OVR.

A complete application package, which includes more detailed information, is available by contacting Jacqueline B. Lucas, Office of Vocational Rehabilitation, Contracts and Grants Management Section, 1521 North Sixth Street, Harrisburg, PA 17102, (717) 787-7016, TDD: (717) 783-8917, fax: (717) 705-9345.

#### *Preproposal Conference*

A preproposal conference to deal specifically with technical questions regarding applications will be held for applicants on Monday, May 20, 2002, at 10 a.m. at the OVR Central Office, 1521 North Sixth St., Harrisburg, PA. Copies of the application package will also be available at this conference.

Persons planning to attend the conference who have special needs that should be considered to participate fully in the conference should contact Jacqueline B. Lucas at (717) 787-7016 no later than 1 week in advance of the conference date.

JOHNNY J. BUTLER,  
*Secretary*

[Pa.B. Doc. No. 02-863. Filed for public inspection May 10, 2002, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(d) of the Regulatory Review Act (71 P. S. § 745.5(d)) provides that the designated standing Committees may issue comments within 20 days of the close of the public comment period and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the Committees' comment period. The Commission's comments are based upon the criteria contained in section 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)).

The Commission issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted by the date indicated.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Issued</i>	<i>Final-Form Submission Deadline</i>
#2-137	Department of Agriculture Food Code	4/25/02	3/25/04

(32 Pa.B. 1046 (February 23, 2002))

**Department of Agriculture Regulation No. 2-137****Food Code****April 25, 2002**

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Department of Agriculture (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by March 25, 2004, the regulation will be deemed withdrawn.

**1. Application of the statutes and proposed regulation to schools and nonprofit organizations.—Impact on public health; Consistency with other regulations; Clarity.**

Two commentators, the Pennsylvania Catholic Conference and Pennsylvania School Boards Association, raised questions regarding the application of this regulation to different types of entities. There are two concerns.

First, it is unclear how the provisions and requirements of Chapter 46 will apply to cafeterias in private and public schools, kitchens in camps, nonprofit agencies, religious organizations and private clubs or similar establishments. For example, will school cafeterias or church kitchens need to obtain a permit, license or registration as required by § 46.1141? The Department should clearly delineate how this regulation will apply to these types of facilities.

Second, this proposed regulation is repealing existing regulations that are referenced in the existing regulations of other State agencies. For example, a regulation of the Environmental Quality Board at 25 Pa. Code § 171.6 references 7 Pa. Code Chapter 78. Chapter 78 will be deleted by this regulation and replaced by Chapter 46. What steps is the Department taking to notify other agencies of these changes and the need to update their regulations?

**Subchapter A. Purpose and Definitions.**

**2. Section 46.3. Definitions.—Consistency; Reasonableness; Readability; Clarity.**

*Adulterated*

Paragraph (iii) is an extremely long sentence. For clarity and readability, it should be edited into shorter sentences.

*Approved*

The definition of this term includes the following phrase "Acceptable to the Department based on a determination of conformity with principles, practices and generally recognized standards." We have two concerns.

First, the regulation doesn't specify the process for making the determination of conformity. The Department should include these steps in the final-form regulation, perhaps in Subchapter H, relating to administrative procedures.

Second, the phrase "principles, practices and generally recognized standards" is unclear. The definition should include examples, cross-references or citations to these practices and standards.

*Food employee*

A hyphen should be added between the words "food" and "contact" to be consistent with the definition of "food-contact surface."

*Hazard*

This definition contains the phrase "that may cause an unacceptable consumer health risk." For clarity, the Department should include examples of what it considers an "unacceptable consumer health risk" in the definition.

*Honestly presented*

The words "honestly presented" are used in §§ 46.1, 46.201, 46.421 and in other sections in the proposed regulation. Section 46.421(b)(1) contains a straightforward description of this phrase. Since this phrase is used in different provisions in the regulation, a definition, similar to the provision in § 46.421(b)(1), should be added to § 46.3.

*Packaged*

The definition of this term is not similar to the definition of the term "package" as set forth in section 20.2 of the Food Act (31 P. S. § 20.2). The Department should review the regulation, and determine whether it is more appropriate to use "packaged" or the statutorily defined term "package" in the final-form regulation.

*Potentially hazardous food*

There is a typographical error in paragraph (i) of the definition of "potentially hazardous food" in the *Pennsylvania Bulletin*. The word "ingredient" is misspelled.

*Private water system*

This term is not used in the regulation. Therefore, the definition is unnecessary and should be deleted.

*Public eating or drinking place*

The word "not" is missing in paragraph (ii) of this definition in the version printed in the *Pennsylvania Bulletin*. The word "not" should be placed between "does" and "apply" in this definition in the final-form regulation.

*Substance*

The definition of this term contains the word "substance." Section 1.7(e), relating to definitions, in the *Pennsylvania Code and Bulletin Style Manual* states, "the term being defined may not be included as part of the definition." The Department should either delete this term from the definition or replace it with a word or phrase that conveys the same meaning.

**Subchapter B. Employees**

**3. Section 46.112. Disease or medical conditions that must be reported.—Protection of public health; Reasonableness; Clarity.**

There are two concerns.

First, the structure of this section differs from that of the 1999 Federal Recommended Food Code at section 2-201.11. Specifically, paragraphs 1—4 of § 46.112, list diseases or medical conditions. However, paragraphs 5—8 describe situations where someone is suspected of causing or being exposed to a disease or is living with another person with a disease. The 1999 Federal Recommended Food Code clearly identifies the "someone" as the food employee or applicant. The proposed regulation does not clearly identify the subject of paragraphs 5—8 as the employee or applicant. This section should be rewritten to more closely reflect the 1999 Federal Recommended Food Code at section 2-201.11.

Second, the Chester County Health Department suggests the term "Esherichia coli O157:H7" in § 46.112 should be replaced by the term "Shiga toxin-producing E. coli." This change would allow for the use of rapid

nonculture assays, thereby avoiding delays in receiving results of culture-based subtyping procedures. The term "Esherichia coli O157:H7" is also used in § 46.113(a)(2)(ii). This update should be made in the final-form regulation.

**4. Section 46.132. Duty of food employees to wash.—Protection of public health; Consistency with other regulations; Clarity.**

The Department used the 1999 Federal Recommended Food Code as a model for developing this regulation. The Federal Recommended Food Code is updated and revised periodically. One commentator suggested that this section should be updated to match the 2001 Federal Recommended Food Code by including a requirement that employees wash their hands before using gloves. The Department should include this requirement in the final-form regulation.

**5. Section 46.133. Required washing locations.—Fiscal impact; Reasonableness; Clarity.**

This section prohibits food employees from using a utility sink for required hand washing. There are two concerns.

First, the term "utility sink" should be defined.

Second, the prohibition against using a "utility sink" as a washing location for employees may not be feasible for small business food establishments with limited space. The Department should consider providing a variance that allows food employees to wash their hands in a utility sink not used for food preparation when a facility, such as a small business, does not have space for additional sinks or lavatories for hand washing.

**6. Section 46.134. Hand sanitizers.—Clarity.**

Subsection (a)(1)(ii)(A) refers to the "current FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash." OTC is not defined but only appears in § 46.134. The final-form regulation should include the words "over-the-counter" in parentheses following "OTC" to insure that readers know the meaning of the acronym.

**Subchapter C. Food**

**7. Section 46.213. Packaged food.—Duplication of other regulations; Clarity.**

There are two concerns.

First, this section states that packaged food shall be labeled as specified in the Food Act, this chapter, 21 CFR 101, 9 CFR 317 and 9 CFR 381, Subpart N. Labeling requirements are set forth in greater detail in § 46.422 with the same citations to Federal regulations. Rather than referencing the Food Act and Federal regulations, this section should cross-reference § 46.422.

Second, if the reference to "the Food Act" is retained in this section, it should be changed to "the Act" to be consistent with the definition of "the Act" in § 46.3.

**8. Section 46.220. Wild mushrooms.—Reasonableness; Clarity.**

This section refers to an "approved mushroom identification expert." What are the qualifications of an approved mushroom identification expert? Who approves them?

**9. Section 46.241. Receiving temperature of food.—Reasonableness; Clarity.**

Subsection (d) states, "Upon receipt, potentially hazardous food shall be free of evidence of previous temperature

abuse." This subsection should include examples of "visible evidence of improper temperature."

**10. Section 46.261. Preventing contamination from food employees' hands.—Reasonableness; Clarity.**

Stakeholders have suggested new language to clarify the situations when employees may contact food, including ready-to-eat food, with their bare hands. The Department should review the new language and make changes to the final-form regulation to clarify when employees may touch food with their bare hands.

**11. Section 46.303. Linens and napkins: use limitations.—Clarity.**

A commentator suggested that this provision should also apply to the use of linens or napkins in a retail display. This section should allow, and provide for, the use of linens or napkins in contact with food in retail displays.

**12. Section 46.321. Food storage.—Clarity.**

Subsection (d)(9) states, "Food may not be stored under any source of contamination." It is our understanding that the Department actually intends this provision to prohibit food storage in proximity of any source of contamination. The Department should clarify the language to indicate the minimum safe distance between food and a source of contamination.

**13. Section 46.345. Miscellaneous sources of contamination.—Reasonableness; Clarity.**

This section states, "Food shall be protected from contamination that may result from a factor not specified in §§ 46.261, 46.262, 46.281—46.286, 46.301—46.307, 46.321—46.323 and 46.341—46.344." It is understandable that the Department wants to insure that public health authorities can react to sources of contamination not foreseen by this regulation. However, it is unclear how this provision will be implemented. How will the Department measure or observe compliance with this provision? How will regulated parties know when they are in compliance?

The Department should outline procedures that its staff or public health officials will follow when notifying regulated facilities of a previously unidentified contamination source. The Department and public health officials should then inform the regulated community of the steps necessary to protect food from the new type of contamination.

**14. Section 46.362. Microwave cooking.—Clarity.**

A word is missing in the first sentence of this section in the *Pennsylvania Bulletin*. It reads: "Raw animal foods cooked in a microwave oven meet all of the following." It should read: "Raw animal foods cooked in a microwave oven shall meet all of the following."

**15. Section 46.385. Potentially hazardous food: hot and cold holding.—Impact on public health; Reasonableness; Clarity.**

The proposed regulation does not contain the date marking provisions found at section 3-501.17 of the 1999 Federal Recommended Food Code. One commentator contends that these provisions are necessary to insure proper refrigerated storage and to protect public health. If these provisions are not included in the final-form regulation, the Department should explain the reasons for not adopting this portion of the 1999 Federal Recommended Food Code.

### Subchapter D. Equipment, Utensils and Linens.

#### 16. Section 46.612. Manual warewashing: sink compartment requirements.—Reasonableness; Clarity.

##### *Size of sink compartments*

Subsection (b) requires sink compartments “shall be large enough to accommodate immersion of the largest equipment or utensils.” The definition of “equipment” in § 46.3 includes items that are not typically placed in a sink.

The Department should delete the word “equipment” in this subsection or add a quantifying term such as “equipment that requires cleaning by immersion” to describe the equipment that should fit in a sink compartment.

##### *Alternative warewashing equipment*

Subsection (c) provides for the use of alternative warewashing equipment. Examples of alternative warewashing equipment include “other task-specific cleaning equipment” in subsection (c)(3) and “brushes or other implements” in subsection (c)(5). For clarity, the Department should provide examples of both “other task-specific cleaning equipment” and “other implements” in this section.

### Subchapter E. Water, Plumbing and Waste

#### 17. Section 46.802. Drinking water system flushing and disinfection.—Clarity.

This section is not clear about whether the water will be tested before placing the system back in service after construction, repair, modification or after an emergency situation. In what instances, if any, would the Department require check samples to be taken?

#### 18. Section 46.804. Quality of water.—Clarity.

Paragraph (b)(1) states, “A nondrinking water supply shall be used only if approved by the Department.” How does one get Department approval? This section should include a cross-reference or a citation to the procedure for requesting Department approval.

#### 19. Section 46.805. Quantity and availability of water: capacity and pressure.—Clarity.

Paragraph (b) is one run-on sentence. For clarity, it should be redrafted.

#### 20. Section 46.822. Design, construction and installation of plumbing systems.—Clarity.

Paragraph (a)(2) contains the phrase, “. . . such as a handwashing facility, toilet for urinal shall be. . . .” This is a typographical error. This phrase should be revised to say “. . . toilet *or* urinal. . . .” (Emphasis added.)

#### 21. Section 46.823. Numbers and capacities of plumbing facilities.—Reasonableness; Clarity.

Paragraphs (a)(2) and (a)(3) both start with “If approved by the Department. . . .” How does one obtain Department approval?

Paragraph (b) references requirements for the number of toilets and urinals required. In what instance will the Department’s requirements be different than those of the Department of Labor and Industry? For clarity, the Department should remove the phrase “the Department or.”

#### 22. Section 46.841. Materials used in construction of mobile water tanks and mobile food facility water tanks; Section 46.842. Design and construction of mobile water tanks and mobile food facility water tanks.—Clarity.

Paragraph (1) in § 46.841 and subsection (f)(1) in § 46.842 use the term “safe.” However, the Department

defines the term “safe materials” in § 46.3. Consistent terms should be used throughout the regulation.

#### 23. Section 46.843. Numbers and capacities of mobile water tanks and mobile food facility water tanks.—Reasonableness.

Paragraph (c)(2) states, “Provided with a hose connection of a size or type that will prevent its use for any other service.” Is it necessary to require a hose connection that cannot possibly be used for another purpose?

### Subchapter F. Physical Facilities

#### 24. Section 46.922. Functionality of various physical facilities of a food facility.—Clarity.

Subparagraphs (e)(3)(ii) and (iii) appear to be different ways of stating the same thing. Therefore, one should be eliminated.

Subsection (e)(4) states, “. . . protected against the entry of insects and rodents. . . .” However, subsection (e)(5) states, “paragraph (4) does not apply if flying insects and other pests. . . .” These two paragraphs should use consistent language.

The Department should set forth and give examples of what constitutes “Other effective means,” found in subsection (e)(4)(iii), or the subparagraph should be deleted.

### Subchapter G. Poisonous or Toxic Materials

#### 25. Section 46.1022. Poisonous or toxic substances: limitations on presence and use.—Clarity.

The Department should set parameters for the “Additional conditions that may be established by the Department,” found in subsection (b)(3), or the paragraph should be deleted.

### Subchapter H. Administrative Procedures

#### 26. General.—Consistency with the statute.

This subchapter includes requirements for licensure, permitting and registration. In all instances, the Department appears to be responsible for these actions. However, the Department is not the only entity that is responsible for licensure, permitting and registration.

Under the definition of “licensor” in the Public Eating and Drinking Places Act (35 P.S. § 655.1) the other entities responsible for these administrative tasks are listed. For consistency with the statute, the Department should consider replacing the term “Department” in this subchapter with the defined term “licensor.”

#### 27. Section 46.1101. Application for intended purpose: public health protection.—Unnecessary duplication.

This section repeats the regulation’s purpose, already noted in § 46.1, relating to purpose. Section 46.1 amply covers the entire regulation; there is no need to repeat the purpose in this section. Therefore, the Department should delete § 46.1101 in the final-form regulation.

#### 28. Section 46.1102. Access to food facilities.—Clarity.

This section describes who will be able to gain access to food facilities to ensure regulatory compliance. We have two concerns.

##### *Credentials*

First, this section states, “After the Secretary presents *credentials*. . . .” (Emphasis added.) The term “credentials” in this context is confusing. There could be many acceptable examples of credentials that would satisfy this requirement. For clarity, the Department should replace



the word “credentials” with “identification,” or specify what type of identification is acceptable.

*Reasonable times*

Second, the regulations enable the Secretary to conduct these inspections “during the food facility’s hours of operation and other reasonable times.” The phrase “other reasonable times” is unclear. For example, does an inspection during “other reasonable times” require agreement by the owner or operator who may need to give up her or his day off to open a closed facility? The Department should either give examples of “other reasonable times” or delete the phrase.

**29. Section 46.1121. Facility and operating plans.—Clarity.**

*Subsection (b)*

Section 46.1121 requires food facility operators and applicants to submit plans and certifications to the Department in specific instances. We have two concerns.

First, subsection (b) describes the contents of the plans and specifications. Subsection (b)(5) states that the plans and specifications shall include “Other information that may be required by the Department.” This subsection should include a provision that the Department will issue written requests for “other information” to the operators.

Second, it is unclear how plans and specifications will be communicated to the Department. Will the information requested need to be in writing? Can it be filed electronically or by fax? The Department should explain the procedure and the format for delivery of this information in the final-form regulation.

**30. General.—Clarity.**

*Incomplete references to statutes or other regulations*

Several sections contain references to the Food Act or other statutes but do not identify the specific sections of the statutes that applied to the particular regulatory provision. Specific references should be used. The following sections are examples:

*Section 46.3. Definitions.*

In paragraphs (iii), (iv), (viii), (ix) and (xiv) of the definition of “adulterated food,” there are references to “Federal acts” and “Federal acts and their regulations.” The Department should specifically cite the pertinent sections of Federal statutes and regulations.

*Sections 46.213, 46.421 and 46.422*

These three sections include references to the Food Act. The Department should cite the specific sections of the Food Act that apply.

In addition, § 46.422(e)(1) states: “If required by law, consumer warnings shall be provided.” The final-form regulation should include citations to the appropriate statutes.

*Sections 46.217 and 46.244*

The references to the Milk Sanitation Law need specific citations to applicable sections.

*Section 46.219. Molluscan shellfish.*

Subsection (a) references the Food Act and this chapter. The Department should provide the specific sections that apply.

*Section 46.221. Game animals.*

This section refers to the “laws governing meat and poultry, as determined by the Department or other food

regulatory agency that has jurisdiction over the food establishment.” The regulation should identify the laws or regulations that apply to this section.

*Section 46.243. Receiving shell eggs.*

This section references Chapter 87 and the Egg Refrigeration Law. These references need to include the specific sections of the existing regulation that apply.

*Section 46.821. Approved materials to be used in plumbing systems.*

The reference to the Pennsylvania Construction Code Act needs a specific citation to applicable sections. This is also found in §§ 46.822(a)(1), 46.825(e), 46.862(b)(2), (b)(3) and (c)(1), 46.863(a)(2) and (b) and 46.902(b).

*Section 46.1102. Access to food facilities.*

This section allows the Secretary “to determine if the food facility is in compliance with this chapter by . . . providing information and records specified in this chapter and to which the Secretary is entitled under the Public Eating and Drinking Place Law, the act and any other relevant statutory or regulatory authority.” The phrase “any other relevant statutory or regulatory authority” is vague. The Department should delete this phrase, or replace it with citations to specific statutes and regulations that give the Secretary authority to obtain information from food facilities.

*Nonexistent and inaccurate CFR cites*

The two citations to the CFR in § 46.242 appear to be inaccurate. These citations, 9 CFR 318.7 and 40 CFR 185, are nonexistent. The Department should use appropriate citations that are consistent with existing sections of the CFR.

Additionally, § 46.1026(a)(1) contains an inaccurate cite to the United States Code Annotated.

*Other regulatory agencies*

There are a few sections in the rulemaking that reference other regulatory agencies. For example, §§ 46.220 and 46.221 contain the phrase “other food regulatory agency that has jurisdiction over the food establishment.” Additionally, § 46.221 contains “laws governing meat and poultry, as determined by the Department or other food regulatory agency that has jurisdiction over the food establishment.” The Department should explain what other regulatory agencies would have jurisdiction over food and food establishments in the final-form regulation and under what circumstances.

JOHN R. MCGINLEY, Jr.,  
Chairperson

[Pa.B. Doc. No. 02-864. Filed for public inspection May 10, 2002, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations,

contact the Commission at (717) 783-5417 or visit its website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). To obtain a copy of these regulations, contact the promulgating agency.

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
16A-656	State Board of Physical Therapy Sexual Misconduct	5/1/02
16A-662	Navigation Commission for the Delaware River Navigation Licensure and Re- newal	5/1/02

*Final-Omit*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
16A-5210	State Board of Optometry Therapeutic Certification	5/1/02

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 02-865. Filed for public inspection May 10, 2002, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for Approval to Redomesticate

QBE Insurance Corporation, a Delaware stock property and casualty insurance company, has submitted a Plan of Redomestication, whereby it proposes to redomesticate from the State of Delaware to this Commonwealth. The filing was made under the requirements set forth under the Business Corporation Law of 1988, 15 Pa.C.S. §§ 1921—1932 and 15 P.S. §§ 21205—21207. Persons wishing to comment on the redomestication are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement 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 Stephanie Ohnmacht, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, by fax to (717) 787-8557 or by e-mail to [sohnmacht@state.pa.us](mailto:sohnmacht@state.pa.us).

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-866. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Application for Increase in Underwriting Authority of a Domestic Stock Casualty Insurance Company

Franklin Insurance Company (Franklin), a domestic stock casualty insurance company, has filed an application to increase its classes of underwriting authorities. The classes of insurance that Franklin has applied to add is as mentioned in 40 P.S. §§ 382(c)(3), (5), (9), (10) and (14). Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of

this issue of the *Pennsylvania Bulletin*. Written statements must include 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 A. Kotal, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax to (717) 787-8557 or by e-mail to [rkotal@state.pa.us](mailto:rkotal@state.pa.us).

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-867. Filed for public inspection May 10, 2002, 9:00 a.m.]

### HealthAmerica; Rate Filing

On April 24, 2002, HealthAmerica submitted a rate filing to revise the currently approved Group Specific Community Rating (GSCR) Methodology. The filing will affect the following:

- The enrollment requirement would be reduced from 250 to 100.
- The coverage period would be changed from 36 months to 12 months.
- The GSCR formula would continue to utilize up to 36 months of experience; however, the requirement at least 2 years and 4 months enrollment would be changed to not less than 8 months.
- A table would be added to vary the weighting of the percentage based on the number of years of claim information.
- The pooling levels and charges will be the same for 1,499 members and lower.
- The fixed-cost PMPM under administration and profit loads has increased by an annual rate of 4% over the previously approved amount.

This filing is available for public inspection during normal working hours at the Insurance Department's regional offices in Harrisburg and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120 within 30 days after the publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-868. Filed for public inspection May 10, 2002, 9:00 a.m.]

### New Alliance d/b/a HealthAmerica; Rate Increase and Change in Rating Methodologies

On April 26, 2002, New Alliance d/b/a HealthAmerica submitted a rate filing to revise the medical and pharmacy rates and rating methodologies used in New Alliance's service area. The HMO medical rates will increase 19%. The HMO prescription drug plans are being revised to match the HealthAmerica plans. The rate increase for

prescription drug coverage varies by benefit plan and ranges from .4% to 12.2%. In addition, the filing requests that HealthAmerica's Group Specific Community Rating and Community Rating by Class (CRC and CRC-SBS) methodologies and factors be extended to the New Alliance service area.

These changes will affect approximately 35,000 members. An effective date of July 1, 2002, is requested.

This filing is available for public inspection during normal working hours at the Insurance Department's regional offices in Harrisburg, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120 within 30 days after the publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-869. Filed for public inspection May 10, 2002, 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 insured's automobile policy. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg, Philadelphia and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Tenille Leroy Turnbaugh; file no. 02-181-02798; Progressive Insurance Company; doc. no. P02-04-040; May 30, 2002, 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.

Stanley A. and Pearl Webb; file no. 02-210-01296; American International Insurance Company (AIGM); doc. no. PH02-04-041; June 4, 2002, 12:30 p.m.

Shelton Grigger; file no. 02-215-01366; American Independent Insurance Company; doc. no. PH02-04-038; June 4, 2002, 1:30 p.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Sharon White; file no. 02-181-02438; Progressive Insurance Company; doc. no. PI02-04-037; June 7, 2002, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, wit-

nesses, 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. 02-870. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insurer has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insureds' policies. The administrative hearing will be held in the Insurance Department's regional offices in Harrisburg, 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 North Seventh Street, Harrisburg, PA 17102.

Nationwide Mutual Fire Insurance Co.; file no. 02-182-02383; Luther and Joane Dundore; doc. no. P02-04-036; May 28, 2002, 1:30 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 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. 02-871. Filed for public inspection May 10, 2002, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board leases will expire:

Montgomery County, RAMP District Office, Meetinghouse Business Center, Suite 100, 140 W. Germantown Pike, Plymouth Meeting, PA 19462-1421.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,300 net useable square feet of new or existing office space within 1/2-mile radius of the Turnpike and Germantown Pike in Plymouth Township.

*Proposals due:* May 31, 2002, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert J. Jolly, (215) 482-9671

Bucks County, Wine & Spirits Shoppe #0903, 720 Easton Road, Riegelsville, PA 18077-0111.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space in Durham Township on Route 611 near Route 412, Riegelsville.

*Proposals due:* May 31, 2002, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

Bucks County, Wine & Spirits Shoppe #0906, Pennsbury Plaza, 229 Plaza Blvd., Morrisville, PA 19067.

*Lease Expiration Date:* June 30, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space within a 1 mile radius of Plaza Boulevard and Route 13, Morrisville.

*Proposals due:* May 31, 2002, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

Bucks County, Wine & Spirits Shoppe #0911, 510 S. Oxford Valley Road, Fairless Hills, PA 19030.

*Lease Expiration Date:* September 30, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 7,000 net useable square feet of new or existing retail commercial space within a 1 mile radius of Oxford Valley Road and Levittown Highway, Fairless Hills.

*Proposals due:* May 31, 2002, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

Chester County, Wine & Spirits Shoppe #2331, 1027 Pontiac Road, Drexel Hill, PA 19026.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,000 net useable square feet of new or existing retail commercial space within a 3/4-mile radius of the intersection of Route 1 Township Line Road and Burmont Road, Drexel Hill.

*Proposals due:* May 31, 2002, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

Montgomery County, Wine & Spirits Shoppe #4608, 922 W. Lancaster Avenue, Bryn Mawr, PA 19010.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 6,000 net useable square feet of new or existing retail commercial space within 1/2-mile radius of Lancaster Avenue and Montrose Street, Bryn Mawr.

*Proposals due:* May 31, 2002, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

Montgomery County, Wine & Spirits Shoppe #4630, North End Shopping Center, 1300 N. Charlotte Street, Pottstown, PA 19464.

*Lease Expiration Date:* August 31, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,500 net useable square feet of new or existing retail commercial space within a 1 mile radius of Mervine Street and North Charlotte, Pottstown.

*Proposals due:* May 31, 2002, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

Philadelphia County, Wine & Spirits Shoppe #5101, 135 W. Cheltenham Avenue, Philadelphia, PA 19144.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,500 net useable square feet of new

or existing retail commercial space within 1/2-mile radius of the intersection of Cheltenham and Wayne Avenues, Philadelphia.

*Proposals due:* May 31, 2002, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

Philadelphia County, Wine & Spirits Shoppe #5109, 1100 S. Delaware Avenue, Philadelphia, PA 19147.

*Lease Expiration Date:* May 31, 2004

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 7,000 net useable square feet of new or existing retail commercial space within 1 mile radius of Delaware and Washington Avenues, Philadelphia.

*Proposals due:* May 31, 2002, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

JOHN E. JONES, III,  
*Chairperson*

[Pa.B. Doc. No. 02-872. Filed for public inspection May 10, 2002, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Default Order

Public Meeting held  
 April 24, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff v. Communications Network Int'l., Ltd (2001.0359); Doc. No. C-20026938; A-310248*

### Default Order

*By the Commission:*

On February 25, 2002, the Law Bureau Prosecutory Staff instituted a complaint against Communications Network International, Ltd (the Respondent), a telecommunications interexchange reseller certificated at A-310248. In the complaint, Prosecutory Staff alleged that the Commission sent by certified mail a notice to the Respondent that its 2001-2002 annual assessment was overdue. The complaint charged that the Respondent's failure to pay this assessment violates 66 Pa.C.S. § 510(c).

The complaint sought an order from the Commission canceling the Respondent's license for failure to pay its annual assessment. The complaint was mailed by the Secretary's Bureau on February 26, 2002, and according to the postal return receipt, service was perfected on March 4, 2002. To date, more than 20 days later, no answer has been filed to the complaint and the annual assessment has still not been paid; *Therefore,*

*It is Ordered That:*

1. The allegations in the Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is thereby sustained.

2. The Secretary serve a copy of this Default Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Default Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. Assent the filing of adverse public comment, 20 days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate held by Communications Network International, Ltd at Docket No. A-310248 shall be canceled, and the company's name stricken from all active utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Audits.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-873. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Rescission Order

Public Meeting held  
 April 24, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson; Robert K. Bloom, Vice-Chairperson; Aaron Wilson, Jr.; Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff v. Americatel Corporation (1998.0232.01); Doc. No. C-00015649*

### Rescission Order

*By the Commission:*

Pursuant to our regulations at 52 Pa. Code § 63.36, utilities are required to file their Annual Reports for the preceding year by April 30 of the following year. Thus, the 1999 Annual Reports were due April 30, 2000. On June 19, 2001, Law Bureau Prosecutory Staff instituted a complaint against Americatel Corporation (the Respondent), an IXC reseller certificated at A-310609 for failure to file its 1999 Annual Report. Subsequently, on April 4, 2002, the Commission entered a Default Order that sustained the complaint and cancelled Respondent's certificate. It has since been learned that subsequent to the filing of the complaint, but prior to entry of the Default Order, Respondent filed its 1999 Annual Report. Consequently, the Default Order was issued in error and should be rescinded; *Therefore,*

*It is Ordered That:*

1. The Default Order entered April 4, 2002 at this docket is hereby rescinded.

2. The certificate of public convenience held by Americatel Corporation at A-310609 is hereby reinstated.

3. Notice of this Rescission Order shall be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-874. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Rescission Order

Public Meeting held  
April 24, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson;  
Robert K. Bloom, Vice-Chairperson; Aaron Wilson, Jr.;  
Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau  
Prosecutory Staff v. Broadpoint Communications, Inc.  
(1998.0232.01); Doc. No. C-20015679*

### Rescission Order

*By the Commission:*

Pursuant to our regulations at 52 Pa. Code § 63.36, utilities are required to file their Annual Reports for the preceding year by April 30 of the following year. Thus, the 1999 Annual Reports were due April 30, 2000. On June 19, 2001, Law Bureau Prosecutory Staff instituted a complaint against Broadpoint Communications, Inc. (the Respondent), an IXC reseller certificated at A-310790, for failure to file its 1999 Annual Report. Subsequently, on April 4, 2002, the Commission entered a Default Order that sustained the complaint and cancelled Respondent's certificate. It has since been learned that subsequent to the filing of the complaint, but prior to entry of the Default Order, Respondent filed its 1999 Annual Report. Consequently, the Default Order was issued in error and should be rescinded; *Therefore,*

*It is Ordered That:*

1. The Default Order entered April 4, 2002 at this docket is hereby rescinded.

2. The certificate of public convenience held by Broadpoint Communications, Inc. at A-310790 is hereby reinstated.

3. Notice of this Rescission Order shall be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-875. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Rescission Order

Public Meeting held  
April 24, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson;  
Robert K. Bloom, Vice-Chairperson; Aaron Wilson, Jr.;  
Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau  
Prosecutory Staff v. Buyers United International, Inc.  
(1998.0232.01); Doc. No. C-20015714*

### Rescission Order

*By the Commission:*

Pursuant to our regulations at 52 Pa. Code § 63.36, utilities are required to file their Annual Reports for the preceding year by April 30 of the following year. Thus, the 1999 Annual Reports were due April 30, 2000. On June 25, 2001, Law Bureau Prosecutory Staff instituted a complaint against Buyers United International, Inc. (the Respondent), an IXC reseller certificated at A-310662 for failure to file its 1999 Annual Report. Subsequently, on April 4, 2002, the Commission entered a Default Order which sustained the complaint and cancelled Respondent's certificate. It has since been learned that subsequent to the filing of the complaint, but prior to the entry of the Default Order, Respondent filed its 1999 Annual Report. Consequently, the Default Order was issued in error and should be rescinded; *Therefore,*

*It is Ordered That:*

1. The Default Order entered April 4, 2002 at this docket is hereby rescinded.

2. The certificate of public convenience held by Buyers United International, Inc. at A-310662 is hereby reinstated.

3. Notice of this Rescission Order shall be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-876. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Rescission Order

Public Meeting held  
April 24, 2002

*Commissioners Present:* Glen R. Thomas, Chairperson;  
Robert K. Bloom, Vice-Chairperson; Aaron Wilson, Jr.;  
Terrance J. Fitzpatrick; Kim Pizzingrilli

*Pennsylvania Public Utility Commission Law Bureau  
Prosecutory Staff v. Primetel Communications, Inc.  
(1998.0232.01); Doc. No. C-20015754*

### Rescission Order

*By the Commission:*

Pursuant to our regulations at 52 Pa. Code § 63.36, utilities are required to file their Annual Reports for the preceding year by April 30 of the following year. Thus, the 1999 Annual Reports were due April 30, 2000. On June 25, 2001, Law Bureau Prosecutory Staff instituted a complaint against Primetel Communications, Inc. (the Respondent), an IXC reseller certificated at A-310365 for failure to file its 1999 Annual Report. Subsequently, on April 4, 2002, the Commission entered a Default Order which sustained the complaint and cancelled Respondent's certificate. It has since been learned that subsequent to the filing of the complaint, but prior to the entry of the Default Order, Respondent filed its 1999 Annual Report. Consequently, the Default Order was issued in error and should be rescinded; *Therefore,*

*It is Ordered That:*

1. The Default Order entered April 4, 2002 at this docket is hereby rescinded.

2. The certificate of public convenience held by Primetel Communications, Inc. at A-310365 is hereby reinstated.

3. Notice of this Rescission Order shall be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-877. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on or before June 3, 2002, as set forth at 52 Pa. Code § 3.381 (relating to the applications for the transportation of property, household goods in use and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

#### Applications of the following for approval to *begin operating as common carriers* for transportation of persons as described under each application.

**A-00109911, F.2. Noga Ambulance Service, Inc.** (2615 Wilmington Road, New Castle, Lawrence County, PA 16105), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, between points in the county of Lawrence, and from points in said county, to points in the counties of Allegheny, Beaver, Butler and Mercer, and vice versa.

**A-00118839, Edgardo Perez** (512 Walnut Street, Lebanon, Lebanon County, PA 17042)—persons in limousine service, between points in the county of Lebanon, and from points in said county, to points in Pennsylvania, and return.

**A-00118860, Jonathan Edwards t/d/b/a Day & Nite Car Service** (P. O. Box 1084, Pocono Summit, Monroe County, PA 18346)—to transport, as a common carrier, by motor vehicle, persons upon call or demand in Monroe County.

**A-00118855, F.2. 2 Places at Once, Inc.** (127 East Main Street, York, York County, PA 17349)—persons in paratransit service, between points in the county of York. *Attorney:* Jody Anderson Leighty, P. O. Box 5167, York, PA 17405-5167.

**A-00118861, Black Tie Limousine Services, Inc.** (800 Chestnut Street, city and county of Philadelphia, PA 19107), a corporation of the Commonwealth of Pennsylvania—persons in limousine service, in the city and county of Philadelphia, bounded as follows: beginning at the intersection of Broad Street and Hunting Park Avenue, thence proceeding west on Hunting Park Avenue to the Schuylkill River, thence proceeding northwest along the Schuylkill River to Fayette Road, thence proceeding north on Fayette Road to Butler Pike, thence proceeding north on Butler Pike to US Route 309, thence proceeding south on US Route 309 to Cheltenham Avenue, thence proceed-

ing south on Cheltenham Avenue to Broad Street, thence proceeding south on Broad Street to Hunting Park Avenue, the beginning point, and from points in said bounded area, to points in Pennsylvania, and return.

**A-00118864, Alpha Omega Limousine Network, Inc.** (2416 East County Line Road, Ardmore, Montgomery County, PA 19003), a corporation of the state of New York—persons in limousine service, between points in the city and county of Philadelphia, and the counties of Delaware and Montgomery, and from points in said city and counties, to points in Pennsylvania, and return.

**A-00118865, Glen & Laurie, LLC t/d/b/a Glen's Taxi** (1610 Olympic Way, Effort, Monroe County, PA 18330)—persons upon call or demand in the boroughs of Delaware Water Gap, East Stroudsburg, Stroudsburg, and the townships of Chestnut Hill, Eldred, Hamilton, Jackson, Mount Pocono, Pocono, Polk, Stroud, Tobyhanna and Tunkhannock, all in Monroe County.

**A-00118866, Suburban Emergency Medical Services** (3231 Freemansburg Avenue, Easton, Northampton County, PA 18045) a corporation of the Commonwealth of Pennsylvania—to transport persons in paratransit service, between points in the counties of Lehigh, Northampton and Monroe, and from points in said counties, to points in Pennsylvania and return; subject to the following condition: That transportation is limited to persons that require medical monitoring. *Attorney:* Christie M. Mellott, 5010 East Trindle Road, Suite 202, Mechanicsburg, PA 17050.

#### Application of the following for approval of the *beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods* as described under each application.

**A-00118868, Thomas E. Werth t/d/b/a You Got Me Babe!** (609 North McKean Street, Butler, Butler County, PA 16001)—household goods in use, between points in the counties of Butler, Lawrence, Beaver, Venango, Allegheny, Clarion, Armstrong and Mercer, and from points in said counties, to points in Pennsylvania, and vice versa.

#### Application of the following for the approval of the *transfer of stock* as described under the application.

**A-00106168, Folder 5000, Perry J. Cab Co., Inc.** (615 Forest Avenue, Rydal, Montgomery County, PA 19046), a corporation of the Commonwealth of Pennsylvania, for the approval of the transfer of 100 shares of the issued and outstanding 100 shares of stock from Perry J. Hassman (deceased) to Rosemary T. Hassman involving one Philadelphia Medallion at A-00106168, P-65.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-878. Filed for public inspection May 10, 2002, 9:00 a.m.]

### Telecommunications

**A-310200F0007 and A-311350F0006, Verizon Pennsylvania Inc. and Verizon North Inc.** Application of Verizon Pennsylvania Inc. and Verizon North Inc. for all approvals required under 66 Pa.C.S. (relating to public utility code) for the transactions related to the transfer of assets and the ongoing coordination of certain operations.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before May 27, 2002, under 52 Pa. Code (relating to public utilities).

*Applicant:* Verizon Pennsylvania Inc. and Verizon North Inc.

*Through and By Counsel:* Julia A. Conover, Daniel E. Monagle, Verizon Pennsylvania Inc., 1717 Arch Street, 32nd Floor, Philadelphia, PA 19102.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-879. Filed for public inspection May 10, 2002, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Proposals

The Philadelphia Regional Port Authority (PRPA) will accept proposals for Project #0235.S, Port of Philadelphia Coastal Waterways Freight Development Analysis, until 2 p.m. on Thursday, June 20, 2002. The proposal documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Fl., Philadelphia, PA 19134, (215) 426-2600 and will be available May 15, 2002. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 02-880. Filed for public inspection May 10, 2002, 9:00 a.m.]

## SECURITIES COMMISSION

### Designation of an Investment Adviser Registration Depository for Applications, Renewals, Amend- ments and Fees for Pennsylvania Registered Investment Advisers

*Whereas*, Section 303(a) of the Pennsylvania Securities Act of 1972 (1972 Act) requires investment advisers seeking registration in Pennsylvania to file an application with the Pennsylvania Securities Commission (Commission); and

*Whereas*, Sections 602(d.1) and 602.1(a)(4) of the 1972 Act requires investment advisers to pay filing fees and compliance assessment fees annually to the Commission (Filing Fees); and

*Whereas*, Commission Regulation 303.012, 64 Pa. Code § 303.012, states that the application required by Section 303(a) of the 1972 Act shall be the Uniform Application for Investment Adviser Registration (Form ADV); and

*Whereas*, Commission Regulation 303.012, 64 Pa. Code § 303.012, requires an amendment to Form ADV when material information contained in the Form ADV becomes incorrect or incomplete (Form ADV Amendment); and

*Whereas*, Form ADV requires the filing of an annual updating amendment to Form ADV within 90 days after the end of the investment adviser's fiscal year end (Annual Updating Amendment); and

*Whereas*, Commission Regulation 303.012, 64 Pa. Code § 303.012, authorizes the Commission, by order, to designate an investment adviser registration depository for the receipt of Form ADV, Form ADV Amendments and Filing Fees; and

*Whereas*, the Commission, finds it necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the 1972 Act to issue the following Order:

*Now Therefore*, the Commission, on the 23rd day of April, 2002, pursuant to Commission Regulation 303.012, 64 Pa. Code § 303.012, orders the following:

1. For purposes of Commission Regulation 303.012, the Commission designates the following as the only investment adviser registration depository authorized to receive Form ADV, Form ADV Amendments, Annual Updating Amendments and Filing Fees on behalf of the Commission (IARD):

#### FORMS

IARD Document Processing  
NASD Regulation, Inc.  
P. O. Box 9495  
Gaithersburg, MD 20898-  
9495  
www.iard.com

#### FEES

NASD Regulation, Inc.,  
CRD-IARD  
P. O. Box 7777-W9995  
Philadelphia, PA 19175-  
9995

2. Effective with the date of this order and thereafter, all investment advisers that are registered in Pennsylvania, as of the effective date of this order, shall transition their registration to the IARD ("Transition Filing") no later than September 30, 2002, which Transition Filing shall include submission of a complete and accurate electronic Form ADV, Parts 1A and 1B using the amended Form ADV. This electronic filing shall be made through the IARD at www.iard.com.

3. For any renewal occurring after the effective date of this order, Pennsylvania registered investment advisers making a renewal with the Commission in accordance with Section 301(e) of the 1972 Act shall pay Filing Fees through IARD.

4. This Order shall be published in the *Pennsylvania Bulletin*.

5. The effective date of this Order shall be the date published in the *Pennsylvania Bulletin*.

Alternative formats of this document may be available upon request. Call (717) 787-1165 or TDD Users: via AT&T Relay Center (800) 654-5984.

M. JOANNA CUMMINGS,  
*Secretary*

[Pa.B. Doc. No. 02-881. Filed for public inspection May 10, 2002, 9:00 a.m.]



**Designation of an Investment Adviser Registration Depository for Applications, Renewals, Amendments and Fees for Investment Adviser Representatives of State Registered Investment Advisers**

*Whereas*, Section 303(a) of the Pennsylvania Securities Act of 1972 (1972 Act) requires investment adviser representatives seeking registration in Pennsylvania to file an application with the Pennsylvania Securities Commission (Commission); and

*Whereas*, Sections 602(d.1) and 602.1(a)(1) and (2) of the 1972 Act require investment adviser representatives to pay filing fees and compliance assessment fees annually to the Commission (Filing Fees); and

*Whereas*, Commission Regulation 303.014, 64 Pa. Code § 303.014, states that the application required by Section 303(a) of the 1972 Act shall be the Uniform Application for Securities Industry Registration or Transfer (Form U-4); and

*Whereas*, Commission Regulation 303.014, 64 Pa. Code § 303.014, requires an amendment to Form U-4 when material information contained in Form U-4 becomes incorrect or incomplete (Form U-4 Amendment); and

*Whereas*, Commission Regulation 303.014, 64 Pa. Code § 303.014, authorizes the Commission, by order, to designate an investment adviser registration depository for the receipt of Form U-4, Form U-4 Amendments and Filing Fees; and

*Whereas*, the Commission, finds it necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the 1972 Act to issue the following Order:

*Now, Therefore*, the Commission on the 23rd day of April, 2002, pursuant to Commission Regulation 303.014, 64 Pa. Code § 303.014, orders the following:

1. For purposes of Commission Regulation 303.014, the Commission designates the following as the only investment adviser registration depository authorized to receive Form U-4, Form U-4 Amendments and Filing Fees on behalf of the Commission (IARD):

**FORMS**

IARD Document Processing  
NASD Regulation, Inc.  
P. O. Box 9495  
Gaithersburg, MD 20898-9495  
www.iard.com

**FEES**

NASD Regulation, Inc.,  
CRD-IARD  
P. O. Box 7777-W9995  
Philadelphia, PA 19175-9995

2. Effective with the date of this order and thereafter, all investment adviser representatives of Pennsylvania registered advisers making an initial application for registration, shall file Form U-4 electronically and pay the Filing Fee through www.iard.com. Form U-4 shall be deemed filed and the Filing Fee shall be deemed received by the Commission on the date such items are accepted by the IARD. All Form U-4 amendments shall be filed electronically through www.iard.com.

3. Investment adviser representatives of Pennsylvania registered investment advisers, that are registered in Pennsylvania, as of the effective date of this order, shall transition their registration to the IARD ("Transition Filing") no later than September 30, 2002, which Transition Filing shall include submission of a complete and accurate electronic Form U-4.

4. For any renewal occurring after the effective date of this order, Pennsylvania registered investment adviser representatives making a renewal with the Commission in accordance with Section 301(e) of the 1972 Act shall pay Filing Fees through IARD.

5. As provided by Commission Regulation 603.011, 64 Pa. Code § 603.011, an application for registration as an investment adviser representative is not deemed complete until all the required documents, filing fees and compliance assessment fees have been received by the Commission.

6. This Order shall be published in the *Pennsylvania Bulletin*.

7. The effective date of this Order shall be the date published in the *Pennsylvania Bulletin*.

Alternative formats of this document may be available upon request. Call (717) 787-1165 or TDD Users: via AT&T Relay Center (800) 654-5984.

M. JOANNA CUMMINGS,  
*Secretary*

[Pa.B. Doc. No. 02-882. Filed for public inspection May 10, 2002, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

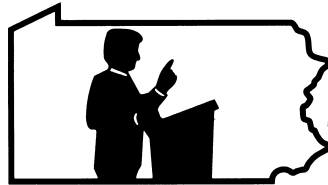
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:  
 The payment date specified in the contract.  
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.  
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
 PA Department of Community and Economic Development  
 374 Forum Building  
 Harrisburg, PA 17120  
 800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
 Location: Harrisburg, Pa.  
 Duration: 12/1/93-12/30/93  
 Contact: Procurement Division 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

#### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.  
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room G13 Finance Building  
 Harrisburg, PA 17120  
 717-787-2990  
 1-800-252-4700

BARBARA HAFER,  
*State Treasurer*

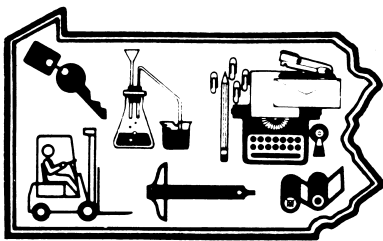
Effective April 15, 2002, the Department of General Services (Department), Bureau of Purchases, will no longer send vendors notices of the availability of invitations for bids or requests for proposals (by fax or other means). Bidding/contracting opportunities will be posted on the Department's website. Vendors who are interested in competing for a particular contracting opportunity with this Commonwealth will be able to download the particular invitation for bids or request for proposals.

The website address for viewing bidding/contracting opportunities and for obtaining copies of invitations for bids and requests for proposals in [www.dga.state.pa.us](http://www.dga.state.pa.us). To access the information on this website, vendors must select "Procurement" followed by "Bidding Opportunities."

If a vendor wishing to participate does not have access to a computer, public libraries offer free access to the Internet. Additionally, a vendor can obtain a copy of an individual invitation for bids or request for proposals by calling Vendor Services at (717) 787-2199 or (717) 787-4705, or by visiting us at 414 North Office Building, Harrisburg, PA.

Contact Susan Plecker, Website Manager, at (717) 787-1105 or Ray Cunningham, Vendor Information Section Supervisor, at (717) 787-5862, concerning questions or problems in gaining access to bidding/contracting opportunities information or in locating and downloading invitations for bids or requests for proposals.

KELLY POWELL LOGAN,  
*Secretary*



### Commodities

**SU-01-30** Shippensburg University is looking for bidders interested to furnish and install a 16 channel digital recording system, DVX CCTC Surveillance Digital Recorder DVX16000RM 249GB HD, (brand name or equal), UPS, APC Smart UPS 100VA, and Monitor, 17" color, with Speakers, AOC17, 7GLRA (brand name or equal); to include all installation, all necessary cable, connectors, etc. Provide a fully installed, operational system, to include training. The system MUST be compatible and fully interfaced with the University's existing infrastructure - a CCTV system. Bidders may receive a copy of the bid package by faxing a request to 717-477-4004.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg, PA 17257  
**Duration:** Deliver within 90 days after receipt of purchase order  
**Contact:** Deborah K. Martin (717) 477-1121

**SU-01-29** Apple Computers, Shippensburg University is interested in purchasing Apple, IMAC Computers. Vendor must be an authorized Apple dealer, offer educational pricing and be a Pennsylvania based vendor. Bidders may request bid package by faxing request to (717) 477-4004.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg, PA 17257  
**Duration:** Delivery within 60 ARO.  
**Contact:** Deborah K. Martin (717) 477-1121

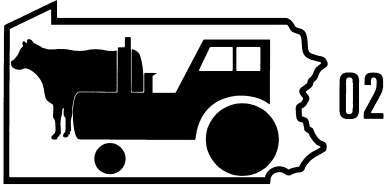
**FD-11466** The PA State Fire Academy is soliciting bids to provide all labor and materials necessary for eighty (80) NFPA 1975, Standard on Station/Work Uniforms for Fire and Emergency Services. If you are interested in receiving a bid package, contact Jill R. Dimpsey at (717) 651-2189 or e-mail, [jdimpsey@state.pa.us](mailto:jdimpsey@state.pa.us) with reference FD-11466.

**Department:** PA Emergency Management Agency  
**Location:** 2605 Interstate Drive, Harrisburg, PA 17110-9634  
**Duration:** Sixty (60) to ninety (90) days after the bid is awarded.  
**Contact:** Jill R. Dimpsey (717) 651-2189

**Academy #55** Key tags, soft vinyl, black, in the shape of the State of Pennsylvania, approximately 2" long x 1-1/4 high, gold printing on both sides; Pennsylvania State Police patch on one side and safety slogan "Buckle Up, you never know who's watching" on the other side. Note: Winning vendor will be determined by the greatest number of key tags that can be purchased up to \$17,000.00.

**Department:** State Police  
**Location:** Pennsylvania State Police, Bureau of Training & Education, Community Services Unit, 175 East Hershey Park Drive, Hershey, PA 17033  
**Duration:** Bid package requests will be accepted until May 8, 2002. No bid packages will be mailed after this date. Bid opening date will be May 20, 2002 @ 1:00 p.m.  
**Contact:** Mike Knepp, Purchasing Agent (717) 783-5502

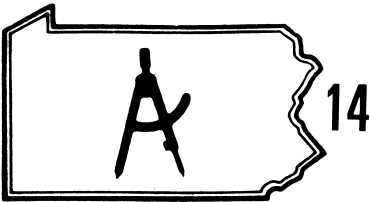
# SERVICES



## Agricultural Services

**1/2** Provide fish food used in a statewide fish culture program during the period July 01, 2002—September 30, 2002. Fish feed products purchased in bulk and bagged quantities only from vendors who have had their products tested and accepted by the Fish and Boat Commission.

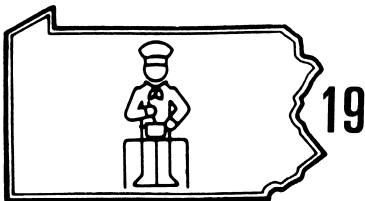
**Department:** Fish and Boat Commission  
**Location:** Statewide to various fish culture stations as requested.  
**Duration:** July 01, 2002—September 30, 2002  
**Contact:** James E. Harvey (814) 359-5141



## Engineering Services

**PennDOT-ECMS** The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at [www.dot2.state.pa.us](http://www.dot2.state.pa.us).

**Department:** Transportation  
**Location:** Various  
**Contact:** [www.dot2.state.pa.us](http://www.dot2.state.pa.us)



## Food

**7934** Dairy Products, Miscellaneous Foods, Meat & Meat Products, and Poultry

**Department:** Public Welfare  
**Location:** Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821  
**Duration:** July 1, 2002—September 30, 2002  
**Contact:** Kristina Robbins (570) 271-4578

**FS02004** Frozen Eggs.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1, 2002 through June 30, 2003  
**Contact:** Peggy Baughman (814) 378-1006

**FS02012** Noodles & Pasta: This would be on an infrequent basis as these items presently fall under State contract #8920-06.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1, 2002 through June 30, 2003  
**Contact:** Peggy Baughman, Purchasing Agent (814) 378-1006

**FS02013** Eggs: Shell, white, grade A, medium, naturals, PA Spec. 3-10, Eff. 05/01/74, 30 dozen per case.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1 2002 through June 30, 2003  
**Contact:** Peggy Baughman, Purchasing Agent (814) 378-1006

**FS02002** Milk and Milk Products: To include but not limited to: Skim Milk, 2%, Chocolate, etc. To be bid in bulk 5 gal. Containers and half pints.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1, 2002 through July 30, 2003  
**Contact:** Peggy Baughman (814) 378-1006

**FS02006** Prepared foods: Pastas including, but not limited to, rellenos de papas and alcapurrias. This would be on an infrequent basis as this is normally covered under State Contract #8920-06.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1, 2002 through June 30, 2003  
**Contact:** Peggy Baughman, Purchasing Agent (814) 378-1006

**FS02008** Processed Meats: Including but not limited to, turkey ham, turkey bologna, turkey salad, beef, lebanon bologna, bacon, turkey franks, veal patties, pullman hams, etc.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1, 2002 through July 30, 2003  
**Contact:** Peggy Baughman, Purchasing Agent (814) 378-1006

**FS02015** Juice and Juice products: To include but not limited to orange, pineapple, cranberry, etc. To be bid in half-pint or bulk containers. To be bid on infrequent basis, since the product is currently on State contract 8920-06.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1, 2002 through June 30, 2003  
**Contact:** Peggy Baughman, Purchasing Agent (814) 378-1006

**FS020001** Alternative Sources of protein such as: Grain Burgers, Bean Burgers, Vegetables Burgers, Tofu, IQF Burger Crumbles.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1, 2002 through June 30, 2003  
**Contact:** Peggy Baughman (814) 378-1006

**FS02014** Frozen Food items to include but not limited to: vegetables bakery products, entrees (could include frozen dinners), pizza, meats, etc.

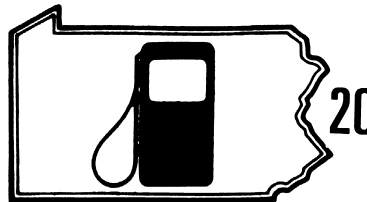
**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1, 2002 through June 30, 2003  
**Contact:** Peggy Baughman, Purchasing Agent (814) 378-1006

**FS02010** Bread and Roll Bases: Including but not limited to, half-n-half rye bread maker and flour conditioner. Base: Yeast, Bak-krisp instant bread & roll base; half-n-half wheat bread base and dinner roll base.

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1, 2002 through July 30, 2003  
**Contact:** Peggy Baughman (814) 378-1006

**FS02007** Vega-Jel Desserts: All vegetables products. This would be on an infrequent basis as these items presently fall under State Contract #8920-06

**Department:** Corrections  
**Location:** SCI-Houtzdale, 209 Institution Drive, Houtzdale, PA 16698-1000  
**Duration:** July 1, 2002 through June 30, 2003  
**Contact:** Peggy Baughman, Purchasing Agent (814) 378-1006



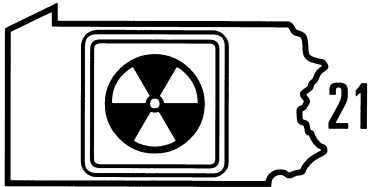
## Fuel Related Services

**SP352600100** Removal and proper disposal of 8 gasoline, diesel, and heating oil underground tanks and contaminated soil, plus backfilling and grading of excavated area.

**Department:** Environmental Protection  
**Location:** McEwen Oil Co., 357 North Perry Highway, Mercer, PA 16137  
**Duration:** July 1, 2002 to June 30, 2003  
**Contact:** Joe Williams or John O'Hara (814) 332-6648

**352600200** Removal and proper disposal of 3 or more underground gasoline storage tanks and contaminated soil plus backfilling and grading of excavated area.

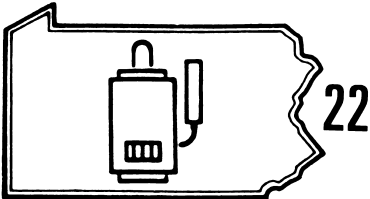
**Department:** Environmental Protection  
**Location:** Fedder's "Old Esso", Wheatland, PA  
**Duration:** July 1, 2002 to June 30, 2003  
**Contact:** Joe Williams or John O'Hara (814) 332-6648



### Hazardous Material Services

**SP388119104** Clean up and proper disposal of asbestos from State forest land.

**Department:** Conservation and Natural Resources  
**Location:** Bears Den Road, Delaware Forest District, Lehman Township, Pike County, PA  
**Duration:** Work to be completed by June 30, 2002  
**Contact:** David Miller (570) 895-4000



### HVAC Services

**065015** This will be maintenance/service to our air-conditioning and heating system. It will also include any window units.

**Department:** Transportation  
**Location:** 1901 Ruffner Street, Philadelphia, PA 19140  
**Duration:** Two year with (1) two year renewals  
**Contact:** Suleica Vazquez (215) 225-1415

**081S46** Electrical Maintenance and Repair Service.

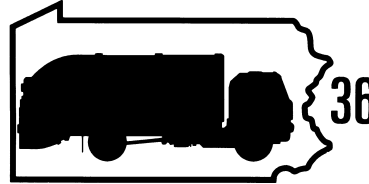
**Department:** Transportation  
**Location:** Within the Boundaries of Adams County  
**Duration:** This is a three (3) year contract with no renewals.  
**Contact:** Donald Crabbs (717) 334-3155



### Janitorial Services

**734220** Carpet cleaning, to include post-treatment for stains and waterproofing the carpet in various buildings using a dry-chemical method according to a pre-determined schedule.

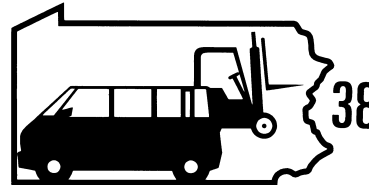
**Department:** Military Affairs  
**Location:** Scotland School for Veterans' Children, 3583 Scotland Rd., Scotland, PA 17254-0900  
**Duration:** July 1, 2002 through June 30, 2003  
**Contact:** Marion E. Jones (717) 264-7187 x661



### Sanitation

**TP-004** Provide disposal site for non-hazardous solid material for Lackawanna County PA DOT. Material to be delivered to vendor's site by Department vehicles. Debris that is to be disposed of includes: furniture, paper, wood, crushed, mattresses, and other misc. trash and highway litter. The contractor's disposal site shall be an approved solid waste disposal and/or processing facility having a valid permit number approved by the Department of Environmental Protection Bureau of Solid Waste Management.

**Department:** Transportation  
**Location:** PA Department of Transportation, P.O. Box 227, Morgan Hwy. and Grove St., Clarks Summit, PA 18411  
**Duration:** 1 year  
**Contact:** Thomas J. Philbin 570-586-2211



### Vehicle, Heavy Equipment and Powered Machinery Services

**SP1126000-009** Contractor to provide one (1) 60 foot diesel articulated man lift, 4 wheel drive, four (4) times per year with pick up and delivery included. Contractor to provide one (1) 80 ton hydraulic truck crane with operator for an eight (8) hour day, including counterweights, hauling, permits, insurance, licenses, and necessary rigging to place 60 foot articulated man lift within fenced areas, including pick up and delivery, two (2) times per year.

**Department:** Corrections  
**Location:** State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233  
**Duration:** 07/01/02 TO 06/30/05 (3 YRS.)  
**Contact:** David Schultz (412) 761-1955 X396

**TP-005** The PENNDOT Maintenance Facility in Clarks Summit is currently seeking vendors to provide sandblasting, priming and refinishing services. Listed below are the types of equipment and the two different services we are seeking. Delivered equipment must be sandblasted to bare metal and primed with self-etching epoxy primer. The equipment is as follows: Plows - Right hand and reversible, Tandem Truck bodies including the frame, wheels, and body, Single Axle truck bodies including the frame, wheels, and body. Equipment is to be completely sandblasted to bare metal, properly masked, primed with self-etching epoxy, and refinished. Refinish the entire unit including the cab with "Imron Polyurethane" finish or its equivalent, Tandem Truck - complete, Single Axle Truck - complete, Crew Cab - complete. Equipment that is being sandblasted and primed only, must be completed for department personnel to pick up, within ten (10) work days of initial delivery. Equipment that is to be completely refinished must be completed within fifteen (15) work days of delivery. Vendor must be within a 25 mile radius of the Clarks Summit maintenance facility.

**Department:** Transportation  
**Location:** PA Department of Transportation, P. O. Box 227, Morgan Hwy. and Grove St., Clarks Summit, PA 18411  
**Duration:** 1 year  
**Contact:** Thomas J. Philbin (570) 586-2211

[Pa.B. Doc. No. 02-883. Filed for public inspection May 10, 2002, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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KELLY POWELL LOGAN,  
*Secretary*

STATE CONTRACTS INFORMATION

**Contract Awards**

The following awards have been made by the Department of General Services, Bureau of Purchases:

<b>Requisition or Contract No.</b>	<b>PR Award Date or Contract Effective Date</b>	<b>To</b>	<b>In the Amount Of</b>
1187111-01	04/29/02	Majestic Steel Service	\$41,250.00
1209351-01	04/29/02	Canberra Industries	54,260.00
1235201-01	04/29/02	Wings "N" Things	36,280.00
1244381-01	04/29/02	Foster F Wineland	69,557.00
1267231-01	04/29/02	I & J Mfg.	114,000.00
1282231-01	04/29/02	West Coast Netting	19,782.95
1299341-01	04/29/02	ASCC	205,019.00
1301341-01	04/29/02	Roscor	537,741.00
1324151-01	04/29/02	Woodmont Contracting	132,000.00

<b>Requisition or Contract No.</b>	<b>PR Award Date or Contract Effective Date</b>	<b>To</b>	<b>In the Amount Of</b>
1346151-01	04/29/02	Noritsu America	91,136.51
8223390-01	04/29/02	Virginia Materials	20,774.00
8223530-01	04/29/02	Paris Companies	9,126.00
8251530-01	04/29/02	Hondru Chevy/E-Town Chevy/Olds/Pontiac	26,288.00
8506180-01	04/29/02	A C Miller Concrete Products	26,630.00

KELLY POWELL LOGAN,  
*Secretary*

[Pa.B. Doc. No. 02-884. Filed for public inspection May 10, 2002, 9:00 a.m.]





