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# PENNSYLVANIA BULLETIN

Volume 34

Number 28

Saturday, July 10, 2004 • Harrisburg, Pa.

Pages 3575—3664

**Agencies in this issue:**

The General Assembly  
The Courts  
Department of Banking  
Department of Conservation and Natural Resources  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Public Welfare  
Department of State  
Environmental Quality Board  
Executive Board  
Fish and Boat Commission  
Independent Regulatory Review Commission  
Liquor Control Board  
Navigation Commission for the Delaware River and its Navigable Tributaries  
Pennsylvania Public Utility Commission  
Public School Employees' Retirement Board  
State Real Estate Commission

**Detailed list of contents appears inside.**



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

**No. 356, July 2004**

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

## *Pennsylvania Bulletin*

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

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

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

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

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

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

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

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

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

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

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

### ***Pennsylvania Code***

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

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

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

### **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

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

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# THE GENERAL ASSEMBLY

## Recent Actions during the 2004 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2004 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2004 GENERAL ACTS ENACTED—ACT 041 through 045</b>					
041	Jun 23	SB1047	PN1455	immediately	Project 70 lands—Wharton Township, Fayette County, release and imposition of restrictions
042	Jun 23	HB1972	PN2571	60 days	Game Code (34 Pa.C.S.)—offense of resisting or interfering with an officer
043	Jun 23	HB0565	PN3985	July 1, 2004	Game Code (34 Pa.C.S.)—safety zones for hunters using bows and arrows or cross-bows
044	Jun 23	HB0304	PN4020	60 days	Medical Practice Act of 1985—home health care services ordered by physicians from another state
045	Jun 23	SB0989	PN1428	immediately	Commonwealth property—conveyances in North Versailles Township, Allegheny County, and City of Lock Haven, Clinton County

\* denotes an effective date with exceptions

### Effective Dates of Statutes

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

### Advance Copies of Statutes

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

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, State Records Center Building, 1825 Stanley Drive, Harrisburg, PA 17103, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

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[Pa.B. Doc. No. 04-1231. Filed for public inspection July 9, 2004, 9:00 a.m.]

## Recent Actions during the 2004 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during 2004 Regular Session

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2004 GENERAL ACTS ENACTED—ACT 046 through 051</b>					
046	Jun 28	SB0815	PN1688	immediately	Insurance Department Act of 1921—policyholder collateral, deductible reimbursements and other policyholder obligations
047	Jun 28	SB1059	PN1473	60 days	Port of Philadelphia—rates of pilotage

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
048	Jun 28	HB0659	PN4057	immediately	Game Code (34 Pa.C.S.)—lawful cooperation or assistance by unlicensed persons
049	Jun 28	HB1809	PN4083	immediately	Commercial Manure Hauler and Broker Certification Act—enactment
050	Jun 28	HB2273	PN3496	60 days	Civil Service Act—examinations requisite for appointment and promotion
051	Jun 28	SB0427	PN1081	60 days	Real and Personal Property (68 Pa.C.S.)—required contractual provision regarding home inspections, reliance by buyer and engineers and architects

\* denotes an effective date with exceptions

#### Effective Dates of Statutes

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

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*Director*  
*Legislative Reference Bureau*

[Pa.B. Doc. No. 04-1232. Filed for public inspection July 9, 2004, 9:00 a.m.]

# THE COURTS

## Title 255—LOCAL COURT RULES

### CARBON COUNTY

#### Adoption of Civil Case Management Plan; 04-1823

##### Administrative Order No. 16-2004

*And Now*, this 24th day of June, 2004, it is hereby

*Ordered and Decreed* that, effective July 26, 2004, Carbon County *Adopts* the Civil Case Management Plan.

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 Pennsylvania 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 Clerk of Court's Office.

*By the Court*

RICHARD W. WEBB,  
*President Judge*

#### Carbon County Court of Common Pleas

##### Civil Case Management Plan

##### I. Judicial Commitment to Caseflow Management.

Since January 3, 1995, the Court has assumed the responsibility of ensuring the fair and prompt disposition of all cases, as well as, assuring effective and efficient use of Court resources paid for by taxpayers. Our success is attributable to the commitment of this principle by each Judge, Court and County staff of the 56th Judicial District.

Goal setting provides the objectives and a benchmark for measuring its success. The Court must meet reasonable time standards for the processing and prompt disposition of standard types of cases in terms of their nature and legal issues. "Exhibit "1," attached hereto, shows the timelines and time standards by track for civil cases adopted by this Court.

##### II. Effective Communications with the Bar.

The Court coordinates scheduling of cases and makes reasonable accommodations to attorneys and parties in the management of cases. Operative scheduling allows efficient case processing.

##### III. Early and Continuous Court Supervision of Case Progress.

The Court monitors the progress of cases from the time a writ of summons or complaint is filed to ensure movement of cases to disposition, eliminating unneces-

sary delay and additional costs of litigation. Mere agreement of counsel/parties is not sufficient grounds for the Court to grant continuances. When a continuance is granted, the matter is continued to a specified date.

##### IV. Event-Date Certainty.

Reasonable certainty about filing deadlines and event dates avoids aggravation, waste and unnecessary cost to the parties and their attorneys. Moreover, national studies have found that nothing promotes pretrial dispositions more than the expectation that a trial is more likely than not to occur on or near the scheduled date. Approximately one hundred twenty days (120) after initial filing of the action, deadlines and events are scheduled with notice given to attorneys/parties of all deadlines and projected event dates, assuring case flow and expeditious case dispositions.

##### V. A Functional Case Management Information System.

The fully automated court computer system provides relevant, accurate, and timely case information, supporting an efficient case management plan by tracking and maintaining cases and events. Monthly reports identify specific cases that have been pending longer than the time standards so appropriate steps can be taken.

##### VI. Time Standards and Case Management Criteria.

###### A. Court Ruling on Motions.

1. Motions are decided pursuant to Pa.R.C.P.208.4.

2. Each Judge monitors the status of all outstanding motions.

3. Semi Annual Reports—Pursuant to Pennsylvania Rule of Judicial Administration 703(B)(2), each Judge is responsible to report on matters submitted and undisposed for 90 days or more.

###### B. Differentiated case Management by Case Tracks.

Upon the filing of an action, the court computer database assigns a track and timelines based on the case type, number of parties, and the timeframes established by this Court. These provisions govern each case unless changed at an attorney's request or upon the Court's own directive. If the amount in controversy is less than \$25,000.00, the case proceeds on the fast track directly to arbitration.

###### C. One Hundred Twenty-Day Reviews.

Approximately one hundred twenty (120) days after initial filing of the case, a review of the docket activity is performed to check the status of the case. If the complaint, answer, and service are in order, a management review order is produced confirming the timelines established for the case. A management conference is scheduled for cases where the proper pleadings have not been initiated.

###### D. Fast Track.

A case is assigned to the fast track when it appears that it can be promptly tried with little pre-trial discovery and other pre-trial proceedings. All cases having four or less parties as shown in Exhibit "2" are fast track cases. Except in extraordinary circumstances, the Court strives to dispose all fast track cases within ten (10) months after initial filing. Upon completion of the discovery period or in any case where an appeal for an arbitration award is filed, the case is given a date certain for a

pre-trial conference. If settlement is not reached at the pre-trial conference, the case is scheduled for trial.

E. *Standard Case Track.*

All cases not designated fast track or complex are standard civil cases. Except in extraordinary circumstances, the Court strives to dispose all standard cases within 18 months after initial filing. Upon completion of the discovery period, the case is given a date certain for a pre-trial conference. If settlement is not reached at the pre-trial conference, the case is scheduled for trial.

F. *Complex Case Track.*

A case is assigned to the complex track when additional time and resources are needed to bring the case to disposition. Civil cases involving construction contracts, three or more parties, or claims of asbestos, medical malpractice or products liability are complex cases. Upon completion of the discovery period, the case is given a date certain for a pre-trial conference. If settlement is not reached at the pre-trial conference, the case is scheduled for trial. Except in extraordinary circumstances, the Court strives to dispose all complex cases within 24 months after initial filing.

Exhibit "1"

<i>Case Event/Timelines</i>	<i>Fast Track</i>	<i>Standard Track</i>	<i>Complex Track</i>
Management Review Order or Management Conference	4 months	4 months	4 months
Discovery Complete	6 months	13 months	18 months
Plaintiff Expert Reports	6 months	13 months	19 months
Defendant Expert Reports	8 months	14 months	20 months
Motions Filing Deadline	8 months	14 months	20 months
Pretrial Memorandum Due		Approx. 15 months	Approx. 21 months
Pretrial Settlement Conference		16 months	22 months
Trial	10 months	18 months	24 months

Exhibit "2"

CASE MANAGEMENT TRACK CRITERIA			
<i>Case Type</i>	<i>Number of Parties</i>	<i>Management Track</i>	<i>Disposition Within</i>
Assault, Battery Premises Liability, Slip & Fall Other Personal Injury Torts to Land Motor Vehicle Property Damage Other Personal Property Damage Motor Vehicle Accident (under \$25,000) Insurance, Declaratory Judgment Negotiable Instruments Recovery of Overpayment Contracts for Goods Other Contract Foreclosure Rent, Lease, Ejectment Title to Real Property Replevin Appeals from District Justice Mechanic's Lien Other: Consumer or Credit	<4	Fast	10 months

CASE MANAGEMENT TRACK CRITERIA			
<i>Case Type</i>	<i>Number of Parties</i>	<i>Management Track</i>	<i>Disposition Within</i>
Employment/Wrongful Discharge Assault Battery Premises Liability, Slip & Fall Other Personal Injury Torts to Land Motor Vehicle Property Damage Other Personal Property Damage Motor Vehicle Accident (under \$25,000) Insurance, Declaratory Judgment Negotiable Instruments Recovery of Overpayment Contracts for Goods Other Contract Foreclosure Partition Right to Know Rent, Lease, Ejectment Title to Real Property Other: Consumer or Credit	>4	Standard	<18 months
Fraud Truth in Lending	Any Numbers	Standard	<18 months
Class Action Construction Contracts Medical Malpractice Toxic Waste, Contamination & Environmental Professional Malpractice Toxic Tort Personal Injury Stockholders Suits Defamation, Discrimination, Malicious Prosecution Motor Vehicle Accident (over \$25,000.00) Motor Vehicle Product Liability Product Liability Product Liability Property Damage Contract Product Liability	Any Number	Complex	<24 months

[Pa.B. Doc. No. 04-1233. Filed for public inspection July 9, 2004, 9:00 a.m.]

## CARBON COUNTY

### Amendment of Local Rule of Criminal Procedure CARB.R.CRIM.P 590 Plea and Plea Agreements; 103 MI 00

#### Administrative Order No. 18-2004

And Now, this 25th day of June, 2004, in order to correct an error on the form titled Nolo Contendere Colloquy, it is hereby

*Ordered* and *Decreed* that, effective July 1, 2004, Carbon County *Amends* the form titled Nolo Contendere Colloquy following this Local Rule of Criminal Procedure.

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 Pennsylvania Criminal 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 Clerk of Court's Office.

*By the Court*

RICHARD W. WEBB,  
*President Judge*

#### Rule 590 Plea and Plea Agreements

When counseling a defendant relative to the entry of a plea of guilty or nolo contendere, counsel shall review and explain to the defendant the contents of the Guilty Plea Colloquy form or Nolo Contendere Colloquy form, which are attached hereto. If the Defendant is charged and to be sentenced under Megan's Law, counsel shall review the attached Megan's Law Supplement To Guilty Plea Colloquy form as required by 42 Pa.C.S.A. § 9795.3 (6). Such forms shall be initialed and signed by the defendant. Defendant counsel's signature thereon shall constitute a certification by the attorney that he/she has read, discussed, and explained the plea form and, if required, the Megan Law form to the defendant, and that to the best of his/her knowledge, information, or belief, his/her client understands what he/she is doing by entering his/her plea.

Guilty Plea Colloquy and Megan Law Supplement forms shall be filed in open Court at the time of entry of any plea of guilty or nolo contendere.

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :  
 :  
 :  
 -vs.- : NO.  
 :  
 \_\_\_\_\_ :  
 Defendant :

GUILTY PLEA COLLOQUY

You are present before this Court because you or your lawyer have stated that you wish to plead guilty to some or all of the criminal offenses with which you have been charged. Please answer fully all the questions on this document. If you do not understand any explanations given to you on this document, say so by putting the word "no" in the blank provided after the questions. If you do understand the questions, you should write in the word "yes." None of the lines should be left blank.

After you have finished reading this and filling it out, you should sign it on the last page, on the line that says "Defendant." You should also initial each page at the bottom, but only if you have read and have understood that page. If there is anything that you do not understand, you should say so in writing on this form. You should also tell your lawyer and the Judge who hears your case, so that they can explain it to you fully, to make sure you understand all your rights.

Most of these questions are designed to be answered "yes" or "no." Where general information is asked for, however, please answer fully.

1. What is your full name? \_\_\_\_\_
  2. Are you known by any other name or alias? \_\_\_\_\_
  3. If the answer to Number 2 is "yes" state the other name or aliases. \_\_\_\_\_
  4. What is your date of birth? \_\_\_\_\_
  5. What was the last grade completed in school? \_\_\_\_\_
  6. Can you read, write and understand the English language? \_\_\_\_\_
  7. As you appear before the Court today to enter a guilty plea, are you under the influence of alcohol or any kind of drugs? \_\_\_\_\_
  8. Have you ever been a patient in a mental institution or have you ever been treated for a mental illness? \_\_\_\_\_
  9. If the answer to Number 8 is "yes," please explain the details. \_\_\_\_\_
  10. Are you currently being treated for a mental illness? \_\_\_\_\_
  11. If the answer to Number 10 is "yes," explain the details. \_\_\_\_\_
- 
12. If you are presently being treated for a mental illness, do you feel that you have sufficient mental capacity to understand what you are doing today, and to understand these questions and answer them correctly? \_\_\_\_\_
  13. Do you understand that you are here today to enter a guilty plea to some or all of the charges against you? \_\_\_\_\_
  14. Do you understand the nature of the offenses to which you are pleading guilty? \_\_\_\_\_
  15. Has your lawyer explained to you the elements of the criminal offenses to which you are pleading? \_\_\_\_\_
  16. Do you admit to committing the offenses to which you are pleading guilty and to the legal elements explained to you making up those offenses? \_\_\_\_\_
  17. Do you understand that you have a right to a trial by jury? \_\_\_\_\_
  18. Do you understand that the right to trial by jury means that you can participate in the selection of a jury with your attorney; that the jury is randomly selected from the voter registration list of Carbon County and a cross-section of the citizens of Carbon County, and that the jury has to agree unanimously on your guilt before you can be convicted of the offenses with which you are charged? \_\_\_\_\_
  19. Do you understand that you are presumed innocent until found guilty? In other words, do you understand that the Commonwealth must prove your guilt beyond a reasonable doubt before you can be convicted of the offenses charged? \_\_\_\_\_
  20. Do you understand that the Commonwealth has the burden of proving you guilty beyond a reasonable doubt, which means you can remain silent and nothing can be held against you for refusing to testify in your own defense? \_\_\_\_\_
  21. Do you understand that you have a right to confront and cross-examine all Commonwealth witnesses in your case who are necessary to prove your guilt? \_\_\_\_\_
  22. Do you understand that by pleading guilty you are waiving that right of confrontation and cross-examination? \_\_\_\_\_
  23. Do you realize that by pleading guilty you are giving up your right to present any pre-trial motions for consideration to this or a higher Court in the event those motions are denied? \_\_\_\_\_

24. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and raise any errors that were committed in the trial Court, and that this could result in your being awarded a new trial or discharged, and that by pleading guilty you are giving up this right? \_\_\_\_\_

25. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and you could also challenge whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? \_\_\_\_\_

26. Are you aware that the Court is not bound by the terms of any plea agreement entered into between you, your counsel and the Attorney for the Commonwealth, until the Court accepts such plea agreement? \_\_\_\_\_

27. Do you understand that the Court is not a party to any agreement or recommendation made by the parties and that any recommendation and/or stipulation regarding sentence is not binding on the Court and you knowingly waive the right to withdraw this plea if the Court does not concur in the recommended sentence? \_\_\_\_\_

28. Are you aware of the permissible range of sentence and/or fines that can be imposed for the offenses to which you are pleading guilty? \_\_\_\_\_

29. Are you aware of the maximum sentence and/or fine, which the Court could impose upon you for each of the offenses to which you are pleading guilty? \_\_\_\_\_

30. Do you understand that any sentence imposed upon you for any of the offenses to which you are pleading guilty can be imposed consecutively to either (a) any sentence imposed upon you for any other offense for which you are pleading guilty in this case; or (b) any sentence imposed upon you in any other case? \_\_\_\_\_

31. Do you understand that "consecutive" sentences means that one sentence will follow after another and that "consecutive" sentences do not run at the same time? \_\_\_\_\_

32. Do you understand that the aggregate maximum sentence you could receive if you are pleading guilty to multiple offenses is the total of all maximum sentences for all the offenses added together? \_\_\_\_\_

33. Do you understand that you have a right to have witnesses present at your guilty plea hearing to testify for you? Are you willing to give up that right and have the Attorney for the Commonwealth summarize the facts against you? \_\_\_\_\_

34. After you enter your guilty plea and it is accepted by the Court, you still have a right to appeal your conviction. The appeal from a guilty plea is limited, however, to four grounds. They are:

- (a) that your guilty plea was not knowing, intelligent and voluntary;
- (b) that the Court did not have jurisdiction to accept your plea (in other words, the offenses for which you are pleading guilty did not occur in Carbon County);
- (c) that the Court's sentence is beyond the maximum penalty authorized by law; and
- (d) that your attorney was incompetent in representing you and advising you to enter a plea of guilty

Do you understand these four areas of appeal and what they mean? \_\_\_\_\_

In order to appeal your conviction by a plea of guilty, you must within ten (10) days file a written motion to withdraw your guilty plea and state any of the four above grounds as the basis for your petition to withdraw your guilty plea. This must be done within ten (10) days from the date you are sentenced. If you cannot afford a lawyer to represent you or you are contending that your attorney, who represented you at your guilty plea, was incompetent, you have the right to have other counsel appointed for you to raise those four claims. If your petition to withdraw your guilty plea is denied, you then have thirty (30) days to file an appeal from that denial with the Superior Court of Pennsylvania.

If you do not file your petition within ten (10) days of your sentence or do not file a Notice of Appeal to the Superior Court within thirty (30) days after your petition to withdraw your guilty plea is denied, you give up your right to ever complain again of any of those four areas, including incompetent counsel.

Do you understand the meaning of the various appeal rights that have just been explained to you? \_\_\_\_\_

35. Has anybody forced you to enter this plea of guilty? \_\_\_\_\_

36. Are you doing this of your own free will? \_\_\_\_\_

37. Have any threats been made to you to enter a plea of guilty? \_\_\_\_\_

38. Have any promises been made to you to enter a plea of guilty other than any plea agreement that has been negotiated for you by your attorney? \_\_\_\_\_

39. Do you understand that the decision to enter a guilty plea is yours and yours alone; that you do not have to enter a plea of guilty and give up all your rights, as previously explained to you and that no one can force you to enter a guilty plea? \_\_\_\_\_

40. Do you understand that if your plea is accepted by this Honorable Court, you would have the right to have a Pre-Sentence Report prepared on your behalf to aid the Judge in determining the appropriate sentence to be imposed upon you? Since this is a plea bargain, are you willing to waive the preparation of the pre-sentence investigation? \_\_\_\_\_ (if applicable)

41. Are you presently on probation or parole? \_\_\_\_\_

42. If you are on probation or parole, do you realize that your plea of guilty will mean a violation of that probation or parole and you can be sentenced to prison as a result of that violation caused by your guilty plea today? \_\_\_\_\_

43. Are you satisfied with the representation of your attorney? \_\_\_\_\_



44. Have you had ample opportunity to consult with your attorney before reading this document and entering your plea of guilty? \_\_\_\_\_

45. Has your attorney gone over with you the meaning of the terms in this document? \_\_\_\_\_

I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of guilty to the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct.

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

Defendant

I, \_\_\_\_\_, Esquire, Attorney for \_\_\_\_\_, state that I have advised my client of the contents and meaning of this document; that it is my belief that he/she comprehends and understands what is set forth above; that I am prepared to try this case; and that the defendant understands what he/she is doing by pleading guilty.

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

Attorney for the Defendant

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

-vs.-

Defendant

:  
:  
:  
:  
:  
:

NO.

NOLO CONTENDERE COLLOQUY

You are present before this Court because you or your lawyer have stated that you wish to plead Nolo Contendere to some or all of the criminal offenses with which you have been charged. Please answer fully all the questions on this document. If you do not understand any explanations given to you on this document, say so by putting the word "no" in the blank provided after the questions. If you do understand the questions, you should write in the word "yes." None of the lines should be left blank.

After you have finished reading this and filling it out, you should sign it on the last page, on the line that says "Defendant." You should also initial each page at the bottom, but only if you have read and have understood that page. If there is anything that you do not understand, you should say so in writing on this form. You should also tell your lawyer and the Judge who hears your case, so that they can explain it to you fully, to make sure you understand all your rights.

Most of these questions are designed to be answered "yes" or "no." Where general information is asked for, however, please answer fully.

1. What is your full name? \_\_\_\_\_
2. Are you known by any other name or alias? \_\_\_\_\_
3. If the answer to Number 2 is "yes," state the other names or aliases. \_\_\_\_\_
4. What is your date of birth? \_\_\_\_\_
5. What was the last grade completed in school? \_\_\_\_\_
6. Can you read, write and understand the English language? \_\_\_\_\_
7. As you appear before the Court today to enter a plea of Nolo Contendere, are you under the influence of alcohol or any kind of drugs? \_\_\_\_\_
8. Have you ever been a patient in a mental institution or have you ever been treated for a mental illness? \_\_\_\_\_
9. If the answer to Number 8 is "yes," please explain the details. \_\_\_\_\_
10. Are you currently being treated for a mental illness? \_\_\_\_\_
11. If the answer to Number 10 is "yes," explain the details. \_\_\_\_\_
12. If you are presently being treated for a mental illness, do you feel that you have sufficient mental capacity to understand what you are doing today, and to understand these questions and answer them correctly? \_\_\_\_\_
13. Do you understand that you are here today to enter a plea of Nolo Contendere to some or all of the charges against you? \_\_\_\_\_
14. Do you understand the nature of the offenses to which you are pleading Nolo Contendere? \_\_\_\_\_
15. Has your lawyer explained to you the elements of the criminal offenses to which you are pleading? \_\_\_\_\_
16. Do you understand that by entering a plea of nolo contendere the Court will accept the facts concerning this case as presented by the Commonwealth during the nolo contendere proceeding as being the facts of this case? \_\_\_\_\_

17. Do you understand that you have a right to a trial by jury? \_\_\_\_\_
18. Do you understand that the right to trial by jury means that you can participate in the selection of a jury with your attorney; that the jury is randomly selected from the voter registration list of Carbon County and a cross-section of the citizens of Carbon County, and that the jury has to agree unanimously on your guilt before you can be convicted of the offenses with which you are charged? \_\_\_\_\_
19. Do you understand that you are presumed innocent until found guilty? In other words, do you understand that the Commonwealth must prove your guilt beyond a reasonable doubt before you can be convicted of the offenses charged? \_\_\_\_\_
20. Do you understand that the Commonwealth has the burden of proving you guilty beyond a reasonable doubt, which means you can remain silent and nothing can be held against you for refusing to testify in your own defense? \_\_\_\_\_
21. Do you understand that you have a right to confront and cross-examine all Commonwealth witnesses in your case who are necessary to prove your guilt? \_\_\_\_\_
22. Do you understand that by pleading Nolo Contendere you are waiving that right of confrontation and cross-examination? \_\_\_\_\_
23. Do you realize that by pleading Nolo Contendere you are giving up your right to present any pre-trial motions for consideration to this or a higher Court in the event those motions are denied? \_\_\_\_\_
24. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and raise any errors that were committed in the trial Court, and that this could result in your being awarded a new trial or discharged, and that by pleading Nolo Contendere you are giving up this right? \_\_\_\_\_
25. Do you realize that if you were convicted after a trial you could appeal the verdict to a higher Court and you could also challenge whether the Commonwealth had presented enough evidence to prove you guilty beyond a reasonable doubt? \_\_\_\_\_
26. Are you aware that the Court is not bound by the terms of any plea agreement entered into between you, your counsel and the Attorney for the Commonwealth, until the Court accepts such plea agreement? \_\_\_\_\_
27. Do you understand that the Court is not a party to any agreement or recommendation made by the parties and that any recommendation and/or stipulation regarding sentence is not binding on the Court and you knowingly waive the right to withdraw this plea if the Court does not concur in the recommended sentence? \_\_\_\_\_
28. Are you aware of the permissible range of sentence and/or fines that can be imposed for the offenses to which you are pleading Nolo Contendere? \_\_\_\_\_
29. Are you aware of the maximum sentence and/or fine which the Court could impose upon you for each of the offenses to which you are pleading Nolo Contendere? \_\_\_\_\_
30. Do you understand that any sentence imposed upon you for any of the offenses to which you are pleading Nolo Contendere can be imposed consecutively to either (a) any sentence imposed upon you for any other offense for which you are pleading Nolo Contendere in this case; or (b) any sentence imposed upon you in any other case? \_\_\_\_\_
31. Do you understand that "consecutive" sentences means that one sentence will follow after another and that "consecutive" sentences do not run at the same time? \_\_\_\_\_
32. Do you understand that the aggregate maximum sentence you could receive if you are pleading Nolo Contendere to multiple offenses is the total of all maximum sentences for all the offenses added together? \_\_\_\_\_
33. Do you understand that you have a right to have witnesses present at your Nolo Contendere plea hearing to testify for you? Are you willing to give up that right and have the Attorney for the Commonwealth summarize the facts against you? \_\_\_\_\_
34. After you enter your Nolo Contendere plea and it is accepted by the Court, you still have a right to appeal your conviction. The appeal from a Nolo Contendere plea is limited, however, to four grounds. They are:
- (a) that your Nolo Contendere plea was not knowing, intelligent and voluntary;
  - (b) that the Court did not have jurisdiction to accept your plea (in other words, the offenses for which you are pleading Nolo Contendere did not occur in Carbon County);
  - (c) that the Court's sentence is beyond the maximum penalty authorized by law; and
  - (d) that your attorney was incompetent in representing you and advising you to enter a plea of Nolo Contendere
- Do you understand these four areas of appeal and what they mean? \_\_\_\_\_

In order to appeal your conviction by a plea of Nolo Contendere, you must within ten (10) days file a written motion to withdraw your Nolo Contendere plea and state any of the four above grounds as the basis for your petition to withdraw your Nolo Contendere plea. This must be done within ten (10) days from the date you are sentenced. If you cannot afford a lawyer to represent you or you are contending that your attorney, who represented you at your Nolo Contendere plea, was incompetent, you have the right to have other counsel appointed for you to raise those four claims. If your petition to withdraw your Nolo Contendere plea is denied, you then have thirty (30) days to file an appeal from that denial with the Superior Court of Pennsylvania.

If you do not file your petition within ten (10) days of your sentence or do not file a Notice of Appeal to the Superior Court within thirty (30) days after your petition to withdraw your Nolo Contendere plea is denied, you give up your right to ever complain again of any of those four areas, including incompetent counsel.

- Do you understand the meaning of the various appeal rights that have just been explained to you? \_\_\_\_\_
35. Has anybody forced you to enter this plea of Nolo Contendere? \_\_\_\_\_
36. Are you doing this of your own free will? \_\_\_\_\_
37. Have any threats been made to you to enter a plea of Nolo Contendere? \_\_\_\_\_
38. Have any promises been made to you to enter a plea of Nolo Contendere other than any plea agreement that has been negotiated for you by your attorney? \_\_\_\_\_
39. Do you understand that the decision to enter a plea of Nolo Contendere is yours and yours alone; that you do not have to enter a plea of Nolo Contendere and give up all your rights, as previously explained to you and that no one can force you to enter a Nolo Contendere plea? \_\_\_\_\_
40. Do you understand that if your plea is accepted by this Honorable Court, you would have the right to have a Pre-Sentence Report prepared on your behalf to aid the Judge in determining the appropriate sentence to be imposed upon you? Since this is a plea bargain, are you willing to waive the preparation of the pre-sentence investigation? \_\_\_\_\_ (if applicable)
41. Are you presently on probation or parole? \_\_\_\_\_
42. If you are on probation or parole, do you realize that your plea of Nolo Contendere will mean a violation of that probation or parole and you can be sentenced to prison as a result of that violation caused by your Nolo Contendere plea today? \_\_\_\_\_
43. Are you satisfied with the representation of your attorney? \_\_\_\_\_
44. Have you had ample opportunity to consult with your attorney before reading this document and entering your plea of Nolo Contendere? \_\_\_\_\_
45. Has your attorney gone over with you the meaning of the terms in this document? \_\_\_\_\_
- I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of Nolo Contendere to the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct.

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

I, \_\_\_\_\_, Esquire, Attorney for \_\_\_\_\_, state that I have advised my client of the contents and meaning of this document; that it is my belief that he/she comprehends and understands what is set forth above; that I am prepared to try this case; and that the defendant understands what he/she is doing by pleading Nolo Contendere.

Date: \_\_\_\_\_ Attorney for the Defendant

IN THE COURT OF COMMON PLEAS OF CARBON COUNTY, PENNSYLVANIA  
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA :  
:  
-vs.- : NO.  
:  
\_\_\_\_\_  
Defendant :

MEGAN'S LAW SUPPLEMENT TO GUILTY PLEA COLLOQUY

One or more of the offenses to which you are pleading guilty will make you subject to the registration and notification provisions of Megan's Law relating to sexual offenders.

The purpose of the following questions is to make certain that you understand how these provisions will affect you. Please answer all questions "Yes" or "No." If there is anything that you do not understand, you should say so in writing on this form. You should also tell your lawyer and the Judge who hears your case so that they can explain it to you fully to make sure you understand all of your rights.

After you have read and filled out this form, you should sign it on the last page (on the line marked "Defendant"). You should also initial each page at the bottom where indicated, but only if you have read and have understood that page.

1. Do you understand that as a result of your conviction you will be required to register with the Pennsylvania State Police and inform them of your current address and any change of address within ten (10) days of such change? \_\_\_\_\_
2. Do you understand that failure to register or to update your registration is itself a crime, which may subject you to penalties, including imprisonment? \_\_\_\_\_

3. Do you understand that your registration information will be provided by the Pennsylvania State Police to the local police department of any community in which you may live? \_\_\_\_\_

4. Do you understand that the registration requirements will continue for the time period specified: \_\_\_\_\_ ten (10) years \_\_\_\_\_ for the rest of your life? \_\_\_\_\_

5. If this line \_\_\_\_\_ is checked, do you understand that the District Attorney has the right to request the Court to hold a hearing to determine whether you are a sexually violent predator, and if you are determined to be a sexually violent predator you will be subject to additional registration and notification requirements? These will include:

Notification to your victim of your current address.

Notification to your neighbors of your name and address, the offense of which you were convicted, the fact that you have been determined to be a sexually violent predator, which notification may be accompanied by your photograph.

The foregoing notification will also be sent to the local children and youth services agency, superintendent of schools, daycare centers, and colleges and universities; it is also available to any member of the public upon request.

Do you understand all of the above information relating to registration and notification requirements of persons determined to be sexually violent predators? \_\_\_\_\_

6. Do you understand that if you are determined to be a sexually violent predator, you will be required to attend and pay for monthly counseling sessions for the period you are required to register? \_\_\_\_\_

I affirm that I have read the above document in its entirety and I understand its full meaning, and I am still nevertheless willing to enter a plea of guilty to the offenses specified. I further affirm that my signature and initials on each page of this document are true and correct.

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

Defendant

I, \_\_\_\_\_, Esquire, Attorney for \_\_\_\_\_, state that I have advised my client of the contents and meaning of this document; that it is my belief that he/she comprehends and understands what is set forth above; that I am prepared to try this case; and that the defendant understands what he/she is doing by pleading guilty.

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

Attorney for the Defendant

[Pa.B. Doc. No. 04-1234. Filed for public inspection July 9, 2004, 9:00 a.m.]

**NORTHAMPTON COUNTY**

**Administrative Order 2004-1 Amendments to Rules of Civil Procedure to Comply with Pennsylvania Rules of Civil Procedure Governing Motion Practice Adopted October 24, 2003, No. 401 Civil Procedure Rule Doc. No. 5; C-48-CV-2004-4650**

**Administrative Order**

And Now, this 17th day of June, 2004, it is hereby ordered:

1. Rules N206, N209, N210, N211, N1034, N1035, and N2039 are amended as follows; and

2. Rules N208.3(a) and N1028(c) are adopted.

3. The effective date of these rules is July 26, 2004.

By the Court

ROBERT A. FREEDBERG,  
*President Judge*

**N206.4(c) Procedure for Issuance of Rule to Show Cause**

(i) A rule to show cause shall be issued as of course pursuant to Pennsylvania Rule of Civil Procedure 206.6 (a), (b), and local Rule N206.6 (c)—form of order.

(ii) Rules to show cause shall be presented in Motions Court, exempt from the notice requirements contained in N208.3(a), and may be presented ex parte. However, the notice requirement of N208.3(a) shall be met if a stay of proceedings is sought.

(iii) The court may grant a stay of proceedings upon a showing of good cause.

(iv) Upon the issuance of a rule to show cause, the moving party shall list the matter for disposition in accordance with N209 or N211, unless the order of court provides otherwise.

(v) Upon the presentation of a rule to show cause for a petition to open a default judgment, a request for a stay of execution pending disposition shall be granted upon a showing of good cause.

(vi) The petitioner shall attach to the Petition a proposed Order substantially in the following form:

(CAPTION)

ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, upon consideration of the foregoing petition, it is hereby ordered that:

(1) a rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested;

(2) the respondent shall file an answer to the petition within twenty days of service upon the respondent;

(3) the petition shall be decided under Pa.R.C.P. No. 206.7;

(4) an evidentiary hearing on disputed issues of material fact shall be held on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ a.m./p.m., in courtroom No. \_\_\_\_\_ of the Northampton County Government Center, 669 Washington Street, Easton, Pennsylvania;

(5) notice of the entry of this order shall be provided to all parties by the petitioner and proof of service filed of record.

BY THE COURT:

\_\_\_\_\_ J.

*EXPLANATORY COMMENT—2004:* Counsel for the moving party should be mindful of local rule N209 relating to the anticipated time required to complete an evidentiary hearing and whether the matter should be scheduled for a miscellaneous hearing list or non-jury trial list. In certain cases, such as guardianship proceedings, the evidentiary hearing can be held in Motions Court. Counsel should be prepared to advise the court of the suggested forum for the evidentiary hearing and the proposed date and time for the hearing.

All Northampton County Local Rules are available at the Northampton County Court Web Site ([www.nccpa.org](http://www.nccpa.org)).

### **N208.3(a) Procedure Governing Motions**

1. Motions Court is held each day at 9:00 a.m. Motions which do not require the taking of testimony may be presented to the motions judge only after a copy of the motion and the proposed order of court have been served on all counsel of record and any unrepresented party at least three (3) business days prior to the intended date of presentation.

2. Notice of the date, time, and place of presentation must accompany the copy of the motion and proposed order of court. Service may be made in any manner, including facsimile transmission, which results in the service of the required documents at least three (3) business days before the day of presentation.

3. The presenting party must attach to the motion a certification of compliance with this rule setting forth the date on which the motion was served on counsel and unrepresented parties, and the manner of service.

4. Compliance with the time requirements may be excused by the motions judge if it appears that reasonable notice has been attempted or given, and immediate and irreparable injury will be sustained if relief is denied.

*EXPLANATORY COMMENT:* The purpose of this rule is to foster the use of Motion Court practice for all matters which are not likely to require lengthy evidentiary hearings or involve argument on complex legal issues. Nevertheless, sufficient notice and receipt of the motion or petition and proposed order of court is required by law and fundamental fairness. Counsel desiring to take advantage of Motions Court practice must be diligent in complying with the notice requirement. For purposes of this rule, the use of the term "business day" and the computation of the required three (3) day notice period shall be governed by and construed consistent with Pa.R.C.P. 106 (Computation of Time).

### **N209 Miscellaneous Hearing and Non-Jury Trial Lists.**

#### *(a) Time Limits*

1. Matters reasonably anticipated to require less than (30) minutes may be placed onto a miscellaneous list.

2. Matters anticipated to require more than (30) minutes shall be placed onto a non-jury trial list.

#### *(b) Procedure-Miscellaneous Hearings.*

1. Proceedings may be listed for miscellaneous hearing either by filing with the clerk of court an original and one

copy of a praecipe or by order of court. The court administrator shall prepare a hearing list of such cases.

2. When proceedings are placed on a hearing list by praecipe, notice thereof shall be given to opposing counsel or unrepresented parties at least seven (7) days before the date of hearing.

#### *(c) Procedure-Non-Jury Trials.*

1. Proceedings may be listed for a non-jury trial list either by filing with the clerk of court an original and one copy of a praecipe or by order of court. The court administrator shall prepare a non-jury trial list of such cases.

2. When proceedings are placed on a non-jury trial list by praecipe of counsel, notice thereof shall be given to opposing counsel or unrepresented parties at least (30) days before the date of trial.

### **N210 Content of Briefs**

(a) *Form.* Each brief shall be typewritten, printed or otherwise duplicated, endorsed with the name of the case, the court, the number, and the name, address and telephone number of the attorney or unrepresented party.

(b) *Content.* The brief shall include a statement of the facts, a statement of the questions involved, and the argument.

(1) The statement of the facts shall, depending upon the nature of the case, consist of an abstract of the testimony or of the pleadings or both, and shall include a procedural history of the case.

(2) The statement of questions involved must be so drawn that the court may quickly determine all the legal questions to be decided.

(3) The argument shall be divided into as many parts as there are questions involved. Citations of authority shall be accurately designated, shall set forth the volume and page number where they appear, and shall set forth the exact citation of the principles for which they are cited. Whenever a Pennsylvania statute is cited, the pertinent title and section number of *Purdon's Statutes* shall also accompany said citation.

(4) Whenever testimony is abstracted or referred to, it must contain reference to the pages of the transcript where the supporting evidence may be found.

(c) *Penalty for Noncompliance.* Failure to conform to any requirement of this rule shall constitute a default for which the cause may be continued or stricken off the list or the application of the party in default refused, as the court may deem just and proper.

### **N211 Argument Lists**

(a) *Nature of Case.* The argument list shall consist only of cases in which a question of law is to be determined.

(b) *Procedure.* Proceedings may be listed for argument by order of court or by the filing with the Clerk of Court an original and one copy of a praecipe by counsel not later than twenty (20) days before the argument court. The Court Administrator shall prepare an argument list consisting of all cases ordered thereon either by the court or by counsel.

Counsel ordering a case on the list by praecipe (or the Court Administrator in cases ordered on by the court) shall give notice thereof to the adverse party at least twenty (20) days before the date set for argument.

(c) *Time for Filing Praecipe and Briefs.* Counsel ordering the case on the argument list shall file a brief

simultaneously with the filing of the praecipe for argument, and shall serve a copy on the adverse party at least twenty (20) days before the date set for argument. The clerk shall not accept a praecipe for argument without the moving party's brief. The respondent shall deliver a brief to the moving party and file a copy with the clerk at least five (5) days before the date set for argument.

In cases ordered on the argument list by the court, the time for filing briefs shall be in accordance with the schedule established by the court in that particular case. Where no such schedule has been established, the moving party shall file and serve a brief at least twenty (20) days before the date set for argument. The respondent shall deliver a brief to the moving party and file a copy with the clerk at least five (5) days before the date set for argument.

In all cases, the clerk shall promptly forward all briefs to the Court Administrator. No supplemental brief shall be filed except upon special allowance by the court and within such time as the court may direct.

In cases involving preliminary objections, motion for judgment on the pleadings, and motions for summary judgment, see rules N1028, N1034, or N1035 for additional requirements. If a party fails to file a praecipe for argument and a brief within a reasonable period of time following the filing of a motion or petition and the closing of the record, the adverse party may seek dismissal of the motion or petition.

Comment: See N210 Content of Briefs.

(d) *Record for Argument.* No case shall be placed on the argument list unless the record made either by depositions or at a hearing or trial shall be actually on file at the time the case is placed on the list, unless (1) counsel files a stipulation of the material facts, or (2) the court specifically directed that the case be placed on the list.

(e) *Continuance.* Continuances of the case on the list may be granted for cause shown or upon agreement of counsel with approval of the court. The continuances shall be a continuance to the next argument court unless a specific date for further argument is specified by the court at the time the continuance is granted, in which case the Court Administrator shall so list the case without further praecipe.

(f) *Oral Argument.* When each case is called, the parties shall state to the court (1) whether briefs are filed and (2) whether any party requests oral argument on the matter before the court. Cases on the argument list may be submitted on briefs, if all parties agree to waive oral argument. If all parties agree to submission on briefs, counsel need not appear for the call of the argument list; rather, counsel for the moving party shall provide written notice to the Court Administrator that all parties agree that the case may be submitted on the briefs.

(g) *Non-Jury Cases.* When required by the court in cases tried without a jury, the parties shall furnish to the court proposed findings of fact and conclusions of law.

(h) *Land Use Appeals.* Whenever a zoning hearing board or other applicable governing body of a municipality is required under the Pennsylvania Municipalities Planning Code to certify its record to the court in response to a writ of certiorari in a land use appeal, the record shall contain a copy of the entire zoning ordinance,

building code or other ordinance, with the relevant portions indicated therein, and a copy of the zoning map of the municipality.

#### **N1028(c) Procedure for Disposition of Preliminary Objections**

Preliminary objections shall be resolved on an argument list, and shall be filed and briefed in conformity with Rule N211.

(1) When the preliminary objections can be resolved from facts of record and no evidentiary hearing is required, within twenty (20) days after the filing of preliminary objections, the objecting party shall file a praecipe and accompanying brief in support of the objections with the Clerk of Courts-Civil in conformity with Rule N211.

(2) When the preliminary objections are endorsed with a notice to plead because the objections involve issues that cannot be determined from facts of record, the preliminary objections shall be filed and appropriate time shall be allowed for the responding party to file a response before the objecting party shall praecipe the objections for an evidentiary hearing in compliance with Rule N209; once the evidentiary record has been made, the objecting party shall file a praecipe and accompanying brief in support of the objections in conformity with Rule N211.

(3) If a brief is not filed in accordance with this rule, the preliminary objections shall be dismissed by the court as of course, unless the time for filing has been extended by the court.

#### **N1034(a.) Procedure for Disposition of a Motion for Judgment on Pleadings**

A motion for judgment on pleadings shall be resolved on an argument list. It shall set forth specifically the reasons upon which it is based, and it shall be filed and briefed in conformity with Rule N211.

#### **N1035.2(a.) Procedure for Disposition of a Motion for Summary Judgment**

1. When a motion for summary judgment is filed it shall be accompanied by the necessary record. The motion shall be resolved on an argument list unless otherwise ordered by the judge to whom a case has been pre-assigned.

2. Thirty (30) days shall be allowed for the responding party to file a response and supplemental record in conformity with Pa.R.Civ. P. 1035.3.

3. The moving party shall then file a brief and accompanying praecipe in conformity with Rule N211.

4. A motion for summary judgment shall be submitted for decision no later than ninety (90) days prior to the date scheduled for commencement of trial, unless otherwise allowed by order of court.

#### **N2039 Compromise Settlement and Physician's Statement of Extent of Injury**

A petition for minor's compromise shall be presented at motions court. In cases involving personal injury, the necessary medical documentation establishing the nature and extent of the minor's injuries, the present condition, and the prognosis shall be annexed to said petition.

Comment: See N208.3.

[Pa.B. Doc. No. 04-1235. Filed for public inspection July 9, 2004, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

#### [55 PA. CODE CH. 1150]

#### Medical Assistance Program Payment Policies

The Department of Public Welfare (Department), by this order, adopts § 1150.51 (relating to general payment policies) to read set forth in Annex A, under sections 201(2) and 443.3(2)(ii) of the Public Welfare Code (62 P. S. §§ 201(2) and 443.3(2)(ii)) (code).

#### *Omission of Proposed Rulemaking*

Notice of proposed rulemaking is omitted under section 204(1)(iv) and (3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(1)(iv) and (3)), known as the Commonwealth Documents Law (CDL), and 1 Pa. Code § 7.4(1)(iv) and (3). The Department may omit proposed rulemaking because the amendment relates to Commonwealth grants and benefits. The Department also finds that notice of proposed rulemaking is, under the circumstances, unnecessary and contrary to the public interest because access to some medical services by Medical Assistance (MA) recipients may be jeopardized if the Department delays taking action to increase payment rates for selected medical services available under the MA Program.

#### *Purpose*

The purpose of this final-omitted rulemaking is to revise the current MA maximum reimbursement limit for services provided by a practitioner during any one period of hospitalization, retroactive to January 1, 2004, to allow for the same exception to the limit that exists for services provided on an outpatient basis.

#### *Need for the Final-Omitted Rulemaking*

The current regulatory limit for payment to a practitioner for services rendered during a single hospitalization has been in place since 1985. See 15 Pa.B. 1436 (April 20, 1985) and 18 Pa.B. 2212 (May 14, 1988). It currently has the unintended effect of discouraging practitioners from treating MA recipients. To avoid harm to MA recipients as a result of this unintended consequence, the Department has determined that it is necessary and proper to revise the current cap on payments made to a practitioner during a single period of hospitalization.

#### *Background*

Under current regulations, the Department limits payment to practitioners to \$1,000 per inpatient stay. See § 1150.51(e). By contrast, payment for services in an outpatient setting is limited to \$500 per day, unless the MA fee for an outpatient procedure is more than \$500, in which case the daily limit is the MA fee for that outpatient procedure. See § 1150.51(f). In 1985, when the limit for services in an inpatient setting was set at \$1,000, fees for individual practitioners' services were well below the regulatory limit. Various fee increases in the intervening years have resulted in the fees for many procedure codes on the MA Fee Schedule being equal to the limit. The maximum reimbursement limit was never intended to constrain the Department's ability to set payment rates for individual procedures. Nonetheless, the current effect of the limit is to keep fees for select procedure codes artificially depressed so as not to exceed

the limit. In addition to increasing the Department's flexibility to modify payment rates as needed to continue to assure recipient access to services, the final-form rulemaking will make the payment limit for services provided during a hospitalization consistent in principle with the payment limit for services provided in an outpatient setting.

#### *Requirements*

Section 1150.51(e) is amended to revise the maximum reimbursement limit for services provided by a practitioner during a single period of hospitalization to allow for an exception to the existing \$1,000 limit if the fee for a particular procedure rendered during the hospitalization is higher than \$1,000.

#### *Affected Individuals and Organizations*

Practitioners who provide services to hospitalized patients will be affected by the change, which revises the current cap on payment for services provided during an inpatient admission.

#### *Accomplishments and Benefits*

This final-omitted rulemaking revises the current MA reimbursement limit for services provided by a practitioner during a hospital stay. The anticipated effect is to provide greater incentive for physicians to remain in this Commonwealth as well as to attract physicians to this Commonwealth. In addition, MA recipients should benefit by continuing to have access to needed health care.

#### *Fiscal Impact*

There is no fiscal impact associated with this final-omitted rulemaking. Any fiscal impact would be addressed in the public notice issued under § 1150.61(a) (relating to guidelines for fee schedule changes), announcing the Department's decision to increase the payment rate for a particular procedure code.

#### *Paperwork Requirements*

No new or additional paperwork requirements result from the adoption of this final-omitted rulemaking.

#### *Public Comment*

Although this final-omitted rulemaking is being adopted without publication as proposed rulemaking, interested persons are invited to submit written comments, suggestions or objections regarding it to John Hummel, Regulations Coordinator, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, 515 Health and Welfare Building, Harrisburg, PA 17120. Comments will be reviewed and considered in any subsequent revision of the section.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at (800)-654-5984 (TDD users) or (800) 654-5988 (voice users).

#### *Sunset Date*

There is no sunset date.

#### *Regulatory Review Act*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5.1(c)), on May 14, 2004, the Department submitted a copy of this final-omitted rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public

Health and Welfare. On the same date, the final-omitted rulemaking was submitted to the Office of the Attorney General for review and approval under Commonwealth Attorneys Act (71 P. S. §§ 731-101—732-506).

Under section 5.1(j.1) and (j.2) of the Regulatory Review Act, this final-omitted rulemaking was deemed approved by the Committees on June 23, 2004. IRRC met on June 24, 2004, and approved the final-omitted rulemaking.

In addition to submitting the final-omitted rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

*Findings*

The Department finds that:

(a) Notice of proposed rulemaking is omitted in accordance with section 204(1)(iv) and (3) of the CDL and 1 Pa. Code § 7.4(1)(iv) and (3) because the regulation relates to Commonwealth grants and benefits and notice of proposed rulemaking is unnecessary and contrary to the public interest.

(b) Adoption of this final-omitted rulemaking in the manner provided by this order is necessary and appropriate for the administration and enforcement of the code.

*Order*

The Department, acting under the code, orders that:

(a) The regulations of the Department, 55 Pa. Code Chapter 1150, are amended by amending § 1150.51 to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Offices of General Counsel and Attorney General for approval as to legality and form as required by law.

(c) The Secretary of the Department shall certify and deposit this order and Annex A with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication and applies retroactively to January 1, 2004.

ESTELLE B. RICHMAN,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 34 Pa.B. (July 10, 2004.))*

**Fiscal Note:** 14-484. No fiscal impact; (8) recommends adoption. There are currently no procedure codes that exceed the \$1,000 cap. Any fiscal impact would be addressed in separate public notices announcing the Department's decision to increase the payment for a particular procedure code.

**Annex A**

**TITLE 55. PUBLIC WELFARE**

**PART III. MEDICAL ASSISTANCE MANUAL**

**CHAPTER 1150. MA PROGRAM PAYMENT POLICIES**

**PAYMENT FOR SERVICES**

**§ 1150.51. General payment policies.**

(a) Payment will be made to providers. Payment may be made to practitioners' professional corporations or partnerships if the professional corporation or partnership is composed of like practitioners. Payment will be

made directly to practitioners if they are members of professional corporations or partnerships composed of unlike practitioners. Practitioners who render services at eligible provider hospitals, either through direct employment or through contract, may direct that payment be made to the eligible provider hospital. Payment will be made for medical services or items covered by the program, furnished by enrolled providers subject to the conditions and limitations established in this chapter, Chapter 1101 (relating to general provisions) and the specific chapters for each provider type. Payment will not be made for a covered medical service or item if payment is available from another agency or another insurance or health program. Payment will not be made for services that are not medically necessary.

(b) To the extent that this chapter conflicts with the regulations that relate to reimbursement for various services or items contained in the specific MA provider chapters which were in effect on January 1, 1983, this chapter controls. To the extent that this chapter does not address a reimbursement question answered by a regulation contained in a specific provider chapter, the regulation in the specific provider chapter controls.

(c) This chapter shall be used by practitioners, hospitals providing outpatient and emergency room services, facilities and practitioners rendering services which require a PSR or second opinion, or both; independent clinics; and other noninstitutional providers including medical supplies, independent laboratories, ambulance companies, pharmacies, portable X-ray providers, funeral directors and home health agencies.

(d) Each section of the MA Program Fee Schedule which is contained in the Provider's Handbook includes the following:

- (1) An all-inclusive listing of covered services and items.
- (2) The provider type eligible under MA to bill for each service and item.
- (3) The appropriate procedure code for each service or item.
- (4) The appropriate type of service for each procedure code.
- (5) The applicable limitations for each service or item.
- (6) The maximum allowable fee for each service or item.

(7) For surgical and obstetrical procedures, the allowable number of postoperative or postpartum days during which no additional payment will be made for office or home visits for a purpose other than early and periodic screening, diagnosis and treatment visits to the practitioner who performed the procedure. This policy does not apply to other members of a group practice of a different specialty.

(8) The maximum allowable fee for anesthesia for each procedure.

(e) The maximum payment made to a practitioner for all services provided to a patient during any one period of hospitalization will be the lowest of:

- (1) The practitioner's usual charge to the general public for the same service.
- (2) The MA maximum allowable fee.
- (3) A maximum reimbursement limit of \$1,000 unless a procedure provided during the hospitalization has a fee



which exceeds \$1,000, in which case that fee is the maximum reimbursement for the period of hospitalization.

(f) Maximum payments to various categories shall be as follows:

(1) The maximum payment made to a provider or practitioner, or their professional corporation or partnership, or a clinic for outpatient procedures provided to a nonhospitalized patient for treatment during 1 day will be the lowest of:

(i) The usual charge to the general public for the same service.

(ii) The MA maximum allowable fee.

(iii) A maximum reimbursement limit of \$500 per day unless the outpatient procedure has a fee which exceeds \$500, in which case the fee is the maximum reimbursement on a daily basis, for that day only.

(2) The maximum payment made to a dentist, medical supplier or pharmacy, or their professional corporation or partnership, or a clinic for outpatient procedures provided to a nonhospitalized patient for treatment during 1 day will be the lower of:

(i) The usual charge to the general public for the same service.

(ii) The MA maximum allowable fee.

(g) Services shall be performed in an efficient and economical manner.

(h) No payment will be made to a provider:

(1) For physical therapy except when provided and billed as an integral part of hospital inpatient, hospital outpatient, rural health clinic, home health agency or nursing home services.

(2) For a surgical procedure and an office or clinic visit for the same patient on the same day.

(3) For standby services except to practitioners for Cesarean sections and high risk deliveries.

(4) For an emergency room visit and a hospital clinic visit for the same patient on the same day for the same condition.

(5) For the removal of sutures and casts.

(6) For procedures not listed in the MA Program Fee Schedule, except as specified in § 1150.63 (relating to waivers).

[Pa.B. Doc. No. 04-1236. Filed for public inspection July 9, 2004, 9:00 a.m.]

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

#### [58 PA. CODE CH. 63]

#### General Fishing Regulations; Commercial Landing of Finfish and Shellfish

The Fish and Boat Commission (Commission) amends Chapter 63 (relating to general fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and

Boat Code) (code). The final-form rulemaking relates to the commercial landing of finfish and shellfish in this Commonwealth.

#### A. *Effective Date*

The final-form rulemaking will go into effect immediately upon publication of this order in the *Pennsylvania Bulletin*.

#### B. *Contact Person*

For further information on the final-form rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available on the Commission's website: [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. *Statutory Authority*

The addition of § 63.47 (relating to landing of finfish, shellfish, crustaceans and other marine seafood) is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

#### D. *Purpose and Background*

Commercial harvest quotas and caps are powerful regulatory tools in managing marine shellfish and finfish stocks. Quotas and caps are used to prevent over-harvest, to control the take of limited resources and to provide a means of distributing harvest among jurisdictions and individual users. Normally, the jurisdiction where the fishery is located or where the commercial boat is headquartered governs the harvest take. When a boat lands, the harvest is reported (credited) to that jurisdiction. When used in this context, a landing occurs when a boat comes to shore (dock, ramp, and the like) and off loads cargo, in this case, finfish, shellfish, crustaceans or other marine seafood. These landings are then reported to various state and Federal agencies and form the basis for adjusting harvest limits for the rest of the season and for planning limits for the next season. Landings of finfish, shellfish, crustaceans and other marine seafood are not the same as seafood trucked or flown into this Commonwealth for sale at retail and wholesale markets because generally that seafood is landed elsewhere and should be counted in the appropriate jurisdiction.

The issue of marine finfish and shellfish being landed or sold in this Commonwealth is not new. The Commission previously promulgated regulations specific to hard clams, weakfish and horseshoe crabs. Recently, however, commercial harvesters landed several thousand pounds of finfish and shellfish in the Philadelphia area because the quotas for these species had been filled in the home jurisdiction. There is concern that there may be a loophole in Commonwealth law that enables harvesters to circumvent harvest quotas or caps in home jurisdictions. Because this Commonwealth has not been allocated a quota for harvest of any Atlantic coastal fish or crustacean stock, the landing of Atlantic caught fish and crustaceans should not be permitted.

#### E. *Summary of New Regulation*

The Commission has adopted a new section that places restrictions on the landing of finfish, shellfish, crustaceans and other marine seafood in this Commonwealth. Specifically, the Commission has made it unlawful to land finfish, shellfish, crustaceans and other marine seafood when harvest quota allocations to the Commonwealth have been met or otherwise capped by action of the Executive Director under the fishery management plans and harvest allocations of the Mid-Atlantic Fishery Man-

agement Council and the Atlantic States Marine Fisheries Commission. In the event quotas have been met or otherwise capped in this Commonwealth, the landing of finfish, shellfish, crustaceans and other marine seafood is permitted only if the species have been properly reported as part of an unmet quota of another jurisdiction. The provisions of this section will not apply to the landing of fish at Lake Erie, which is already governed by Chapter 69 (relating to fishing in Lake Erie and boundary lakes). The Commission has added § 63.47 to read as set forth in the notice of proposed rulemaking.

F. *Paperwork*

The final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

G. *Fiscal Impact*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will impose no new costs on the private sector or the general public.

H. *Public Involvement*

A notice of proposed rulemaking was published at 34 Pa.B. 1457 (March 13, 2004). The Commission did not receive any public comments concerning the proposal.

*Findings*

The Commission finds that:

- (1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided, and no comments were received.
- (3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

*Order*

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

- (a) The regulations of the Commission, 58 Pa. Code Chapter 63, are amended by adding § 63.47 to read as set forth at 34 Pa.B. 1457.
- (b) The Executive Director will submit this order and 34 Pa.B. 1457 to the Office of Attorney General for approval as to legality as required by law.
- (c) The Executive Director shall certify this order and 34 Pa.B. 1457 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*.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-155 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 04-1237. Filed for public inspection July 9, 2004, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Special Conservation Waters; Crawford County

The Fish and Boat Commission (Commission) amends Chapter 65 (relating to special fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendments relate to terminating the Commission's Warmwater/Coolwater Species Special Conservation Waters Program (program) and imposing a new miscellaneous special regulation for muskellunge on Sugar Lake, Crawford County.

A. *Effective Date*

The final-form rulemaking will go into effect on January 1, 2005.

B. *Contact Person*

For further information on the final-form rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available on the Commission's website: [www.fish.state.pa.us](http://www.fish.state.pa.us).

C. *Statutory Authority*

The deletion of § 65.8 is published under the statutory authority of section 2102 of the code (relating to rules and regulations). The amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

D. *Purpose and Background*

This final-form rulemaking is designed to update, modify and improve the Commission's special fishing regulations. The specific purpose of the amendments is described in more detail under the summary of changes.

E. *Summary of Changes*

(1) *Section 65.8.* At its April 1986 meeting, the Commission adopted regulations for its new program. The program began a major Commission initiative to provide enhanced management for warmwater/coolwater fisheries. Rationale for the more restrictive length and creel limits included the need for additional protection of new or reclaimed lake fisheries, rehabilitating fisheries significantly impacted by angling pressure and restructuring of fish populations where the sport fish communities are not of the composition desired to provide recreational angling closer to the capability of the individual water. Since implementation of the program, use has been expanded to major riverine habitat and to select reservoirs during major drawdowns.

Considerable evaluation work, both biologically and angler demand wise, occurred on a number of waters involved in the program during the years following implementation. At the same time, development of other special regulation programs for managing warmwater/coolwater fisheries gave fisheries managers alternatives to the more inclusive and sometimes unnecessary regulations in the Conservation Waters Program. Results of biological and angler sampling provided the means for the Commission to shift waters in this program to other programs, including the big bass and, more recently, the panfish enhancement programs.

To consolidate the number of special regulations used in managing warmwater/coolwater fisheries, the Commis-

sion has redesignated the remaining three conservation lakes to other programs, effective January 1, 2005. Thus, there is no need to retain the regulations for warmwater/coolwater species special conservation waters. Accordingly, the Commission has deleted this section as set forth in the notice of proposed rulemaking.

(2) *Section 65.24.* Sugar Lake, a 90-acre productive natural lake in Crawford County, was added to the program in 1987. The new set of regulations involved increased minimum length limits and reduced possession limits as part of a major initiative for enhanced management of warmwater/coolwater species. Since program inception, management of warmwater/coolwater species has evolved considerably with the establishment of §§ 65.9 and 65.11 (relating to big bass special regulations; and panfish enhancement special regulation) and considerable study on response of fish populations to more restrictive regulations. Thus, the Commission has moved several conservation waters to other programs.

Sugar Lake contains an abundant bass population, a rather dense panfish population characterized by slow growing individuals (bluegill, black crappie and yellow perch) and a robust muskellunge population for the size of the lake. Sugar Lake serves as a brood lake in muskellunge propagation activities. To maintain and enhance fishing opportunities there, the Commission already has added Sugar Lake to the list of waters managed and regulated under § 65.9, effective January 1, 2005. The Commission also proposed that a miscellaneous special regulation for muskellunge be adopted that imposes a 36-inch minimum size limit and a one fish daily creel limit. Although Commission staff has not sampled intensively the muskellunge in Sugar Lake, the higher minimum size limit has led to improvements in size structure. For all other species, Commonwealth inland regulations will apply. The Commission has amended § 65.24 to read as set forth in the notice of proposed rulemaking.

#### F. Paperwork

The final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

#### G. Fiscal Impact

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will impose no new costs on the private sector or the general public.

#### H. Public Involvement

A notice of proposed rulemaking was published at 34 Pa.B. 1458 (March 13, 2004). The Commission did not receive any public comments concerning the proposed rulemaking.

#### Findings

The Commission finds that:

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

(2) A public comment period was provided and no comments were received.

(3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

#### Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 65, are amended by amending § 65.24 and by deleting § 65.8 to read as set forth at 34 Pa.B. 1458.

(b) The Executive Director will submit this order and 34 Pa.B. 1458 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 34 Pa.B. 1458 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on January 1, 2005.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-152 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 04-1238. Filed for public inspection July 9, 2004, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### [58 PA. CODE CH. 65]

#### Special Fishing Regulations; Huntingdon County

The Fish and Boat Commission (Commission) amends Chapter 65 (relating to special fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

#### A. Effective Date

The final-form rulemaking will go into effect upon publication of this order in the *Pennsylvania Bulletin*.

#### B. Contact Person

For further information on the final-form rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available on the Commission's website: [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. Statutory Authority

The amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

#### D. Purpose and Background

The final-form rulemaking is designed to update, modify and improve the Commission's regulations pertaining to the use of cast or throw nets at Raystown Lake, Huntingdon County. The specific purpose of the amendment is described in more detail under the summary of change.

#### E. Summary of Change

Several years ago, the Commission adopted a miscellaneous special regulation that enabled the Executive Director or a designee to issue permits for use of cast or throw nets at Raystown Lake, Huntingdon County. This special gear makes it possible for anglers to capture live gizzard shad and alewife, preferred striped bass bait. The permits limit cast or throw nets to no more than 6 feet in radius (12 feet in diameter) with a mesh size of at least

3/8 inch. Recently, the Commission was approached by Raystown Lake anglers seeking use of a larger cast net. It appears that gizzard shad and alewife can more easily evade capture with the smaller nets because of the time that it takes for weights to sink the net and the relatively small surface area involved, even when the net fully opens with the perfect cast. Anglers requested cast nets with a larger radius.

The Commission does not see a problem with the use of a larger net. Any catch other than gizzard shad and alewife already has to be immediately returned to the water. Thus, the Commission amended § 65.24 to increase cast or throw net size to 10 feet in radius (20 feet in diameter). The Commission amended this miscellaneous special fishing regulation to read as set forth in the notice of proposed rulemaking.

F. *Paperwork*

The final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

G. *Fiscal Impact*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will impose no new costs on the private sector or the general public.

H. *Public Involvement*

A notice of proposed rulemaking was published at 34 Pa.B. 1461 (March 13, 2004). The Commission received three public comments supporting the proposed rulemaking. Copies of the public comments were provided to the Commissioners.

*Findings*

The Commission finds that:

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

(2) A public comment period was provided and the comments that were received were considered.

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

*Order*

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 65, are amended by amending § 65.24 to read as set forth at 34 Pa.B. 1461.

(b) The Executive Director will submit this order and 34 Pa.B. 1461 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 34 Pa.B. 1461 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*.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-153 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 04-1239. Filed for public inspection July 9, 2004, 9:00 a.m.]

FISH AND BOAT COMMISSION  
[58 PA. CODE CH. 111]  
General Provisions; Boating

The Fish and Boat Commission (Commission) amends Chapter 111 (relating to special regulations counties). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code).

A. *Effective Date*

The final-form rulemaking will go into effect upon publication of this order in the *Pennsylvania Bulletin*.

B. *Contact Person*

For further information on the final-form rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available on the Commission's website: [www.fish.state.pa.us](http://www.fish.state.pa.us).

C. *Statutory Authority*

The amendment to § 111.48 (relating to Northampton County) is published under the statutory authority of section 5124 of the code (relating to particular areas of water). A person violating this regulation commits a summary offense of the third degree for which a \$50 fine is imposed.

D. *Purpose and Background*

The final-form rulemaking is designed to update, modify and improve the Commission's regulations by imposing a "slow, minimum height swell speed" zone on the Lehigh River in the vicinity of the Route 33 access ramp, Northampton County. The specific purpose of the amendment is described in more detail under the summary of change. The Commission's Boating Advisory Board considered the proposed change to § 111.48 and recommended that the Commission not adopt the amendment until staff sought additional input from the Bethlehem Boat Club. Prior to consideration by the Commission on final-form rulemaking, staff contacted the club and received no comments.

E. *Summary of Change*

A new Route 33 access launch area in Northampton County on the Lehigh River is now open. The Commission's District Waterways Conservation Officer (officer) reports that wakes from boat traffic could potentially cause difficulties for boaters using the ramp. There are currently three slow-no-wake buoys at the access ramp placed approximately 100 feet from the shoreline. According to the district officer, this provides only limited protection to the ramp, boaters launching and retrieving watercraft and shoreline anglers. The officer reports that boaters passing through this area outside of the buoys still create large enough wakes to impact the shoreline

with sufficient force to do damage. The officer suggested that an expanded "slow, minimum height swell speed" zone be established on the river immediately in front of the Commission's ramp.

The Commission accordingly proposed that this zone extend across the main channel of the river to the shoreline of Turkey Island directly opposite the ramp. The zone was proposed to extend 150 feet upstream and 150 feet downstream from the boat ramp. This zone will have little impact on the unlimited horsepower boating in the area and should do a lot to protect boaters and anglers at the access area. The Commission amended this section to read as set forth in the notice of proposed rulemaking.

*F. Paperwork*

The final-form rulemaking will not increase paperwork and will create no new paperwork requirements.

*G. Fiscal Impact*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will impose no new costs on the private sector or the general public.

*H. Public Involvement*

A notice of proposed rulemaking was published at 33 Pa.B. 5929 (December 6, 2003). The Commission sought public comments regarding this proposal during an extended comment period of 60 days. The Commission did not receive any public comments concerning the proposal.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201

and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided, and no comments were received.

(3) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

*Order*

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 111, are amended by amending § 111.48 to read as set forth at 33 Pa.B. 5929.

(b) The Executive Director will submit this order and 33 Pa.B. 5929 to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order and 33 Pa.B. 5929 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*.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-151 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 04-1240. Filed for public inspection July 9, 2004, 9:00 a.m.]

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 61, 65 AND 69]

### Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapters 61, 65 and 69 (relating to seasons, sizes and creel limits; special fishing regulations; and fishing in Lake Erie and boundary lakes). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to the season, size and creel limit for American shad in the Schuylkill River upstream of the I-95 Bridge and its tributaries; eliminating the phrase "molded facsimiles or replicas" as used in various special fishing regulations where terminal tackle is restricted to artificial lures; changing the name of the Select Trout Stocked Lake Program to the Early Season Trout Stocked Waters Program; and the seasons, sizes and creel limits for burbot and smelt in Lake Erie, its tributaries and Presque Isle Bay.

#### A. *Effective Date*

The proposed rulemaking, if approved on final-form, will go into effect on January 1, 2005.

#### B. *Contact Person*

For further information on the proposed rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposed rulemaking is available on the Commission's website: [www.fish.state.pa.us](http://www.fish.state.pa.us).

#### C. *Statutory Authority*

The proposed amendments to §§ 61.1, 61.8 and 69.12 (relating to Commonwealth inland waters; Lehigh River and tributaries; and seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries) are published under the statutory authority of section 2102 of the code (relating to rules and regulations). The proposed amendments to §§ 65.1, 65.2, 65.3, 65.5—65.7, 65.10 and 65.24 are published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

#### D. *Purpose and Background*

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to fishing. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposal.

#### E. *Summary of Proposal*

(1) *Section 61.8.* Major efforts to open or remove blockages to anadromous fish migration on the Schuylkill River are underway. Three dams are now or will be breached/removed. These dams are Plymouth Dam (River Mile (RM) 18), Vincent Dam (RM 42) and Felix Dam (RM 79). The Fairmount Dam (RM 9) has a vertical slot fishway that is to be rebuilt in 2005. On March 10, 2004, ground breaking occurred for a fishway at Flat Rock Dam (RM 15). Norristown Dam (RM 21) will have fish passage in place by 2006, and Black Rock Dam (RM 37) will have fish passage by 2007.

The Commission has been stocking fry shad in the Schuylkill River for several years, and sampling as recent as 2003 indicates that these fish are returning as adults. With the likelihood of more and more of the river being open to passage, there is a need to implement restrictive regulations to enhance restoration efforts while providing anglers with an opportunity to fish for and harvest this exciting sport fish. The Commission believes that a one shad creel limit, which currently is in place on the Lehigh River where similar restoration work is underway, is appropriate to maintain a fishery yet not degrade restoration efforts. As anglers are able to go out and catch American shad and possibly harvest one on occasion, they should be more inclined to actively support restoration activities.

The Commission prefers not to use the Fairmount Dam as the downstream limit on the Schuylkill River for this new regulation, unlike its current regulations on the Lehigh River where the Easton Dam (right at the confluence with the Delaware River) is the downstream limit of waters having the one fish creel limit. Although the several mile reach of the river from the Fairmount Dam downstream to the confluence with the Delaware River/Estuary is tidal, American shad tend to concentrate at the base of the Fairmount Dam. Thus, using the I-95 Bridge as a downstream limit for the one fish limit will provide additional protection to adult American shad having a definite interest in ascending the Schuylkill River. The Commission accordingly proposes establishing a one fish creel limit for American shad in the Schuylkill River basin upstream of the bridge on I-95 at Philadelphia. The Commission proposes to amend § 61.8 to read as set forth in Annex A.

(2) *Sections 65.1, 65.2, 65.3, 65.5—65.7 and 65.24.* Where terminal tackle is restricted to artificial lures, the Commission's regulations provide that fishing may be done with artificial lures only constructed of metal, plastic, rubber or wood or with flies and streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. Use of other gear is prohibited. Specifically prohibited are the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with the other materials.

Generally, in these areas (that is, Selective Harvest, Delayed Harvest Fly-fishing Only; Heritage Trout Angling Program, Catch-and-Release, Delayed Harvest Artificial Lures Only, Trophy Trout Program and the West Branch of the Delaware River in Wayne County), the use or possession of fishbait, natural bait or baitfish and the use of a device, natural or synthetic, capable of catching fish other than artificial lures is prohibited. However, the wording varies slightly from regulation to regulation.

The phrase "molded facsimiles or replicas of insects," as used in the regulations, is difficult to apply when dealing with the vast array of processes used to create artificial fishing lures. In addition, the life forms that molded facsimiles or replicas are intended to represent further confound the interpretation of the regulations.

The Commission proposes to simplify these regulations by eliminating the specific prohibition against the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with the other materials. The Commission also proposes to modify the regulations to state

uniformly that the use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substances and the use of any other lure, other than artificial lures, flies or streamers is prohibited in these areas. In § 65.5 (relating to catch-and-release areas), the prohibition against barbed hooks and the requirement that barbless hooks are used will remain. The Commission proposes to amend these sections to read as set forth in Annex A.

(3) *Section 65.10 (relating to Select Trout Stocked Lake Program).* At the July 1994 meeting, the Commission approved the creation of what later became known as the Select Trout Stocked Lake Program (program). Through the stocking of a portion of the preseason trout allocation during the January through early March period in select lakes, reservoirs and stream sections, the Commission provides opportunities for trout angling (and harvest of three trout per day) in waters that normally would be closed to fishing during March as part of the traditional preseason stocking period. As stream sections are included in the program, a name change is warranted, particularly for use in publications, website coverage and correspondence to the angling public. Thus, without changing the intent of the program, the Commission proposes to change the name of § 65.10 from "Select Trout Stocked Lake Program" to "Early Season Trout Stocked Waters Program." The Commission also proposes amending § 61.1 to reflect the new name of the program, which is referenced in that section.

(4) *Section 65.24 (relating to miscellaneous special regulations).* Lower Burrell Park Pond (also locally known as Holtzhauer Lake) is a 4-acre impoundment located in northwestern Westmoreland County and owned by the City of Lower Burrell (city). The impoundment was built on an unnamed tributary to Little Pucketa Creek and is very assessable to a public road (68% within 110 yards). The entire shoreline is open to public angling, but ice fishing and boating are not permitted on the impoundment. The impoundment is located in a city park that has a walking trail around the lake, a handicap access fishing pier, several parking areas, picnic pavilions and recreational facilities. A May 2002 fish population sampling by the Commission's area fisheries manager found largemouth bass to be the dominant warmwater game fish and bluegill to be the dominant panfish. The bass and bluegill fish population size structure and density are of relatively high quality.

Informal catch and release regulations have been imposed by the city at the impoundment since September 2000. The city would like to continue with the catch and release regulations and to have them enforced by the Commission. The Commission concurs with the city's request and has not heard of any complaints about the current but "informal" regulations. Because the pond is a publicly owned, highly accessible impoundment in an urban population area, it has great appeal for the trout stocking program. Commission staff will continue to work with the city on this aspect of a management plan.

The Commission proposes to amend § 65.24 to impose catch-and-release only regulations for all species at Lower Burrell Park Pond to optimize use of this waterway. Specifically, the Commission proposes to amend this section to read as set forth in Annex A.

(5) *Section 69.12.* Anglers occasionally catch burbot by hook and line in Lake Erie and Presque Isle Bay. However, burbot may only be legally taken by SCUBA divers by use of nonmechanical spears or gigs at a depth of at least 60 feet during the period, June 1 to September

30, with a daily limit of five. Although inland populations of burbot are endangered and therefore harvest is not allowed, burbot in Lake Erie are abundant enough to support commercial and sport harvest. The Commission's Bureau of Law Enforcement personnel indicate that anglers who catch burbot during the winter months rarely catch more than a couple per day. Thus, the Commission proposes an amendment that would allow burbot to be taken by hook and line with a limit of five per day and no closed season. Commission staff anticipate no adverse impacts to burbot populations as a result of this proposed change. The Commission proposes to amend this section to read as set forth in Annex A.

As with burbot, anglers occasionally catch smelt through the ice in Presque Isle Bay. Under the Commission's current regulations, smelt are not specifically listed and have been considered baitfish. Baitfish may be taken year around with no minimum size requirement and a daily limit of 50 (combined species). To clarify the existing regulations, the Commission proposes that smelt be listed separately with no closed season, no minimum length and no creel limit. Commission staff do not anticipate any adverse impacts to the smelt population as a result of this proposed amendment. The Commission proposes to amend this section to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically to ra-pfbcregs@state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

**Fiscal Note:** 48A-156. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

**CHAPTER 61. SEASONS, SIZES AND CREEL LIMITS**

**§ 61.1. Commonwealth inland waters.**

\* \* \* \* \*

\*\*Note: Approved trout waters are closed to fishing from March 1 to opening day of regular trout season in

April unless included in the [ Select Trout Stocked Lake ] Early Season Trout Stocked Waters Program. See § 65.10 (relating to [ Select Trout Stocked Lake ] Early Season Trout Stocked Waters Program).

\* \* \* \* \*

§ 61.8. Lehigh River, Schuylkill River and tributaries.

\* \* \* \* \*

(d) The following seasons, sizes and creel limits apply to the Lehigh River and its tributaries and the Schuylkill River upstream of the I-95 Bridge and its tributaries:

\* \* \* \* \*

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.1. Selective Harvest Program.

\* \* \* \* \*

(b) It is unlawful to fish in designated and posted selective harvest areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only, constructed of metal, plastic, rubber or wood or with flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. [Anything other than these items is prohibited. Specifically prohibited are the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with the other materials.]

(2) [The use or possession of fishbait, natural bait or baitfish and the use of a device, natural or synthetic, capable of catching fish other than artificial lures is prohibited.] The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

\* \* \* \* \*

§ 65.2. Delayed harvest fly-fishing only areas.

\* \* \* \* \*

(b) It is unlawful to fish in designated and posted delayed-harvest fly-fishing only areas except in compliance with the following requirements:

(1) Fishing may be done with artificial flies and streamers constructed of natural or synthetic materials so long as all flies are constructed in a normal fashion on a single hook with components wound on or about the hook. [Specifically prohibited are the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with the other materials. Likewise prohibited are other lures commonly described as spinners, spoons or plugs made of metal, plastic, wood, rubber or like substances or a combination thereof.] Anything other than these items is prohibited.

\* \* \* \* \*

(3) [The use or possession of natural bait, baitfish or fishbait, and the use of another device, natural or synthetic, capable of catching fish, other than artificial flies and streamers, is prohibited.] The use or possession of any natural bait, baitfish,

fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

\* \* \* \* \*

§ 65.3. Heritage Trout Angling Program.

\* \* \* \* \*

(b) It is unlawful to fish in designated and posted Heritage Trout Angling Program areas except in compliance with the following requirements:

(1) Fishing may be done with artificial flies and streamers constructed of natural or synthetic materials so long as all flies are constructed in a normal fashion on a single barbless hook with components wound on or about the hook. [Specifically prohibited are the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with the other materials. Likewise prohibited are other lures commonly described as spinners, spoons or plugs made of metal, plastic, wood, rubber or like substances or a combination thereof.] Anything other than these items is prohibited.

\* \* \* \* \*

(3) [The use or possession of a natural bait, baitfish or fishbait and the use of barbed hooks or other fishing devices, other than barbless hook, artificial flies or streamers is prohibited in these areas.] The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

\* \* \* \* \*

§ 65.5. Catch-and-release areas.

\* \* \* \* \*

(b) It is unlawful to fish in designated and posted catch-and-release areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only constructed of metal, plastic, rubber or wood or with flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. [Use of gear not described in this section is prohibited. Specifically prohibited are the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with the other materials.] Barbed hooks are prohibited; fishing may be done with barbless hooks only.

(2) [The use or possession of a natural bait, baitfish or fishbait and the use of barbed hooks or fishing devices, other than barbless hook, artificial lures, flies or streamers is prohibited in these areas.] The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

\* \* \* \* \*

§ 65.6. Delayed harvest artificial lures only areas.

\* \* \* \* \*



(b) It is unlawful to fish in designated and posted delayed-harvest, artificial lures only areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only constructed of metal, plastic, rubber or wood or with flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. **[ Use of gear not described in this section is prohibited. Specifically prohibited are the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with the other materials. ]**

(2) **[ The use or possession of a natural bait, baitfish or fishbait and the use of fishing devices other than artificial lures, flies or streamers is prohibited in these areas. ]** The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

\* \* \* \* \*

§ 65.7. Trophy Trout Program.

\* \* \* \* \*

(b) It is unlawful to fish in designated and posted trophy trout areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only, constructed of metal, plastic, rubber or wood or with flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. **[ Anything other than these items is prohibited. Specifically prohibited are the use of molded facsimiles or replicas of insects, earthworms, fish eggs,**

**fish or any invertebrate or vertebrate either singly or in combination with the other materials. ]**

(2) **[ The use or possession of fishbait, natural bait or baitfish and the use of a device, natural or synthetic, capable of catching fish other than artificial lures is prohibited. ]** The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

\* \* \* \* \*

§ 65.10. **[ Select Trout Stocked Lake ]** Early Season Trout Stocked Waters Program.

(a) The Executive Director, with the approval of the Commission, may designate lakes as part of the **[ Select Trout Stocked Lake ]** Early Season Trout Stocked Waters Program. The designation of waters as part of the **[ Select Trout Stocked Lake ]** Early Season Trout Stocked Waters Program shall be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in waters designated as part of the **[ Select Trout Stocked Lake ]** Early Season Trout Stocked Waters Program except in compliance with the following requirements:

\* \* \* \* \*

(3) Except as otherwise provided in this section, State-wide regulations (including size and creel limits) apply to waters in the **[ Select Trout Stocked Lake ]** Early Season Trout Stocked Waters Program.

§ 65.24. Miscellaneous special regulations.

The following waters are subject to the following miscellaneous special regulations:

County	Name of Water	Special Regulations
		* * * * *
Wayne	West Branch Delaware River	Trout: From the Pennsylvania/New York border downstream to the confluence with the East River Branch of the Delaware River: no-harvest artificial lures only season on trout from October 1 until midnight of the Friday before opening day of trout season. During the no-harvest artificial lures only season: 1. Fishing may be done with artificial lures only, constructed of metal, plastic, rubber or wood, or flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. <b>[ Anything other than these items is prohibited. Specifically prohibited are the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with other materials. ]</b> 2. <b>[ The use or possession of natural bait, baitfish and fishbait and the use of other devices, natural or synthetic, capable of catching fish other than artificial lures is prohibited. ]</b> The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited. 3. The daily creel limit for trout is 0.
		* * * * *
Westmoreland	Lower Burrell Park Pond	<b>This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed.</b>

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

§ 69.12. Seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries.

\* \* \* \* \*

PROPOSED RULEMAKING

3607

(f) Subject to the provisions of subsections (d) and (e), the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsular waters:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
* * * * *			
<b>BURBOT (when taken by hook and line)</b>	<b>Open year-round</b>	<b>None</b>	<b>5</b>
BURBOT (when taken by scuba divers by use of nonmechanical spears or gigs at a depth of at least 60 feet)	June 1 to September 30	None	5
<b>Smelt (when taken by hook and line)</b>	<b>Open year-round</b>	<b>None</b>	<b>None</b>
* * * * *			

[Pa.B. Doc. No. 04-1241. Filed for public inspection July 9, 2004, 9:00 a.m.]

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# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Office of Administration

The Executive Board approved a reorganization of the Office of Administration effective June 25, 2004.

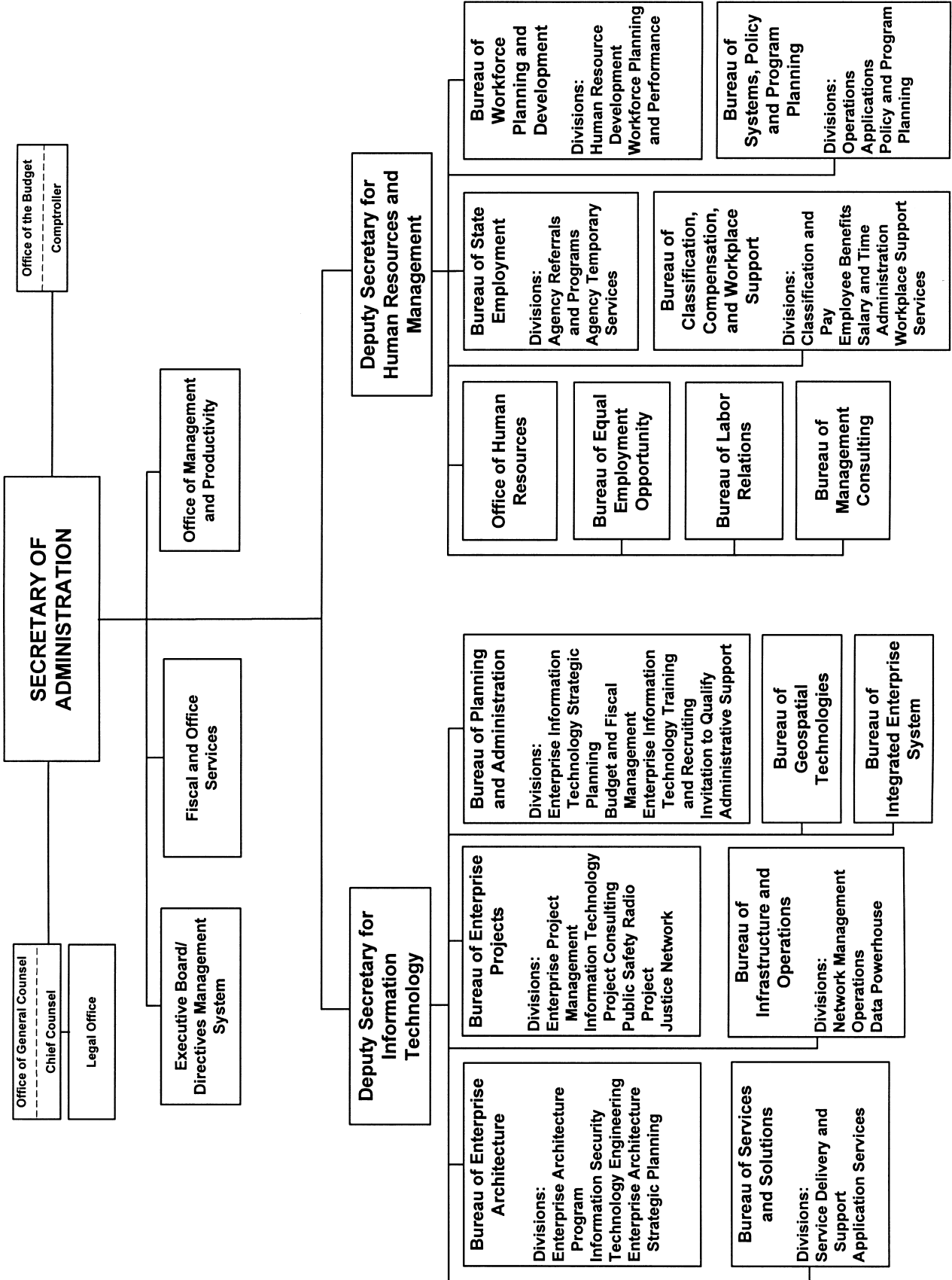
The organization chart at 34 Pa.B. 3609 (July 10, 2004) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

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

[Pa.B. Doc. No. 04-1242. Filed for public inspection July 9, 2004, 9:00 a.m.]

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**GOVERNOR'S OFFICE OF ADMINISTRATION**



# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending June 29, 2004.

### BANKING INSTITUTIONS

#### Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-25-04	The New Tripoli National Bank New Tripoli Lehigh County	6748 Madison Street New Tripoli Lehigh County	Approved
	<i>To:</i>		
	New Tripoli Bank New Tripoli Lehigh County		
	Application represents conversion from a National banking association to a State-chartered bank.		

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-22-04	First Financial Bank Downingtown Chester County	Downingtown	Filed
	Assumption of certain deposits of one branch of Firstrust Savings Bank, Conshohocken,		
	Located at: 125 East Swedesford Road Exton Chester County		

#### Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-24-04	Firstrust Savings Bank Conshohocken Montgomery County	125 East Swedesford Road Exton Chester County	Filed
6-28-04	Madison Bank Blue Bell Montgomery County	Summit Square Shopping Center Route 413 and Doublewoods Road Langhorne Bucks County	Filed
6-28-04	Madison Bank Blue Bell Montgomery County	One Abington Place 101 Old York Road Jenkintown Montgomery County	Filed

### SAVINGS INSTITUTIONS

No activity.

### CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 04-1243. Filed for public inspection July 9, 2004, 9:00 a.m.]

# DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

## Community Conservation Partnerships Program Grants; Preapplication Workshops

The Department of Conservation and Natural Resources (Department) announces an open application period for the Community Conservation Partnerships Program Grants administered by the Bureau of Recreation and Conservation (Bureau). The open application period will officially begin July 10, 2004, and end at 5 p.m. on October 13, 2004. Funding for recreation and conservation programs, including Community Recreation, Land Trusts, Rails-to-Trails, Rivers Conservation, Pennsylvania Recreational Trails, Snowmobile/ATV and Land and Water Conservation Fund, will be the focus of nine workshops and break-out sessions scheduled at the following locations throughout this Commonwealth during July and August 2004.

July 13, 2004	Days Inn Conference Center, Meadville	8:30 a.m.-12 p.m.
July 14, 2004	Four Points Sheraton—North, Pittsburgh	8:30 a.m.-12 p.m.
July 20, 2004	The Inn at Nichols Village, Clarks Summit	8:30 a.m.-12 p.m.
July 21, 2004	Montgomery County Comm. College, Pottstown	8:30 a.m.-12 p.m.
July 22, 2004	Montgomery County Fire Academy, Conshohocken	8:30 a.m.-12 p.m.
July 27, 2004	Radisson Hotel, Williamsport	8:30 a.m.-12 p.m.
July 29, 2004	Clarion Hotel and Convention Center, Carlisle	8:30 a.m.-12 p.m.
August 4, 2004	Holiday Inn, Clarion	8:30 a.m.-12 p.m.
August 5, 2004	Ramada Inn, Altoona	8:30 a.m.-12 p.m.

The Grant Application Manual (Manual) for fiscal year 2004-2005 as well as forms and additional information regarding the directions to the workshops can be found on the Department's website: [www.dcnr.state.pa.us/grants](http://www.dcnr.state.pa.us/grants). The Manual can be obtained by contacting the Department of Conservation and Natural Resources, Bureau of Recreation and Conservation, 6th Floor Rachel Carson Building, P.O. Box 8475, Harrisburg, PA 17105-8475, (717) 783-4734, [rec&con@state.pa.us](mailto:rec&con@state.pa.us). The Bureau will conduct the workshops in cooperation with the Pennsylvania Recreation and Park Society.

Persons with a disability who wish to submit an application and require assistance should contact Darrel Siesholtz at the phone number listed previously to discuss how the Department may best accommodate their needs. Voice/TTY users should call (800) 654-5984.

MICHAEL F. DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 04-1244. Filed for public inspection July 9, 2004, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

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

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

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

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

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

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

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

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

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

## I. NPDES Renewal Applications

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0013676	Pocono Auto Truck Plaza P. O. Box 98 Bartonsville, PA 18321	Hamilton Township Monroe County	Pocono Creek HQ-CWF 1E	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0008036 IW	Ingersoll-Rand Company 101 North Main Street Athens, PA 18810	Bradford County Athens Borough	Chemung River 4B	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0222780	Scott Zimmerman SFTF 4822 Glen Hazel Road Wilcox, PA 15870	Jones Township Elk County	Unnamed branch of Clarion River 17-B	Y
PA0222887	Gateway Lodge Box 125, Route 36 Cooksburg, PA 16217	Barnett Township Jefferson County	Unnamed tributary to Clarion River 17-B	Y
PA0100676	Reorganized Church of Jesus Christ of Latter Day Saints Camp Temple Grove 347 Hamburg Road Transfer, PA 16154	Delaware Township Mercer County	Unnamed tributary to Shenango River 20-A	Y

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

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

**PA0042641**, Sewage, **Department of Conservation and Natural Resources, Nockamixon State Park**, 1542 Mountain View Drive, Quakertown, PA 18951. This application is for renewal of an NPDES permit to discharge treated sewage from the Nockamixon State Park STP in Bedminster Township, **Bucks County**. This is an existing discharge to unnamed tributary to Tohickon Creek.

The receiving stream is classified for CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of 0.2 MGD, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub> (5-1 to 10-31)	20	40
(11-1 to 4-30)	25	50
Suspended Solids	30	60
Ammonia (as N) (5-1 to 10-31)	2.0	4.0
(11-1 to 4-30)	6.0	12.0
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	
Total Residual Chlorine	0.5	1.2

Other Conditions: conditions for future permit modification.

The EPA waiver is in effect.

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

**PA0002925**, Industrial Waste, SIC, 4911, **Allegheny Energy Supply Company, LLC**, 4350 Northern Pike, Monroeville, PA 15146-2841. This application is for renewal of an NPDES permit to discharge treated process water and untreated cooling water and stormwater from the Springdale Power Station in Springdale Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, Allegheny River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Oakmont Borough Municipal Authority, 721 Allegheny Avenue, 4.2 miles below the discharge point.

*Outfall 101: existing discharge, design flow of 0.1 mgd.*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	
pH	not less than 6.0 nor greater than 9.0				

*Outfall 201: existing boiler blowdown discharge to Outfall 001.*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	
Since Springdale Power Station is in "Cold Reserve," there should not be any discharge of boiler blowdown from this outfall. See Item No. 2 in Part C of the Permit.					
pH	not less than 6.0 nor greater than 9.0				

*Outfall 001: existing discharge to Allegheny River,*

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Total Residual Chlorine				0.2	
Temperature (°F)				110	
This outfall is only authorized to receive and discharge wastewater from internal monitoring point 101, while the Springdale Power Station is in "Cold Reserve" status. See Item Nos. 2, 6 and 9 in Part C of the permit.					
pH	not less than 6.0 nor greater than 9.0				



*Outfall 002:* existing intake screen backwash discharge to the Allegheny River.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average</i>	<i>Maximum</i>	<i>Average</i>	<i>Maximum</i>	<i>Instantaneous</i>
	<i>Monthly</i>	<i>Daily</i>	<i>Monthly</i>	<i>Daily</i>	<i>Maximum</i>

The debris collected on the intake screen shall not be returned to the waterway.

Other Conditions: The Springdale Power Station has been "Cold Reserve" status since 1984.

The EPA waiver is not in effect.

**PA0098230**, Sewage, **Fort Cherry Area School District**, 110 Fort Cherry Road, McDonald, PA 15057. This application is for renewal of an NPDES permit to discharge treated sewage from the Fort Cherry Jr./Sr. High School and Elementary School STP in Mt. Pleasant Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Cherry 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 Midland Borough Water Authority.

*Outfall 001:* existing discharge, design flow of 0.02 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average</i>	<i>Average</i>	<i>Maximum</i>	<i>Instantaneous</i>
	<i>Monthly</i>	<i>Weekly</i>	<i>Daily</i>	<i>Maximum</i>
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			6.0
(11-1 to 4-30)	9.0			18.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.35			0.82
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0098973**, Sewage, **Conemaugh Township Supervisors**, 1120 Tire Hill Road, Johnstown, PA 15905. This application is for renewal of an NPDES permit to discharge treated sewage from the Benson STP in Paint Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Stoney Creek, 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 Municipal Authority of Buffalo Township.

*Outfall 001:* existing discharge, design flow of 0.1597 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average</i>	<i>Average</i>	<i>Maximum</i>	<i>Instantaneous</i>
	<i>Monthly</i>	<i>Weekly</i>	<i>Daily</i>	<i>Maximum</i>
CBOD <sub>5</sub>	25	38		50
Suspended Solids	30	45		60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	70,000/100 as a geometric mean			
Total Residual Chlorine	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA020516**, Sewage, **Westmoreland County Industrial Park Authority**, 601 Courthouse Square, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from the Westmoreland Business and Research Park in Upper Burrell Township, **Westmoreland County**.

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

*Outfall 001:* existing discharge, design flow of 0.05 mgd.

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

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Ammonia Nitrogen (5-1 to 10-31)	4			8
(11-1 to 4-30)	12			24
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	0.35			0.8
Dissolved Oxygen	not less than 4 mg/l			
pH	not less than 6.0 nor greater than 9.0			
Copper	0.038			0.095
Zinc	0.330			0.825

*Outfall 001*: expanded discharge, design flow of 0.10 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	4			8
(11-1 to 4-30)	12			24
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	0.35			0.8
Dissolved Oxygen	not less than 4 mg/l			
pH	not less than 6.0 nor greater than 9.0			
Copper	0.024			0.060
Lead	0.008			0.020
Zinc	0.200			0.500
Chlorodibromomethane	0.0006			0.0015
Chloroform	0.088			0.220
Dichlorobromomethane	0.009			0.022

The EPA waiver is in effect.

**PA0218031**, Sewage, **Alan A. Axelson**, 2370 Morrow Road, Pittsburgh, PA 15241. This application is for renewal of an NPDES permit to discharge treated sewage from the Mansion House at the Old Concord Village STP in Morris Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Short Creek, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Marianna Municipal Water Works on Tenmile Creek.

*Outfall 001*: existing discharge, design flow of 0.0063 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	4.0			8.0
(11-1 to 4-30)	12.0			24.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	4,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0252654**, Sewage, **Yough Sanitary Authority**, P. O. Box 168, Dawson, PA 15428. This application is for issuance of an NPDES permit to discharge treated sewage from the Yough Sanitary Authority Wastewater Treatment Facility in Dunbar Township, **Fayette County**.

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

*Outfall 001: new discharge, design flow of 0.21 mgd.*

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	50,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

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

**WQM Permit No. 0904409**, Sewerage, **Department of Conservation and Natural Resources**, 2808 Three Mile Run Road, Perkasio, PA 18944. This proposed facility is in Bedminster and East Rockhill Townships, **Bucks County**.

Description of Proposed Action/Activity: Repairs to the existing pumping station.

**WQM Permit No. 1500421-F**, Sewerage, **Upper Uwchlan Township**, 140 Pottstown Pike, Chester Springs, PA 19425. This proposed facility is in Upper Uwchlan Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of two sewage pump station and a effluent land application system.

**WQM Permit No. 0904410**, Sewerage, **Marie V. Tomlinson**, 1244 Asbury Avenue, Ocean City, NJ 08226. This proposed facility is in Haycock Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a small flow treatment facility with stream discharge to serve a new single family detached dwelling.

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

**WQM Permit No. 0404404**, Sewerage, **Andrew Yhelka**, 140 School Road, Aliquippa, PA 15001. This proposed facility is in Independence Township, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single residence small flow treatment facility to serve the Yhelka property.

**WQM Permit No. 6304405**, Sewerage, **John Navrat**, 111 Beallsville Road, Bentleysville, PA 15314. This proposed facility is in Somerset Township, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single residence small flow treatment facility to serve the Navrat property.

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

**WQM Permit No. 2504416**, Sewerage, **Michael Fargiorgio**, 9850 Townline Road, North East, PA 16428. This proposed facility is in North East Township, **Erie County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

**WQM Permit No. 4304413**, Sewerage, **David W. Ryland**, 387 Stonepile School Road, Mercer, PA 16137. This proposed facility is in East Lackawannock Township, **Mercer County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

**WQM Permit No. 6104403**, Sewerage, **Richard A. and Tandra W. Sabatini**, 439 Turkey Farm Road, Titusville, PA 16354. This proposed facility is in Cherrytree Township, **Venango County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

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### IV. NPDES Applications for Stormwater Discharges from MS4

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### V. Applications for NPDES Waiver Stormwater Discharges from MS4

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10G427-1	Lutheran Senior Services of Southern Chester County Lutheran Sr. Svc. SCC Development 124 Jenners Pond Rd. West Grove, PA 19390	Chester	Penn Township	East Branch Big Elk Creek HQ-TSF-MF
PAI011504036	Woodstone Homes, Inc. Edgemoor Run P. O. Box 384 Kennett Square, PA 19348	Chester	Wallace and West Nantmeal Townships	South Branch Indian Creek HQ
PAI011504037	Devland Corporation Fieldbrook Associates Development P. O. Box 935 161 West Lancaster Avenue Paoli, PA 19301	Chester	East Whiteland Township	Valley Creek EV
PAI011504038	Harkins Property, LLC Broad Run Farm 242 Winged Foot Drive Blue Bell, PA 19422	Chester	West Bradford Township	Broad Run EV

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024504018	Jesus the Christ Church, Inc. R. D. 2, Box 2060A Stroudsburg, PA 18360	Monroe	Stroud Township	Little Pocono Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026404005	Anne Marie Pappas Lake Moc-A-Tek, Inc. P. O. Box 481 Hamlin, PA 18427	Wayne	Paupack Township	UNT to Wallenpaupack Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI2032104001	171 Associates 3609 Gettysburg Road Camp Hill, PA 17011	Cumberland	Silver Spring Township	Trindle Spring Run CWF/HQ-CWF (Basin 1 drainage area only)
PAS10C047-1	Department of Transportation District 1713 Lehigh Street Allentown, PA 18103	Berks and Lancaster	Borough of Wyomissing Cumru Township	Little Muddy and Kline's Creeks

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041404006	Marion Township Community Park Marion Township Supervisors 4337 Jacksonville Road Howard, PA 16841	Centre	Marion Township	Lick Run HQ-CWF

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

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PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

**MS4 Notices of Intent Received**

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAG132260	Penn State Worthington Scranton The Commonwealth College Office of Physical Plant, Room 101P University Park, PA 16802	Lackawanna	Dunmore Borough	Unnamed tributary to Lackawanna River CWF

## PUBLIC WATER SUPPLY (PWS) PERMIT

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

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

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

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

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

### SAFE DRINKING WATER

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

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

**Permit No. 5104501**, Public Water Supply.

Applicant	<b>Philadelphia Water Department</b> City of Philadelphia
Responsible Official	William Wankoff Aramark Tower 1101 Market Street, 2nd floor Philadelphia, PA 19107
Type of Facility	PWS

Consulting Engineer Vahe Hovespian  
Aramark Tower  
Philadelphia Water Department  
1101 Market Street, 2nd Floor  
Philadelphia, PA 19107

Application Received Date June 21, 2004

Description of Action Installation of four 50,000-gallon sodium hypochlorite storage and feed systems at the Baxter Water Treatment Plant.

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

**Application No. 1004502**, Major Amendment.

Applicant **Elmer Sutton MHP**  
Township or Borough Clay Township, **Butler County**  
Responsible Official Elmer L. Sutton, Owner  
Type of Facility PWS  
Application Received Date June 21, 2004  
Description of Action Modification of existing treatment facilities to include iron and manganese removal system.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup

standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Shelly Plaza Shopping Center**, City of Philadelphia, **Philadelphia County**. Samuel Kucia, Environmental Consulting Inc., 500 East Washington Street, Norristown, PA 19401 on behalf of Michael Willner, Willner Realty and Development Company, 140 South 69th St., Upper Darby, PA 19082 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted by other organics and will be used for future commercial use.

**JD Byrider Inc.**, City of Philadelphia, **Philadelphia County**. Kevin Nowack, Malcolm Pirnie, 1700 Market St., Suite 2740, Philadelphia, PA 19103 on behalf of Brad Pogachefsky, Harbison Prop., LLC, 2185-2187 Bridge Street, Philadelphia, PA 19124 has submitted a Notice of Intent to Remediate. Groundwater and soil at the site have been impacted by gasoline from 11 underground storage tanks. Residual gasoline impacts primarily benzene, MTBE, TCE and 1,1-DCE to the soil and groundwater. This site is currently being used as a retail automobile dealership and expected to remain so for the foreseeable future.

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

**Michel's Pipeline Construction, Inc.**, West Hanover Township, **Dauphin County**. Advantage Engineering, LLC, 20 South 36th Street, Camp Hill, PA 17011, on behalf of Michel's Pipeline Construction, Inc., 817 West Main Street, P. O. Box 128, Brownsville, WI 53006, submitted a Notice of Intent to Remediate site soils and

groundwater contaminated with diesel fuel and no. 2 fuel oil. The applicant proposes to remediate the site to the Statewide Health Standard. The intended future use of the site is nonresidential. A summary of the Notice of Intent to Remediate was reported to have been published in the *Paxton Herald* on June 16, 2004.

**Mosby Residence**, Penbrook Borough, **Dauphin County**. Skelly and Loy, Inc., 2601 North Front Street, Harrisburg, PA 17110, on behalf of Gene Mosby, 108 North 30th Street, Harrisburg, PA 17109-3503, submitted a Notice of Intent to Remediate site soils contaminated with fuel oil no. 2. The applicant proposes to remediate the site to the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Patriot-News* on May 19, 2004.

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

**Firestone Store No. 38F3**, Borough of Monroeville, **Allegheny County**. Paul C. Owens, P. G., Bradburne, Briller & Johnson, LLC, 5 Market Square, Suite 202, Amesbury MA 01913 (on behalf of Ian Jagendorf, Monroeville Mall Partners, L. P., 19501 Biscayne Boulevard, Suite 400, Aventura, FL 22180) has submitted a Notice of Intent to Remediate soil contaminated with leaded and unleaded gasoline. The applicant proposes to remediate the site to meet the Statewide Health Standard.

**Wimmer Scrap Facility (Former)**, Etna Borough, **Allegheny County**. Wendy Noe, American Geosciences, Inc., 3925 Reed Blvd., Suite 400, Murrysville, PA 15668-1848 (on behalf of Marco Pompeo, Etna Properties, LLP, 2201 Main Street, Pittsburgh, PA 15215) has submitted a Notice of Intent to Remediate soil contaminated with heavy metals and PCBs. The applicant proposes to remediate the site to meet the Site-Specific Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pittsburgh Post Gazette* on May 20, 2004.

**Aliquippa Tin Mill (Former)**, City of Aliquippa, **Beaver County**. Jason R. Cashmere, Trant Corporation, 11676 Perry Highway, Wexford Prof. Bldg. 3, Suite 3100, Wexford, PA 15090 (on behalf of Dick Dorothy, C. J. Betters Enterprises, 3468 Brodhead Road, Monaca, PA 15061) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with inorganics, organics, PAHs and PCBs. The applicant proposes to remediate the site to meet the Special Industrial Area requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Beaver County Times/Allegheny Times* on June 21, 2004.

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

**New Castle Refractories**, 915 Industrial St., New Castle, PA, **Lawrence County**. John Walker, Intex Environmental Group, 6205 Easton Rd., Pipersville, PA 18947 on behalf of Rick Joyce, Dixon Ticonderoga Co., 195 International Parkway, Hathrow, FL 32746, has submitted a Notice of Intent to Remediate. Soil and groundwater are impacted with no. 2 fuel oil, chlorinated solvents, lead, polyaromatic hydrocarbons and other organic chemicals. Proposed future use for the property will be residential. NIR was published in the *New Castle News* on October 10, 2003.

## MUNICIPAL WASTE GENERAL PERMITS

**Applications Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and municipal waste regulations for a general permit to operate municipal waste processing facilities and the beneficial use of municipal waste.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.*

**General Permit Application No. WMGM027. Zwicky Processing & Recycling, Inc., 10 Zwicky Lane, Robesonia, PA 19551-8880.**

The Bureau of Land Recycling and Waste Management has received an application for General Permit No. WMGM027. The application is for: (1) processing (that is, shredding, grinding, screening, mixing, decomposition and storage) and beneficial use of wood waste (clean and uncontaminated land clearing, grubbing and excavation waste, yard waste and residual and municipal wood scrap) to produce mulch for landscaping purposes; (2) processing (that is, shredding, grinding, screening, mixing and storage prior to beneficial use) and beneficial use of leaf and yard waste, food processing residuals and spent mushroom substrate to produce compost; (3) processing, storage and beneficial use of organic, nonorganic residuals with a Btu value of at least 5,000/lb for use as alternative fuels; (4) processing (that is, shredding, grinding, screening and storage prior to beneficial use) and beneficial use of compost, drinking water treatment plant sludge, biomass fuel ash, waste gypsum, foundry sand and SMS with nonwaste soils to produce topsoil for landscaping purposes; and (5) processing (that is, crushing, grinding, screening, mixing and storage) and beneficial use of clean, uncontaminated rock, stone, gravel, brick, block, concrete and used asphalt for use as a construction material solely by Zwicky. The Department determined the application to be administratively complete on June 25, 2004.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472. Persons interested in obtaining more information about the general permit application should contact the Division at (717) 787-7381. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one

time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

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

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

## PLAN APPROVALS

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

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

**21-05013A: Fry Communications, Inc.** (800 West Church Road, Mechanicsburg, PA 17055) for installation of a ten-unit quadruple-web heatset web offset printing press controlled by a regenerative thermal oxidizer at their Building No. 2 facility (Plant No. 1) in Mechanicsburg Borough, **Cumberland County**.

**28-03025A: Wenger's Feed Mill, Inc.** (P. O. Box 26, Rheems, PA 17570-0026) for construction of two pellet mills and a high efficiency cyclone system for their Shippensburg Mill, Southampton Township, **Franklin County**.

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

**17-305-042C: DTE River Hill, LLC—DTE Synfuel Operations** (414 South Main Street, Ann Arbor, MI 48104) for construction of a coal railcar unloading operation and a “synfuel” railcar loading operation in Karthaus Township, **Clearfield County**.

**53-00003B: National Fuel Gas Supply Corp.** (P. O. Box 2081, Erie, PA 16512) for modification of a 4,445 horsepower natural gas-fired reciprocating internal combustion compressor engine (Engine 1A) by increasing its allowable formaldehyde (an HAP) emission rate from .991 pound per hour to 2.25 pounds per hour at the Ellisburg Compressor Station in Allegany Township, **Potter County**.

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

**56-00292A: Elk Lick Energy, Inc.** for installation of dry-screening operation at Roytown Deep Mine in Lincoln Township, **Somerset County**.

**04-00108B: Armstrong World Industries** (13th Street and 10th Avenue, P. O. Box 441, Beaver Falls, PA 15010) for installation of a paint booth and a 5.5 mmBtu/hr backcoat drying oven at their Beaver Falls Ceiling Plant in Beaver Falls in **Beaver County**.

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

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

**39-316-004: North American Container Corp.** (2027 South 12th Street, Building 3, Allentown, PA 18103) for construction of a wood sawing operation and associated air cleaning device at their facility in the City of Allentown, **Lehigh County**. The facility is a non-Title V (State-only) facility. The operation of the wood sawing operation will result in 0.99 ton per year of particulate emissions. The plan approval and operating permit will include emission restrictions, work practice standards and recordkeeping requirements designed to keep the source operating within all applicable air quality requirements.

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

**07-05027A: Millennium Rail, Inc.** (US Route 22, Hollidaysburg, PA 16648) for replacement of a fabric collector in Frankstown Township, **Blair County**. This is a non-Title V (State-only) facility. Standard recordkeeping and operating restrictions will be included to keep the facility operating within all applicable air quality requirements.

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

**04-00084A: Anchor Hocking Operating Co., LLC** (400 Ninth Street, Monaca, PA 15061) for issuance of a Plan Approval to allow an increase in the allowable production rate in furnace no. 2 at their company's glass manufacturing facility in Monaca, **Beaver County**.

Under 25 Pa. Code §§ 127.44—127.48, the Department intends to issue a Plan Approval to allow an increase in

the allowable production rate in furnace no. 2 at their company's glass manufacturing facility in Monaca, Beaver County. Throughput will be going from 175 tons of glass pulled per day to 214 tons per day on a 30-day rolling average basis. Annual emissions from furnace no. 2 have been estimated at 41.3 tons PM, 132.8 tons SO<sub>x</sub>, 195.3 tons NO<sub>x</sub>, 7.9 tons CO and 7.9 tons of nonmethane VOCs. The facility is subject to the operational, monitoring, recordkeeping, testing and reporting requirements established under the authority of 25 Pa. Code Chapter 127 and the Plan Approval has been conditioned accordingly. Copies of the Plan Approval application, the Department's analysis and the proposed Plan Approval are available for public inspection during normal business hours at the following address.

Persons wishing to oppose the plan approval may file written comments. A 30-day comment period, from the date of this publication, will exist for the submission of protests. Written comments must contain the name, address and telephone number of the person filing the comment, identification of proposed Plan Approval PA-04-00084B and a concise statement of the objections to the Plan Approval issuance and relevant facts upon which the objections are based.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting written comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the *Pennsylvania Bulletin*, or by telephone, when the Department determines notification by telephone is sufficient. Written comments or request for a public hearing should be directed to Barbara Hatch, Air Pollution Control Engineer, Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000. This is a Title V facility.

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

**37-323A: IA Construction Corp.** (Neely Mine, Plain Grove Township, Slippery Rock, PA 16057) for post-construction plan approval of a permanent 350 tph nonmetallic crushing/screening plant at a permitted noncoal surface mining operation in Plain Grove Township, **Lawrence County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval for post construction plan approval of a permanent 350 tph nonmetallic crushing/screening plant at a permitted noncoal surface mining operation in Plain Grove Township, Lawrence County. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

**10-344A: Fannie's Friends, Inc.** (352 Railroad Street, Evans City, PA 16033) to construct a new pathological waste incinerator for small animal remains in Evans City, **Butler County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval to construct a new pathological waste incinerator for small animal remains in Evans City, Butler County. This plan approval will ensure compliance with Best Available Technology. This includes operating the secondary chamber at 1,800°F, meeting an emission standard of 0.08 gr/dscf and visible emission standards. The facility will be required to continuously monitor the



temperatures of the primary and secondary chambers. The maximum feed rate shall not exceed 130 pounds per hour. Recordkeeping conditions and other requirements to ensure the source is operated in compliance with the Department's regulations contained in 25 Pa. Code Chapters 121—143 and the requirements of the Federal Clean Air Act will be incorporated into the plan approval. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only Operating Permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval.

#### OPERATING PERMITS

##### **Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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

**35-00006: Global MetalForm LP—Suckle Corp.** (733 Davis Street, Scranton, PA 18505) for operation spray booths and associated air-cleaning devices at their facility in the City of Scranton, **Lackawanna County**. This action is a renewal of the Title V Operating Permit issued in 1998.

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

**67-05105: Trenwyth Industries, Inc.** (One Connelly Road, Emigsville, PA 17318) for operation of an architectural concrete block manufacturing facility in Manchester Township, **York County**. The facility's major PM emission sources are materials handling and block shaping. The decorative coatings and solvents used to finish the shaped blocks produce VOC and HAP emissions. The Title V operating permit will contain monitoring, recordkeeping and reporting provisions to ensure the facility complies with the applicable air quality requirements.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.*

**V03-004: The Children's Hospital of Philadelphia** (34th and Civic Center Boulevard, Philadelphia, PA 19104) for operation of a hospital in the City of Philadelphia, **Philadelphia County**. The Title V facility's air emission sources include three 800 hp boilers, three 500 hp boilers, a 250 hp boiler, four 1,085 hp peak-shaving generators, seven emergency generators and two ethylene oxide sterilizers which vent to an ethylene oxide abator.

The operating permit will be issued under 25 Pa. Code, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at the AMS, 321 University Ave., Philadelphia, PA 19104. For further information, contact Edward Wiener, (215) 685-9426.

Persons wishing to file protests or comments on the operating permit must submit the protests or comments within 30 days from the date of this notice. Protests or comments filed with the AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, the AMS may modify the operating permit or schedule a public hearing. The hearing notice will be

published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

##### **Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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

**07-03033: James E. Van Zandt, VA Medical Center** (2907 Pleasant Valley Boulevard, Altoona, PA 16602) for operation of their three Cleaver Brooks boilers and two emergency generators in Logan Township, **Blair County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**21-05048: Lear Operations Corp.** (P. O. Box 40, 50 Spring Road, Carlisle, PA 17013) for a synthetic minor permit to operate automotive carpet and backing operations in Carlisle Borough, **Cumberland County**. The sources include two natural gas or no. 2 oil fired boilers, 57.4 mmBtu/hr each, extruders, dryers, automolds and reheat tables. The primary emissions from the sources are NOx, SOx and VOCs. This permit will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within the applicable air quality requirements.

**22-03063: Chemetron Railway Products, Inc.** (Progress Rail Services, 1185 Industrial Blvd., Boaz, AL 35957) for a railway track welding operation in Steelton Borough, **Dauphin County**. The rail welding unit is controlled by a cartridge type dust collector. The primary emission from the source is PM. The State-only operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**67-03125: York Hospital** (P. O. Box 15198, York, PA 17405) for operation of hospital in York City, **York County**. The facility has the following annual potential emissions: 30 tons NOx, 18 tons SOx, 6 tons CO, 2 tons PM10 and 1 ton VOC. The State-only operating permit will include emission restrictions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**67-05104: Tate Access Floors, Inc.** (52 Springvale Road, Red Lion, PA 17356) for operation of their manufacturing facility in Windsor Township, **York County**. This action will issue a Synthetic Minor (State-only) Operating Permit. The facility's emissions include 16 tpy of VOCs and 4 tpy of HAPs from surface coating operations. Insignificant emissions will be generated from the combustion of natural gas in a 4.5 mmBtu boiler, small heaters and small ovens. The operating permit contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

**10-00220: ESM II, Inc.—Myoma Plant** (130 Myoma Road, Mars, PA 16046) for a Natural Minor Operating Permit for emissions from the processing of specialty mineral products for metallurgical uses in Adams Township, **Butler County**.

## COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

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

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

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

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

### *Coal Applications Received*

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

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

\*The parameter is applicable at all times.

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

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**30841316 and NPDES Permit No. PA0213535.** **Consol Pennsylvania Coal Company** (P. O. Box 355, 172 Route 519, Eighty Four, PA 15330), to revise the permit for the Bailey Mine and Prep Plant in Richhill and Aleppo Townships, **Greene County**, to add acreage for full extraction mining and to perform stream remediation as necessary. Underground Acres Proposed 196.2, SCP Acres Proposed 3,301.68. No additional discharges. Application received April 1, 2004.

**03851303 and NPDES Permit No. PA0213462.** **McVile Mining Company** (301 Market Street, Kittanning, PA 16201-9642), to renew the permit for the Clementine Mine No. 1 in North Buffalo and South Buffalo Townships, **Armstrong County** and related NPDES permit. No additional discharges. Application received June 4, 2004.

**30841317 and NPDES Permit No. PA0213527.** **Consol Pennsylvania Coal Company** (P. O. Box 355, 172 Route 519, Eighty Four, PA 15330), to revise the permit for the Enlow Fork Mine in East Finley Township, **Washington County**, to install F14 airshaft, boreholes and add an NPDES discharge point—Outfall 015. Surface Acres Proposed 6.75. Receiving streams: unnamed tributary to Templeton Fork (TSF). Application received June 17, 2004.

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

**56990104 and NPDES Permit No. PA0235181.** **AMFIRE Mining Company, LLC** (One Energy Place,

Latrobe, PA 15650), permit renewal for reclamation only in Jenner Township, **Somerset County**, affecting 140.0 acres. Receiving streams: unnamed tributaries to and Gum Run; unnamed tributaries to and Roaring Run (EV). The first downstream potable water supply intake from the point of discharge is the Cambria Somerset Authority Quemahoning Dam withdrawal. Application received June 10, 2004.

**11850107 and NPDES Permit No. PA0597341. Cooney Brothers Coal Company** (P. O. Box 246, Cresson, PA 16630), permit transfer to AMFIRE Mining Company, LLC (One Energy Place, Latrobe, PA 15650) in Portage Township, **Cambria County**, affecting 85.7 acres. Receiving streams: unnamed tributary to and Spring Run; unnamed tributary to and Trout Run (CWF). The first downstream potable water supply intake from the point of discharge is the Cambria Somerset Authority Little Conemaugh River surface water intake. Application received June 7, 2004.

**11940106 and NPDES Permit No. PA0212881. Sky Haven Coal, Inc.** (R. D. 1, Box 180, Penfield, PA 15849), permit renewal for reclamation only in White Township, **Cambria County**, affecting 142.4 acres. Receiving streams: unnamed tributaries to Dutch Run, Dutch Run to Beaver Dam Run to Clearfield Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received June 14, 2004.

**32040103 and NPDES Permit No. PA0249572. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA

16001), commencement, operation and restoration of a bituminous surface mine in Young Township, **Indiana County**, affecting 150 acres. Receiving streams: three unnamed tributaries to Neal Run and Neal Run to Reeds Run to Aultmans Run (CWF and TSF). There are no potable water supply intakes within 10 miles downstream. Application received June 15, 2004.

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

**26040103 and NPDES Permit No. PA0250589. Amerikohl Mining, Inc.** (P. O. Box 427, Acme, PA 15610), an application for commencement, operation and restoration to a bituminous surface mine in German Township, **Fayette County**, affecting 201.4 acres. Receiving streams: unnamed tributaries to Cat's Run (WWF). The potable water supply intakes within 10 miles downstream from the point of discharge are Masontown Water Works, Carmichaels Municipal Authority and Southwestern Pennsylvania Water Authority. Application received June 15, 2004.

#### *Noncoal Applications Received*

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

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

\*The parameter is applicable at all times.

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

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

**10010309 and NPDES Permit No. PA0241938. Annandale Sandstone** (210 Goff Station Road, Boyers, PA 16020), revision to an existing sandstone operation in Venango Township, **Butler County**, affecting 17.6 acres. Receiving streams: unnamed tributary to Seaton Creek (CWF). There are no potable surface water supply intakes within 10 miles downstream. Revision to add 1.6 acres for support activities. Application received June 24, 2004.

**6854-10010309-E-1. Annandale Sandstone** (210 Goff Station Road, Boyers, PA 16020), application for a stream encroachment to mine within 100 feet of unnamed tributary A to Seaton Creek approximately 200 feet south of Township Road T-649—Goff Station Road. Receiving streams: unnamed tributary to Seaton Creek (CWF). There are no potable surface water supply intakes within 10 miles downstream. Application received June 24, 2004.

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

**59042801. Michael R. Ackley** (R. R. 3, Box 351, Westfield, PA 16950-9660), commencement, operation and

restoration of a small industrial minerals (topsoil, sand and gravel) permit in Nelson Township, **Tioga County**, affecting 5 acres. Receiving streams: Cowanesque, tributary to north branch Susquehanna River. Application received June 3, 2004.

**08040807. Kim L. Mapes** (704 S. Fourth Street, Towanda, PA 18848), commencement, operation and restoration of a small industrial minerals (bluestone) permit in Standing Stone Township, **Bradford County**, affecting 2 acres. Receiving streams: unnamed tributary to Susquehanna River. Application received June 3, 2004.

**41940801. Vernice Vaughn** (2657 Bottle Run Road, Williamsport, PA 17701), transfer of an existing small industrial minerals (shale) permit from Wilbur C. Vaughn, Jr. in Old Lycoming Township, **Lycoming County**, affecting 1 acre. Receiving streams: Bottle Run, tributary to Lycoming Creek. Application received June 4, 2004.

## **FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401**

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33

U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

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

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E52-197. Pike County Commissioners**, 506 Broad Street, Milford, PA 18337 in Lehman Township, **Pike County**, U. S. Army Corps of Engineers, Philadelphia District.

To repair and maintain an existing single-span bridge across Little Bushkill (HQ-CWF), having a span of approximately 26 feet and an underclearance of approximately 7 feet. Work will include placement of riprap for scour protection along the abutments within the channel and in the wingwall/stream bank areas, extending along a channel length of approximately 30 feet. The project is along Mink Pond Road (T-322) (Lake Maskenozha, PA-NJ Quadrangle N: 10.6 inches; W: 16.8 inches).

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

**E67-762: York County Board of Commissioners**, One West Marketway, Fourth Floor, York, PA 17401 in Franklin Township, **York County**, ACOE Baltimore District.

To remove the existing Bridge No. 236 and then to construct and maintain a 40-foot prestressed concrete spread box beam bridge with reinforced concrete deck, abutments and wingwalls at a point where Ridge Road crosses the North Branch of Bermudian Creek (WWF) (Dillsburg, PA Quadrangle N: 6.0 inches; W: 7.0 inches) in Franklin Township, York County.

**E36-782: Cedar Acres East, Inc.**, 1271 Lititz Pike, Lancaster, PA 17601 in Lancaster City, **Lancaster County**, ACOE Baltimore District.

To construct and maintain: (1) a restoration of the floodplain corridor; (2) a minor stream relocation to protect an existing sewer system; and (3) a minor stream crossing of UNT to Conestoga River (WWF) (Lancaster, PA Quadrangle Latitude: 40° 02' 42", Longitude: 76° 16' 20") in Lancaster City, Lancaster County.

**E34-113: Department of Transportation, District 2-0**, 1924-30 Daisy Street, P. O. Box 342, Clearfield, PA 16830 in Lack Township, **Juniata County**, ACOE Baltimore District.

To remove the existing two-span bridge and then to construct and maintain a three-span concrete bridge with a total span of 195 feet on an average skew of 36.82 degrees with a minimum underclearance of 10.6 feet across Tuscarora Creek (CWF) on SR 3025, Section A01, Segment 0010, Offset 2538 and related improvements to realign and improve traffic safety about 0.6 mile north of the Village of Waterloo (Blairs Mills, PA Quadrangle N: 8.45 inches; W: 10.1 inches) in Lack Township, Juniata County.

**E44-123: United States Department of Interior, Fish and Wildlife**, 315 South Allen Street, Suite 322, State College, PA 16801 in Union Township, **Mifflin County**, ACOE Baltimore District.

To construct and maintain a stream rehabilitation project on Little Kishacoquillas Creek (CWF, perennial), beginning at the confluence of Little Kishacoquillas Creek and Kishacoquillas Creek (Belleville, PA Quadrangle N: 18.3 inches; W: 13.9 inches) and extending to a point approximately 2,250 feet upstream (Belleville, PA Quadrangle N: 19.05 inches; W: 14.05 inches) using a natural stream channel design approach involving floodway excavation, filling and grading, minor channel relocation, the placement of cross vanes, J-hook vanes, mud sills and random boulders for the purpose of eliminate existing channelization, reducing sediment aggradation, improving aquatic habitat and to establish a riparian buffer in Union Township, Mifflin County. The project proposes to directly affect 2,250 linear feet of the channel of Little Kishacoquillas Creek.

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

**E53-397. Samuel M. Crossley III**, 665 North Hollow Road, Coudersport, PA 16915-8156. Crossley minor road crossing North Hollow Run in Sweden Township, **Potter County**, ACOE Pittsburgh District (Sweden Valley, PA Quadrangle N: 7.25 inches; W: 8.00 inches).

To remove an existing single cell culvert and construct, operate and maintain a single span bridge to carry a private road across North Hollow Run (HQ-CWF) to provide continued agricultural equipment access. The single span bridge shall be constructed with a minimum 7-foot span, 4.5-foot underclearance and 16-foot width. All construction and future work shall be conducted at stream low flow. As proposed, the project will not impact wetlands while impacting 50 feet of waterway. The project is along the western right-of-way of SR 4013 approximately 3,225 feet south of SR 1002 and SR 4013 intersection. This permit does not authorize any temporary or permanent wetland impacts, and as such, the permittee shall ensure no wetland impacts result from the removal of the existing culvert or construction of the proposed road crossing.

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**ACTIONS**


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**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT  
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE  
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY  
MANAGEMENT (WQM) PERMITS**

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

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**I. NPDES Renewal Permit Actions**


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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0216500	Viacom, Inc. 11 Stanwix Street Pittsburgh, PA 15222	Beaver County Vanport Township	Ohio River	Y
PAS206101	Dynamics Materials Corporation 1138 Industrial Park Drive P. O. Box 317 Mount Braddock, PA 15465	Fayette County Dunbar Township	Dunbar Creek	Y
PA0034614	RAS Development LP 12 Arenzen Blvd. Charleroi, PA 15022	Fayette County Saltlick Township	Indian Creek	Y

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0043869	North Hempfield Volunteer Fire Company R. R. 15, Box 200 Greensburg, PA 15601	Westmoreland County Hempfield Township	Unnamed tributary of Brush Creek	Y
PA0091588	Yough School District 99 Lowbar Road Herminie, PA 15637	Westmoreland County South Huntingdon Township	UNT of Sewickley Creek	Y
PA0093211	Menallen Township Sewer Authority P. O. Box 576 New Salem, PA 15468	Fayette County Menallen Township	Dunlap Creek	Y
PA0216267	Patterson-Kurelic Rental P. O. Box 608 Greensburg, PA 15601	Westmoreland County Loyalhanna Township	Boatyard Run	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0101788	Eldred Division of Ethan Allen, Inc. 3289 Route 446 Eldred, PA 16731	Eldred Township McKean County	Unnamed tributary to Carpenter Creek 16-C	Y

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

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

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

**WQM Permit No. 0904404**, Sewerage, **Bucks County Water and Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976. This proposed facility is in Bensalem Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a sanitary sewer pumping station.

**WQM Permit No. 0904405**, Sewerage, **Scott and Michelle Schetter**, 408 A Walnut Avenue, Horsham, PA 19044. This proposed facility is in West Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a small flow sewage treatment plant.

**WQM Permit No. 0904406**, Sewerage, **Courtney G. Keep**, 932 Beck Road, Quakertown, PA 18951. This proposed facility is in Haycock Township, **Bucks County**.

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

**WQM Permit No. 1504408**, Sewerage, **East Fallowfield Township**, 2264 Strasburg Road, East Fallowfield, PA 19320. This proposed facility is in East Fallowfield Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a wastewater pump station to serve a proposed 74-lot single family home residential subdivision.

**WQM Permit No. 1504405**, Sewerage, **Westtown Township**, P. O. Box 79, Westtown, PA 19395. This proposed facility is in Westtown Township, **Chester County**.

Description of Proposed Action/Action: Construction and operation of a sewage pump station and force main.

**WQM Permit No. 1500421-B, Amendment**, Sewerage, **Upper Uwchlan Township**, 140 Pottstown Pike, Chester Springs, PA 19425-9516. This proposed facility is in Upper Uwchlan Township, **Chester County**.

Description of Proposed Action/Activity: Expansion of the Eagle Hunt Residential Development spray irrigation fields to allow an increase in flow from 22,950 gpd to 24,425 gpd.

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

**WQM Permit No. 4004402**, Sewerage, **Ice Lakes LTD**, 220 Pine Ridge Road, Tunkhannock, PA 18657. This proposed facility is in Rice Township, **Luzerne County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

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

**WQM Permit No. 1704404**, Sewerage, SIC 4952, **Emmanuel Church of the Nazarene**, 569 Forsyth Road, DuBois, PA. This existing facility is in Sandy Township, **Clearfield County**.

Description of Proposed Action/Activity: Issuance of a permit authorizing the operation of 0.0016 MGD small flow treatment facility serving a church and a church hall. Discharge is to Laborde Branch (CWF).

**WQM Permit No. 1404401**, Sewerage, SIC 4952, **University Area Joint Authority**, 1576 Spring Valley Road, State College, PA 16801. This proposed facility will be in Ferguson Township, **Centre County**.

Description of Proposed Action/Activity: Issuance of a permit to authorizing the construction and operation of sewer extensions and a pumping station to serve residential and commercial establishments in the Foxpointe Planned Residential Development and the S & A Custom Built Homes, Inc. corporate headquarters. The system will initially serve the S & A headquarters and service center. During the next 5 to 10 years, the remaining sections of Foxpointe PRD (family units, condominiums and commercial establishments) will be served by the system.

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

**WQM Permit No. 2004405**, Sewerage, **Ira J. Kelley**, 21833 Guntown Road, Conneautville, PA 16406. This proposed facility is in Summerhill Township, **Crawford County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. 6104402**, Sewerage, **Christine M. and Silas W. Clark**, 1071 Shot Gun Club Road, Emlenton, PA 16373. This proposed facility is in Richland Township, **Venango County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. 4304403**, Sewerage, **Mercer County Commissioners**, 103 Courthouse, Mercer, PA 16137-1224. This proposed facility is in Findley Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sanitary sewer line to serve a new 266-bed county prison and will discharge to an existing sewage treatment plant at the State regional correction facility.

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

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

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

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

##### *NPDES Permit*

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011504014	Robert Bruce Homes, Inc. Wilson Property 1223 West Chester Pike West Chester, PA 19382	Chester	Tredyffrin Township	Little Valley Creek EV
PAI011504027	Commerce Bank Development 17000 Horizon Way, Suite 100 Mt. Laurel, NJ 08054	Chester	East Goshen Township	Ridley Creek HQ-TSF
PAI012304002	St. Mary Magdalen Parish St. Mary Magdalen Church Development 2400 North Providence Road Media, PA 19063	Delaware	Upper Providence Township	Ridley Creek HQ-TSF

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

##### *NPDES Permit*

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10S013-RR	LTS Development, Inc. P. O. Box 160 Shawnee-on-Delaware, PA 18356	Monroe	Stroud Township Stroudsburg Borough	Brodhead and Cherry Creeks HQ-CWF
PAI024504008	Adams Outdoor Advertising, L. P. U. S. Route 209, Box 5197 East Stroudsburg, PA 18301	Monroe	Hamilton Township	McMichaels Creek HQ-CWF
PAI024503015	Bruce N. George R. R. 2, Box 331 Kunkletown, PA 18058	Monroe	Hamilton Township	McMichaels Creek HQ-CWF
PAI024504004	Pocono Jackson Joint Water Authority P. O. Box 196 Reeders, PA 18352-0196	Monroe	Pocono and Jackson Townships	Pocono and McMichaels Creeks HQ-CWF
PAS10S070-R	LTS Development P. O. Box 160 Shawnee-on-Delaware, PA 18356	Monroe	Stroud Township	Little Pocono Creek HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024803014	Newpro II, Inc. 824 Eighth Ave. Bethlehem, PA 18018	Northampton	Upper Nazareth Township	Monocacy Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033804001	Arborgate, LTD 950 East Kerchner Avenue Myerstown, PA 17067	Lebanon	Jackson Township	UNT to Tulpehocken Creek TSF
PAI026703003	The Stephen Group, Inc. 4603 Compass Point Road Belcamp, MD 21017	York	East Hopewell Township	UNT to South Branch Muddy Creek HQ-CWF

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

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

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

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

#### *General Permit Type—PAG-2*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Radnor Township Delaware County	PAG2002303077	Enrico Partners, LP 919 Conestoga Road Building 2, Suite 106 Rosemont, PA 19010	Ithan Creek CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015104001	Isle of Capri Associates, LP Waterfront Square 242 South 17th Street Philadelphia, PA 19103	Delaware River/Cohocksink Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Saucon Township Northampton County	PAR10U122R	Edwin Novak 1655 Jonathan Lane Bethlehem, PA 18015	Saucon Creek CWF	Northampton County Conservation District (610) 746-1971
Palmer Township Northampton County	PAG2004804012	Township of Palmer P. O. Box 3039 Palmer, PA 18043-3039	Lehigh River (UNT) WWF	Northampton County Conservation District (610) 746-1971



<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Allen Township Northampton Borough Northampton County	PAG2004804014	Northampton County Division of Parks and Recreation R. D. 4, Greystone Bldg. Nazareth, PA 18064	Catasauqua and Hokendauqua Creeks CWF	Northampton County Conservation District (610) 746-1971
City of Scranton Lackawanna County	PAG2003504018	City of Scranton 340 N. Washington Ave. Scranton, PA 18503	Lackawanna River WWF	Lackawanna County Conservation District (570) 281-9495
Union County Limestone Township	PAG2006004006	CPR Auto Center David Swartzlander 469 Beaver Road Mifflinburg, PA 17844	Sweitzer Run CWF Penns Creek WWF	Union County Conservation District 88 Bull Run Crossing Suite 5 Lewisburg, PA 17837 (570) 523-8782
Allegheny County Findlay Township	PAG2000203058	Beazer East, Inc. One Oxford Center Pittsburgh, PA 15219	Potato Garden Run WWF Bigger Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County North Fayette Township	PAG2000203089	MJH Development Co. 1463 Old Steubenville Pike Pittsburgh, PA 15205	Montour Run TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Monroeville	PAG2000203124	Gateway School District 9000 Gateway Campus Blvd. Monroeville, PA 15146	Turtle Creek WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Stowe Township	PAG2000204017	Holy Trinity Polish National Catholic Church 206 Munson Avenue McKees Rocks, PA 15136	Ohio River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County McCandless Township	PAG2000204033	Sperling Funeral Home 408 Cedar Avenue Pittsburgh, PA 15212-2022	Pine Creek CWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Ohio Township	PAG2000204036	Mt. Nebo Point LLC 3300 Enterprise Pkwy. Beachwood, OH 44122	Lowries Run TSF Bear Run TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Upper St. Clair Township	PAG2000204041	Clair Boyce Assoc. Alcoa Business Service 30 Isabella Street Pittsburgh, PA 15212	Chartiers Creek WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Harmar Township	PAG2000204043	The Mills Corporation 2012A Butler Logan Rd. Tarentum, PA 15084	Deer Creek WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Frazer and East Deer Townships	PAG2000204044	Upper Allegheny Joint Sanitary Authority 320 Fourth Avenue Tarentum, PA 15084	Allegheny River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Robinson Township	PAG2000204045	Waterford Place LLC 336 Cobblestone Circle McKees Rocks, PA 15136	Montour Run TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Kennedy Township	PAG2000204051	Montour Run School District 223 Clever Road McKees Rocks, PA 15136	Ohio River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Hampton Township	PAG2000204052	William Tippins 1090 Freeport Road Pittsburgh, PA 15238	Pine Creek CWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Bethel Park	PAG2000204055	Dale Greco 1503 King Charles Dr. Pittsburgh, PA 15237	McLaughlin Run WWF	Allegheny County Conservation District (412) 241-7645

## NOTICES

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<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Allegheny County Edgeworth Borough	PAG2000204063	Glen Meakem 703 Cochran Street Sewickley, PA 15143	Ohio River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Findlay Township	PAG2000204064	Mashuda Corporation 21101 Route 19 Cranberry Township, PA 16066	Unnamed tributary to Potato Garden Run WWF	Allegheny County Conservation District (412) 241-7645
Beaver County New Sewickley Township	PAG2000403002	Castlebrook Dev. c/o William West 307 4th Avenue Suite 604 Pittsburgh, PA 15222	Crow's Run WWF	Beaver County Conservation District (724) 774-7090
Somerset County Somerset Township	PAG2005604007	United States Department of Transportation—FHA 21400 Ridgetop Circle Sterling, VA 20166	Unnamed tributary to Stonycreek River CWF	Somerset County Conservation District (814) 445-4652
Westmoreland County Rostraver Township	PAG2006504012	Bob Fargo Armstrong Dev. 2100 Wharton Street Suite 700 Pittsburgh, PA 15203	Unnamed tributary to Speers Run WWF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County Hempfield Township	PAG2006504024	Hempfield Township Municipal Authority R. D. 6, Box 501 Greensburg, PA 15601	Jacks Run WWF	Westmoreland County Conservation District (724) 837-5271
Westmoreland County City of Monessen	PAG2006504028	Doug Farnham Dev. 4306 SR 51 S Belle Vernon, PA 15012	Monongahela River WWF	Westmoreland County Conservation District (724) 837-5271

*General Permit Type—PAG-4*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Clearfield County Sandy Township	PAG045178	Emmanuel Church of the Nazarene 569 Forsyth Road DuBois, PA 15801	Laborde Branch CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Summerhill Township Crawford County	PAG048975	Ira J. Kelley 21833 Guntown Road Conneautville, PA 16406	Conneaut Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Richland Township Venango County	PAG048974	Christine M. and Silas W. Clark 1071 Shot Gun Club Road Emlenton, PA 16373	Unnamed tributary to Mill Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Hayfield Township Crawford County	PAG048976	Marlan Tool SFTF 13385 Denny Road Meadville, PA 16335	Unnamed tributary to Conneaut Outlet Watershed 16-D	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-8 (SSN)*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Rader Road Decatur Township Clearfield County	PAG084819	Moshannon Valley Joint Sewer Authority 829 North Ninth Street Philipsburg, PA 16866	Rader Site Fields 14 and 15	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3655
South Front Street Isle of Que Selinsgrove, PA Penn Township Snyder County	PAG084816	Eastern Snyder County Regional Authority P. O. Box 30 Selinsgrove, PA 17870	Elden Heimbach Farm	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3655
Fields 11, 12, 17 and 18 840 South Front Street Isle of Que Selinsgrove Borough Penn Township Snyder County	PAG084816	Eastern Snyder County Regional Authority P. O. Box 30 Selinsgrove, PA 17870	Elden Heimbach Farm	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3655
Spring Township Centre County	PAG084814	Borough of Bellefonte 236 West Lamb Street Bellefonte, PA 16823	Donald and Linda Bierly Farm	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3655

*General Permit Type—PAG-9*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Metal Township Franklin County	PAG093541	Art Beidel Enterprises LLC 11468 Creek Rd. Fannettsburg, PA 17221	C. Lester Martin Farm	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Steuben Township Crawford County	PAG098304	Ramon L. Sterling Sterling Sanitation Service 37021 Tryonville Road Centerville, PA 16404-4547		NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-13*

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG138331	City of New Castle 230 North Jefferson Street New Castle, PA 16101	Lawrence	City of New Castle	Shenango and Mahoning Rivers	Y

## PUBLIC WATER SUPPLY (PWS) PERMITS

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

### SAFE DRINKING WATER

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

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

**Permit No. 4604501**, Public Water Supply.

Applicant	<b>Aqua Pennsylvania, Inc.</b> 762 West Lancaster Avenue Bryn Mawr, PA 19010
Borough	Collegeville
County	<b>Montgomery</b>
Type of Facility	PWS
Permit to Construct Issued	June 17, 2004

**Operations Permit** issued to **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, PWS ID 1460069, Perkiomen Township, **Montgomery County** on June 25, 2004, for the operation of facilities approved under Construction Permit No. 4604502.

*Northcentral Region: 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 6002501**, Public Water Supply.

Applicant	<b>New Berlin Municipal Authority</b>
Township or Borough	New Berlin Borough and Limestone Township

County	<b>Union</b>
Responsible Official	Garth Miller New Berlin Municipal Authority 700 Water Street P. O. Box 396 New Berlin, PA 17855-0396
Type of Facility	PWS—operation.
Consulting Engineer	J. A Coukart & Associates P. O. Box 300 New Berlin, PA 17855
Application Issued Date	June 22, 2004
Description of Action	Authorizing operation of well no. 7, finished reservoir no. 3 and the recently constructed raw and finished water transmission lines.

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

Applicant	<b>BCI Municipal Authority</b>
Township or Borough	Beccaria Township
County	<b>Clearfield</b>
Responsible Official	Steven G. Fletcher, Supervisor BCI Municipal Authority P. O. Box 388 Cressview Street Irvona, PA 16656
Type of Facility	PWS—construction.
Consulting Engineer	Timothy Cooper Stiffler, McGraw & Assoc. 19 North Juniata Street Hollidaysburg, PA 16648
Application Issued Date	June 22, 2004
Description of Action	Construction of the waterline in Utahville.

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

Applicant	<b>Jersey Shore Area Joint Water Authority</b>
Township or Borough	Anthony Township
County	<b>Lycoming</b>
Responsible Official	Mike Zellers Authority Manager 220 South Main Street Jersey Shore, PA 17740
Type of Facility	PWS—construction.
Consulting Engineer	Quay Schapell Larson Design Group 1000 Commerce Park Drive Williamsport, PA 17701
Application Issued Date	June 22, 2004
Description of Action	Construction of the distribution system storage tank for the Jersey Shore area.

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

**Operations Permit** issued to **Wintergreen Acres MHP**, Williams Road, Lake City, PA 16423, PWS ID

6250045, Girard Township, **Erie County**, on June 25, 2004, for the operation of West Ground Storage Tank, as approved under Construction Permit No. 2502501.

**HAZARDOUS SITES CLEANUP  
UNDER THE ACT OF OCTOBER 18,  
1988**

**Proposed Consent Decree**

**William Taylor Estate Site, Wheatland Borough,  
Mercer County**

Under section 1113 of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. § 6020.1113), notice is provided that the Department of Environmental Protection (Department) has agreed to a Consent Decree (CD) with Viacom, John Maneely Company, Grimes Aerospace Company and AK Steel Corporation (Settlers) concerning the Department's response costs at the William Taylor Estate Site (Site). The property containing the Site is approximately 42 acres. The Site is an approximately 12-acre portion of the property and is the portion formerly utilized as a mixed waste landfill in a residential/industrial area in Wheatland Borough, Mercer County. The landfill operated at the Site from approximately 1958 until mid 1970s and accepted industrial wastes containing hazardous substances from several industrial-manufacturing operations.

These wastes and other materials containing hazardous substances were dumped, spilled or otherwise disposed at the Site and these hazardous substances contaminated the soils and sediments at the Site. These substances are defined in section 103 of the HSCA (35 P. S. § 6020.103) as a "hazardous substance." The presence of these hazardous substances at the property constitutes a "release" and a "threat of release" of a hazardous substance, as defined in section 103 of the HSCA.

Two response actions were conducted at the Site. In 1991, the Department implemented an Interim Response at the Site that included, among other things, erection of a fence to control access to known areas of contamination. In 1996 and 1997, the Department's contractors conducted a Final Site Characterization and Engineering Evaluation/Cost Analysis Report (EE/CA Study) for the Site. The EE/CA Study indicated further response was needed at the Site to help abate risks to human health and the environment posed by hazardous substances at the Site. In 1998, the Settlers implemented a Remedial Response (Response) at the Site to help abate those risks. That Response included, among other things, excavation and consolidation of areas of contamination, followed by capping, then regrading with an extension and maintenance of the fence installed in 1991.

The Settlers have agreed to pay \$440,000 of the Department's past costs, plus accrued interest, and transfer title of the property containing the Site to the Wheatland Conservation Authority, which has agreed to maintain the property for the public benefit. The specific terms of this settlement are set forth in the CD with the Settlers. The Department will receive and consider comments relating to the CD for 60 days from the date of this public notice. The Department has the right to withdraw its consent to the CD if the comments concerning the CD disclose facts or considerations which indicate that the CD is inappropriate, improper or not in the public interest. After the public comment period, assuming that no significant objections to the CD have been submitted or appeal from the CD filed, the Department will ask presiding Judge John C. Reed of the Mercer County Court

of Common Pleas to execute the CD as an Order of the Court, at which point the CD will be deemed effective.

The CD is available for inspection and copying at the Department's office at 230 Chestnut Street, Meadville, PA and at the offices of the Honorable Judge John C. Reed, Mercer County Court of Common Pleas, Mercer County Courthouse. Comments may be submitted, in writing, to Mark Gorman, Program Manager, Northwest Regional Office, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6648. TDD users should contact the Department through the Pennsylvania Relay Service at (800) 645-5984.

**Settlement under the Comprehensive  
Environmental Response, Compensation and  
Liability Act and the Hazardous Sites Cleanup Act**

**Whitmoyer Laboratories Superfund Site, Jackson  
Township, Lebanon County**

The Department, under the authority of the HSCA (35 P. S. §§ 6020.101—6020.1305), the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.A. §§ 9601—9675) and section 1917-A of The Administrative Code of 1929 (71 P. S. § 510-17), has entered into a proposed settlement with Jackson Township, Lebanon County and the Jackson Township Recreational Authority (Settlers).

The proposed settlement resolves claims of the Department with the Settlers under the HSCA and CERCLA for response costs, as defined in the HSCA and CERCLA, for the Whitmoyer Laboratories Superfund Site (Site).

Based upon information that the Department has obtained concerning the Settlers and the Site and based upon the information certified by the Settlers in this Consent Order and Agreement (COA), the Department has determined that the Settlers did not: (1) conduct or permit the generation, transportation, storage, treatment or disposal of any hazardous substances at the Site; (2) contribute to the release or threatened release of hazardous substances at the Site through any act or omission; and (3) contribute any hazardous substances to the Site and thus both the amount and toxicity of Settlers' contribution to the Site is "minimal."

The Department believes that the COA is fair, reasonable, practicable, in the public interest and in furtherance of the statutory goals of the HSCA and CERCLA. Upon signing this COA and in payment of Response costs, the Settlers shall remit \$1 to the Department.

For a 60-day period, from the date of this publication, the public is invited to review the COA, Monday through Friday, from 8 a.m. to 4 p.m. at the Department of Environmental Protection, 909 Elmerton Avenue, Harrisburg, PA 17110 by contacting Richard Morgan, (717) 705-4844.

After review, the public may submit written comments on the COA before September 8, 2004, by sending them to Richard Morgan at the Department's Southcentral Region Office at the address previously noted. A person adversely affected by the settlement may also file an appeal from the COA to the Environmental Hearing Board.

Questions concerning this notice should be directed to Richard Morgan.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**ExxonMobil Penn Forest Pipeline—Carbon Valve Station**, Towamensing Township, **Carbon County**. Jennifer L. Huha, P. G., Groundwater and Environmental Services, Inc., 410 Eagleview Blvd., Suite 110, Exton, PA 19341 has submitted a combined Remedial Investigation Report and Final Report (on behalf of ExxonMobil Refining and Supply Co., 17725 Esprit Drive, Tampa, FL 33647) concerning the remediation of soils and groundwater found to have been contaminated with unleaded gasoline. The report was submitted to demonstrate attainment of both the Site-Specific and Statewide Health Standards.

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

**GROWMARK FS, Inc.**, Leesport Borough, **Berks County**. ERM, Inc., 350 Eagleview Boulevard, Exton, PA 19341, on behalf of GROWMARK FS, Inc., 119 Wall Street, Leesport, PA 19533, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel, pesticides and unleaded gas. The report is intended to document remediation of the site to the Statewide Health Standard.

**Mosby Residence**, Penbrook Borough, **Dauphin County**. Skelly and Loy, 2601 North Front Street, Harrisburg, PA 17110, on behalf of Gene Mosby, 108 North 30th Street, Harrisburg, PA 17109-3503, submitted a Final Report concerning remediation of site soils contaminated with fuel oil no. 2. 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), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**PECO Downingtown MGP Site**, Downingtown Borough, **Chester County**. John Roberts, Jacques Whitford Co., Inc., 450 S. Gravers Rd., Suite 105, Plymouth Meeting, PA 19462, on behalf of PECO Energy, Bryan Sladky, 2301 Market St., Philadelphia, PA 19106 has submitted a Remedial Investigation/Final Report concerning the remediation of site soil and groundwater contaminated with other organics and PAH. The Final Report demonstrated attainment of the Site Specific Standard and was approved by the Department on June 16, 2004.

*Northeast Region: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**ExxonMobil Penn Forest Pipeline—Carbon Valve Station**, Towamensing Township, **Carbon County**. Jennifer L. Huha, P. G., Groundwater and Environmental Services, Inc., 410 Eagleview Blvd., Suite 110, Exton, PA 19341 submitted a combined Remedial Investigation Report and Final Report (on behalf of ExxonMobil Refining and Supply Co., 17725 Esprit Drive, Tampa, FL 33647) concerning the remediation of soils and groundwater found to have been contaminated with unleaded gasoline. The report demonstrated attainment of both the Statewide Health and the Site-Specific Standards and was approved on June 10, 2004.

**Robert Ott Residence**, Wilson Borough, **Northampton County**. Gary Drennen, Earth Data Northeast, Inc., 924 Springdale Drive, Exton, PA 19341 submitted a Final Report (on behalf of Robert Ott, Sycamore Street, Easton, PA 18042) concerning the remediation of soils that became contaminated with no. 2 fuel oil constituents as the result of an accidental release during a delivery. The report demonstrated attainment of the Statewide Health Standard and was approved on June 4, 2004. The report was originally submitted within 90 days of the release.

**Laura Potter Property (Birchwood Lakes)**, Delaware Township, **Pike County**. Salvatore Sciascia, President, S & M Management, Inc., P. O. Box 1429, Milford, PA 18337, submitted a Final Report (on behalf of Laura Potter, R. R. 1, Dingmans Ferry, PA) concerning the remediation of soils impacted by the accidental release of no. 2 fuel oil during a delivery. The report did not demonstrate attainment of the Residential Statewide Health Standard and was disapproved on June 10, 2004. The report was originally submitted within 90 days of the release.

**Gulf Oil Fullerton Terminal**, Whitehall Township, **Lehigh County**. Charles Olmstead, Senior Associate, Leggette Brashears & Graham, Inc., 426 Brandywine Parkway, West Chester, PA 19380 submitted a Final Report (on behalf of Andrew Beland, Gulf Oil LP, 90 Everett Avenue, P. O. Box 9151, Chelsea, MA 02150) concerning the remediation of soils and/or groundwater

found or suspected to have been contaminated with MTBE and other unleaded gasoline constituents. The report did not demonstrate attainment of the Statewide Health Standard and was disapproved on May 28, 2004.

**Former Penn Fuel Gas Manufactured Gas Plant—Slatington Site**, Borough of Slatington, **Lehigh County**. RETEC Group, Inc., 3040 William Pitt Way, Pittsburgh, PA 15238-1359 submitted a Final Report (on behalf of PPL Services Corp., Two North Ninth Street, Allentown, PA 18101) concerning the remediation of the subject site for residual contaminants in soil, groundwater and adjacent surface water found or suspected to have been contaminated with metals, polycyclic aromatic hydrocarbons, phenolics, cyanides and BTEX compounds related to historic manufactured gas plant operations. The report demonstrated attainment of both the Statewide Health and the Site-Specific Standards and was approved on June 7, 2004.

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

**Aspens, Inc.**, City of Lebanon, **Lebanon County**. MACTEC Engineering and Consulting, Inc., 5205 Militia Hill Road, Plymouth Meeting, PA 19462, on behalf of Beneficial Communities, LLC, 3131 Clark Road, Suite 203, Sarasota, FL 34231 and George Christianson, 411 Chestnut Street, Lebanon, PA 17042, submitted a Remedial Investigation Report and a Cleanup Plan concerning remediation of site soils contaminated with inorganics. The applicant is seeking to demonstrate attainment of the Site-Specific Standard. The Remedial Investigation Report and the Cleanup Plan were approved by the Department on June 22, 2004.

**GROWMARK FS, Inc.**, Leesport Borough, **Berks County**. ERM, Inc., 350 Eagleview Boulevard, Exton, PA 19341, on behalf of GROWMARK FS, Inc., 119 Wall Street, Leesport, PA 19533, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel, pesticides and unleaded gas. The final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 24, 2004.

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

**Former Cohen/A1 Auto Property**, City of Erie, **Erie County**. Pat Pontoriero, P. G., MACTEC Eng. & Consulting, 700 N. Bell Ave., Pittsburgh, PA 16105 on behalf of Robert Grice, Greater Erie Ind. Development Corp., 5240 Knowledge Pkwy., Erie, PA 16510 has submitted a Baseline Environmental Report concerning the remediation of site soil contaminated with lead. The Baseline Environmental Report was approved by the Department on May 27, 2004, in accordance with the Special Industrial Area provisions of Act 2.

**New Castle Refractories**, 915 Industrial St., New Castle, PA, **Lawrence County**. John Walker, Intex Environmental Group, 6205 Easton Rd., Pipersville, PA 18947 (on behalf of Rick Joyce, Dixon Ticonderoga Co., 195 International Parkway, Hathrow, FL 32746) has submitted a Baseline Environmental Report concerning remediation of site soil and groundwater contaminated with no. 2 fuel oil, chlorinated solvents, lead, polyaromatic hydrocarbons and other organics. The report is intended to document remediation of the site to meet the Statewide Health Standards. Baseline Environmental Report was published in the *New Castle News* on October 10, 2003.

**OMG Americas**, Sugarcreek Borough, **Venango County**. Lawrence A. Drane, III, P. G., Civil & Env.

Consultants, Inc., on behalf of OMG Americas, Inc., Two Mile Run Rd., Franklin, PA 16323 has submitted a Remedial Investigation Report concerning the remediation of site soil, groundwater, surface water and sediment contaminated with lead, heavy metals, solvents, BTEX, PHCs and PAHs. The Report was approved by the Department on June 24, 2004. The Report demonstrated attainment of the Site-Specific Standards.

**OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Permit Denied 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.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit No. 101427. Pine Grove Landfill, Inc.,** P. O. Box 307, Pine Grove, PA 17963. A major permit modification for the Pad 12 Expansion application, which would add 2.4 acres of additional disposal area and 2.6 years of additional life to this municipal waste landfill in Pine Grove Township, **Schuylkill County**. The permit was denied by the regional office on June 22, 2004.

**Permit Issued under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate solid waste processing or disposal area or site.**

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit Application No. 100265. Grand Central Sanitary Landfill, Inc.,** 1963 Pen Argyl Road, Pen Argyl, PA 18072. A Permit Renewal approval for this municipal waste landfill in Plainfield Township, **Northampton County**. The approval authorizes the extension of their permit to continue construction and operations at the Grand Central Sanitary Landfill until December 31, 2007. The Permit Renewal was issued by the Regional Office on June 17, 2004.

**MUNICIPAL AND RESIDUAL WASTE TRANSPORTER AUTHORIZATION**

**Issued applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act (27 Pa.C.S. §§ 6201—6209) and regulations to transport municipal or residual waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.*

**G & R Charles Excavating, Ltd.,** P. O. Box 7, Port Trevorton, PA 17864. Authorization No. WH6218. Effective June 14, 2004.

**Redman Fleet Services, Inc.,** P. O. Box 1423, Newington, VA 22122-1423. Authorization No. WH6239. Effective June 14, 2004.

**City & State Roofing, Inc.,** 5443 Torresdale Ave., Philadelphia, PA 19124. Authorization No. WH6264. Effective June 14, 2004.

**Leroy Neeper Contracting,** 139 Neeper Rd., Curwensville, PA 16833. Authorization No. WH6265. Effective June 14, 2004.

**Myron Michael,** R. R. 3, Troy, NY 16947. Authorization No. WH6266. Effective June 14, 2004.

**Polar Kodiak Trucking, Inc.,** Green Mt. Dr., R. R. 5 Box 5324, East Stroudsburg, PA 18301. Authorization No. WH6267. Effective June 14, 2004.

**Koder Inc.,** 3316 Big Rd., Obelisk, PA 19492. Authorization No. WH6268. Effective June 14, 2004.

**Lloyd Cooper,** 31615 Brown Hill Rd., Cambridge Springs, PA 16403. Authorization No. WH6269. Effective June 16, 2004.

**Cavalcanti Cristiano,** 433 Hollywood Ave., Hillside, NJ 07205. Authorization No. WH6270. Effective June 16, 2004.

**Octavio Trucking Co.,** 1st Floor, 15-16 46th St., North Bergen, NJ 09097. Authorization No. WH6271. Effective June 14, 2004.

**Rip Vladisl,** Apt. 26A, 9926 Haldeman Ave., Philadelphia, PA 19115. Authorization No. WH6272. Effective June 14, 2004.

**Lopez & Son Corp.,** 401 56th St., West New York, NJ 07093-0912. Authorization No. WH6273. Effective June 14, 2004.

**Aziz Senan Brothers Trucking,** 1270 Sutter Ave., No. 4, Brooklyn, NY 11208. Authorization No. WH6274. Effective June 14, 2004.

**Scott Smith,** 6463 N. Huron Rd., Wolcott, NY 14590. Authorization No. WH6276. Effective June 16, 2004.

**K & H Trucking, Inc.,** 3122 E. State Rd., No. 48, Shelburn, IN 47879. Authorization No. WH6277. Effective June 16, 2004.

**Larry Daugherty,** 891 Old Harriman Hwy., Oliver Springs, TN 37840. Authorization No. WH6278. Effective June 16, 2004.

**Kenneth Breidinger,** 1504 North Blvd., Bethlehem, PA 18017. Authorization No. WH6279. Effective June 16, 2004.

**Dix Corp.,** 10075 Bruner St., Terre Haute, IN 47802. Authorization No. WH6280. Effective June 16, 2004.

**Andrew Gallo,** 6821 Five Points Rd., Creekside, PA 15732. Authorization No. WH6281. Effective June 16, 2004.

**Adoma Freight Lines,** 1516 E. Washington Lane, Philadelphia, PA 19138. Authorization No. WH6282. Effective June 14, 2004.

**DMX,** 4071 121st St., Des Moines, IA 50323. Authorization No. WH6283. Effective June 16, 2004.

**J. Bass & Son, Inc.,** 9-11 Carleton Ave., Mount Vernon, NY 10550. Authorization No. WH6285. Effective June 15, 2004.

**Lewis D. Dixon,** 309 S. Fifth St., Clearfield, PA 16830. Authorization No. WH6286. Effective June 15, 2004.

**Lisandro D. Arias,** 140 Hartsdale Ave., Hartsdale, NY 10530. Authorization No. WH6287. Effective June 15, 2004.

**Richei F. Leyva,** 301 53rd St., West New York, NJ 07093. Authorization No. WH6288. Effective June 16, 2004.

**Michael L. Barrett,** 9191 Old Rt. 22, Bethel, PA 19507. Authorization No. WH6289. Effective June 15, 2004.



**Vincent J. Madonna**, 488 W. Columbia St., Schuylkill Haven, PA 17972. Authorization No. WH6290. Effective June 15, 2004.

**James J. Bivens & Sons, Inc.**, 1127 Thunderhill Rd., Lincoln University, PA 19352. Authorization No. WH6291. Effective June 15, 2004.

**Furnace Stream Farms, Ltd.**, 728 Monument Rd., Hamburg, PA 19526. Authorization No. WH6292. Effective June 15, 2004.

**Colavito Trucking**, P. O. Box 571, Westbrookville, NY 12785. Authorization No. WH6293. Effective June 15, 2004.

**F & G Equipment & Landscape Supply, Inc.**, 65 M-Y Lane, Morrisville, PA 19067. Authorization No. WH6294. Effective June 15, 2004.

**Augusto Camargo**, 30 W. Union Turnpike, Wharton, NJ 07885. Authorization No. WH6295. Effective June 15, 2004.

**Charles K. Eberhart**, 1208 Scotland Ave. Extension, Punxsutawney, PA 15767. Authorization No. WH6296. Effective June 16, 2004.

**Zdzislaw B. Srogi**, 1091 Sheridan Ave., Elizabeth, NJ 07208. Authorization No. WH6297. Effective June 16, 2004.

**James A. Hornblower**, 148 Cedar Rd., Pittsgrove, NJ 08318. Authorization No. WH6298. Effective June 16, 2004.

**William Greatrex**, 201 N. Grove Ave., National Park, NJ 08063. Authorization No. WH6299. Effective June 16, 2004.

**Justin Skacel**, 649 Oak Ave., Deptford, NJ 08096. Authorization No. WH6300. Effective June 16, 2004.

**Brandos Transport Co.**, 288 Paterson Plank Rd., East Rutherford, NJ 07073. Authorization No. WH6301. Effective June 16, 2004.

**Michael J. Hack, III**, 820 Bonniebrook Rd., Butler, PA 16002-1014. Authorization No. WH6302. Effective June 16, 2004.

**Birkmire Trucking Co. LLC**, 1612 Filmore Ave., Erie, PA 16505-0768. Authorization No. WH6303. Effective June 16, 2004.

**Pocono Rubbish Removal & Container Svc., Inc.**, R. R. 8, Box 8202, Stroudsburg, PA 18360. Authorization No. WH6304. Effective June 16, 2004.

**Legal Lawn & Maintenance Services, Inc.**, 507 Hill Ave., Langhorne, PA 19047. Authorization No. WH6305. Effective June 16, 2004.

**Recovery Zone of Indian Valley, LLC**, 8 Indian Valley Ln., Telford, PA 18969-1947. Authorization No. WH6306. Effective June 22, 2004.

**Henry R. Hernandez-Vasquez**, 358 Woodland Ave., Jersey City, NJ 01305. Authorization No. WH6307. Effective June 17, 2004.

**Morello, Inc.**, 401 E. Wood St., Norristown, PA 19401. Authorization No. WH6308. Effective June 17, 2004.

**Barclay Contracting Co.**, 1040 N. Jerome St., Allentown, PA 18109-3367. Authorization No. WH6309. Effective June 17, 2004.

**Carlton A. O'Conner**, Apt. 3, 843 E. 227 St., Bronx, NY 10466. Authorization No. WH6310. Effective June 22, 2004.

**Early Bird, Inc.**, 3738 Peters Mountain Rd., Halifax, PA 17032. Authorization No. WH6311. Effective June 22, 2004.

**Sutton Trucking**, 227 Salem Church Rd., Hamburg, PA 19526. Authorization No. WH6312. June 22, 2004.

**Condor Express Corp.**, 116 Washington St., Elizabeth, NJ 07202. Authorization No. WH6313. Effective June 22, 2004.

**Teresa Jerez**, 20-28 Stanhope St., Flushing, NY 11385-1237. Authorization No. WH6314. Effective June 22, 2004.

**Carvalho Transportation**, First Floor, 8010 Tabor Ave., Philadelphia, PA 19111. Authorization No. WH6315. Effective June 23, 2004.

**Jaime & Son Trucking Co.**, 3448 N. Palethorp St., Philadelphia, PA 19140. Authorization No. WH6316. Effective June 23, 2004.

**Edwin Mekendez**, 571 Union Ave., Belleville, NJ 07109. Authorization No. WH6318. Effective June 23, 2004.

**LMM Trucking**, 8026 Craig St., 2nd Floor, Philadelphia, PA 19136. Authorization No. WH6319. Effective June 23, 2004.

**Carlos A. Ortiz**, 581 Oakdale Rd., Apt. 1, Newark, DE 19713. Authorization No. WH6320. Effective June 23, 2004.

**William O. Todd**, 1707 Cosmos St., Pittsburgh, PA 15207. Authorization No. WH6321. Effective June 23, 2004.

**Brown Transport**, 702 Rt. 501 South, Newmanstown, PA 17073. Authorization No. WH6322. Effective June 24, 2004.

**Duane A. Krammes**, 294 Coal Mountain Rd., Orwigsburg, PA 17961. Authorization No. WH6324. Effective June 23, 2004.

**Lees Custom Carpentry & Construction**, 1901 S. 12th St., Allentown, PA 18103. Authorization No. WH6325. Effective June 23, 2004.

**Felipe Andre Luiz**, 109 Pennington St., Newark, NJ 07105. Authorization No. WH6326. Effective June 23, 2004.

**D. M. R. Construction & Millwork, Inc.**, 4935 National St., Philadelphia, PA 19135. Authorization No. WH6328. Effective June 25, 2004.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**09-310-066GP: H. B. Mellott Estate, Inc.** (100 Mellott Drive, Suite 100, Warfordsburg, PA 17267) on June 24, 2004, to operate a portable nonmetallic mineral process in Nockamixon Township, **Bucks County**.

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

**39-302-177GP1: Mack Trucks, Inc.** (7000 Alburts Road, Macungie, PA 18062) on June 22, 2004, to construct and operate a natural gas/no. 2 fuel oil fired boiler at their facility in Lower Macungie Township, **Lehigh County**.

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

**GP3-21-03062: Pennsy Supply, Inc.** (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105) on June 24, 2004, for portable nonmetallic mineral processing plants under GP3 in Penn Township, **Cumberland County**.

**Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**06-03117C: Custom Processing Services, Inc.** (2 Birchmont Drive, Reading, PA 19606-3266) on June 24, 2004, to construct a milling machine controlled by a fabric collector in Exeter Township, **Berks County**.

**06-05007B: Carpenter Technology Corp.** (P. O. Box 14662, Reading, PA 19612) on June 24, 2004, to modify a VIM furnace controlled by a fabric collector at their facility in the City of Reading, **Berks County**.

**36-03092B: Donegal Rock Products LLC** (P. O. Box 10, Rheems, PA 17570) on June 24, 2004, to modify the former Union Quarries, Inc. limestone crushing plant in West Donegal Township, **Lancaster County**.

**67-03121: Oldcastle Stone Products** (P. O. Box 220, Thomasville, PA 17364) on June 24, 2004, to operate three stone packaging lines at their Global Stone PenRoc's Hull Road plant in West Manchester Township, **York County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**09-0007A: Waste Management Disposal Services of PA Inc.** (1513 Bordentown Road, Morrisville, PA 19067) on June 25, 2004, to operate a solid waste landfill expansion in Falls Township, **Bucks County**.

**09-0024A: Waste Management of PA Inc.** (1121 Bordentown Road, Morrisville, PA 19067) on June 25, 2004, to operate a permitted landfill in Tullytown Borough, **Bucks County**.

**15-0004B and 15-0004C: Reynolds Metals Co.** (520 Lincoln Avenue, Downingtown, PA 19335) on June 18, 2004, to operate two rotogravure printing presses in Downingtown Borough, **Chester County**.

**15-0004D: Reynolds Metals Co.** (520 Lincoln Avenue, Downingtown, PA 19335) on June 24, 2004, to operate four film seaming machines in Downingtown Borough, **Chester County**.

**15-0054A: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on June 24, 2004, to operate a dryer burner in East Whiteland Township, **Chester County**.

**15-0099: MultiServ** (8050 Rowan Road, Suite 600, Cranberry, PA 16066) on June 24, 2004, to operate a scrap cutting torch with baghouses in South Coatesville Borough, **Chester County**.

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

**48-322-004: IESI PA—Bethlehem Landfill Corp.** (2335 Applebutter Road, Bethlehem, PA 18015) on June 22, 2004, to construct an expansion project and install an air cleaning device at their facility in Lower Saucon Township, **Northampton County**. The Plan Approval has been extended.

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

**17-303-003B: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) on June 21, 2004, to require stack testing within 90 days of the commencement of use of recycled/reprocessed oil as fuel in a drum mix asphalt concrete plant by July 31, 2004, in Sandy Township, **Clearfield County**.

**41-305-004G: Keystone Filler and Manufacturing Co.** (214 Railroad Street, Muncy, PA 17756) on June 16, 2004, to operate two carbon products railcar loading operations on a temporary basis, until October 14, 2004, in Muncy Creek Township, **Lycoming County**. The plan approval has been extended.

**12-399-015D: GE Transportation Systems** (55 Pine Street, Emporium, PA 15834) on June 22, 2004, to operate an armature coating operation on a temporary basis, until October 20, 2004, in Emporium Borough, **Cameron County**. The plan approval has been extended.

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

**32-00291A: Senate Coal Mines, Inc.** (One Energy Place, Suite 5100, Latrobe, PA 15650) on June 28, 2004, to complete construction of a coal processing plant at Coral Tipple Mine in Burrell Township, **Indiana County**. This plan approval was extended.

**30-00099A: Allegheny Energy Supply Co., LLC** (4350 Northern Pike, Monroeville, PA 15146) on June 28, 2004, to complete construction of NOx control projects on Units 1—3 at their Hatfield Power Station in Monongahela Township, **Greene County**. This plan approval was extended.

**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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

**28-05015: IESI PA Blue Ridge Landfill Corp.** (P. O. Box 399, Scotland, PA 17254) to operate a refuse disposal facility in Greene Township, **Franklin County**. This is a renewal of the Title V operating permit.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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

**46-00143: King of Prussia Crematory** (805 DeKalb Street, Bridgeport, PA 19405) on June 22, 2004, to operate a natural minor operating facility in Bridgeport Borough, **Montgomery County**.

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

**06-05089: Birchcraft Kitchens, Inc.** (1612 Thorne Street, Reading, PA 19601-1493) on June 23, 2004, to operate a wood furniture manufacturing facility in the City of Reading, **Berks County**.

**07-03046: Penn Mag, Inc.** (R. D. 1, Box 22, Adrian, PA 16210) on June 23, 2004, to operate their iron chromite crushing and classifying facility in Greenfield Township, **Blair County**.

**38-03033: East Indies Coffee and Tea Co., Inc.** (7 Keystone Drive, Lebanon, PA 17042-9791) on June 24, 2004, to operate a coffee roasting facility in South Lebanon Township, **Lebanon County**.

**67-03058: Coates Electrographics, Inc.** (1160-A Fahs Street, York, PA 17404) on June 21, 2004, for a Natural Minor Operating Permit for toner production in West Manchester Township, **York County**.

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

**11-00511: Forest Hills Middle School** (Forest Hills School District, P. O. Box 158, 547 Locust Street, Sidman, PA 15995) for their Forest Hills Middle School, **Cambria County**. The facility's sources of emissions include two oil-fired boilers, one incinerator and one emergency generator.

**11-00102: Forest Hills Elementary—High Schools District** (Forest Hills School District, P. O. Box 158, 547 Locust Street, Sidman, PA 15995) for the Forest Hills Elementary-High Schools, **Cambria County**. The facility's sources of emissions include four oil-fired boilers, two incinerators and two emergency generators.

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

**20-00093: Trojan, Inc.—DIC Tool Division** (114 Poplar Street, Meadville, PA 16335) on June 22, 2004, for a Natural Minor operating permit for emissions from the manufacturing of specialty incandescent light bulbs in the City of Meadville, **Crawford County**.

**37-00290: Industrial Concerns, Inc.** (526 South Jefferson Street, New Castle, PA 16101) on June 23, 2004, for a Natural Minor Operating Permit to operate a scrap metals cutting operation in the City of New Castle, **Lawrence County**.

**37-00314: Natural Sand Company, Inc.** (Plain Grove Road and Route 108, Slippery Rock, PA 16057) on June 23, 2004, for a Natural Minor Operating Permit to operate a soils blending and drying process in Plain Grove and Scott Townships, **Lawrence County**.

**25-00930: Metro Machine Corp.** (Foot of Holland Street, Erie, PA 16509) on June 23, 2004, for a Synthetic Minor Operating Permit to operate a ship repair and shipbuilding facility in the City of Erie, **Erie County**. The facility's primary emission sources include surface preparation and surface coating operations. The facility has elected to limit the VOC and HAP emissions to below major source levels.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21).** The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

### Coal Permit Actions

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

**54880202R3. Morea Cogen, Inc.** (46 Public Square, Suite 600, Wilkes-Barre, PA 18701), renewal of an existing coal refuse reprocessing operation in Mahanoy Township, **Schuylkill County**, affecting 200.0 acres. Receiving streams: None. Application received December 23, 2003. Renewal issued June 22, 2004.

**54870101R3 and NPDES Permit No. PA0593842. Kuperavage Enterprises, Inc.** (P. O. Box 99, Middleport, PA 17953-0099), renewal of an existing anthracite surface mine operation in Blythe Township, **Schuylkill County**, affecting 638.0 acres. Receiving stream: unnamed tributary to Schuylkill River. Application received February 26, 2004. Renewal issued June 25, 2004.

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**30010701 and NPDES Permit No. PA0235440. RAG Cumberland Resources, LP** (158 Portal Road, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine No. 2 Coal Refuse Disposal Facility in Whiteley Township, **Greene County**, to add acreage for the construction and operation of a coarse coal refuse conveyor belt. CRDP Support Acres Proposed 18. No additional discharges. Permit issued June 24, 2004.

**56981301 and NPDES Permit No. PA0215121. Quecreek Mining, Inc.** (P. O. Box 149, Friedens, PA 15541), to renew and revise the permit for the Quecreek No. 1 Mine in Lincoln and Somerset Townships, **Somerset County**, to add subsidence control plan acres. SCP Acres Proposed 2,206. No additional discharges. Permit issued June 24, 2004.

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

**33930102 and NPDES Permit No. PA0211508. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767), transfer of an existing bituminous strip and auger operation from John R. Yenzi, Jr. in Oliver Township, **Jefferson County**, affecting 120.3 acres. Receiving

streams: two unnamed tributaries to Little Sandy Creek. Application received January 16, 2004. Permit issued June 17, 2004.

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

**32020105. Kraynak Coal Company** (3124 Firetower Road, Mahaffey, PA 15757), commencement, operation and restoration of a bituminous surface and auger mine in Grant and Green Townships, **Indiana County**, affecting 126.0 acres. Receiving streams: Little Mahoning Creek and tributaries to Little Mahoning Creek (HQ-CWF). There are no potable water supply intakes within 10 miles downstream. Application received June 17, 2002. Permit issued June 18, 2004.

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

**17020112 and NPDES Permit No. PA0243337. Junior Coal Contracting, Inc.** (R. R. 3, Box 255A, Philipsburg, PA 16866), commencement, operation and restoration of a bituminous surface mine-auger permit in Decatur Township, **Clearfield County**, affecting 228 acres. Receiving streams: Shimmel Run and unnamed tributary A to Moshannon Creek to West Branch Susquehanna River. Application received August 30, 2002. Permit issued June 18, 2004.

**17020113 and NPDES Permit No. PA0243353. Junior Coal Contracting, Inc.** (R. R. Box 255A, Philipsburg, PA 16866), commencement, operation and restoration of a bituminous surface mine permit in Decatur Township, **Clearfield County**, affecting 114 acres. Receiving streams: unnamed tributaries to Laurel Run. Application received September 30, 2002. Permit issued June 18, 2004.

#### *Noncoal Permit Actions*

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

**58040818. David B. Williams** (R. R. 2, Box 197, Kingsley, PA 18826), commencement, operation and restoration of a bluestone quarry operation in Dimock Township, **Susquehanna County**, affecting 5.0 acres. Receiving streams: None. Application received March 25, 2004. Permit issued June 22, 2004.

**58030803. Norm Clark** (R. R. 1, Box 250, Springville, PA 18844), commencement, operation and restoration of a quarry operation in Springville Township, **Susquehanna County**, affecting 5.0 acres. Receiving streams: None. Application received March 12, 2003. Permit issued June 23, 2004.

**58040823. Whittemore Quarries** (R. R. 2, Box 99B, New Milford, PA 18834), commencement, operation and restoration of a small noncoal quarry operation (bluestone, shale, fill and related products) in New Milford Township, **Susquehanna County**, affecting 5.0 acres. Receiving streams: Martins Creek. Application received April 12, 2004. Permit issued June 24, 2004.

**58040825. Oakridge Bluestone** (R. R. 1, Box 1514, Brackney, PA 18812), commencement, operation and restoration of a small bluestone quarry operation in Liberty Township, **Susquehanna County**, affecting 5.0 acres. Receiving streams: Snake Creek. Application received April 19, 2004. Permit issued June 24, 2004.

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

**10020307 and NPDES Permit No. PA0242411. Parker Sand & Gravel Company** (P. O. Box 0, Parker,

PA 16049), commencement, operation and restoration of a sand and gravel operation in Parker Township and Parker City, **Butler and Armstrong Counties**, affecting 46.0 acres. This application was originally submitted as Kahle Brothers Enterprises, then transferred to Parker Sand & Gravel Company. Receiving streams: unnamed tributary no. 2 to the Allegheny River. Application received December 31, 2002. Permit issued June 21, 2004.

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

**3172SM4(A) and NPDES Permit No. PA0203289. Darlington Brick & Clay Products Co.** (P. O. Box 346, Darlington, PA 16115), NPDES permit renewal for a mine drainage treatment facility in South Beaver Township, **Beaver County**, affecting 146 acres. Receiving streams: unnamed tributaries to Brush Run. Renewal application received March 8, 2004. Renewal permit issued June 25, 2004.

#### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151-161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

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

**06044026. Schlouch Inc.** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting at Wood's Edge Phase 3-A in Amity Township, **Berks County**, with an expiration date of July 15, 2005. Permit issued June 21, 2004.

**36044058. Keystone Blasting Services** (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting at Dale Womer Job in Paradise Township, **Lancaster County**, with an expiration date of July 14, 2005. Permit issued June 21, 2004.

**36044059. Keystone Blasting Services** (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting at Kings Country Impressions in East Lampeter Township, **Lancaster County**, with an expiration date of January 14, 2005. Permit issued June 21, 2004.

**36044060. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Veranda Development in East Hempfield Township, **Lancaster County**, with an expiration date of July 16, 2005. Permit issued June 21, 2004.

**28044025. David H. Martin, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting at Moss Springs Estates in Antrim Township, **Franklin County**, with an expiration date of June 30, 2005. Permit issued June 22, 2004.

**67044033. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Admire Spring Phase III in Dover Township, **York County**, with an expiration date of June 30, 2005. Permit issued June 22, 2004.

**36044061. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Hunters Glen in West Lampeter Township, **Lancaster County**, with an expiration date of June 30, 2005. Permit issued June 22, 2004.

**36044062. Keystone Blasting Services** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at Transport for Christ Building Project in East Donegal Township, **Lancaster County**, with an expiration date of January 17, 2005. Permit issued June 22, 2004.

**21044046. John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting at Penny Supply Quarry Entrance Drive in Penn Township, **Cumberland County**, with an expiration date of December 31, 2004. Permit issued June 22, 2004.

**21044048. John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting at Woods Drive Industrial Park in Silver Spring Township, **Cumberland County**, with an expiration date of December 31, 2004. Permit issued June 22, 2004.

**36044063. Keystone Blasting Services** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at Irvin Zeiset Barn Addition/Division Highway in East Earl Township, **Lancaster County**, with an expiration date of October 17, 2004. Permit issued June 22, 2004.

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

**07044003. T. L. Long Excavating Contractors, Inc.** (R. D. 1, P. O. Box 667, Martinsburg, PA), sewer line construction—Dollar General sewer extension—North Woodbury Township, **Blair County**. Duration June 23, 2004, through September 30, 2004. Permit issued June 24, 2004.

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

**30044001. Sheehan Pipe Line Construction** (P. O. Box 950, Waynesburg, PA 15370), blasting activity permit for pipe line construction starting in Morgan Township, **Greene County**. The expected duration of blasting is 180 days. Permit issued June 24, 2004.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

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**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

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*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E54-311. Schuylkill County**, 401 North Second Street, Pottsville, PA 17901. West Penn Township, **Schuylkill County**, Army Corps of Engineers Philadelphia District.

To maintain County Bridge No. 56 across Lizard Creek (TSF) with work consisting of: (1) pavement milling and overlaying work on the bridge deck and roadway approaches; (2) placement of scour protection and construction of a concrete jacket around the bottom of the center

pier; (3) temporary installation of a clean rock causeway to provide access to the center pier; impacting approximately 80 LF of stream channel; and (4) repair of concrete spalls on the bridge superstructure. The bridge is along Township Road T960 (Andreas Road), approximately 0.2 mile south of SR 0895 (New Tripoli, PA Quadrangle N: 22.6 inches; W: 5.8 inches) (Subbasin 02B).

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

**E36-769: Elm Tree Properties**, 3121C Mount Joy Road, Mount Joy, PA 17522 in Rapho Township, **Lancaster County**, ACOE Baltimore District.

To construct and maintain: (1) 2,000 lineal feet of stream channel and riparian restoration work; (2) a concrete arch culvert/road crossing having a 20-foot span and 60-inch rise; (3) five stormwater outfalls; and (4) a pedestrian ford crossing all within and adjacent to a UNT to Little Chickies Creek (TSF) for the purpose of constructing a residential development and recreation area at a point along SR 0772 (Columbia East, PA Quadrangle N: 21.89 inches; W: 14.72 inches) in Rapho Township, Lancaster County.

**E28-315: Charles M. Long**, 14119 Charles Drive, Waynesboro, PA 17268 in Washington Township, **Franklin County**, ACOE Baltimore District.

To: (1) a 12-foot wide steel grate bridge spanning 10 feet over a PEM wetland; (2) a 12-foot wide steel grate bridge spanning 15 feet over an unnamed tributary to Falls Creek (WWF); (3) a 12-foot wide steel grate bridge spanning 35 feet over PFO wetlands associated with a tributary to Falls Creek; (4) a 12-foot wide steel grate bridge spanning 50 feet over an unnamed tributary to Falls Creek and associated PFO wetlands; (5) one 8-inch sewer line crossing of PFO and PEM wetlands associated with an unnamed tributary to Falls Creek; (6) two 4-inch sanitary sewer lines crossing an unnamed tributary to Falls Creek and associated PFO wetlands; and (7) two 4-inch casings carrying 1-inch water service lines, both crossing unnamed tributary to Falls Creek and associated PFO wetlands within the Rose Hill Subdivision in Washington Township, Franklin County (Smithburg, MD-PA Quadrangle N: 22.0 inches; W: 3.0 inches; 39° 43' 31", Lat. 77° 31' 16" Long.). The project will temporarily impact 0.10 acre of EV wetlands.

**E22-468: A. Robert Sinadinis**, 214 Mattis Avenue, Middletown, PA 17057 in West Hanover Township, **Dauphin County**, ACOE Baltimore District.

To fill and maintain 0.04 acre of wetlands and to install and maintain a 36-inch corrugated metal culvert pipe across wetlands and an unnamed tributary to Manada Creek (WWF), for the purpose of constructing a driveway to access a building lot, approximately 3/4 mile south of US Route 22 and just east of Route 39 (Hershey, PA Quadrangle N: 13.75 inches; W: 12.20 inches) in West Hanover Township, Dauphin County. The wetland impact is considered a de minimis impact of 0.04 acre and wetland mitigation is not required.

**E07-383: City of Altoona**, 1301 12th Street, Suite 100, Altoona, PA 16601 in Altoona City, **Blair County**, ACOE Baltimore District.

To remove the existing abutments and concrete bridge deck having a clear span of 8.0 feet (14.0 feet skewed), an average rise of 4.1 feet, an instream length of 19.5 feet and a skew of 47° 30' 0" and to construct and maintain an arch culvert bridge having a clear span of 16.0 feet

(20.7 skewed), a rise of 4.1 feet, an instream length of 51.25 feet and a skew of 47° 30' 0" at a point along 15th Street within Brush Creek (WWF) (Altoona, PA Quadrangle N: 0.7 inch; W: 1.8 inches) in Altoona City, Blair County.

**E07-382: City of Altoona**, 1301 12th Street, Suite 100, Altoona, PA 16601 in Altoona City, **Blair County**, ACOE Baltimore District.

To remove the existing abutments and concrete bridge deck having a clear span of 10.45 feet, an average rise of 3.44 feet and an instream length of 18.3 feet and to construct and maintain an arch culvert with a clear span of 20.0 feet, a rise of 4.0 feet and an instream length of 28.0 feet and relocate approximately 138 feet of the channel of Brush Run (WWF, perennial), approximately 25 feet southeast of its current location to improve its approach to the new crossing at a point (Altoona, PA Quadrangle N: 0.9 inch; W: 1.8 inches) along 14th Street approximately 150 feet southeast of Pleasant Valley Boulevard in Altoona City, Blair County. The project will result in 138 linear feet of direct impacts to the channel of Brush Run.

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

**E14-460. Union Township**, 125 Sycamore Lane, Julian, PA 16844. Public road crossing unnamed tributary to Bald Eagle Creek in Union Township, **Centre County**, ACOE Baltimore District (Bellefonte, PA Quadrangle N: 9.6 inches; W: 13.0 inches).

To construct, operate and maintain a public road crossing an unnamed tributary to Bald Eagle Creek (CWF) to provide improved public access on Jacobs Road (T-398). The crossing of T-398 across the unnamed tributary shall be constructed with a single cell corrugated metal arch culvert pipe that will have a minimum span of 9 feet, rise of 5.3 feet a length of 38 feet. The culvert shall be depressed 1 foot beneath the streambed. All future repair work of the T-398 road crossing shall be completed during stream low flow. The project is along the eastern right-of-way of SR 0220 approximately 1,500 feet east of Union Township Road T-398 and SR 0220 intersection. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E18-372. Department of Transportation**, 1924-30 Daisy Street, Clearfield, PA 16830, SR 2015 Segment A01 bridge replacement in Bald Eagle Township, **Clinton County**, ACOE Baltimore District (Mill Hall, PA Quadrangle N: 20.7 inches; W: 15.5 inches).

To: (1) remove the existing narrow and deteriorated steel girder two-span bridge; (2) construct and temporarily maintain a 3,800 square foot clean R-5, R-3 and no. 1 course aggregate rock construction causeway and sheet pile work area; (3) construct and maintain a two-span composite prestressed concrete spread box beam bridge with two normal clear spans of 44.5 feet and a minimum underclearance of 5.66 feet; and (4) stabilize the first 50-foot section of the right upstream bank with R-5 riprap choked with no. 1 course aggregate in Fishing Creek, 700 feet north of the SR 0150 crossing of Fishing Creek (CWF). The project is predicted to temporarily impact 140 linear feet of Fishing Creek, permanently impact 110 linear feet of the stream and not directly affect any wetlands.

**ENVIRONMENTAL ASSESSMENTS**

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

**D23-029EA. Delco Anglers & Conservationists**, 2320 Chestnut Avenue, Ardmore, PA 19003-3008. Chester City, **Delaware County**, ACOE Philadelphia District.

Project proposes to breach and remove an unnamed dam across Ridley Creek (WWF, MF) for the purpose of returning the creek to its natural free-flowing condition and to promote unobstructed fish passage. The dam is approximately 1,000 feet northwest of the intersection of Macdade Boulevard and Bullens Lane approximately 3/4 mile north of Chester, PA (Bridgeport, NJ/PA Quadrangle N: 22.3 inches; W: 14.9 inches).

**D21-005EA. Department of Conservation and Natural Resources, Bureau of Forestry**, P. O. Box 8451, Harrisburg, PA 17105-8451. Southampton Township, **Cumberland County**. ACOE Baltimore District.

Project proposes to breach and remove Cleversburg Water Supply Dam across Milesburn Run (CWF) to eliminate a threat to public safety and to restore the stream to a free flowing condition. The dam is on Shippensburg Road (SR 3001) approximately 1.2 miles south of the intersection of Shippensburg Road and Baltimore Road (Walnut Bottom, PA Quadrangle N: 1.85 inches; W: 12.1 inches).

**D46-339A. Upper Dublin Township**, 801 Loch Alsh Avenue, Fort Washington, PA 19034. Upper Dublin Township, **Montgomery County**. AOE Philadelphia District.

Project proposes to breach and remove Twining Valley Golf Course Dam across a tributary to Sandy Run (TSF), to eliminate a public safety hazard and to return the stream to its free-flowing condition. The dam is the fairway of the 15th hole of the Twining Valley Golf Course and is 1,200 feet north of the intersection of Twining Road and Susquehanna Road (Ambler, PA Quadrangle N: 2.60 inches; W: 4.85 inches).

[Pa.B. Doc. No. 04-1245. Filed for public inspection July 9, 2004, 9:00 a.m.]

### **Availability of Final General Plan Approval and/or General Operating Permit for Small Gas and No. 2 Oil Fired Combustion Units (BAQ-GPA/GP-1)**

The Department of Environmental Protection (Department) has finalized revisions to the General Plan Approval and/or General Operating Permit No. BAQ-GPA/GP-1 for small gas and no. 2 oil fired combustion units. Notice regarding the availability of the draft general permit was published at 34 Pa.B. 532 (January 24, 2004).

A 45-day comment period was provided and written comments were received. A comment and response document has been prepared which summarizes the comments made and the changes that were made in the final general permit. The general permit for small gas and no. 2 oil fired combustion units is now available for use by qualifying applicants. Copies of the final BAQ-GPA/GP-1, an application form, instructions and the comment and response document for small gas and no. 2 oil fired combustion units are now available. These documents can be obtained by contacting Jeanette Van Skike, Bureau of Air Quality, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325.

The documents have also been placed on the Department's website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP keyword: Air Quality).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1246. Filed for public inspection July 9, 2004, 9:00 a.m.]

### **Availability of Technical Guidance**

Technical guidance documents are available on the Department of Environmental Protection's (Department) website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Participate). The "Current Inventory" heading is the Governor's list of nonregulatory documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2004.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### *Draft Technical Guidance*

DEP ID: 012-0900-003. Title: Draft Policy on Public Participation in the Permit Application Review Process. Description: This policy establishes a framework for public participation in the permit application review process by providing consistent guidelines for how the Department encourages public participation in the review of a permit application, and how it reviews and responds to comments received during the public participation process. Written Comments: Interested persons should submit written comments on draft technical guidance document #012-0900-003 by August 25, 2004. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Lou Guerra, Jr., DEP Policy Office, Rachel Carson State Office Building, 15th Floor, Harrisburg, PA 17105, (717) 783-8727, [lguerra@state.pa.us](mailto:lguerra@state.pa.us).

#### *Final Technical Guidance*

DEP ID: 012-0200-003. Title: Public Access to Information Policy. Description: This policy clarifies the Department's existing records management procedures to fulfill the Department's obligations under the Right-to-Know



Law, as amended by the act of June 28, 2002 (P. L. 663, No. 100), and to abide by Amended Management Directive 205.36 to establish written procedures and take certain actions to implement the Right-to-Know Law. The policy makes records procedures more clear, uniform and efficient. Notice of an Interim Technical Guidance was published at 32 Pa.B. 6311 (December 21, 2002) with a 60-day public comment period. Effective Date: July 10, 2004. Contact: Lou Guerra, Jr., (717) 783-8727, lguerra@state.pa.us.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1247. Filed for public inspection July 9, 2004, 9:00 a.m.]

### Citizens Advisory Council Meeting Change

The July 20, 2004, meeting of the Citizens Advisory Council (Council) has been rescheduled. The meeting is now scheduled for July 20, 2004, from 7 p.m. to 9 p.m. and July 21, 2004, from 9:30 a.m. to 12 p.m. in the Bel-Aire Hotel and Conference Center, 2800 W. 8th Street, Erie, PA.

Questions concerning this meeting should be directed to Stephanie Mioff, (717) 787-4527, smioff@state.pa.us. The agenda will be available on the Council's website: www.cacdep.state.pa.us.

Persons in need of accommodations as provided for in the American With Disabilities Act of 1990 should contact Stephanie Mioff at (717) 787-4527 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Council may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1248. Filed for public inspection July 9, 2004, 9:00 a.m.]

### Issuance of General Permit BWM-GP-11 for Maintenance, Testing, Repair, Rehabilitation or Replacement of Water Obstructions and Encroachments and 401 Water Quality Certification

In accordance with 25 Pa. Code § 105.446 (relating to procedure for issuance), prior to authorization of a Chapter 105 general permit, the Department of Environmental Protection (Department) must publish in the *Pennsylvania Bulletin* the text of the general permit. The notice published at 34 Pa.B. 3324 (June 26, 2004) announced the Department's intent to authorize General Permit BWM-GP-11 authorizing the maintenance, testing, repair, rehabilitation or replacement of water obstructions and encroachments. The Department inadvertently omitted the text of the general permit in the notice published at 34 Pa.B. 3324. Therefore, the Department is republishing the notice of authorization published at 34 Pa.B. 3324, along with the text of General Permit BWM-GP-11. The effective date of General Permit BWM-GP-11 is August 10, 2004.

The Department, under the authority of section 7 of the Dam Safety and Encroachments Act (act) (32 P. S. § 693.7) and 25 Pa. Code Chapter 105, Subchapter L (relating to general permits), authorizes, by General

Permit BWM-GP-11, the maintenance, testing, repair, rehabilitation or replacement of water obstructions and encroachments. The Department is authorized by the act and regulations to issue general permits when it determines a category of projects are similar in nature and can be adequately regulated using standard specifications and conditions. The Department has found the maintenance, testing, repair, rehabilitation or replacement of water obstructions and encroachments to be a category that meets the general permit requirements.

Authorization provided by this general permit will eliminate the need of filing an application for an individual permit by an applicant who intends to maintain, test, repair, rehabilitate or replace a water obstruction or encroachment, in accordance with the terms, criteria and conditions of the general permit. The applicant will be required to register the project by submitting written notice and all applicable information to the Department indicating the intent to maintain, test, repair, rehabilitate or replace a water obstruction or encroachment.

This permit contains provisions for the protection of public health and safety through the development and Department review of engineering plans and calculations; places restrictions on the permit to protect species of special concern; requires the development and implementation of erosion and sediment control plans to protect water quality; and supports environmental enhancements and improvements by requiring fish passage, the protection of wild and stocked trout streams and the restoration and stabilization of all temporary impacts.

Since there is no individual permit application, there will be significant savings of both time and money for those using the general permit. In addition to the monetary savings, the general permit enables applicants to proceed on projects with reduced time and effort while still complying with the act. Traditionally, review times for individual permits reach 120 days. A general permit can be acknowledged in approximately 30 days. A review of the permit data from 1995 to the present indicates that approximately 20% of individual permit applicants will qualify for this proposed general permit.

Minor deviations in the structure's configuration or filled area are allowed. These include changes in materials, construction techniques, current construction codes or safety standards which are necessary to repair, modify or replace. These minor deviations will be allowed, however, only if the environmental impacts resulting from the repair, rehabilitation, modification or replacement are minimal and in compliance with the terms and conditions of the general permit and there is no impact on public health and safety. The minor deviations may not change the structure's configuration so that the structure could be put to a different use.

This permit may not be used for maintenance, repair, rehabilitation, removal or replacement of dams.

Notice of intent to issue the proposed BWM-GP-11 was published at 33 Pa.B. 4981 (October 4, 2003) with a 60-day public comment period. Two hundred sixty-three comments from 22 persons/agencies were received. Comments received in response to this notice were reviewed and incorporated into the General Permit where applicable. The major comments on the proposed BWM-GP-11 follow.

Several commentators stated that a search of the Pennsylvania Natural Diversity Inventory (PNDI) was necessary to protect endangered and threatened species. The permit has been revised to require that the PNDI



search be current at the time work begins to screen for species of special concern or their habitat to ensure their protection. The permit has been revised to utilize the bog turtle screening process in Adams, Berks, Bucks, Chester, Cumberland, Delaware, Franklin, Lancaster, Lebanon, Lehigh, Monroe, Montgomery, Northampton, Schuylkill and York Counties. The incorporation of the bog turtle screening protocol will facilitate Federal permitting under PAPSFG-2.

Some commentators suggested the language regarding the time of year restrictions for the protection of wild and stocked trout needed to be clarified. The permit has been clarified to highlight the time of year restrictions necessary for the protection of both wild and stocked trout.

Several commentators suggested that requirements for fish passage needed to be clarified. The permit has been revised to include conditions for fish passage including culvert depression, low flow channels and baffles.

Some commentators suggested that the General Permit should not be used to put a structure to a different use. The permit has been clarified to indicate that structures cannot be put to a different use than for which they were originally constructed (for example, conversion and upgrade of a logging road for use as subdivision access).

Several commentators suggested that Department engineers review the General Permit to ensure the protection of public health, safety and the environment and compliance with 25 Pa. Code Chapter 105 (relating to dam safety and waterway management). Department engineers and environmental staff will review the General Permit registrations to ensure protection of the public health, safety and the environment. The permit has been conditioned to require a hydraulics and hydrology report prepared by a professional engineer and Professional Engineering seals on plans for bridge/culvert projects across a stream that will be used by the general public.

Many commentators believe that the review and approval of an erosion and sedimentation plan should be a condition of BWM-GP-11. The permit has been revised to require the submission of an erosion and sediment control plan for Department review. Further, the permit requires the plan be implemented and available onsite.

#### *401 Water Quality Certification*

The projects covered by the proposed General Permit BWM-GP-11 may also require a Federal license or permit. Section 401(a) of the Clean Water Act (33 U.S.C.A. § 1341(a)) requires that an applicant for a Federal license or permit to conduct any activity which may result in any discharge into the waters of the United States provide the Federal licensing or permitting agency a certification from the state in which the discharge will originate that the discharge will comply with applicable provisions of the Clean Water Act as well as applicable state law related to water quality protection.

The Department, by this notice, certifies that the construction, operation and maintenance of encroachment or water obstructions, in accordance with the terms, criteria and conditions of BWM-GP-11, comply with the applicable provisions of sections 301—303, 306 and 307 of the Clean Water Act (33 U.S.C.A. §§ 1311—1313, 1316 and 1317). The Department further certifies that the construction, operation and maintenance of projects comply with applicable State laws regarding water quality

protection and standards, provided that the construction, operation and maintenance complies with the terms, criteria and conditions of the permit.

KATHLEEN A. MCGINTY,  
*Secretary*

### **General Permit BWM-GP-11**

#### **Maintenance, Testing, Repair, Rehabilitation, or Replacement of Water Obstructions and Encroachments**

1. *General Description and Fees*—In accordance with the following registration requirements and the standard general permit conditions, the Department of Environmental Protection hereby authorizes by General Permit the maintenance, testing, repair, rehabilitation or replacement of existing currently serviceable, water obstructions or encroachments, including bridges and culverts owned by railroad companies. Minor deviations in the structure's configuration or filled area including those due to changes in materials, construction techniques, current construction codes or safety standards which are necessary to repair, modify or replace the water obstruction or encroachment are permitted, provided the environmental impacts resulting from such repair, modification or replacement are minimal, those minimal impacts fall within the terms and conditions of this General Permit, and there is no adverse impact on public health and safety. There is no registration fee required for a project authorized under this General Permit.

2. *Dams*—This General Permit may not be used for the maintenance, repair, modification, removal, or replacement of dams.

3. *Denial of Authorization*—The Department shall have the discretion, on a case-by-case basis, to deny, revoke or suspend the authorization to use this general permit for any project which the Department determines to have a significant adverse impact and would not adequately protect public health, safety or the environment or otherwise could not be adequately regulated by the provisions of this general permit.

4. *Authority and Continuing Authorization*—Authorization of this General Permit is under Section 7 of the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and the rules and regulations promulgated thereunder at 25 Pa. Code §§ 105.441—105.449 (relating to General Permits). This General Permit becomes effective August 10, 2004 and will remain in effect unless specifically modified, suspended, or revoked by the Department.

5. *Notification of Proposed Use of General Permit*—Prior to the activity, the owner(s) shall submit the "Registration Form" along with the required attachments to the appropriate DEP Regional Office's Soils and Waterways Section (see exhibit B). The Department may require additional information necessary to determine that the proposed maintenance complies with the terms and conditions of this General Permit. A copy of the "Registration Form" shall also be sent to the municipality and county in which the work will be performed. The owner may not begin work until he has received the acknowledged "Registration Form" from the Department.

6. *Definitions*—The terms as used in this General Permit shall have the following meanings:

*Along*—Touching or contiguous; to be in contact with; to abut upon.

*Body of Water*—Any natural or artificial lake, pond, reservoir, swamp, marsh or wetland.

*Department*—The Department of Environmental Protection.

*Earth Disturbance*—Any construction or other human activity which disturbs the surface of the land including, but not limited to clearing and grubbing, grading, excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth. This includes any excavation or fill within a stream channel.

*Erosion and Sediment Control Plan*—A plan which is designed to minimize accelerated erosion and sediment developed in accordance with the requirements of 25 Pa. Code Chapter 102.

*Encroachment*—A structure or activity which changes, expands or diminishes the course, current or cross section of a watercourse, floodway or body of water.

*Floodway*—The channel of the watercourse and portions of the adjoining floodplains which are reasonably required to carry and discharge the 100-year frequency flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by the Federal Emergency Management Agency (FEMA). In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

*Owner*—A person who owns, controls, operates, maintains, or manages a reservoir, water obstruction or encroachment.

*Regulated Water of this Commonwealth*—Watercourses, streams or bodies of water and their floodways wholly or partly within or forming part of the boundary of this Commonwealth.

*Stocked Trout Streams*—Regulated waters of this Commonwealth classified by the Pennsylvania Fish and Boat Commission as waters approved for trout stocking. Stream classification shall be verified by contacting the Pennsylvania Fish and Boat Commission's Division of Fisheries Management (see Exhibit A).

*Stream*—A watercourse.

*Stream Enclosure*—A bridge, culvert or other structure in excess of 100 feet in length upstream to downstream which encloses a regulated water of this Commonwealth.

*Submerged Lands of this Commonwealth*—Waters and permanently or periodically inundated lands owned by the Commonwealth, including lands in the beds of navigable lakes and rivers and beds of streams declared public highways which are owned and held in trust by the Commonwealth.

*Testing*—A procedure (internal or external to the structure) used as a means of analysis or diagnosis.

*Watercourse*—A channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

*Water Obstruction*—A dike, bridge, culvert, wall, wingwall, fill, pier, wharf, embankment, abutment or other structure located in, along or across or projecting into a watercourse, floodway or body of water. In the case of ponds, lakes and reservoirs, a water obstruction is considered to be in or along the body of water if, at normal pool elevation, the water obstruction is either in the water or adjacent to and abutting the water's edge.

*Waterway Opening*—The cross-sectional area of a structure that is available to convey stream flow. This area is expressed in terms of span multiplied by underclearance.

*Wetlands*—Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

*Wild Trout Streams*—A stream classified as supporting naturally reproducing trout populations by the Fish Commission. For a list of wild trout streams, the Fish and Boat Commission can be contacted at: Fish and Boat Commission, Bureau of Fisheries, Division of Fisheries Management, 450 Robinson Lane, Bellefonte, Pennsylvania 16823-9620.

#### 7. *Special Conditions*

A. No new stream relocation, stream enclosure or stream channel is authorized by this General Permit.

B. No stream realignments are permitted except for those incidental activities immediately adjacent to the upstream and downstream waterway opening of bridges and culverts that are necessary to support the structure.

C. All projects must be designed and constructed to protect or enhance existing aquatic habitat.

D. Wetlands must be identified in accordance with the 1987 U. S. Army Corps of Engineers Manual for Identifying and Delineating Wetlands and properly flagged or otherwise identified on the site to ensure they are protected. Impacts to wetland and other waters of the Commonwealth must be avoided or minimized to the maximum extent practicable at the project site. Wetland areas which cannot be avoided and which will be temporarily impacted during the maintenance activity must be identified on the plan and be stabilized and restored to original contours and grade at the conclusion of the activity. Wetland areas which cannot be avoided and which will be permanently impacted are limited to a cumulative total of 0.05 acres per project site.

E. Utilization of General Permit BDWM-GP-8, Temporary Road Crossing—Temporary road crossings of streams and causeways that are necessary to access the project must be constructed in accordance with BDWM-GP-8. The applicant shall indicate utilization of BDWM-GP-8 on the General Permit Registration form, and provide location and dimensions of the temporary crossing on the plan drawing or sketch plan that is required for General Permit 11 Registration.

F. Paving the metal bottom pipes, arches and culverts with concrete, grouting or the use of concrete for scour protection shall be done in dry conditions.

G. Bridge or culvert maintenance, replacement projects, or upgrades to existing facilities to meet current standards are subject to the following:

- No significant reduction in existing waterway openings is permitted.
- There will be no significant changes to grades of approach roadways or to overtopping characteristics.
- Increases in culvert length will be limited to a maximum of 12 feet perpendicular to the roadway on each side of the culvert as measured from the outer most portion of the structure (including wingwalls, headwalls, riprap, and other appurtenant structures.)

- Increases in bridge width will be limited to a maximum of 12 feet on each side of the bridge as measured from the outer most portion of the structure (including wingwalls, headwalls, riprap, and other appurtenant structures.)

- The removal of debris and accumulated sediment to ensure adequate hydraulic capacity for bridges or culverts is limited to fifty feet upstream and downstream of the bridge or culvert and shall be conducted in accordance with the Department's Standards for Channel Cleaning at Bridges and Culverts.

- Bridges and culverts with paved bottoms shall provide for fish passage by constructing a low flow channel.

- Bridge and culvert replacement projects may not increase water surface elevations for the 100-year flood event.

- Backfill material may not be stored in the floodway and/or wetlands.

#### *Hydraulic capacity.*

- Bridge and culvert maintenance or replacement projects shall be designed and constructed in accordance with the following criteria:

- The structure shall pass flood flows without loss of stability.

- The structure may not create or constitute a hazard to life or property, or both.

- The structure may not materially alter the natural regimen of the stream.

- The structure may not so increase velocity or direct flow in a manner which results in accelerated erosion of stream beds and banks.

#### *Multiple pipes and spans.*

- Multi-culvert groups and multiple span bridges which may tend to collect debris, contribute to the formation of ice jams, and cause excessive increases in head losses shall be avoided to the maximum extent practicable. Spans of less than 15 feet shall be by single-opening structure, except where conditions make it impractical to design the crossing with a single span.

#### *Bridge piers.*

- Bridge piers shall be kept to a minimum in number and cross-sectional area and shall be designed to offer the least obstruction to the passage of water and ice, consistent with safety and current engineering practice.

- Bridge piers in channels subject to unstable or super critical flow shall require special investigation and shall be so designed as to minimize backwater and avoid standing waves downstream of the pier.

#### *Bridge abutments.*

- Bridge abutments shall be aligned with the flow of the stream for the design flood. The Department may require, the construction of wing walls on either side of the bridge to assist in directing flood flows through the bridge opening.

#### *Culverts.*

- Culverts shall be aligned with the stream flow.

- Culverts shall be of sufficient width to minimize narrowing of the stream channel.

- The ends of culverts shall be protected by wing walls, or with other structures sufficient to assist in directing flood flows to and through the culvert opening.

- Culverts with a drainage area of 640 acres or less shall be installed with the invert a minimum of 6 inches below natural streambed and in such a manner that the average gradient of the invert shall not deviate from that of the natural streambed.

- Culverts with a drainage area of greater than 640 acres shall be installed with the invert a minimum of 12 inches below natural streambed and in such a manner that the average gradient of the invert shall not deviate from that of the natural streambed.

- The flow velocities of water discharging from culverts must not cause erosion of the downstream channel.

#### *Professional Engineer Certification*

Plans, specifications and reports for bridges and culverts across a stream which are to be used by the general public such as an access to an industrial, commercial or residential development, etc., shall be prepared by a registered professional engineer and shall be affixed with their seal and certification which shall read as follows:

"I (name) do hereby certify pursuant to the penalties of 18 Pa.C.S.A. Sec. 4904 to the best of my knowledge, information and belief, that the information contained in the accompanying plans, specifications, and reports has been prepared in accordance with accepted engineering practice, is true and correct, and is in conformance with Chapter 105 of the rules and regulation of the Department of Environmental Protection."

#### H. Pipelines and utilities:

- Trenches excavated for the maintenance and replacement of utility lines shall be the minimum width necessary.

- Trenches excavated for the maintenance and replacement of utility lines shall be backfilled with suitable material, stabilized and restored to pre-existing elevation and condition.

- Construction material such as pipes, rock and bedding materials may not be stored in the floodway and/or wetlands.

- Excavated material to be used as backfill may be temporarily stored adjacent to the trench, but for no more than 72 hours.

- Trench Plugs must be installed within the trench on both sides of the stream channel. In wetlands, trench plugs, must be used to prevent the trench from draining the wetland.

I. A copy of this General Permit along with the Erosion and Sediment Control Plan must be provided to all contracting and construction entities involved with the project and must be available on site during all phases of the project.

8. *Erosion and Sediment Controls*—Activities conducted under this General Permit which involve an earth disturbance must be done in compliance with Chapter 102 of the Department's Rules and Regulations (relating to Erosion Control). The Erosion and Sediment Control Plan shall be submitted with the General Permit registration, for review by the DEP Regional Office. The Erosion and Sediment Control Plan must be available at the site at all times, and all BMP's on the plan must be implemented and maintained prior to, during and after construction.

### 9. *Species of Special Concern*

A. No regulated activity is authorized under this General Permit which is likely to directly or indirectly adversely affect a State or Federal species of special concern or a species proposed for such designation, or which is likely to destroy or adversely modify the critical habitat of such a species, as identified under the Federal Endangered Species Act of 1973; Title 30, Chapter 75 of the PA Fish and Boat Code; Title 17, Chapter 25, Conservation of Wild Plants; and Title 31 Chapter 133 Game Wildlife Code.

B. Permit registrations shall include a Pennsylvania Natural Diversity Inventory (PNDI) search receipt. Activities conducted under this General Permit beyond one-year of the date acknowledged will require the submission of an updated PNDI search to the DEP Regional Office. Information on PNDI searches is available through the PA Department of Conservation and Natural Resources, Bureau of Forestry, Ecological Services Section, P. O. Box 8552, Harrisburg, PA 17105-8852, telephone 717-787-3444.

C. Applicants must comply with special bog turtle screening requirements. See Section I of the Registration Form.

10. *Beach Nourishment*—Sand used for beach nourishment shall be free from zebra mussels.

11. *Equipment*—Use of motorized vehicles or equipment in a watercourse, stream or body of water is limited to the minimum necessary to complete the project. Motorized vehicles or equipment working in wetlands must be placed on mats or other measures must be taken to minimize disturbance.

12. *Proper Maintenance*—Facilities and activities authorized under this General Permit must be operated and maintained to protect public health, safety and the environment.

13. *Aquatic Life Movements*—No regulated activity may substantially disrupt the movement of those species of aquatic life indigenous to the watercourse, stream or body of water, including those species which normally migrate through the area.

14. *Wild and Stocked Trout Waters*—Activities authorized by this General Permit in regulated waters of this Commonwealth are prohibited in the following streams for the specified time period unless written approval is obtained from the PA Fish and Boat Commission's Division of Environmental Services at 459 Robinson Lane, Bellefonte, PA 16823-9616 or the local DEP Regional Office. Stocked and wild trout stream locations are compiled and available through the Commission's Division of Fishery Management.

Stocked trout streams	March 1 through June 15
Wild trout streams	October 1 through December 31
Lake Erie tributaries	September 1 through April 30

15. *Waterfowl Breeding Areas*—Breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

### 16. *Historical Resources*

A. No regulated activity is authorized which is likely to impact:

- Historical, cultural or archaeological sites as identified in the latest published version of the Pennsylvania Inventory of Historic Places or the National Register of Historic Places.

- Local historical sites officially approved or recognized by a municipality.

B. Any archaeological artifacts discovered during the performance of work authorized under this General Permit must be adequately protected and their discovery promptly reported to the Bureau for Historic Preservation, Pennsylvania Historic and Museum Commission, Commonwealth Keystone Building, 400 North Street, 2nd Floor, Harrisburg, PA 17120-0093.

17. *Fill*—Fill material must be uncontaminated, nonwater-soluble, nondecomposable inert solid material and must be free of asphalt, trash, construction debris, tires, toxic pollutants and never been subject to a spill or release of a contaminated substance. Temporary fills for construction purposes (e.g. road embankments, equipment staging, cofferdams and causeways.) shall consist of only clean nonwater-soluble rock material (without fine particles or small-grained materials) to prevent the introduction of sediment to water resources.

18. *Removal of Temporary Fills*—Temporary fills must be removed in their entirety, and the affected areas stabilized and returned to their pre-existing elevations.

19. *Navigation*—No authorized activity shall permanently hinder commercial or recreational navigation.

20. *Effective Time Period*—This General Permit will remain in effect indefinitely unless specifically modified, suspended or revised by the Department.

21. *Submerged Lands of this Commonwealth*—This General Permit shall not be effective to authorize any project over, across or occupying submerged lands of this Commonwealth until the owner has obtained a license from the Department authorizing the occupation of such submerged lands issued under Section 15 of the Dam Safety and Encroachments Act (32 P. S. § 693.15), Section 514 of the Administrative Code of 1929 (71 P. S. § 194), or other applicable laws. Upon receipt of notification from the owner, the Department will review the project, determine if its location is over, across or occupies submerged lands of the Commonwealth. If applicable, the Department will prepare a Submerged Lands License Agreement and forward same to the owner for execution prior to acknowledgement of registration to use the General Permit. No annual charge is required for facilities constructed, owned or operated by a Political Subdivision of the Commonwealth.

22. *Use of Explosives*—Prior to the use of explosives in a watercourse or body of water, the permittee shall secure a written permit from the Pennsylvania Fish and Boat Commission, under the Fish and Boat Code, Act 1980-175 Title 30 Pennsylvania Consolidated Statutes, Section 2906. Requests should be directed to the Pennsylvania Fish and Boat Commission, Division of Environmental Services (see Exhibit A).

23. *Suspension, Modification or Revocation*—The Department may suspend, modify or revoke this General Permit at any time upon notice in the Pennsylvania Bulletin.

24. *Project Interference*—This General Permit does not authorize any interference with any existing or proposed local, State, Federal or Federally licensed project, and permittee shall not be entitled to compensation for damage or injury to the work authorized herein which may be caused by or a result of existing or future operations undertaken by the United States or the Commonwealth of Pennsylvania or its Political Subdivisions in the public interest.

25. *Inspection*—As a condition of use of this General Permit, and of the owner's authority to conduct the activities authorized by this General Permit, the owner hereby authorizes and consents to allow authorized employees or agents of the Department, including the County Conservation District, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated or maintained. The authorization and consent shall include consent to conduct tests or sampling, to take photographs, to perform measurements, survey and other tests, to inspect the methods of construction, operation or maintenance, to examine and copy books, papers and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated or maintained in accordance with the terms and criteria of the General Permit. This General Permit condition is referenced in accordance with Section 16 of the Dam Safety and Encroachments Act, 32 P. S. § 693.16, and in no way limits any other powers granted under the Dam Safety and Encroachments Act.

26. *Fish and Boat Commission Notification*—The owner(s) shall notify the Pennsylvania Fish and Boat Commission's Regional Field Office Manager (see "Exhibit A") responsible for the County where the activities are proposed ten (10) days prior to start of construction. Written notification is suggested. The project site shall at all times be available for inspection by authorized officers and employees of the Pennsylvania Fish and Boat Commission.

27. *Activities not in Accordance with the Terms or Conditions*—If the Department determines, upon inspection, that the construction, operation or maintenance of a project has violated the terms or criteria of this General Permit or of the Chapter 105 Rules and Regulations, the Department may take such actions, legal or administrative, that it may deem to be appropriate.

28. *Structure Removal*—The owner shall remove all or any portion of the water obstruction upon written notification to the owner by the Department in the event the water obstruction is causing an adverse impact on public health, safety, or the environment, or in any other manner violates the conditions of this General Permit or Chapter 105 Rules and Regulations. The removal of railroad bridges and culverts is not subject to this condition. The removal of railroad bridges and culverts is regulated exclusively by the federal Surface Transportation Board under the Interstate Commerce Commission Termination Act of 1995, 49 U.S.C. Sections 10501(b), 10903.

29. *Property Rights*—This General Permit does not convey any property rights, either in real estate or material, or in any exclusive privileges; nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations.

30. *Water Quality Certification*—The issuance of this General Permit also constitutes approval of Water Quality Certification under Section 401 of the Federal Clean Water Act (33 U.S.C.A. § 1341).

31. *Other Permits*—Nothing in this General Permit relieves the owner(s) of the obligation of complying with all Interstate Compacts, Federal, state and local laws, and regulations.

32. *Signature*—The General Permit Registration Form shall be signed by the person responsible for installation, operation and maintenance of the authorized activity.

[Pa.B. Doc. No. 04-1249. Filed for public inspection July 9, 2004, 9:00 a.m.]

**Stream Redesignation Evaluation; Water Quality Standards Review**

Under 25 Pa. Code § 93.4d (relating to processing of petitions, evaluations and assessments to change a designed use), the Department of Environmental Protection (Department) gives notice that an evaluation will be conducted on the stream section listed in this notice to determine the proper aquatic life use designation in the Commonwealth's Water Quality Standards.

<i>Stream Name</i>	<i>County</i>	<i>Tributary To</i>
Wissahickon Creek—Basin, from the source near Lansdale to the State Route 0073 (Skippack Pike) bridge crossing near Fort Washington	Montgomery	Schuylkill River

Persons who have technical data concerning the water quality, instream habitat or biological condition of this stream section are encouraged to make it available to the Department for consideration in the assessment. This assessment may lead to a recommendation to the Environmental Quality Board (Board) for redesignation.

Data should be submitted to Bob Frey, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467, rofrey@state.pa.us. Data should be submitted no later than 30 days following publication of this notice. Questions concerning this evaluation can be directed to Bob Frey at (717) 787-9637.

This assessment is being conducted in response to a rulemaking petition submitted to the Board by the Upper Gwynedd Township Commissioners. The portion of the Wissahickon Creek basin to be evaluated is currently designated Trout Stocking. The petitioners are requesting redesignation to Warm Water Fishes.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Bob Frey directly at the previously mentioned telephone number or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1250. Filed for public inspection July 9, 2004, 9:00 a.m.]

**DEPARTMENT OF HEALTH**

**Chronic Renal Disease Advisory Board Meeting**

The Renal Disease Advisory Committee, established by 35 P. S. § 6204, will hold a public meeting on Friday,

August 20, 2004, from 10 a.m. to 3 p.m. in Hearing Room 5, Keystone Building, Commonwealth Avenue and Forster Street, Harrisburg, PA.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Elaine E. Gibble, Program Administrator, Chronic Renal Disease Program, Division of Child and Adult Health Services, (717) 772-5138, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 04-1251. Filed for public inspection July 9, 2004, 9:00 a.m.]

### Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Fairways @ Brookline  
1950 Cliffside Drive  
State College, PA 16801

Valley Manor Nursing and Rehabilitation Center  
7650 Route 309  
Coopersburg, PA 18036

Havencrest Nursing Center  
1277 Country Club Road  
Monongahela, PA 15063

Lafayette Manor, Inc.  
147 Lafayette Manor Road  
Uniontown, PA 15401

Sugar Creek Rest  
R. D. 2, Box 80  
Worthington, PA 16262

Countryside Convalescent Home Limited Partnership  
8221 Lamor Road  
Mercer, PA 16137

Chicora Medical Center  
160 Medical Center Road  
Chicora, PA 16025

Westmoreland Manor  
2480 South Grande Blvd.  
Greensburg, PA 15601

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 201.18(e) (relating to management):

St. Joseph's Manor  
1616 Huntingdon Pike  
Meadowbrook, PA 19046  
FAC ID 451002

HRH Transitional Care Unit  
1648 Huntingdon Pike  
Meadowbrook, PA 19046  
FAC ID 083902

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the

Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille), should contact the Division of Nursing Care Facilities at the address or telephone number listed previously or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 04-1252. Filed for public inspection July 9, 2004, 2004, 9:00 a.m.]

## DEPARTMENT OF STATE

### Availability of the Commonwealth's Proposed State Plan Amendments for 2004 under the Help America Vote Act of 2002

On July 10, 2004, the Secretary of the Commonwealth (Secretary) will make available for public inspection the Commonwealth's proposed State Plan amendments for 2004 under the Help America Vote Act of 2002 (HAVA). The proposed State Plan amendments for 2004 outline the methods the Commonwealth plans to use to comply with the requirements of Title III of HAVA, how the Commonwealth will use grants from the Federal government to achieve that goal and a description of the progress made by the Commonwealth in implementing the 2003 HAVA State Plan.

Interested individuals or groups can view and copy the proposed State Plan amendments for 2004 on the Department of State's (Department) website: [www.dos.state.pa.us](http://www.dos.state.pa.us).

The Department will accept public comments for 30 days after publication of this notice in the *Pennsylvania Bulletin*. The public comment period expires on August 9, 2004. Comments must be submitted, in writing, to the Department by August 9, 2004.

In addition, the Secretary will conduct a public hearing regarding the Commonwealth's proposed State Plan amendments for 2004. The public hearing will be held on Friday, July 16, 2004, from 1 p.m. to 4 p.m. in Hearing Room 1, Keystone Building, 400 North Street, Harrisburg, PA.

For further information on obtaining a hardcopy of the proposed State Plan amendments for 2004 or submission

of written public comments, contact Barbara Smotherman, Department of State, (717) 787-6458, bsmotherma@state.pa.us.

PEDRO A. CORTES,  
*Secretary of the Commonwealth*

[Pa.B. Doc. No. 04-1253. Filed for public inspection July 9, 2004, 9:00 a.m.]

### Public Hearing Regarding the Commonwealth's Proposed State Plan Amendments for 2004 under the Help America Vote Act of 2002

The Secretary of the Commonwealth (Secretary) will conduct a public hearing regarding the Commonwealth's Proposed State Plan Amendments for 2004 under the Help America Vote Act of 2002 (HAVA). The proposed amendments outline the methods the Commonwealth plans to use to comply with the requirements of Title III of HAVA, how the Commonwealth will use grants from the Federal government to achieve this goal and a description of the progress made by the Commonwealth in implementing the 2003 HAVA State Plan.

Interested individuals or groups can view and copy the proposed State Plan amendments for 2004 on the Department of State's (Department) website: [www.dos.state.pa.us](http://www.dos.state.pa.us).

The public hearing will be held on Friday, July 16, 2004, from 1 p.m. to 4 p.m. in Hearing Room 1, Keystone Building, 400 North Street, Harrisburg, PA.

The Secretary encourages individuals testifying to submit a written copy of their testimony in advance. Individuals who testify must bring 50 printed copies of their testimony to the hearing.

Individuals presenting oral testimony are strongly encouraged to summarize their testimony briefly and to be prepared to respond to questions. Individuals testifying on their own behalf will be allocated 5 minutes, and those testifying on behalf of groups will be allocated a total of 10 minutes to make their presentations.

Individuals interested in obtaining a hardcopy of the proposed State Plan amendments for 2004, attending the public hearing, testifying at the public hearing, submitting written testimony or individuals with a disability who wish to attend the hearing and require accommodations to participate in the proceedings (text telephone users should contact the Department through the PA Relay Center) should contact Barbara Smotherman, Department of State, 302 North Office Building, Harrisburg, PA 17120, (717) 787-6458, bsmotherma@state.pa.us.

PEDRO A. CORTES,  
*Secretary of the Commonwealth*

[Pa.B. Doc. No. 04-1254. Filed for public inspection July 9, 2004, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

### Environmental Quality Board Meeting Cancellation

The July 20, 2004, Environmental Quality Board (Board) meeting has been cancelled. The next meeting of

the Board is scheduled for Tuesday, August 17, 2004, at 9 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. An agenda and meeting materials for this meeting will be available through the Public Participation Center on the Department of Environmental Protection's website: [www.dep.state.pa.us](http://www.dep.state.pa.us).

Questions concerning the Board's next scheduled meeting should be directed to Chris Shroyer, (717) 783-8727, [cshroyer@state.pa.us](mailto:cshroyer@state.pa.us).

KATHLEEN A. MCGINTY,  
*Chairperson*

[Pa.B. Doc. No. 04-1255. Filed for public inspection July 9, 2004, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, June 24, 2004, and announced the following:

#### *Actions Taken—Regulations Approved*

Department of Public Welfare # 14-484: MA Program Payment Policies (amends 55 Pa. Code Chapter 1150)

Department of Agriculture # 2-116: Application of Soil and Groundwater Contaminated with Agricultural Chemicals to Agricultural Lands (adds 7 Pa. Code Chapter 130d)

Insurance Department # 11-215: Standards for Safeguarding Customer Information (adds 31 Pa. Code Chapter 146c)

### Approval Order

Public Meeting held  
June 24, 2004

*Commissioners Voting:* John R. McGinley, Jr., Esq., Chairperson; Alvin C. Bush, Vice Chairperson, by phone; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq., by phone

*Department of Public Welfare—MA Program Payment Policies; Regulation No. 14-484*

On May 14, 2004, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Public Welfare (Department). This rulemaking amends 55 Pa. Code Chapter 1150. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted regulation revises the maximum reimbursement limit paid by the Medical Assistance (MA) program for services provided by a practitioner during one hospitalization. The current reimbursement cap of \$1,000 was established in 1985, and now has had the unintended effect of discouraging practitioners from treating MA recipients. This amendment gives the Department the flexibility to set payment rates above the \$1,000 cap. The anticipated effect of this regulation is to give MA

recipients better access to health care and to provide incentive for physicians to stay in this Commonwealth.

We have determined this regulation is consistent with the statutory authority of the Department (62 P. S. § 201(2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

### Approval Order

Public Meeting held  
June 24, 2004

*Commissioners Voting:* John R. McGinley, Jr., Esq., Chairperson; Alvin C. Bush, Vice Chairperson, by phone; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq., by phone

*Department of Agriculture—Application of Soil and Groundwater Contaminated with Agricultural Chemicals to Agricultural Lands; Regulation No. 2-116*

On April 10, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Agriculture (Department). This rulemaking adds Chapter 130d to 7 Pa. Code. The proposed regulation was published in the April 20, 2002, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 17, 2004.

This final-form regulation establishes the procedures to apply soil and groundwater contaminated with agricultural chemicals to agricultural land, as required by Act 2 of 1995 (Act 2). This regulation only applies to contaminated soil and groundwater collected in an approved Act 2 remediation effort at an agricultural chemical facility.

We have determined this regulation is consistent with the statutory authority of the Department (35 P. S. § 6026.904(d)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

### Approval Order

Public Meeting held  
June 24, 2004

*Commissioners Voting:* John R. McGinley, Jr., Esq., Chairperson; Alvin C. Bush, Vice Chairperson, by phone; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq., by phone

*Insurance Department—Standards for Safeguarding Customer Information; Regulation No. 11-215*

On September 23, 2003, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Insurance Department (Department). This rulemaking amends 31 Pa. Code by adding Chapter 146c. The proposed regulation was published in the October 4, 2003, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on May 21, 2004.

This regulation sets up specific internal standards that companies must implement to safeguard against leaks of nonpublic personal health or financial information. The Department will use these standards when it investigates an insurer's internal procedures for safeguarding of consumer and customer information.

We have determined this regulation is consistent with the statutory authority of the Department (40 P. S. § 1171.2 and 71 P. S. § 186) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

JOHN R. MCGINLEY, Jr.,  
Chairperson

[Pa.B. Doc. No. 04-1256. Filed for public inspection July 9, 2004, 9:00 a.m.]

### Notice of Filing of Final Rulemaking

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website: [www.irrc.state.pa.us](http://www.irrc.state.pa.us). To obtain a copy of the regulation, contact the promulgating agency.

#### Final-Form

Reg. No.	Agency/Title	Received
6-279	State Board of Education Pupil Attendance	6/24/04
17-66	Pennsylvania State Police Designation of Emergency Vehicles	6/24/04

JOHN R. MCGINLEY, Jr.,  
Chairperson

[Pa.B. Doc. No. 04-1257. Filed for public inspection July 9, 2004, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board lease will expire:

Bucks County, Wine & Spirits Shoppe # 0927, Plumstead Square Shopping Center, 5837 Easton Road, Pipersville, PA 18974.

*Lease Expiration Date:* July 31, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,500 to 5,000 net useable square feet of new or existing retail commercial space within a 1-mile radius of the intersection of Route 611 and Swamp Road on Easton Road, Plumstead.

*Proposals due:* July 30, 2004, at 12 p.m.



**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128  
**Contact:** Robert Jolly, (215) 482-9671

JONATHAN H. NEWMAN,  
*Chairperson*

[Pa.B. Doc. No. 04-1258. Filed for public inspection July 9, 2004, 9:00 a.m.]

## NAVIGATION COMMISSION FOR THE DELAWARE RIVER AND ITS NAVIGABLE TRIBUTARIES

### Apprentice River Pilot Applications

The Navigation Commission for the Delaware River and its Navigable Tributaries (Commission) announces openings in its apprentice river pilot program. The Commission will accept applications through September 10, 2004. At this time, the Commission anticipates appointing four apprentices in 2004. Interested persons can obtain application forms by contacting the Commission at (717) 787-6458. Persons who previously had an apprentice pilot application on file with the Commission must file a new application to be considered for appointment as an apprentice pilot.

BETH BARB,  
*Board Administrator*

[Pa.B. Doc. No. 04-1259. Filed for public inspection July 9, 2004, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Pennsylvania Telephone Relay Service—Captioned Telephone Service

Public Meeting held  
 June 24, 2004

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

*Pennsylvania Telephone Relay Service—Captioned Telephone Service; Doc. No. M-00900239F0008*

#### Opinion and Order

*By the Commission:*

Before the Commission is consideration of the future of captioned telephone service in this Commonwealth. Captioned telephone service is a form of telephone relay service that uses a voice recognition mechanism and a captioning telephone to display to the called party the user's conversation almost simultaneously with the user's spoken words. Having conducted a trial of captioned telephone service, there are many legal, technical and

financial issues that must be carefully examined with respect to the long-term provisioning of captioned telephone service.

Ultratec®, in partnership with AT&T as the Commonwealth's certificated Telephone Relay Service (TRS)<sup>1</sup> provider, has been providing its form of captioned telephone service known as CapTel™ on a trial basis to almost 200 consumers since May 2003. Initially the Commission approved a 9-month trial of CapTel™, which was subsequently extended for 3 months in January 2004 and for another 3 months in April 2004. The CapTel™ trial is currently scheduled to conclude on July 31, 2004. This Commission is evaluating whether to extend the trial and will issue its decision via Secretarial Letter by the end of July 2004 at doc. no. M-00900239.

Irrespective of this decision regarding the continuation of the current CapTel™, we will seek comments on the feasibility of providing captioned telephone service in this Commonwealth on a going-forward basis. In addition to the issue of funding, we seek information regarding the status of captioned telephone service technology in the industry and the options through which a service may be provided.

Interested persons may file comments on the following questions and may include other pertinent comments, as appropriate.

- 1) Should captioned telephone service be provided via separate certificate of convenience or by contract with the current certificate holder?
- 2) Do potential captioned telephone service providers require and possess waivers from the Federal Communications Commission for the long-term offering of captioned telephone service?
- 3) On the issue of funding captioned telephone service for the long-term, are there any other potential funding mechanisms available?
- 4) How would funding of interstate calls be handled if the captioned telephone service is continued for the long-term?
- 5) What is the expected impact of the cost of captioned telephone service on the PA Telephone Relay Service (TRS) surcharge?
- 6) Regarding the issue of the equipment needed to provide captioned telephone service, what are the costs associated with the equipment which is currently being provided free of charge by Ultratec®?
- 7) What is the anticipated take-rate for the equipment if captioned telephone service were to be offered for the long-term?
- 8) Should the captioned telephone equipment qualify for distribution under the TDDP? Of the anticipated take-rate, how many consumers would qualify to receive the equipment under the TDDP program?
- 9) What are the expected cost of handsets and the impact of the provision of handsets on the budget and

<sup>1</sup>The Pennsylvania TRS is a telephone relay service provided by AT&T and regulated by this Commission offering persons who are hearing, deaf, hard of hearing or speech-disabled ways to connect using the telephone: Traditional Relay, Video Relay, and Internet Relay. Each conversation is relayed by a trained Communications Assistant who follows a strict code of ethics and confidentiality. The TRS is available 24 hours a day, 7 days a week. For more information, see [www.parelay.net/](http://www.parelay.net/).

expenses of the Telecommunications Devices for the Deaf program (TDDP).<sup>2</sup>

10) What, if needed, special and/or additional outreach and education is necessary for captioned telephone service?

11) Other states, such as Washington<sup>3</sup> and Maryland, have provided trialed captioned telephone service. The Commission should be made aware of any information about the experiences of these (and any other states), including whether or not the states have extended their trials or have decided to provide long-term captioned telephone service.

12) Evaluations were solicited from participants in the CapTel(tm) trial program, and 20% of these respondents reported difficulties with the service such as garbled text and disconnects. How have the difficulties expressed by the current users been addressed, and how will they be remedied if captioned telephone service is continued?

13) Is there any other information the Commission needs to address in this matter?

The Commission wishes to ensure that its consideration of the possible long-term provisioning of captioned telephone service proceeds in a timely manner. Therefore, this Order soliciting comments will be published in the *Pennsylvania Bulletin*, posted on the Commission's website and will allow 20 days for comments and 10 days for reply comments. Staff will review the submitted comments and replies and provide the Commission with a recommendation in October 2004 so that the Commission can target a final resolution of this matter for November 2004. This timeframe gives interested parties an opportunity to be heard and the Commission time to decide the best course of action regarding the long-term viability of captioned telephone service in this Commonwealth. As a matter of great importance to the Commonwealth, we look forward to continuing to learn about captioned telephone technology and its ramifications for all Pennsylvanians so that we can find a way to fulfill our goal of best serving the public interest; *Therefore,*

*It Is Ordered That:*

1. The Bureau of Fixed Utility Services, in conjunction with Law Bureau and Counsel to the TRS Advisory Board, shall begin fact-finding into whether and how captioned telephone service should be provided in this Commonwealth on a long-term basis, culminating in a recommendation for the Commission's consideration in October 2004.

2. This Order shall be published in the *Pennsylvania Bulletin* and posted on the Commission's website.

3. Interested persons shall file comments with the Secretary's Bureau on or before 20 days after the publication of this Order. Reply comments may be filed within 10 days thereafter. Copies of the comments, including an electronic version on disk in Word-compatible format, should be provided to the Bureau of Fixed Utility Services at the time of filing.

<sup>2</sup> The TDDP provides specialized telecommunications devices, such as text telephones and amplifiers, at no charge to qualifying persons who are deaf or hard of hearing, who have speech and language disorders or who have a physical disability that prevents them from using standard telecommunication equipment. To qualify, the person must have gross incomes of less than 200% of the Federal poverty level and must be a resident of this Commonwealth, at least 6 years of age and must have telephone service and the ability to learn how to use the telecommunications device. The Department of Labor and Industry, Office of Vocational Rehabilitation, administers the program. For more information, see [www.puc.paonline.com/telephone/TRS/TRS\\_Default.html#Telecommunications%20Device%20Distribution%20Program%20%20TDDP](http://www.puc.paonline.com/telephone/TRS/TRS_Default.html#Telecommunications%20Device%20Distribution%20Program%20%20TDDP).

<sup>3</sup> For more information regarding Washington's experience see [www1.dshs.wa.gov/mediareleases/2004/pr04038.shtml](http://www1.dshs.wa.gov/mediareleases/2004/pr04038.shtml).

4. Copies of this Order shall be served on all jurisdictional local service providers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Pennsylvania Telephone Association, the Pennsylvania TRS Advisory Board and Ultratec®.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1260. Filed for public inspection July 9, 2004, 9:00 a.m.]

## Ratification and Adoption of Amendment to 49 CFR Part 192

Public Meeting held  
June 24, 2004

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

*Ratification and Adoption of Amendment to Part 192 of Title 49 of the Code of Federal Regulations; Doc. No. M-00041808*

### Order

*By the Commission:*

The Commission has adopted the Federal safety standards for natural gas transmission and distribution facilities in 52 Pa. Code § 59.33(b). The Federal standards are established by the United States Department of Transportation (DOT) in 49 U.S.C.A. §§ 60101, et seq., and are set forth in 49 CFR Parts 191—193 and 199. Section 59.33(b) of 52 Pa. Code provides, in pertinent part, that amendments to 49 CFR will become effective in this Commonwealth upon review by the Commission and the entry of a Commission ratification order where that order is served upon all jurisdictional natural gas companies or, alternatively, upon the date of an order's publication in the *Pennsylvania Bulletin*.

A. On March 12, 2003, at 68 *Federal Register* 11748, amendment 192-91 was adopted and codified by the DOT in 49 CFR 192. In this final rule, Research and Special Programs Administration (RSPA) modifies or adds the definition of "Administrator" in several sections of the CFR. The RSPA has determined that there is a need to change or add the definition of "Administrator" for clarification purposes and for consistency between the RSPA regulations.

B. On August 5, 2003, at 68 *Federal Register* 46109, amendment 192-92 was adopted and codified by the DOT in 49 CFR 192. This final rule addresses the safety regulation responsibility for producer-operated natural gas and hazardous liquid pipelines that cross into state waters without first connecting to a transporting operator's facility on the Outer Continental Shelf. This rule specifies the procedures by which producer operators can petition for approval to operate under safety regulations governing pipeline design, construction, operation and maintenance issued by either the RSPA or the Department of the Interior, Minerals Management Service. The rule was effective September 4, 2003.

C. On September 15, 2003, at 68 *Federal Register* 53895, amendment 192-93 was adopted and codified by the DOT in 49 CFR 192. The RSPA, Office of Pipeline

Safety (OPS) is changing some of its safety standards for gas pipelines. The changes are based on recommendations by the National Association of Pipeline Safety Representatives and a review of the recommendations by the State Industry Regulatory Review Committee. RSPA/OPS believes the changes will improve the clarity and effectiveness of the present standards. The rule was effective on October 15, 2003.

D. On January 14, 2004, at 68 *Federal Register* 69778, amendment 192-95 was adopted and codified by the DOT in 49 CFR 192. This final rule requires operators to develop integrity management programs for gas transmission pipelines located where a leak or rupture could do the most harm, that is, could impact high consequence areas (HCAs). The rule requires gas transmission pipeline operators to perform ongoing assessments of pipeline integrity, to improve data collection, integration and analysis, to repair and remediate the pipeline as necessary and to implement preventive and mitigative actions. The RSPA/OPS has also modified the definition of HCAs in response to a petition for reconsideration from industry associations. This final rule comprehensively addresses statutory mandates, safety recommendations and conclusions from accident analyses, all of which indicate that coordinated risk control measures are needed to improve pipeline safety.

Keeping in mind the safety of the public, we have reviewed the previously referenced amendments in accordance with the provisions of 52 Pa. Code § 59.33. Based upon this review, we find that the DOT amendment to 49 CFR to be in the public interest and adopt them as our own. The effective date of our adoption of the previously referenced amendments shall be the date upon which this order is published in the *Pennsylvania Bulletin* (52 Pa Code § 59.33(b)).

Therefore,

*It Is Ordered That:*

1. The following amendments adopted by the DOT are hereby ratified and adopted in accordance with the provisions of 52 Pa. Code § 59.33(b):

(a) On March 12, 2003, at 68 *Federal Register* 11748, amendment 192-91.

(b) On August 5, 2003, at 68 *Federal Register* 46109, amendment 192-92.

(c) On September 15, 2003, at 68 *Federal Register* 53895, amendment 192-93.

(d) On January 14, 2004, at 68 *Federal Register* 69778, amendment 192-95.

2. The Secretary shall serve copies of this Order upon all jurisdictional gas utilities and pipeline companies. Accordingly, the effective date shall be the entry date of this order. Concurrently, the Secretary shall cause this order, without attachments, to be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 04-1261. Filed for public inspection July 9, 2004, 9:00 a.m.]

## Recalculation of the Pennsylvania Telecommunications Relay Service Surcharge

Public Meeting held  
June 24, 2004

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

*Recalculation of the Pennsylvania Telecommunications Relay Service Surcharge; M-00900239F0007*

### Tentative Order

*By the Commission:*

This Tentative Order is issued to solicit comments on the ratio used to allocate costs between business and residential end users of the costs of the Telephone Relay Service (TRS)<sup>1</sup> and the Telecommunications Device Distribution Program (TDDP).<sup>2</sup> Comments are due 30 days after this Tentative Order has been published in the *Pennsylvania Bulletin*.<sup>3</sup>

### Background

In 1990, at M-00900239, this Commission established the TRS. In doing so, the Commission adopted one of two mutually exclusive funding methodologies for the TRS, choosing to surcharge access lines rather than intrastate telecommunications revenues. Act 34 of 1995<sup>4</sup> subsequently expanded the TRS operations and use of the TRS surcharge to fund the TDDP. The 1995 Act provides, in pertinent part, that an "additional use" of the TRS surcharge shall be to fund the TDDP "as calculated by the commission . . . under the methodology established by the commission in order[s] entered May 29, 1990, and July 9, 1990," at M-00900239 (1990 Orders). We periodically recalculate, at least annually and effective July 1 of each year, the TRS surcharge as it applies to business and residence end users.

### Discussion

In calculating the annual TRS surcharge, the Commission has traditionally attempted to use a 2:1 (business-to-residence) ratio to apportion between business and residence end users the costs of TRS/TDDP funding. Neither the 1990 Orders nor the 1995 Act mandate a permanent, fixed or specific business-to-residence ratio for the surcharge. The 1990 Orders' choice of methodology manifested a decision to surcharge access lines rather than revenue. The 2:1 ratio for assessing the costs against access lines merely reflected rate structure patterns of the day where business services greatly subsidized residential services. The 1995 Act provided for TDDP funding by building upon the access-line-surcharge methodology used in the 1990 Orders for the TRS; it did not mandate a particular ratio.

<sup>1</sup> The Pennsylvania TRS is a telephone service provided by AT&T and regulated by this Commission offering persons who are hearing, deaf, hard of hearing or speech-disabled ways to connect using the telephone: Traditional Relay, Video Relay, and Internet Relay. Each conversation is relayed by a trained Communications Assistant who follows a strict code of ethics and confidentiality. The TRS is available 24-hours a day, 7 days a week. For more information, see [www.parelay.net/](http://www.parelay.net/).

<sup>2</sup> The TDDP provides specialized telecommunications devices, such as text telephones and amplifiers, at no charge to qualifying persons who are deaf or hard of hearing, who have speech and language disorders or who have a physical disability that prevents them from using standard telecommunication equipment. To qualify, the person must have gross incomes of less than 200% of the Federal poverty level and must be a resident of this Commonwealth, at least 6 years of age and must have telephone service and the ability to learn how to use the telecommunications device. The Department of Labor and Industry, Office of Vocational Rehabilitation, administers the program. For more information, see [www.puc.paonline.com/telephone/TRS/TRS\\_Default.html#Telecommunications%20Device%20Distribution%20Program%20%20TDDP](http://www.puc.paonline.com/telephone/TRS/TRS_Default.html#Telecommunications%20Device%20Distribution%20Program%20%20TDDP).

<sup>3</sup> While this Tentative Order will be published in conjunction with our Order in *Ultratec—CapTel Technology Trial*, M-00900239F0007, we request that parties commenting in both proceedings file separate comments in each proceeding.

<sup>4</sup> Dual Party Relay Service and TDDP Act, 35 P. S. §§ 6701.1—6701.4 (1995).

Further, the May 1990 Order clearly contemplated adjustments to the ratio and even to the methodology, especially if other surcharges were imposed upon telecommunications services. Specifically, the May 1990 Order, at page 30, provided that:

The [Pennsylvania Telephone Association (PTA) further requests] that in the event the funding of any other public interest service offering, including Emergency 911, via a surcharge is ordered by the General Assembly or the Commission, the LEC may revise the Relay Service surcharge to be consistent with the funding mechanism employed for such subsequent public interest service.

While this Commission did not adopt the PTA's proposal in this regard, we further stated that:

While on first reading the PTA's request seems to be reasonable, we would be remiss if we did not require the LECs[,] or the PTA on behalf of the LECs, to file a Petition with the Commission requesting a revision to the Relay Service surcharge mechanism in order to be consistent with the particular public interest service funding mechanism. We believe that to grant, at this time, the request based upon an occurrence which may take place, at some undetermined future date, and without the benefit of the particular public interest or its funding mechanism, would be a gross neglect of our statutory duty and responsibilities. Thus, we will deny the PTA's request at this time.

May 1990 Order at Page 30.

Thus, the 2:1 ratio is clearly subject to adjustment at our discretion. Additionally, legislative changes to the 1995 Act affect the surcharge, as well.<sup>5</sup>

The 2:1 ratio has become increasingly unwieldy and nonresponsive to market realities, especially in the wake of competition. Additionally, with the nature of the costs of the TRS and the TDDP and the fluctuations in access line counts, it has become increasingly difficult to maintain a 2:1 ratio for the surcharge without incurring deficiencies or surpluses in funding. The surcharge (combined and/or at the program level) cannot be assessed as a partial cent. Further, it would be virtually impossible to generate incoming funds in line with expected expenses if a 2:1 ratio were perpetuated for the specific programs. In fact, the combined surcharge ratio has fluctuated around the 2:1 ratio in recent years.<sup>6</sup>

Accordingly, under the Commission's authority at 66 Pa.C.S. § 703(g) to modify prior orders after notice and an opportunity to be heard, we will allow the overall ratio to float from year to year with the general intent of ensuring appropriate and sufficient funding and reserves from the surcharge. This will more equitably match estimated income to estimated expenses as closely as possible, maintain adequate balances and hold the overall

<sup>5</sup> Indeed, on December 9, 2002, Governor Mark Schweiker signed Act 181 of 2002, which amended the 1995 Act by expanding the definition of disabilities to include any disability that prevents a person from using standard telecommunication equipment. Further, the 1995 Act is again under consideration for amendment to expand the use of the surcharge to also fund the "Newsline Program," which provides access to newspapers by the blind and print-disabled. See Senate Bill 79 (Mowery) (Printer's Number 950; prior Printer's Numbers 74 and 78). As has been the experience with adding the TDDP, funding additional programs exacerbates the difficulties in maintaining a fixed 2:1 ratio.

<sup>6</sup> The surcharges for 2003-2004 and for 2004-2005 are:

Year		TRS	TDDP	Total	Ratio (Business to Residence)
2003-2004	Business	\$0.15/month	\$0.02/month	\$0.17/month	2.15:1
	Residence	\$0.08/month	\$0.00/month	\$0.08/month	
2004-2005	Business	\$0.12/month	\$0.01/month	\$0.13/month	1.86:1
	Residence	\$0.06/month	\$0.01/month	\$0.07/month	

components of the surcharge as low as possible. These factors may take precedence over a purely arithmetic attempt to achieve or maintain a specific target ratio.

#### Conclusion

Because the time interval for each annual recalculation process is extremely short, we have initiated this proceeding for interested parties to comment on the plan; *Therefore,*

#### It Is Ordered That:

1. This Tentative Order will be served upon the jurisdictional local service providers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Pennsylvania Telephone Relay Service Advisory Board and the Pennsylvania Telephone Association.

2. This Tentative Order shall be published in the *Pennsylvania Bulletin* and posted on the Commission's website.

3. Interested parties shall have 30 days after publication to file written comments. In addition to filing written comments with the Secretary's Bureau, parties shall provide written and electronic copies (on disk in Microsoft® Word 2002 or Word-compatible format) of their Comments to Eric Jeschke, Bureau of Fixed Utility Services and Louise Fink Smith, Law Bureau.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1262. Filed for public inspection July 9, 2004, 9:00 a.m.]

## Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 with a copy served on the applicant, on or before August 2, 2004. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

### Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

**A-00119915, Folder 2. Veronica Gamboa** (620 South 13th Street, Suite 200, Harrisburg, Dauphin County, PA 17104)—persons, upon call or demand, in the Counties of Dauphin, Cumberland and York.

**A-00120855. Posten Transportation, Inc.** (777 South Franklin Street, Wilkes-Barre, Luzerne County, PA 18702), a corporation of the Commonwealth—persons, in airport transfer service, from points in the Counties of Lackawanna and Luzerne, to the Wilkes-Barre/Scranton International Airport, located in the Township of Pittston, Luzerne County. Application for temporary authority has been filed at A-00120855, seeking the rights previously

cited. *Attorney:* James D. Campbell, Jr., 3631 N. Front Street, Harrisburg, PA 17110.

**A-00120852. John Zelenevich t/d/b/a Windsor Limousine** (484 Maple Avenue, Doylestown, Bucks County, PA 18901)—persons, in limousine service, between points in the County of Bucks, and from points in said county, to points in Pennsylvania, and return. *Attorney:* Henry E. Van Blunk, 892 Second Street Pike, Suite C, Richboro, PA 18954-1005.

**A-00120857. Donald Jesse Vack** (3043 West Meadowview Drive, Gordonville, Lancaster County, PA 17529)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the County of Lancaster, and from points in said county, to points in Pennsylvania, and return.

**A-00120856. Charles C. Roberts, III** (353 Sawmill Road, Strasburg, Lancaster County, PA 17579)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the County of Lancaster, and from points in said county, to points in Pennsylvania, and return.

**A-00120858. South Mountain Volunteer Fire Co.** (P. O. Box 92, South Mountain, Franklin County, PA 17261), a corporation of the Commonwealth—persons in paratransit service, between points in the County of Franklin, and from points in said county, to points in the Counties of Adams, Cumberland and Dauphin, and vice versa.

**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 persons by transfer of rights as described in the application.**

**A-00120859. Crown Royal Limousine & Transportation, Inc.** (2020 Downyflake Lane, Allentown, Lehigh County, PA 18103), a corporation of the Commonwealth—persons, in limousine service, between points in Pennsylvania; which is to be a transfer of all the right authorized under the certificate issued at A-00110480 to Premiere Limousine Service, Inc., subject to the same limitations and conditions. *Attorney:* David P. Temple, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

**Application of the following for amendment to the certificate of public convenience approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.**

**A-00119117, Folder 1, Am-A. Lucy Mbugua t/d/b/a Simba Safari Shuttle Services** (1651 W. Linden Street, Allentown, Lehigh County, PA 18102)—discontinuance of service—persons, in paratransit service, between points in the City of Allentown, Lehigh County, the City of Bethlehem, Lehigh and Northampton Counties, the City of Easton and the Borough of Bath, Northampton County, and from points in said cities and boroughs, to points in Pennsylvania, and return.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1263. Filed for public inspection July 9, 2004, 9:00 a.m.]

## PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

### Hearing Scheduled

A hearing has been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

August 25, 2004      James R. Salsbury (D)      10 a.m.  
(Death Benefit)

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 Marilyn Fuller-Smith, Assistant to the Executive Director, (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,  
*Executive Director*

[Pa.B. Doc. No. 04-1264. Filed for public inspection July 9, 2004, 9:00 a.m.]

## STATE REAL ESTATE COMMISSION

**Bureau of Professional and Occupational Affairs v.  
John J. O'Connor; Doc. No. 1287-56-02**

On May 27, 2004, the State Real Estate Commission (Commission) assessed John J. O'Connor a \$2,000 civil penalty for practicing real estate without the proper licensing.

A copy of the adjudication may be obtained by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Commission decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the

Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of the petition for review. The Commission contact for receiving service of appeals is the previously named Commission counsel.

JOSEPH J. MCGETTIGAN,  
*Chairperson*

[Pa.B. Doc. No. 04-1265. Filed for public inspection July 9, 2004, 9:00 a.m.]

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# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.


Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:  
 The payment date specified in the contract.  
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.  
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
 PA Department of Community and Economic Development  
 374 Forum Building  
 Harrisburg, PA 17120  
 800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department:	General Services			
Location:	Harrisburg, Pa.			
Duration:	12/1/93-12/30/93			
Contact:	Procurement Division			
	787-0000			

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

#### REQUIRED DATA DESCRIPTIONS

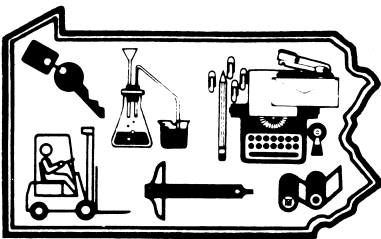
- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.  
  
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room 201 Finance Building  
 Harrisburg, PA 17120  
 717-787-4586  
 1-800-252-4700  
 BizOutlet@patreasury.org

BARBARA HAFER,  
*State Treasurer*

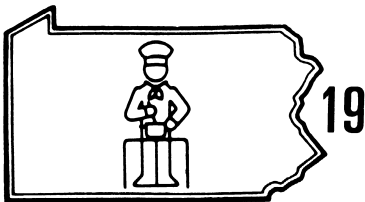


Commodities

**SU-03-27** Shippensburg University is seeking a vendor to furnish, install and support a Campus Registration system that provides a service model whereby network users are required to register their computer before gaining access to full network services. Vendor will supply the appliance, installation and configuration, implementation and training and maintenance and support. Vendors interested in receiving a bid package must fax or email a request to Pamela King, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257; Fax (717) 477-1350; email: paking@wharf.ship.edu. All responsible bidders are invited to participate including MBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257  
**Duration:** Anticipated delivery August 04  
**Contact:** Pamela A. King, (717) 477-1386

## SERVICES



Food

**103 MILK** - 48,000 each, milk, 2% in 1/2 pint containers, 10,000 each, milk, skim, in 1/2 pint containers, 500 case, milk, 2% in bulk containers, for period July 01, 2004 to June 30, 2005. Bids are sent out monthly.

**Department:** Corrections  
**Location:** SCI-Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233  
**Duration:** July 01, 2004 to June 30, 2005  
**Contact:** Nancy Keller, (412) 761-1955



Janitorial Services

**102001 PENNDOT**, Butler County Dist. 1020, is soliciting the services of individuals, firm, and corporations to provide janitorial services at 351 New Castle Road, Butler, PA 16001. All contractors must be registered online @ [www.vendorregistration.state.pa.us](http://www.vendorregistration.state.pa.us) to do business with the Commonwealth of PA. Please fax or email your name, company name, complete address, phone number, fax number with your S.S.# or Fed# and your register number. Information can be faxed to 724-284-1504, or e-mail to [bpiccola@state.pa.us](mailto:bpiccola@state.pa.us).

**Department:** Transportation  
**Location:** 351 New Castle Road, Butler, PA 16001  
**Duration:** Two year contract, by mutual consent of both parties. This contract is renewable for 1 year period.  
**Contact:** Brent Piccola, (724) 284-1021

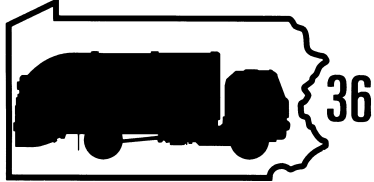
**FM 8824** Furnish all labor, materials and equipment to perform janitorial services three days per week at the PA State Police, Norristown CDC. Detailed Work Schedule and Bid must be obtained from the Facility Management Division at 717-705-5951.

**Department:** State Police  
**Location:** Norristown CDC, Norristown State Hospital Complex, 1399 Sterigere Street, Norristown, PA 19401  
**Duration:** 08/01/04 to 06/30/07  
**Contact:** Sandy Wolfe, (717) 705-5951



**FN 8825** Furnish all labor, materials and equipment to perform janitorial services three days per week at the PA State Police, Embreeville Station. Detailed Work Schedule and Bid must be obtained from the Facility Management Division at 717-705-5951.

**Department:** State Police  
**Location:** Troop J, Embreeville Station, 997 Lieds Road, Coatesville, PA 19320  
 Phone 484-340-3241  
**Duration:** 09/01/04 to 06/30/07  
**Contact:** Sandy Wolfe, (717) 705-5951



**Sanitation**

**04-0002** College is seeking bids to remove all trash and garbage from premises.

**Department:** State  
**Location:** Thaddeus Stevens College of Technology, 750 E. King St., Lancaster, PA 17602  
**Duration:** July 1, 2004 - June 30, 2005  
**Contact:** Betty Tompos, (717) 299-7749



**Security Services**

**04-0001** College is seeking bids to provide regular security shifts as determined by the College.

**Department:** State  
**Location:** Thaddeus Stevens College of Technology, 750 E. King St., Lancaster, PA 17602  
**Duration:** July 1, 2004 - June 30, 2005  
**Contact:** Betty Tompos

[Pa.B. Doc. No. 04-1266. Filed for public inspection July 9, 2004, 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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DONALD T. CUNNINGHAM, Jr.  
*Secretary*





