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# PENNSYLVANIA BULLETIN

Volume 35

Number 28

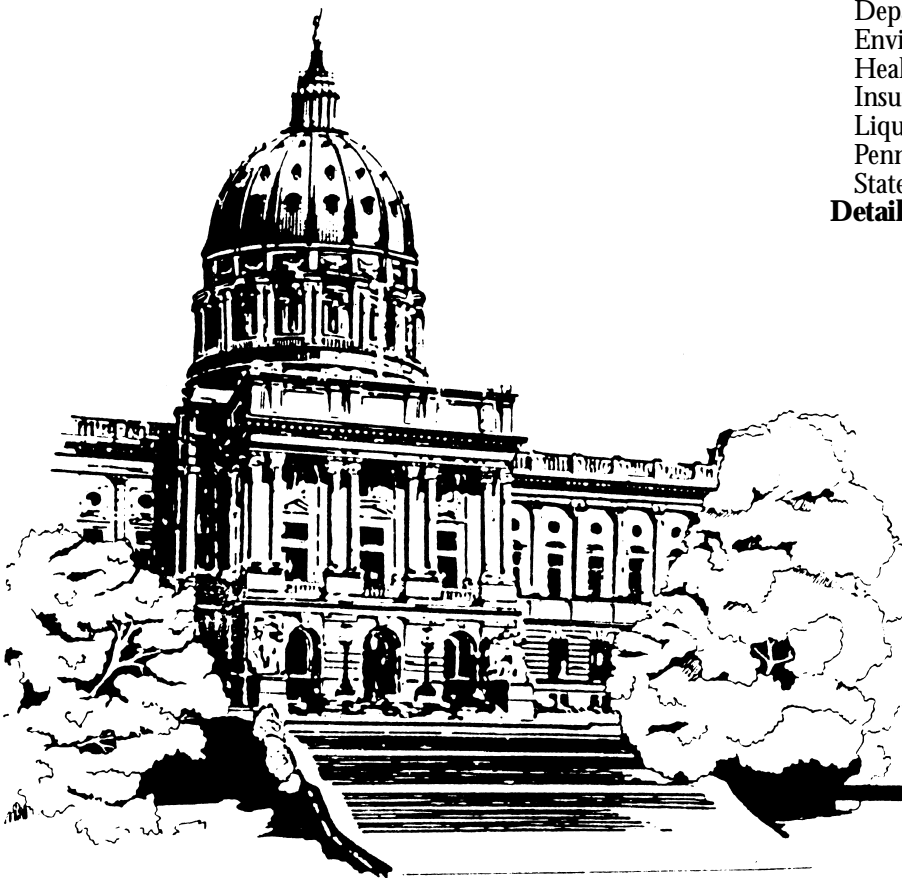
Saturday, July 9, 2005 • Harrisburg, PA

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Department of Conservation and Natural Resources  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Labor and Industry  
Department of Transportation  
Environmental Quality Board  
Health Care Cost Containment Council  
Insurance Department  
Liquor Control Board  
Pennsylvania Public Utility Commission  
State Police

**Detailed list of contents appears inside.**



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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 2005.

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# PROPOSED RULEMAKING

## DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CH. 121]

### General Provisions

The Department of Labor and Industry (Department), Bureau of Workers' Compensation (Bureau), proposes to amend Chapter 121 (relating to general provisions) to read as set forth in Annex A. The proposed rulemaking updates and clarifies the existing regulations that govern the Bureau's administration of the Workers' Compensation Act (act) (77 P. S. §§ 1—1041.4 and 2501—2506) and the procedures utilized by employees, employers and insurers.

#### *Statutory Authority*

This rulemaking is proposed under the authority in sections 401.1 and 435(a) of the act (77 P. S. §§ 710 and 991(a)) and section 2205 of The Administrative Code of 1929 (71 P. S. § 565).

#### *Background*

Chapter 121 was adopted on March 15, 1974, and has not been revised recently, with a few exceptions. The most recent regulatory amendments followed the act of November 26, 1997 (P. L. 530, No. 57), which amended sections 306.2, 443 and 446 of the act (77 P. S. §§ 517, 999 and 1000.2). The Department then amended §§ 121.1, 121.22 and 121.23 (relating to general; subsequent injury fund; and supersedeas fund). Further, the Department added §§ 121.31—121.35.

On June 11, 2004, a stakeholder meeting was held. Written comments were also received from the following groups: The Insurance Federation of Pennsylvania, Inc. (submitted by Samuel R. Marshall, President and CEO); the Pennsylvania Trial Lawyers Association (submitted by Richard J. Schubert, Esquire, President); and the Workers' Compensation Office of Adjudication (submitted by David Cicola, Director). Actual attendees at the June 11, 2004, meeting were Lawrence Chaban on behalf of the Pennsylvania Trial Lawyers Association and Samuel R. Marshall on behalf of The Insurance Federation of Pennsylvania, Inc. All comments and suggestions have been reviewed and considered.

#### *Purpose*

The proposed rulemaking updates and clarifies the practices of the Bureau in the administration of the act and of employees, employers, workers' compensation insurers and other interested parties in their transactions with the Bureau.

#### *Summary of Proposed Regulations*

The Department proposes to amend § 121.1 to include definitions of "agreement," "Board," "claimant," "Disease Law" and "employer."

The Department proposes to delete § 121.2 (relating to superseded provisions) because it is unnecessary.

The Department proposes to amend § 121.3 (relating to completion of forms) to better reflect the requirements of filing forms. Also, the Department proposes to add subsection (c) to clarify the Bureau's ability to require electronic

filing and subsection (d) to clarify how to determine a filing date.

The Department proposes to add § 121.3a (relating to computation of time) to explain how a period of time will be computed under Chapter 121.

The Department proposes to add § 121.3b (relating to posting workers' compensation information) to require the posting of general workers' compensation information at an employer's primary places of business and all employment sites. This new mandatory posting is proposed to provide the opportunity to employees to learn basic workers' compensation information that otherwise may be difficult to obtain.

The Department proposes to delete § 121.4 (relating to reproduction of forms) because it currently contains information that is duplicated in § 121.3(a).

The Department proposes to amend § 121.5 (relating to reporting injuries) to correct the requirements regarding filing an Employer's Report of Occupational Injury or Disease, Form LIBC-344. The proposed amendment eliminates language in subsections (b) and (e) regarding disability continuing more than or beyond the entire day, shift or turn. The language in new subsection (c) conforms to section 438 of the act (77 P. S. § 994). Also, the Department proposes to delete unnecessary language discussing variances and to clarify existing language.

The Department proposes to delete § 121.6 (relating to supplemental reports) because the process currently described in this section is obsolete.

The Department proposes to amend § 121.7 (relating to notice of compensation payable) to add requirements for filing a Notice of Temporary Compensation Payable, Form LIBC-501. Also, the Department proposes to amend § 121.7 to require filing of a Statement of Wages, Form LIBC-494A or LIBC-494C, with every Notice of Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501. The Department also proposes to delete language in subsection (b) regarding injuries. To conform to section 406.1 of the act (77 P. S. § 717.1), proposed subsection (a) references "disability." The Department also proposes to allow an employer to file an estimated or amended Notice of Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501. Finally, the Department proposes to add subsection (f) to allow an employer to file a Notice of Compensation Payable, Form LIBC-495, in medical only cases.

The Department proposes to amend § 121.8 (relating to agreements) to require the filing of a Statement of Wages, Form LIBC-494A or LIBC-494C, with every Agreement for Compensation for Disability or Permanent Injury, Form LIBC-336. The Department also proposes to allow an employer to file an estimated or amended Agreement for Compensation for Disability or Permanent Injury, Form LIBC-336.

The Department proposes to amend § 121.9 (relating to agreements-fatal cases) to clarify that death must occur from the injury, not within 7 days of the injury, to be compensable. Also, the Department proposes to amend § 121.9 to require the filing of a Statement of Wages, Form LIBC-494A or LIBC-494C, with every Agreement

for Compensation for Death, Form LIBC-338. The Department also proposes to allow an employer to file an estimated or amended Agreement for Compensation for Death, Form LIBC-338.

The Department proposes to delete § 121.10 (relating to supplemental agreements) because supplemental agreements are discussed in proposed § 121.17(b) (relating to termination).

The Department proposes to amend § 121.11 (relating to supplemental agreements—fatal) to clarify the circumstances on which a change of compensation may be based.

The Department proposes to amend § 121.12 (relating to Department review of agreements, and notices of compensation payable) to require an amended version of an agreement, Notice of Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501, when a correction of errors results in an increase of an employee's wage or compensation. Additionally, the Department proposes to amend § 121.12 to require the filing of a Statement of Wages, Form LIBC-494A or LIBC-494C, with every amended form under this section.

The Department proposes to amend §§ 121.13 and 121.14 (relating to denial of compensation; and weekly wage, occupational disease cases) to clarify existing language.

The Department proposes to amend § 121.15 (relating to compensation payable) to clarify that death must occur from the injury, not within 7 days of the injury, to be compensable.

The Department proposes to amend § 121.16 (relating to statement of compensation paid) to eliminate the requirement of filing an annual Statement of Account of Compensation Paid, Form LIBC-392. The Department proposes, instead, to require the filing of an Annual Claims Status Report, Form LIBC-774, on which an insurer will verify information on its claims. Additionally, the Department proposes to amend § 121.16 to require the filing of a Final Statement of Account of Compensation Paid, Form LIBC-392, immediately after the final payment of compensation.

The Department proposes to amend § 121.17 to explain the procedures for obtaining changes in compensation, including termination, suspension, modification and other changes.

The Department proposes to amend § 121.18 (relating to subrogation procedure) to clarify existing language.

The Department proposes to amend § 121.20 (relating to commutation of compensation) to clarify existing language and to change the reference from a "25-week period" to a "52-week period."

The Department proposes to amend § 121.21 (relating to coal diseases—claim and reimbursement) to require record retention for 3 years, instead of indefinitely. The Department also proposes to amend § 121.21 to clarify existing language.

The Department proposes to amend §§ 121.22 and 121.23 to clarify existing language.

The Department proposes to delete § 121.24 (relating to approval of fees). The existing requirements concerning attorney fees have been more appropriately addressed in Chapter 131 (relating to special rules of administrative

practice and procedure before workers' compensation judges).

The Department proposes to amend § 121.25 (relating to delivery of compensation checks) to allow delivery of a claimant's compensation check to the claimant's attorney if the claimant and employer have executed an Authorization for Alternative Delivery of Compensation Payments, Form LIBC-10, or if a court orders delivery.

The Department proposes to delete § 121.26 (relating to required information for maximum compensation rate increase) because it currently contains language that is duplicative to other language in these regulations.

The Department proposes to amend § 121.27 (relating to violations of the provisions of the act or this chapter) to clarify the process involved with an order to show cause. Additionally, the Department proposes to amend § 121.27 to eliminate language regarding penalty petitions, which will be placed in § 121.27a (relating to Bureau intervention and penalties).

The Department proposes to add § 121.27a to address the Bureau's involvement in penalty petitions.

The Department proposes to delete § 121.28 (relating to petitions designated as a request for supersedeas) because supersedeas requests have been more appropriately addressed in Chapter 131.

The Department proposes to amend § 121.30 (relating to still payable list) to require record retention for 3 years, instead of indefinitely. Additionally, the Department proposes to amend § 121.30 to add language regarding the Bureau's ability to make payments within its discretion to a claimant where the employer has failed to make payments. The Department also proposes to amend § 121.30 to clarify existing language.

The Department proposes to amend §§ 121.31—121.35 to clarify existing language.

#### *Affected Persons*

The persons affected by this proposed rulemaking are employees, employers and workers' compensation insurers.

#### *Fiscal Impact*

There is no significant fiscal impact associated with this proposed rulemaking.

#### *Reporting, Recordkeeping and Paperwork Requirements*

This proposed rulemaking requires the creation of only one new form, the Annual Claims Status Report, Form LIBC-774, and one new posting. However, the annual filing of a Statement of Account of Compensation Paid, Form LIBC-392, has been eliminated. Existing forms require few modifications. Therefore, this proposed rulemaking does not impose any significant additional reporting, recording or paperwork requirements on either the Commonwealth or the regulated community.

#### *Effective Date*

This proposed rulemaking will take effect upon final-form publication in the *Pennsylvania Bulletin*.

#### *Sunset Date*

A sunset date is not appropriate for these regulations. However, the Department will continue to monitor the impact and effectiveness of the regulations.

#### *Contact Person*

Interested persons should submit written comments to the proposed rulemaking to John Kupchinsky, Bureau

Director, Bureau of Workers' Compensation, Department of Labor and Industry, Chapter 121 Regulations-Comments, P. O. Box 15121, Harrisburg, PA 17105, jkupchinsk@state.pa.us. Written comments must be received within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Written comments received by the Department may be made available to the public.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 27, 2005, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations Committee. A copy of this material is available to the public upon request.

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

STEPHEN M. SCHMERIN,  
*Secretary*

**Fiscal Note:** 12-67. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 34. LABOR AND INDUSTRY  
PART VIII. BUREAU OF WORKERS'  
COMPENSATION**

**CHAPTER 121. GENERAL PROVISIONS**

**§ 121.1. [ General ] Definitions.**

**[(a) Purpose.** This chapter has been promulgated in response to the legislative mandate in the act and designed to further the lawful, efficient and speedy administration of the act. The term "employer" as used in this chapter means, when applicable, the insurer thereof and a self-insured employer.

**[(b) Definitions.]** The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The [ Pennsylvania ] Workers' Compensation Act (77 P. S. §§ [ 1—2626 ] 1—1041.4 and 2501—2506).

*Agreement*—For purposes of this chapter, an agreement is limited to any of the following:

- (i) Agreement for Compensation for Disability or Permanent Injury, Form LIBC-336.**
- (ii) Supplemental Agreement for Compensation for Disability or Permanent Injury, Form LIBC-337.**
- (iii) Agreement for Compensation for Death, Form LIBC-338.**
- (iv) Supplemental Agreement for Compensation for Death, Form LIBC-339.**

*Approved rating organization*—One or more organizations situated within this Commonwealth, subject to supervision and to examination by the Insurance Commissioner and approved by the Insurance Commissioner as adequately equipped to perform the functions specified in [ Chapter 7B ] Article VII of the act (77 P. S. §§ 1035.1—1035.22)[ , ] on an equitable and impartial basis.

**Board**—The Workers' Compensation Appeal Board.

*Bureau*—The Bureau of Workers' Compensation of the Department.

**Claimant**—An individual who files a petition for, or otherwise receives, benefits under the act or the Disease Law.

*Department*—The Department of Labor and Industry of the Commonwealth.

**Disease Law**—The Pennsylvania Occupational Disease Act (77 P. S. §§ 1201—1603).

*Earned premium*—A direct premium earned as required to be reported to the Insurance Department on Special Schedule "W," under section 655 of The Insurance Company Law of 1921 (40 P. S. § 815). For the purposes of this chapter, direct premium earned may not include:

\* \* \* \* \*

(ii) Premiums not attributable to coverage under the act or [ The Pennsylvania Occupational Disease Act (77 P. S. §§ 1201—1603) ] the Disease Law.

\* \* \* \* \*

**Employer**—As defined in sections 103 and 401 of the act (77 P. S. §§ 21 and 701), including the insurer and a self-insured employer.

\* \* \* \* \*

*Insured employer*—An employer which has chosen to insure its workers' compensation liabilities through a [ workers ] workers' compensation insurance carrier licensed to do so in this Commonwealth. [ The term "employer" when used in this context does not include the insurer thereof. ]

\* \* \* \* \*

*Runoff self-insurer*—An employer that had been a self-insurer but no longer maintains a current permit to self-insure under section 305 of the act.

\* \* \* \* \*

**§ 121.2. [ Superseded provisions ] (Reserved).**

[ Each and every provision promulgated by this Bureau of Workers' Compensation, effective before the date of adoption of this chapter, is superseded as of the effective date of this chapter. ]

**§ 121.3. [ Completion of forms ] Filing of forms.**

[ In most instances, every filing in the claim and petition process shall be on a Departmental form identified with an OI DC designation. Each question or space on every form shall be completed to the best of the party's knowledge. If there is a reason why a question or space cannot be completed, then that reason shall be stated in the space; that is not applicable (n/a), zero, none, and the like. Forms not

properly completed will be returned. Distribution of forms shall be in accordance with instructions on the forms. ]

(a) Forms must be in the format prescribed by the Bureau. All references to forms shall mean paper forms or an electronic format prescribed by the Bureau.

(b) The Bureau may return forms that are not properly completed or filed. The Bureau will notify a party if a form is returned. For a form returned for the first time, the Bureau will preserve the filing date if the submitting party files a corrected version of the form within 10 days of the written notice of the return of the form.

(c) The Bureau may require the filing of forms or data through electronic means.

(d) The filing date is the date indicated on the United States Postal Service postmark or postal receipt. If the postmark or postal receipt is absent or unreadable, the filing date is the date of receipt by the Bureau.

§ 121.3a. Computation of time.

Except as otherwise provided by law, in computing a period of time prescribed or allowed by this chapter, the day of the act, event or default after which the designated period of time begins to run may not be included. The last day of the period so computed shall be included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor a holiday. A part-day holiday shall be considered as other days and not as a holiday. Intermediate Saturdays, Sundays and holidays shall be included in the computation.

§ 121.3b. Posting workers' compensation information.

(a) An employer shall post workers' compensation information at its primary place of business and at its sites of employment in a prominent and easily accessible place, including, without limitation, areas used for the treatment of injured employees or for the administration of first aid. The workers' compensation information shall be posted in the same location as the notice required by section 305(e) of the act (77 P. S. § 501(e)).

(b) The information shall be entitled "Workers' Compensation Information" and include the following:

(1) The workers' compensation law provides wage loss and medical benefits to employees who cannot work, or who need medical care, because of a work-related injury.

(2) Benefits are required to be paid by your employer when self-insured, or through insurance provided by your employer. Your employer is required to post the name of the company responsible for paying workers' compensation benefits in the same area as this posting.

(3) If your employer has posted a list of six or more health care providers in your work place, you are required to visit one of them for your initial treatment, except for an emergency. Your employer

is required to give you a notice of your rights and responsibilities for using the list of providers.

(4) You should report immediately any injury or work-related illness to your employer.

(5) Your benefits could be delayed or denied if you do not notify your employer immediately.

(6) If your claim is denied, you have the right to request a hearing before a workers' compensation judge.

(7) The Bureau of Workers' Compensation cannot provide legal advice. However, you may contact the Bureau of Workers' Compensation for additional general information at: Bureau of Workers' Compensation, 1171 S. Cameron St., Room 103, Harrisburg, Pennsylvania 17104-2501; telephone number within Pennsylvania (800) 482-2383; telephone number outside of Pennsylvania (717) 772-4447; TTY (800) 362-4228 (for hearing and speech impaired only); Website: www.state.pa.us, PA Keyword: workers comp.

(c) The information must be printed on paper no smaller than 8 1/2 x 11 inches and in font no smaller than 11 point.

§ 121.4. [ Reproduction of forms ] (Reserved).

[ Printing samples of all Departmental forms will be provided upon request. Reproduction of these forms will be in accordance with guidelines accompanying the samples. ]

§ 121.5. Reporting injuries to the Bureau.

(a) [ Employers' reports of occupational injury or disease shall be filed directly with the Bureau of Occupational Injury and Disease Compensation, Department of Labor and Industry (Department), Harrisburg, Pennsylvania 17120 on Form OIIC-344, Employer's Report of Occupational Injury or Disease or on Form LIBC-375, Employer's Report of Industrial Injury Coal Mining, in accordance with section 438 of the Workers' Compensation Act (77 P. S. § 994).

(b) It shall be mandatory that the employer report to the Department all occupational injury and disease resulting in disability continuing more than the day, shift or turn in which the employe was injured. It shall also be mandatory that the employe receive, as soon as practicable, a copy of this report to be completed at least through item 30.

(c) For purposes of reporting injuries, a variance is granted under section 438 of the act to allow submission of the reports as late as ten days but no sooner than seven days from the date disability begins.

(d) ] The [ report shall be filed ] employer shall file the Employer's Report of Occupational Injury or Disease, Form LIBC-344, with the [ Department ] Bureau as follows:

\* \* \* \* \*

(2) [ Not before ] Within 7 days [ but no later than 10 days ] after the date disability begins for all other injuries covered by section [ 435 ] 438 of the [ Workers' Compensation Act ] act (77 P. S. § [ 991 ] 994).

\* \* \* \* \*

(b) The employer shall send a copy of this report to the employee simultaneously with filing it with the Bureau.

(c) A disability that requires a report to the Bureau is defined as an injury only resulting in death or disability continuing the entire day, shift or turn, or longer, in which the injury was received.

[ (e) Disability for the purposes of reporting to the Bureau shall be defined as loss of time or wages beyond the day, shift or turn in which the injury was received or the loss of a member, loss of use of a member or disfigurement which may qualify for a specific loss payment under section 306(c) of the Workers' Compensation Act (77 P. S. § 513).

(f) Before mailing the Bureau copy, the employer shall separately complete the bottom of that form. ]

§ 121.6. [ Supplemental reports ] (Reserved).

[ The Preprinted Computer Card, Form OIDC-493, will be mailed by the Department of Labor and Industry (Department) to the insurer or self-insurer. This will acknowledge receipt by the Department of an employer's report which either indicates lost time beyond the waiting period or is unclear as to the period of disability. It is to be completed and returned to the Department in compliance with the instructions printed thereon. ]

§ 121.7. Notice of compensation payable and notice of temporary compensation payable.

(a) [ Employer's Notice of Compensation Payable, Form OIDC-495, may be used as indicated under section 407 of the Workers' Compensation Act (77 P. S. § 731). ] If an employer files a Notice of Compensation Payable, Form LIBC-495, or a Notice of Temporary Compensation Payable, Form LIBC-501, the employer shall do all of the following simultaneously and no later than 21 days from the date the employer had notice or knowledge of the disability:

(1) Send the Notice of Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501, to the employee or the employee's dependent.

(2) Pay compensation to the employee or to the employee's dependent.

(3) File the Notice of Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501, with the Bureau.

(b) [ The employer shall submit the notice directly to the employee or the employee's dependent, with a copy to the Department, as soon as practicable, and in no event later than 21 days from the date the employer knew of injuries.

(c) The notice does not require the employee's signature.

(d) If compensation payable under the notice is less than the maximum rate, a statement of wage form, Form OIDC-494, shall accompany the notice showing a calculation of wages, where applicable, and rate of compensation. ] A Statement of Wages, Form LIBC-494A, or Statement of Wages, Form LIBC-494C, shall be filed with every Notice of

Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501.

(c) To modify a Notice of Temporary Compensation Payable, Form LIBC-501, an employer shall file an amended Notice of Temporary Compensation Payable, Form LIBC-501, with the Bureau during the 90-day temporary compensation payable period. The amended Notice of Temporary Compensation Payable, Form LIBC-501, shall be clearly identified as "Amended." This subsection does not apply upon conversion of the Notice of Temporary Compensation Payable, Form LIBC-501, to a Notice of Compensation Payable, Form LIBC-495.

(d) The employer may file a Notice of Compensation Payable, Form LIBC-495, or a Notice of Temporary Compensation Payable, Form LIBC-501, based upon the employee's estimated wages if the employer has not obtained the wages necessary to properly calculate the employee's compensation payable. The estimated Notice of Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501, shall be clearly identified as "Estimated."

(e) If the estimated wages or compensation is less than the employee's actual wages, the employer shall amend the estimated Notice of Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501, upon receipt of the employee's actual wages. Amendments resulting in an increase in the employee's wage or compensation shall be filed with the Bureau under § 121.12 (relating to bureau review of agreements, notices of compensation payable and notices of temporary compensation payable). The employer shall file a Supplemental Agreement for Compensation for Disability or Permanent Injury, Form LIBC-337, under § 121.17(b) (relating to change in compensation) when there are changes resulting in a decrease in the employee's wage or compensation.

(f) In medical only cases, when an employee's injury has not resulted in lost time from work, an employer may file a Notice of Compensation Payable, Form LIBC-495.

§ 121.8. Agreements for compensation for disability or permanent injury.

(a) [ All Agreements, Form LIBC-336, shall be completed before being signed. If any entry is made after the signature is affixed, the entire agreement may be nullified, at the option of the employee or his dependents. ] An Agreement for Compensation for Disability or Permanent Injury, Form LIBC-336, shall be completed before being signed by the employer and the employee. If the employer and the employee enter into an agreement, the employer shall do all of the following simultaneously and not later than 21 days from the date the employer had notice or knowledge of the disability:

(1) Send the agreement signed by the employer and the employee to the employee.

(2) Pay compensation to the employee.

(3) File the agreement with the Bureau.

(b) [ Wage information need not be shown unless the compensation payable thereon is less than the

maximum allowed.] A Statement of Wages, Form LIBC-494A, or Statement of Wages, Form LIBC-494C, shall be filed with every Agreement for Compensation for Disability or Permanent Injury, Form LIBC-336.

(c) If the employer has not obtained the wages necessary to properly calculate the employee's compensation payable, an Agreement for Compensation for Disability or Permanent Injury, Form LIBC-336, based upon the employee's estimated wages may be filed. The estimated Agreement for Compensation for Disability or Permanent Injury, Form LIBC-336, shall be clearly identified as "Estimated."

(d) If the estimated wages or compensation is not correct, the employer shall amend the estimated Agreement for Compensation for Disability or Permanent Injury, Form LIBC-336, upon receipt of the employee's actual wages. Amendments resulting in an increase in the employee's wage or compensation shall be filed with the Bureau under § 121.12 (relating to Bureau review of agreements, notices of compensation payable and notices of temporary compensation payable), and shall be clearly identified as "Amended." The employer shall file a Supplemental Agreement for Compensation for Disability or Permanent Injury, Form LIBC-337, under § 121.17 (relating to change in compensation) when there are changes resulting in a decrease in the employee's wage or compensation.

§ 121.9. Agreements [—fatal cases] for compensation for death.

(a) If a compensable injury results in death, an Agreement [ Form ] for Compensation for Death, Form LIBC-338, shall be executed between [ the ] an employer and the [ dependent, ] deceased's dependents or [ a ] personal representative[; and a copy thereof shall be submitted to the Department of Labor and Industry as outlined under section 407 of the Workers' Compensation Act (77 P.S. § 731) ] and filed with the Bureau.

(b) [ Wage information shall be shown if the compensation payable thereon for any period is less than the maximum allowed. ] A Statement of Wages, Form LIBC-494A, or Statement of Wages, Form LIBC-494C, shall be filed with every Agreement for Compensation for Death, Form LIBC-338.

(c) If death results [ within 7 days from the date of ] from the injury, compensation payments to the [ dependent ] dependents for the death benefit shall begin from the date of the employee's death.

(d) [ If death results more than 7 days after the injury, compensation payments covering the disability period should be paid as set forth in this chapter, and compensation payments because of death due to the injury shall start from the date of death. ] If the employer has not obtained the wages necessary to properly calculate the employee's compensation payable, an Agreement for Compensation for Death, Form LIBC-338, based on the employee's estimated wages may be filed. The estimated Agreement for Compensation for Death, Form LIBC-338, shall be clearly identified as "Estimated."

(e) If the estimated wages or compensation is not correct, the employer shall amend the estimated Agreement for Compensation for Death, Form LIBC-338, on receipt of the employee's actual wages. Amendments resulting in an increase in the employee's wage or dependent's compensation shall be filed with the Bureau under § 121.12 (relating to Bureau review of agreements, notices of compensation payable and notices of temporary compensation payable), and shall be clearly identified as "Amended." The employer shall file a Supplemental Agreement for Compensation for Disability or Permanent Injury, Form LIBC-337, under § 121.17 (relating to change in compensation) when there are changes resulting in a decrease in the employee's wage or compensation.

§ 121.10. [ Supplemental agreements ] (Reserved).

[ (a) Supplemental Agreement, Form LIBC-337, shall be completed as necessary before being signed by both employer and claimant. This form shall be used to modify an agreement, notice of compensation payable or award.

(b) If the employee's disability is sufficient to entitle him to the maximum compensation payable under section 306(b) of the Workers' Compensation Act (77 P.S. § 512), no wage information need be given. The agreement shall then recite "employee has returned to work, but suffers a loss of earning power sufficient to entitle him to the maximum compensation payable for partial disability," or words to that effect as the fact of each case warrant.

(c) If the employee has returned to work but is receiving less than the maximum compensation payable under section 306(b) of the act for partial disability, his wages before the injury, as fixed by the agreement or award, and the wages actually received after his return to work, shall be set forth. Payment of partial disability under this paragraph shall be made on the same periodic basis as other compensation is payable, except, and only where necessary, an initial period not to exceed 4 weeks, may be used to determine an average weekly wage for partial disability. ]

§ 121.11. Supplemental agreements [—fatal] for compensation for death.

[ Where the birth of a posthumous child, the remarriage of a widow or the death of a dependent changes the amount of compensation of the person or person to whom it is payable, but does not extinguish the employer's liability under an award or an agreement, a Supplemental Agreement, Form LIBC-339, should be executed by the surviving parent or guardian. The Department of Labor and Industry will presume that the surviving parent is guardian for purposes of receiving compensation under the act. ]

(a) A Supplemental Agreement for Compensation for Death, Form LIBC-339, may be used to change an Agreement for Compensation for Death, Form LIBC-338, or an award. A Supplemental Agreement for Compensation for Death, Form LIBC-339, shall be completed before being signed by an employer and a deceased's dependents or personal representative.

(b) An Agreement for Compensation for Death, Form LIBC-338, may be changed for any of the following reasons:

- (1) Birth of a posthumous child.
- (2) A change in dependent's status, including death.
- (3) A surviving spouse dies, remarries or becomes capable of self-support and any dependent children remain eligible for benefits.
- (c) The Bureau will presume that the surviving parent is guardian for purposes of receiving compensation under the act.

(d) The completed Supplemental Agreement for Compensation for Death, Form LIBC-339, shall be sent to the all of the deceased's dependents or their personal representative and filed with the Bureau.

§ 121.12. [Department] Bureau review of agreements, [and] notices of compensation payable and notices of temporary compensation payable.

[If any facts in a compensation agreement, or in a notice of compensation payable, differ from facts stated in the injury report, and the Department of Labor and Industry (Department) cannot reasonably resolve the difference, the agreement or notice may be returned for correction. Errors in computing wages may be corrected without the execution of new agreements if the correction would result in an increase in the employe's wage or his compensation. This shall be accomplished by the submission of notice to the employe with a copy to the Department.]

(a) Errors in computing wages may be corrected by filing an amended version of the agreement, Notice of Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501, with the Bureau if correction of errors would increase the employee's wage or compensation. The amended agreement, Notice of Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501, shall be clearly identified as "Amended" and may have only the insurer's signature.

(b) A Statement of Wages, Form LIBC-494A, or Statement of Wages, Form LIBC-494C, shall be filed with every amended agreement, Notice of Compensation Payable, Form LIBC-495, or Notice of Temporary Compensation Payable, Form LIBC-501.

§ 121.13. Denial of compensation.

If compensation is controverted, a Notice of [Workmen's] Workers' Compensation Denial, Form LIBC-496, shall be sent to [employe] the employee or dependent and filed with the Bureau, fully stating the grounds upon which the right to compensation is controverted, [with a copy to the Department of Labor and Industry, no later than] within 21 days after notice or knowledge to the employer of [employe's] the employee's disability or death.

§ 121.14. Weekly wage[, ] for occupational disease cases.

[The] For cases involving occupational diseases under the act, the weekly wage will be determined in

accordance with section 309 of the [Workers' Compensation Act] act (77 P. S. § 582), and [will] a claimant's compensation rate shall be subject to the maximum compensation payable rate in effect at the date of last exposure.

§ 121.15. Compensation payable.

(a) In computing the time when the disability becomes compensable, the day the injured [employe] employee is unable to continue at work by reason of the injury shall be counted as the first day of disability in the 7 day waiting period. If the injured [employe] employee is paid full wages for the day, shift or turn on which the injury occurred, the following day shall be counted as the first day of disability. In determining the waiting period or time during which compensation is payable, each calendar day, including Sundays and holidays, shall be counted. In determining the period of disability, seven should be used as a divisor to determine the number [of weeks], and any part [thereof], of the weeks.

(b) If death results [within 7 days from the date of] from the injury, compensation payments to all of the [dependent] dependents for death benefits shall begin from the date of the employee's death.

(c) If death results more than 7 days after the injury, compensation payments covering the disability period should be paid as set forth in this chapter[;], and compensation payments because of death due to the injury shall start from the date of death.

\* \* \* \* \*

§ 121.16. [Statement of compensation paid] Updating claims status.

(a) [As close as practicable to the anniversary date of injury or death, a Statement of Account of Compensation, Form LIBC-392, shall be filed annually with the Department of Labor and Industry (Department) on each open case, showing payments to date of filing.] All of the following apply to the Annual Claims Status Report, Form LIBC-774:

(1) The Bureau will provide the Annual Claims Status Report, Form LIBC-774, to an insurer each year before February 1.

(2) The insurer shall file a completed Annual Claims Status Report, Form LIBC-774, to the Bureau each year before April 16.

(3) If an insurance carrier fails to file the completed report, the Bureau may recommend that the Insurance Commissioner revoke or suspend the insurance carrier's license under section 441(a) of the act (77 P. S. § 997).

(4) If a self-insured employer fails to timely file the completed report, the Secretary of the Department may revoke or suspend the self-insured employer's privilege to carry its own risk under section 441(b) of the act.

(b) [If an agreement or notice of compensation payable provides solely for payment of compensation for a specific loss under section 306(c) of the Workers' Compensation Act (77 P. S. § 513), a Statement of Account of Compensation, Form LIBC-392, will be accepted by the Department as confirmation of final payment.



(c) If liability of an employer for death compensation has terminated because of remarriage of a widow or death of all dependents entitled to compensation, a Statement of Account of Compensation, Form LIBC-392, shall be submitted to the Department along with a certified copy of marriage certificate or death certificate, as the case may be.

(d) If the period for which death compensation payable by the employer has expired, Statement of Account of Compensation, Form LIBC-392, shall be filed with the Department as final payment confirmation.

(e) If compensation is terminated or suspended by decision of a referee, Workmen's Compensation Appeal Board or an appeal court or by original or supplemental agreement signed by the injured employe, a Statement of Account of Compensation, Form LIBC-392, shall be filed with the Department as confirmation of payment.

(f) If a statement of account of compensation is submitted under the requirements of the provisions of this chapter, it shall be signed by an authorized representative of the employer or insurer. ] A Final Statement of Account of Compensation Paid, Form LIBC-392, shall be filed with the Bureau immediately after the final payment of compensation.

§ 121.17. [ Termination ] Change in compensation.

(a) [ *By final receipt.* If an injured employe has recovered from his injury so that he has regained his full earning power, and so that all disability due to the injury has terminated, a final receipt may be fully prepared for signature. The fact that the employe returns to similar work at his original or greater wage unaccompanied by a showing that all disability has terminated is not a basis for a final receipt. However, it may be the basis for a suspension of compensation. ] If an injured employee has recovered from an injury, or a deceased employee's dependent or personal representative is no longer eligible to receive death benefits, an Agreement to Stop Weekly Workers' Compensation Payments (Final Receipt), Form LIBC-340, may be filed with the Bureau.

(b) [ *By agreement.* Termination may be accomplished by agreement to that effect signed by the employer and claimant. A suspension of compensation, rather than a complete termination, may also be accomplished by agreement between the parties. ] Termination, suspension, modification or other change in compensation may be accomplished by filing with the Bureau a Supplemental Agreement for Compensation for Disability or Permanent Injury, Form LIBC-337. A Supplemental Agreement for Compensation for Disability or Permanent Injury, Form LIBC-337, may be used to change an Agreement for Compensation for Disability or Permanent Injury, Form LIBC-336, a Supplemental Agreement for Compensation for Disability or Permanent Injury, Form LIBC-337, a Notice of Compensation Payable, Form LIBC-495, or an award. A Supplemental Agreement for Compensation for Disability or Permanent Injury, Form LIBC-337, shall be completed before being signed by the

employer and the employee. The completed Supplemental Agreement for Compensation for Disability or Permanent Injury, Form LIBC-337, shall be sent to the employee or his dependents and filed with the Bureau.

(c) [ *By petition.* If termination, or suspension, cannot be accomplished as indicated in subsection (a) or (b), the employer shall file petition for termination, or suspension, as provided under section 413 of the Workers' Compensation Act (77 P. S. § 774.2). ] A suspension or modification of compensation may be accomplished by the employer mailing a Notification of Suspension or Modification Pursuant to §§ 413 (c) & (d), Form LIBC-751, to the Bureau and the employee. The wage calculation on the Notification of Suspension or Modification Pursuant to §§ 413 (c) & (d), Form LIBC-751, shall be completed for a modification.

(d) [ *By decision.* If a decision of a Referee, Board or Appeal Court terminates the payment of compensation, no further documentation is required, except Statement of Account of Compensation, Form OICD-392, showing total compensation paid. ] If temporary payments made under § 121.7(a) (relating to notice of compensation payable and notice of temporary compensation payable) are stopped, the employer shall file a Notice Stopping Temporary Compensation, Form LIBC-502, and a Notice of Workers' Compensation Denial, Form LIBC-496, within 5 days of the last payment or file a Notice of Compensation Payable, Form LIBC-495, or file an Agreement for Compensation for Disability or Permanent Injury, Form LIBC-336. The employer may not use a Notification of Suspension or Modification Pursuant to §§ 413 (c) & (d), Form LIBC-751, to stop temporary payments made under § 121.7.

(e) If termination, suspension or modification of compensation cannot be achieved through subsection (a), (b), (c) or (d), the employer may file a petition to: Terminate (stop payment of worker's compensation), Terminate (based upon physician's affidavit, a special supersedeas hearing to be scheduled), Modify or Suspend Compensation Benefits, Form LIBC-378.

§ 121.18. Subrogation [ procedure ].

(a) [ *In the event of* ] If a third party obtains recovery under section 319 of the [ **Workers' Compensation Act** ] act (77 P. S. § 671), a Third Party Settlement Agreement, Form [ **OICD-380** ] LIBC-380, shall be executed by the parties [ **thereon** ].

(b) If credit is requested against future compensation payable, a Supplemental Agreement for Compensation for Disability or Permanent Injury, Form LIBC-337, shall also be filed with the [ **Department of Labor and Industry indicating** ] Bureau, including the amount and periodic method of pro rata reimbursement of attorney fees and expenses.

§ 121.20. Commutation of compensation under section 412 of the act (77 P. S. § 791).

Commutation under section 412 of the [ **Workers' Compensation Act** ] act (77 P. S. § 791) shall only be allowed for the final [ **25** ] 52-week period or less. [ **It is not intended to permit the payment of compensa-**

tion by 25-week ] The commutation amount shall not be paid in installments. [ The full amount of compensation commuted shall be sent to the employe with Form LIBC-498 and a copy of this form shall be sent to the Department. If a statement of account showing the full amount of compensation paid, including the amount commuted, accompanies the Department copy of Form LIBC-498, it will serve to close the case. Commutation of payments under section 316 of the Workers' Compensation Act (77 P.S. § 604) is dealt with under the rules for hearing before referees. ] A Commutation of Compensation, Form LIBC-498, shall be filed with the Bureau.

§ 121.21. [ Coal diseases—claim and reimbursement ] Reimbursement for silicosis, anthracosilicosis or coal workers' pneumoconiosis.

(a) Claims for compensation for silicosis, anthracosilicosis or coal workers' pneumoconiosis as defined in section 108(q) of the [ Workers' Compensation Act ] act (77 P.S. § 27.1(q)), for disability or death, [ where ] when the date of disability commences or death occurs between July 1, 1973, and June 30, 1976, inclusive, [ where ] and when the liable employer is seeking to offset part of its liability under section 305.1 of the [ Workers' Compensation Act ] act (77 P.S. § 411.1), shall be instituted by [ claim petition filed with the Department of Labor and Industry (Department) on Form OIDC-362 ] filing a Claim Petition for Workers' Compensation, Form LIBC-362, with the Bureau.

(b) Unless stayed by a supersedeas on appeal, following the issuance of an award by the [ referee ] workers' compensation judge, the [ appeal board ] Board or the appellate court, compensation payments for silicosis, anthracosilicosis or coal workers' pneumoconiosis[ , as set forth in section 108(q) of the Workers' Compensation Act ] shall be made in full by the insurer [ with the following provisions for reimbursement by the Commonwealth in accordance with section 305.1 of the Workers' Compensation Act: ]. If the insurer seeks reimbursement from the Bureau under section 305.1 of the act, it shall submit the following to the Bureau:

(1) A notarized statement, signed by an officer of the company, containing an itemized list of payments made to all claimants[ , shall be submitted to the Department ] for quarterly reimbursement. Each itemized entry shall contain [ Social Security number, claimant's name and address, and total amount paid claimant ] the claimant's name, address, Social Security number and the total amount paid to the claimant. Each itemized list shall be made for a full and exact calendar quarter[ , ]: that is, January 1 through March 31[ , ]; April 1 through June 30[ , ]; July 1 through September 30[ , ]; or October 1 through December 31. Each list shall [ be submitted in ] have two categories: recurring quarterly reimbursement and initial payment made to each claimant, which payment should include the current reimbursable quarter. Each list submitted shall be in roster form and in numerical order according to the

claimant's Social Security number, [ shall ] contain the claimant's name and Social Security number, [ shall ] cover the amount to be reimbursed and the total amount paid to the claimant, and [ shall ] be [ submitted on the quarterly reimbursement statement Bureau Form OIDC-683 ] reported in a format as required by the Bureau.

(2) Each bill containing the itemized entries shall be submitted [ in duplicate ] to the Bureau [ of Occupational Injury and Disease Compensation ] no later than the 15th day of the month following the end of the calendar quarter for which reimbursement is sought. A bill received after that date will not be considered for payment until the end of the following quarter.

(c) [ For the purpose of auditing, every insurer shall be required to keep concise records concerning payments and reimbursements, to be made available for inspection by the Department or a governmental agency at reasonable times. ] For auditing purposes, an insurer shall keep records for 3 years concerning payments and reimbursements made under this section. The records shall be made available for inspection by the Bureau at reasonable times.

(d) If the Bureau [ of Workers' Compensation (Bureau) has reason to believe ] has information that the insurer [ or self-insurer ] primarily liable for compensation under the act has failed to make a payment under the act and [ the ] this section, the Bureau may[ , in its discretion, make payments of ] pay compensation directly to the claimant, for the portion of the compensation which is payable by the Commonwealth under section 305.1 of the [ Workers' Compensation Act ] act until [ a time ] the insurer [ or self-insurer ] resumes payment of compensation. [ Nothing in this section shall require the ] The Bureau is not required to initiate direct payments to a claimant [ where ] when the insurer [ or self-insurer ] is making full payment of the compensation but is not seeking reimbursement [ pursuant to ] under this section. [ Nothing in this section shall eliminate the responsibility of the insurer or self-insured to comply with the provisions of the act and the provisions of this part or prohibit prosecution for any alleged violations of the act or this part or in accordance with the act. ]

§ 121.22. Subsequent injury fund.

(a) Compensation for a subsequent injury, as defined in section 306.1 of the act (77 P.S. § 516) shall be paid as follows:

\* \* \* \* \*

(2) Upon expiration of the specific loss period, the [ Department ] Bureau will be responsible for additional compensation due for the duration of total disability. The fund established under section 306.2 of the act (77 P.S. § 517), from which these payments are to be made, shall be maintained as follows:

\* \* \* \* \*

(b) Insurance carriers shall remit to the [ Department ] Bureau assessment amounts as follows:

\* \* \* \* \*

(c) If the amount of earned premium as reported to the Insurance Department, by an insurance carrier, for the preceding calendar year is less than zero, the [ Department ] Bureau will calculate the assessment amount as though an earned premium amount of zero were reported to the Insurance Department.

\* \* \* \* \*

(e) Self-insured employers and runoff self-insurers shall pay assessments directly to the [ Department ] Bureau.

(f) The claimant shall file a [ petition for additional compensation ] Claim Petition for Additional Compensation from the Subsequent Injury Fund Pursuant to Section 306.1 of the Workers' Compensation Act, Form LIBC-375, as provided in section 315 of the act (77 P. S. § 602) or the claim will be forever barred.

§ 121.23. Supersedeas fund.

(a) Annual assessments under section 443 of the act (77 P. S. § 999) shall be in amounts determined by the following:

\* \* \* \* \*

(3) Insurance carriers shall remit to the [ Department ] Bureau assessment amounts as follows:

\* \* \* \* \*

(b) If the amount of earned premium as reported to the Insurance Department, by an insurance carrier, for the preceding calendar year is less than zero, the [ Department ] Bureau will calculate the assessment amount as though an earned premium amount of zero were reported to the Insurance Department.

\* \* \* \* \*

(d) Self-insured employers and runoff self-insurers shall pay assessments directly to the [ Department ] Bureau.

(e) Applications for reimbursement shall be filed directly with the Bureau on [ Form LIBC-662, " ] an Application for Supersedeas Fund Reimbursement[ . " ], Form LIBC-662. Applications will be processed administratively to determine whether the parties can agree on the payment or amount of reimbursement. If the payment or amount of reimbursement cannot be agreed upon, the matter will be assigned to a [ Workers' Compensation Judge ] workers' compensation judge for a formal hearing and adjudication.

§ 121.24. [ Approval of fees ] (Reserved).

[ In all cases involving claim petitions or other petitions under The Pennsylvania Occupational Disease Act (77 P. S. §§ 1201—1603) and the Workers' Compensation Act (77 P. S. §§ 1—1041.4), no agreement or claim for attorney's fees or other disbursements in support of any claim for compensation shall be valid and no payments shall be made pursuant thereto unless the agreement or claim has been approved by the referee or by the Appeal Board, as the case may be, by whom the matter is heard. In all such cases, the referee or the board member hearing the case shall obtain from the

claimant's attorney a copy of the fee agreement or claim and a copy of any other statement or claim for disbursements to be made on account of the presentation of the case, and, after determining the proper amount to be allowed in relation to the services rendered, shall specify in the decision the amount approved for disbursement. ]

§ 121.25. [ Delivery of compensation checks ] Issuance of compensation payments.

[ (a) In no event may a claimant's check for workmens' compensation or occupational disease compensation be made payable to, or delivered to, an attorney except when the attorney is the administrator or executor of the claimant's estate, a court-appointed trustee, a court-appointed guardian or acting in some other fiduciary capacity. In such cases compensation may be paid to the attorney in his capacity as administrator or executor of the estate, court appointed trustee, court appointed guardian or other fiduciary capacity. Notice of the first payment to a claimant shall be sent to counsel of record. In cases where an attorney's fee and costs have been approved by a referee or the Workmen's Compensation Appeal Board, or where the referee or board determines and awards the attorneys' fee and costs, a check in the amount of the fees and costs, separate from a compensation payment, shall be made payable to the claimant's attorney and mailed to him. The provisions of rules and regulations inconsistent with this section are repealed.

(b) The claimant's compensation checks shall be mailed by first-class mail to the claimant's last known address, unless the claimant has authorized another method of delivery on a form to be prescribed by the Bureau. In no event shall a claimant or his representative be required to appear at a specific place designated by the employer or insurer in order to receive his compensation payments. ] Compensation payments shall be issued according to the following:

(1) Unless the claimant and the employer have executed an Authorization for Alternative Delivery of Compensation Payments, Form LIBC-10, or a court orders payment, a claimant's payment for workers' compensation or occupational disease compensation may not be made payable to or delivered to, an attorney unless the attorney is the administrator or executor of the claimant's estate, a court-appointed trustee, a court-appointed guardian or acting in some other fiduciary capacity.

(2) Notice of the first payment to a claimant shall be sent to counsel of record.

(3) If a workers' compensation judge or the Board approves attorneys' fees and costs, a payment for fees and costs, separate from a compensation payment, shall be made payable, and issued, to the claimant's attorney.

(4) An employer may not require a claimant to appear at a specific place in order to receive compensation payments.

§ 121.26. [ Required information for maximum compensation rate increase ] (Reserved).

[ (a) General. The provisions of this section set forth the information required on initial agree-

ments and notices of compensation payable regarding the increase in compensation rates set forth in section 105.2 of the Workers' Compensation Act (77 P. S. § 25.2). The information shall be submitted on notices of compensation payable and initial agreements for all injuries occurring on or after February 3, 1975, since it is expected that some of these cases will be in active payment status on July 1, 1975.

(b) *Purpose.* The purpose of this section is to provide confirmation information to the Department of Labor and Industry as to what rate changes, if any, will occur on July 1, 1975, for injuries occurring on and after February 3, 1975.

(c) *Information required.* Required information shall be as follows:

(1) Statement of Wages (LIBC-494) shall be completed on cases here average weekly wage is less than \$256.50 and attached to Notice of Compensation Payable (LIBC-495). Agreement (LIBC-336) shall also show complete wage information.

(2) If average weekly wage is \$256.50 or more, wage information may be omitted.

(3) On agreements or notices of compensation payable for injuries occurring between February 3, 1975, and July 1, 1975, a phrase shall be inserted under "Remarks" or "Further matters agreed upon":

"Compensation payable on or after July 1, 1975, shall be at the rate of \$\_\_\_\_\_."

On all injuries occurring on and after July 1, 1975, procedure shall be as outlined under 34 Pa. Code § 121.7(c) (relating to notice of compensation payable) and 34 Pa. Code § 121.8(b) (relating to agreement). ]

§ 121.27. [ Violations of the provisions of the act or this chapter ] Orders to show cause.

(a) [ The provision of 1 Pa. Code Part II (relating to general rules of administrative practice and procedure) applies to proceedings involving violations of the act or this chapter. ] The Department may serve an order to show cause on a respondent for an alleged violation of the act or regulations. The order to show cause will contain the particulars of the alleged violation and the procedures for filing an answer under subsection (b).

(b) [ Whenever the Department of Labor and Industry (Department) has information, through its own investigation or through complaint by a party to the Department in writing on a form prescribed by the Department, upon which it believes that a violation of the provisions of the act or this chapter has occurred, the Department may serve upon the respondent who has allegedly violated the provisions of the act or this chapter an order to show cause why the respondent should not be found in violation of the provisions of the act or this chapter. The order will set forth the particulars of the alleged violation. A copy of the order will be sent to the employer, his insurer, and the employe or family of the employe involved in the alleged violation. The Legal Division of the Bureau of Workers' Compensation shall be deemed to be a party to be served with notice of any petition for penalties

filed with the Department on the form prescribed by the Department and any other items pertinent to any proceedings on a petition. This subsection supplements 1 Pa. Code § 35.14 (relating to orders to show cause). ] A written answer to the order to show cause may be filed no later than 20 days after the date that the order to show cause is served on the respondent. The answer shall admit or deny the allegations in the order to show cause and state respondent's defense. General denials that are unsupported by specific facts will not comply with this section and may be deemed a basis for entry of a final order because the respondent has raised no issues requiring further proceedings. The facts in the order to show cause may be deemed admitted if a respondent fails to file a timely answer under this subsection.

(c) [ The order to show cause will set forth a date, time and place for a hearing for the purpose of determining whether the violation as alleged has occurred. This subsection supplements 1 Pa. Code § 35.14 (relating to orders to show cause). ] The Director of the Bureau will assign the order to show cause to an impartial hearing officer who will schedule a hearing. The hearing officer will provide notice to the parties of the hearing date, time and place.

(d) [ The order to show cause will also specify the date, place and person to be served with an answer to the order to show cause. An answer to the order to show cause shall be filed no later than 15 days following the date that the order to show cause is served on the parties as provided for in section 416 of the Workers' Compensation Act (77 P. S. § 821). This subsection supplements 1 Pa. Code §§ 35.14 and 35.37 (relating to orders to show cause; and answers to orders to show cause). ] The hearing will be conducted under this section and, when applicable, 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). The hearing officer will not be bound by strict rules of evidence.

(e) [ Failure of the respondent to answer and appear at the scheduled hearing will be considered an admission of the allegations contained in the order to show cause and will form the basis for a decision that a violation of the act or this chapter has occurred. ] Hearings shall be stenographically recorded and the transcript of the proceedings shall be part of the record and kept by the Department.

(f) [ The respondent shall have the burden of coming forth with evidence showing compliance with the provisions of the act or this chapter; but the Department or the party complaining of such violation of the act or this chapter, or the Department and the complaining party, shall have the burden of proving that such violation has occurred. ] If the respondent fails to appear in person or by counsel at the scheduled hearing without adequate excuse, the hearing officer shall decide the matter on the basis of the order to show cause and evidence presented.

(g) [ In instances where the Department has not instituted proceedings as set forth in this section but where it becomes apparent during the conduct

of any hearing before a referee that a violation of the provisions of the act or this chapter may have occurred, the Department shall forthwith be notified in writing of this possibility by the referee hearing the matter and by the claimant or his representative. The Department shall be given the opportunity to participate in any proceedings where a possible violation of the act or this chapter exists and where penalties under section 435(d)(i) of the Workers' Compensation Act (77 P. S. § 991(d)(i)) are or may be sought. The Department will indicate in writing within 15 days after receipt of the written notice of these possible violations whether it will participate in the penalty proceedings or not. ] The Department has the burden to demonstrate, upon a preponderance of the evidence, that the respondent failed to comply with the act or regulations.

[ (h) In the event the Department does indicate that it will participate in the penalty proceedings, the Department will receive notice of any further hearings on the matter giving rise to the penalty proceeding and shall be treated as a party to those proceedings for the purposes of notice, decision and any further appeals.

(i) In the event the Department indicates that it will not participate in the penalty proceedings, the Department will receive a copy of the decision of the referee as to the disposition of the penalty request and proceedings. It shall be the duty of the party to the proceedings to advise the Department as to any further appeals on the issue of penalties and the outcome of the appeals, including appeals to and decisions by the Workmen's Compensation Appeal Board and any court of competent jurisdiction.

(j) Notwithstanding other provisions of this section, the Department may assign a petition for penalties presented to the Department by a party to a referee for hearing and determination without the participation of the Department. If the Department will so assign a matter to a referee, the petition will contain an indication that the Legal Division of the Bureau of Workers' Compensation has reviewed the petition and has decided not to participate in the proceedings. Nothing contained in this subsection shall be construed to eliminate the requirements that the Legal Division of the Bureau of Workers' Compensation shall receive notice of other items pertinent to any proceeding on such a petition; reference should be made to subsections (b) and (i) particularly.

(k) In deciding whether to issue an order to show cause under subsection (b) of this section or to participate in proceedings assigned under subsection (j), the Legal Division of the Bureau of Workers' Compensation and the Department will consider at least the following:

- (1) The nature of the offense alleged.
- (2) The relative seriousness of the offense or violation alleged.
- (3) The amount of compensation or penalty, or both, involved.
- (4) The temporal duration of the alleged violation.

(5) The impact of the alleged violation, financially or otherwise, on the complainant.

(6) The repetitive pattern, if any, apparent in the alleged violation—that is, has the respondent committed this same violation or others in regard to the same case previously.

(7) The repetitive pattern, if any, in general in regard to this respondent and other violations, alleged or proven.

(8) The extent and nature of the alleged violation in relation to other violations, alleged or proven, of other respondents.

(9) The explanation, excuse, good faith and the like, if any, offered by the respondent and verified through investigation or otherwise.

(10) The workload and staff available to prosecute or participate in these proceedings.

(11) The priorities established, if any, given the workload and staff.

(12) The chance of successful prosecution or participation, including the veracity and availability of witnesses or evidence, or both, necessary to prosecute the matter.

(13) Other factors relevant to this decision not specifically itemized but which may become apparent in the investigation of a particular case.

(l) The following words and terms, when used in this subsection, have the following meanings, unless the context clearly indicates otherwise:

(1) *Act*—The Workers' Compensation Act (77 P. S. §§ 1—1041.4).

(2) *Department*—The Department of Labor and Industry, the Bureau of Workers' Compensation.

(3) *Notice to the Department*—Mailing by first class mail to the Legal Division of the Bureau of Workers' Compensation at their offices in Harrisburg.

(4) *Referee*—Workmen's Compensation referee as defined in section 401 of the act (77 P. S. § 701) or other hearing officer as appointed by the Secretary of the Department of Labor and Industry.

(5) *Respondent*—An insurer or self insurer, including the State Workmen's Insurance Fund, which may have violated the provisions of the act or this chapter. ]

(h) This section supersedes 1 Pa. Code §§ 35.14, 35.37, 35.131 and 35.201—35.214.

§ 121.27a. Bureau intervention and penalties.

(a) If the workers' compensation judge determines that penalties resulting from an alleged violation of the act or regulations may be imposed on a party under section 435 of the act (77 P. S. § 991), the workers' compensation judge may notify the Bureau in writing within 20 days of the notice of the alleged violation.

(b) The workers' compensation judge will include a description of the nature of the alleged violation in the notice and will provide the Bureau with an opportunity to participate in the proceeding as an intervening party. The workers' compensation

judge will provide a copy of the notification to all parties.

(c) Within 20 days after receipt of the notice, the Bureau will notify the workers' compensation judge and the parties of its decision to participate in the proceeding or to allow the proceeding to continue without intervention. If the Bureau fails to respond to the notification within 20 days, the Bureau shall not have intervened. By not intervening before the workers' compensation judge, the Bureau has not waived its right to intervene in a different forum or following additional notice from the workers' compensation judge in the same proceeding.

(d) Nothing in this section shall be construed to require the Bureau to intervene in any matter or to restrain a workers' compensation judge from notifying the Bureau of a further alleged violation of the act or regulations in a case.

(e) This section supplements 34 Pa. Code §§ 131.121 and 131.122 (relating to penalty proceedings initiated by a party; and other penalty proceedings).

§ 121.28. [ Petitions designated as a request for supersedeas ] (Reserved).

[ In any case in which a petition to terminate, modify, review or set aside notices of compensation payable, an agreement, supplemental agreement or an award under section 413(a) of the Workers' Compensation Act (77 P. S. § 774.2(a)) is designated as a request for supersedeas, supersedeas may be granted at the discretion of the referee only after a hearing has been scheduled and held under the provisions of act. Upon receipt of a petition designated as a request for supersedeas under section 413(a) of the Workers' Compensation Act, the Department shall immediately assign the petition to a referee who shall forthwith schedule a hearing to consider the request for the supersedeas and the merits of the petition. The referee hearing the case shall, within 2 days of the hearing, render a decision on the issue of supersedeas and shall dispose of the rest of the issues as soon as practicable by a written decision. This rule does not apply to petitions which operate as an automatic supersedeas under section 413(a) of the Workers' Compensation Act nor is it intended to controvert any other provisions of the act. ]

§ 121.30. [ Still payable list ] Section 306(h) payments (77 P. S. § 583).

(a) Under section 306(h) of the [ Workers' Compensation Act ] act (77 P. S. § 583), [ insurance carriers and self-insured employers, including the State Workmen's Insurance Fund, ] insurers shall [ submit ] have submitted a listing of all pre-March 17, 1968, cases on which compensation is [ still ] payable on July 1, 1975. This listing must have been received in the Bureau no later than July 1, 1975.[, and should contain the following particulars:

- (1) Name of claimant.
- (2) Social Security number.
- (3) Bureau file number.

- (4) Claimant's date of birth.
- (5) Date of accident.
- (6) Name of employer.
- (7) Insurer number.
- (8) Current compensation rate.
- (9) Adjusted compensation rate.
- (10) Reimbursable difference.
- (11) Period of payment schedule. ]

(b) [ The quarterly reimbursement certification procedure shall be as follows: A notarized statement, signed by an officer of the company, containing an itemized list of payments made to all claimants, shall be submitted to the Department no later than the tenth day of the month following the quarter for which advance reimbursement payments have been made. Each itemized entry shall contain the following information:

- (1) Social Security number.
- (2) Claimant's name.
- (3) Total amount paid each claimant per quarter. ] If the insurer seeks reimbursement from the Bureau under section 306(h) of the act, it shall submit the following to the Bureau on a quarterly basis: a notarized statement, signed by an officer of the company, containing an itemized list of payments made to all claimants, submitted no later than the 10th day of the month following the quarter for which advance reimbursement payments have been made. Each itemized entry must contain the following information: the claimant's name, Social Security number and the total amount paid each claimant per quarter.

(c) Changes in a payment schedule to [ any ] an individual [ must ] shall be reported to the [ Department ] Bureau within 10 days of the change. The [ Department ] Bureau will take credit in the following reimbursable quarter for an overpayment caused by change in a payment schedule.

(d) For auditing purposes, every insurer shall keep records for 3 years concerning payments and reimbursements made under this section. The records shall be made available for inspection by the Bureau at reasonable times.

(e) If the Bureau believes that the insurer primarily liable for compensation under the act has failed to make any payment under the act and the related regulations, the Bureau may pay compensation directly to the claimant, for the portion of the compensation which is payable by the Commonwealth under section 306(h) of the act. Nothing in this section shall require the Bureau to initiate direct payments to a claimant when the insurer is making full payment of the compensation but is not seeking reimbursement under this section.

§ 121.31. Workmen's Compensation Administration Fund.

\* \* \* \* \*

(c) Insurance carriers shall remit to the [ Department ] Bureau assessment amounts as follows:

\* \* \* \* \*

(d) If the amount of earned premium as reported to the Insurance Department, by an insurance carrier, for the preceding calendar year is less than zero, the [ Department ] Bureau will calculate the assessment amount as though an earned premium amount of zero were reported to the Insurance Department.

\* \* \* \* \*

(f) Self-insured employers and runoff self-insurers shall pay assessments directly to the [ Department ] Bureau.

§ 121.32. Office of Small Business Advocate.

(a) The [ Department ] Bureau may collect annual assessments imposed on insurance carriers, but not on self-insured employers or runoff self-insurers, for the purpose of funding the Office of Small Business Advocate in accordance with section 1303 of the act (77 P.S. § 1041.3). Insurance carriers shall be directly liable to the [ Department ] Bureau for prompt payment of assessments for the Office of Small Business Advocate, as provided in the act and this chapter.

\* \* \* \* \*

§ 121.33. Collection of special funds assessments.

(a) The [ Department ] Bureau will collect assessments for the special funds by calculating the total amount of the following:

(1) What each self-insured employer is liable for paying to the [ Department ] Bureau.

(2) What each insurance carrier is responsible for collecting from insured employers and remitting to the [ Department ] Bureau.

(b) Assessments for the special funds shall be imposed, collected and remitted as follows:

(1) The [ Department ] Bureau will transmit to each insurance carrier and self-insured employer a notice of assessment amount to be collected, which shall specify the amount calculated under subsection (a) and the date on which the amount is due.

(2) Each self-insured employer shall timely remit to the [ Department ] Bureau the amount calculated under subsection (a)(1).

(3) Each insurance carrier shall collect payment for assessments from insured employers according to the procedures defined by the approved rating organization and approved by the Insurance Commissioner and timely remit payment to the [ Department ] Bureau.

(4) The failure of any insurance carrier to receive payment from an insured employer does not limit an insurance carrier's responsibility to collect and timely remit to the [ Department ] Bureau the total amount calculated under subsection (a)(2).

§ 121.34. Objections to assessments.

(a) A party receiving a notice of assessment amount to be collected from the [ Department ] Bureau may, within 15 days of receipt, object to the assessment reflected in the notice on the basis that it is excessive, erroneous, unlawful or invalid. Insured employers retain all rights provided under section 717 of the act (77 P.S. § 1035.17).

\* \* \* \* \*

(d) An objection not conforming to this section or the act will be rejected by the [ Department ] Bureau. The

[ Department ] Bureau will notify the objecting party of the specific reasons for the rejection. The objecting party shall have 30 days to cure any deficiency.

(e) Upon receipt of an objection which conforms to this section and the act, the Department will hold a hearing in accordance with 1 Pa. Code Part II (relating to [ the general rules of administrative practice and procedure ] General Rules of Administrative Practice and Procedure). After the hearing, the Department will record its findings on any objections and will transmit to the objector, by registered or certified mail, notice of the amount, if any, charged against it in accordance with the findings. The amount shall be paid by the objector within 10 days after receipt of the findings. After payment has been made, the objector may initiate an action in the appropriate court to recover the payment of the assessment or any portion thereof. [ No ] An insurer may not maintain an action to recover payment unless it has previously objected under subsection (a).

§ 121.35. Annual reports of compensation paid.

Every annual report of compensation paid made by an insurer under sections 445 and 446(e) of the act (77 P.S. §§ 1000.1 and 1000.2(e)) shall include amounts paid by an insurer for which policyholders have agreed to [ reimburse ] reimburse the insurer under deductible policies issued under section 448 of the act (77 P.S. § 1000.4).

[Pa.B. Doc. No. 05-1291. Filed for public inspection July 8, 2005, 9:00 a.m.]

[34 PA. CODE CH. 123]

Qualifications for Vocational Experts

The Department of Labor and Industry (Department), Bureau of Workers' Compensation (Bureau), proposes to amend Chapter 123 (relating to general provisions—Part II) to read as set forth in Annex A. The proposed rulemaking provides guidance regarding the act of December 23, 2003 (P.L. 371, No. 53) (Act 53), which amended the Workers' Compensation Act (act) (77 P.S. §§ 1—1041.4 and 2501—2506), and implements Act 53. Specifically, Act 53 contains amendments to section 306(b) of the act (77 P.S. § 512(2)). The Department also proposes to delete § 123.201a (relating to effect of Act 53 regarding qualifications of vocational experts—statement of policy).

Statutory Authority

This rulemaking is proposed under the authority in sections 401.1 and 435 of the act (77 P.S. §§ 710 and 991). Additionally, section 306(b) of the act specifically authorizes the Department to promulgate regulations establishing the minimum qualifications for vocational experts.

Background

On December 23, 2003, Governor Edward G. Rendell signed Act 53 into law. Act 53 amended section 306(b)(2) of the act. Before its amendment, section 306(b)(2) of the act provided a means for insurers to assess an employee's earning power through an interview "by an expert approved by the department and selected by the insurer." The passage of Act 53 has eliminated the requirement that the Department approve these experts. Instead, Act 53 permits insurers to select an expert "who meets the

minimum qualifications established by the Department through regulation.”

Act 53 further amended section 306(b)(2) of the act by providing that vocational experts “shall comply with the Code of Professional Ethics for Rehabilitation Counselors pertaining to the conduct of expert witnesses.” Act 53 also added section 306(b)(2.1) (77 P. S. § 512(b)(2.1)) of the act, which provides that an insurer must disclose to the employee prior to his referral to an earning power assessment interview, any financial interest that the insurer has in the person or entity that will conduct the earning power assessment interview.

#### *Purpose*

This proposed rulemaking implements Act 53. It provides guidance to Bureau staff, workers’ compensation insurance carriers, self-insured employers, employees, workers’ compensation judges, workers’ compensation practitioners and other interested parties concerning the qualifications and role of vocational experts in workers’ compensation proceedings under section 306(b) of the act and section 449 of the act (77 P. S. § 1000.5). Other than in instances when a workers’ compensation judge has determined that a vocational expert or insurer has failed to comply with §§ 123.204 and 123.205 (relating to conduct of expert witness; and financial interest disclosure), this proposed rulemaking is not intended to restrict or limit the authority that workers’ compensation judges currently possess.

#### *Stakeholder Meeting*

On June 11, 2004, the Department held a stakeholder meeting regarding the Act 53 amendments. Testimony was received from Irwin Aronson and David Wildeman, representing the AFL-CIO; and Terry Leslie, representing the Pennsylvania Association of Rehabilitation Professionals. In addition, the Department received written comments from the Pennsylvania Association of Rehabilitative Professionals Administrative Services, the Pennsylvania Trial Lawyers Association, The Insurance Federation of Pennsylvania Inc., CEC Associates, Inc. and Senator Noah W. Wenger. The Department has reviewed and considered all comments received.

#### *Summary of Proposed Rulemaking*

The minimum qualifications set forth in this proposed rulemaking are the minimum qualifications specified in Act 53.

#### *§ 123.201. Purpose.*

The amendments to this section reflect the passage of Act 53 and clarify that Act 53 no longer requires Departmental approval of vocational experts that wish to conduct earning power assessment interviews.

#### *§ 123.201a. Effect of Act 53 regarding qualifications of vocational experts—statement of policy.*

The statement of policy is proposed to be deleted.

#### *§ 123.201b. Definitions.*

This new section defines the terms “financial interest” and “insurer.” The definition of “financial interest” is necessary to implement Act 53’s financial interest disclosure requirements under section 306(b)(2.1) of the act. The definition of “insurer” is necessary to explain the scope of the disclosure requirements under § 123.205. A “financial interest” is an interest equated with money or its equivalent, and includes any of the following: an ownership interest in the entity which employs the

vocational expert; a present or former employment relationship between the vocational expert and the insurer making the referral; a managerial, fiduciary or controlling interest in the vocational expert or entity employing the vocational expert; or a contractual or referral arrangement that would require or allow the insurer to provide compensation or other consideration based upon the vocational expert’s opinion or outcome of the vocational expert’s earning power assessment interview.

An insurer is any of the following: a workers’ compensation insurance carrier; the State Workers’ Insurance Fund; an employer authorized by the Department to self-insure its workers’ compensation liability under section 305 of the act (77 P. S. § 501); or a group of employers authorized by the Department to act as a self-insurance fund under section 802 of the act (77 P. S. § 1036.2).

#### *§ 123.202. Qualifications.*

This section provides that individuals, who have previously performed as vocational experts in workers’ compensation proceedings prior to the promulgation of this proposed rulemaking, remain able to perform as vocational experts under the previous qualification standards in this section. Further, these individuals are approved to conduct earning power assessment interviews under section 449 of the act.

#### *§ 123.202a. Qualifications for vocational experts under Act 53 of 2003.*

This proposed rulemaking defines the minimum qualifications for individuals who have not previously performed as vocational experts prior to the effective date of the adoption of this proposed rulemaking. Individuals who have not performed as vocational experts prior to the adoption of this proposed rulemaking shall satisfy new minimum qualifications to be a vocational expert under the act. Specifically, these individuals must possess a current license in good standing as a licensed professional counselor or hold a Bachelor’s or postgraduate degree in rehabilitation or a related counseling field and: 1) be certified by a Nationally recognized professional organization; or 2) have 1 year’s experience in vocational analysis, evaluation and testing, placement of individuals with disabilities and analyzing labor market information and occupational trends. The proposed amendments to the minimum qualifications are intended to more accurately reflect the knowledge and skill required to provide quality vocational expert services under the act. Further, these individuals are approved to conduct earning power assessment interviews under section 449 of the act.

#### *§ 123.203. Role of compensation judges.*

This section provides that the workers’ compensation judge will determine whether a vocational expert meets the minimum requirements under section 306(b) of the act. Workers’ compensation judges are empowered to make determinations on a vocational expert’s bias and objectivity. However, if the vocational expert has not complied with § 123.204 or the insurer has not complied with the requirements of § 123.205, the workers’ compensation judge is not permitted to consider the results of the earning power assessment interview.

#### *§ 123.204. Conduct of expert witness.*

This provision implements Act 53’s requirement that a vocational expert comply with the *Code of Professional Ethics for Rehabilitation Counselors* (Code). The Department intends that the standards it has developed are the only criteria required for compliance with the Code. This



section provides that a vocational expert is required to disclose to the claimant the role or limits of their relationship. Moreover, the provision states that the vocational expert must generate written documentation, in the form of case notes or a report, of the vocational expert's involvement in the litigation and conclusions from the earning power assessment interview.

*§ 123.205. Financial interest disclosure.*

Under section 306(b)(2.1) of the act, if an insurer intends to refer an employee for an earning power assessment interview to a person or entity with whom the insurer has a financial interest, the insurer must disclose that financial interest to the employee prior to the referral. However, this provision further provides that the mere payment of the cost of a vocational interview will not, of itself, be deemed a financial interest requiring disclosure. For the purposes of this section, a third-party administrator or other entity that performs services for an insurer is also considered an insurer.

*Affected Persons*

The persons affected by this proposed rulemaking are employees, self-insured employers, workers' compensation insurance carriers, workers' compensation judges, workers' compensation practitioners and individuals who wish to serve as vocational experts under the act.

*Fiscal Impact*

There is no significant fiscal impact associated with this proposed rulemaking.

*Reporting, Recordkeeping and Paperwork Requirements*

The Department does not anticipate any changes in existing reporting, recordkeeping or other paperwork requirements.

*Effective Date*

This proposed rulemaking will take effect upon final-form publication in the *Pennsylvania Bulletin*.

*Sunset Date*

A sunset date is not appropriate for these regulations. However, the Department will continue to monitor the impact and effectiveness of the regulations.

*Public Comment and Contact Person*

Interested parties should submit written comments, recommendations or objections to the proposed rulemaking to Eileen K. Wunsch, Chief, Health Care Services Division, Bureau of Workers' Compensation, P. O. Box 15121, Harrisburg, PA 17105 within 30 days of the publication of the proposed rulemaking in the *Pennsylvania Bulletin*. The proposed rulemaking will also be available on the Department's website at [www.dli.state.pa.us](http://www.dli.state.pa.us). Written comments received by the Department may be made available to the public.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 27, 2005, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objec-

tions to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

STEPHEN M. SCHMERIN,  
*Secretary*

**Fiscal Note:** 12-68. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 34. LABOR AND INDUSTRY**

**PART VIII. BUREAU OF WORKERS' COMPENSATION**

**CHAPTER 123. GENERAL PROVISIONS—PART II**

**Subchapter C. QUALIFICATIONS FOR VOCATIONAL EXPERTS [ APPROVED BY THE DEPARTMENT ]**

**§ 123.201. Purpose.**

This subchapter **implements and** interprets provisions of the act which **[ require ]** permit the Department to **[ approve ]** establish qualifications for vocational experts who will conduct earning power assessment interviews under sections 306(b)[ (2) ] and 449 of the act (77 P. S. §§ 512[ (b) ](2) and 1000.5). **[ The experts contemplated by this subchapter are vocational evaluators. ]** The act's requirements for compliance with the Code of Professional Ethics for Rehabilitation Counselors and financial interest disclosure are also contained in this subchapter.

§ 123.201a. **[ Effect of Act 53 regarding qualifications of vocational experts—statement of policy ] (Reserved).**

**[ (a) The Department adopts this section so that all parties will have a clear understanding of their rights and obligations under section 306(b) of the act (77 P. S. § 512). This does not constitute a rule or regulation and is temporary. The Department intends to promulgate regulations on this topic.**

**(b) The minimum qualifications in § 123.202 (relating to qualifications) are the minimum qualifications established by the Department for vocational experts as specified in Act 53 of 2003 (P. L. 371, No. 53)(Act 53) which amended section 306(b) of the act, effective December 23, 2003. ]**

**§ 123.201b. Definitions.**

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

**Financial interest**—An interest equated with money or its equivalent, and includes any of the following:

(i) An ownership interest in the entity which employs the vocational expert.

(ii) A present or former employment relationship between the vocational expert and the insurer making the referral.

(iii) A managerial, fiduciary or controlling interest in the vocational expert or entity employing the vocational expert.

(iv) A contractual or referral arrangement that would require or allow the insurer to provide compensation or other consideration based upon the vocational expert's opinion or outcome of the vocational expert's earning power assessment interview.

*Insurer*—An insurer is any of the following:

- (i) A workers' compensation insurance carrier.
- (ii) The State Workers' Insurance Fund of the Department.
- (iii) An employer authorized by the Department to self-insure its workers' compensation liability under section 305 of the act (77 P. S. § 501).

(iv) A group of employers authorized by the Department to act as a self-insurance fund under section 802 of the act (77 P. S. § 1036.2).

§ 123.202. Qualifications for current vocational experts under Act 57 of 1996.

(a) [ To be an expert approved by the Department for the purpose of conducting ] This section applies to individuals who before \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.), conducted earning power assessment interviews[ , the individual shall possess a minimum of ] under section 306(b) of the act (77 P. S. § 512(2)). These individuals continue to meet the qualifications established under section 306(b) if they possess a minimum of one of the following:

(1) Both of the following:

\* \* \* \* \*

(i) Certification by one of the following Nationally recognized professional organizations:

\* \* \* \* \*

(E) Other Nationally recognized professional organizations [ approved ], published by the Department in the *Pennsylvania Bulletin*.

(b) Individuals meeting the minimum qualifications under subsection (a) are approved to conduct earning power assessment interviews under section 449 of the act (77 P. S. § 1000.5).

§ 123.202a. Qualifications for vocational experts under Act 53 of 2003.

(a) This section applies to individuals who, before \_\_\_\_\_ (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rulemaking.), have not conducted earning power assessment interviews under section 306(b) of the act (77 P. S. § 512(2)). These individuals meet the qualifications established under section 306(b) if they possess one of the following:

(1) A current license, in good standing, as a licensed professional counselor under the Social

Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. §§ 1901—1920.2).

(2) A Bachelor's or postgraduate degree in rehabilitation or a related counseling field and one of the following:

(i) Certification by any of the following Nationally recognized professional organizations:

(A) The American Board of Vocational Experts.

(B) The Commission on Rehabilitation Counselor Certification.

(C) The Commission on Disability Management Specialists Certification.

(D) The National Board of Certified Counselors.

(E) Other Nationally recognized professional organizations, published by the Department in the *Pennsylvania Bulletin*.

(ii) One year's experience in vocational analysis, evaluation and testing, placement of individuals with disabilities, and analyzing labor market information and occupational trends.

(b) Individuals meeting the minimum qualifications under subsection (a) are approved to conduct earning power assessment interviews under section 449 of the act (77 P. S. § 1000.5).

§ 123.203. [ Credibility determinations ] Role of workers' compensation judges.

[ Credibility determinations relating to the experts contemplated by this subchapter are within the province of the workers' compensation judge. ]

(a) A workers' compensation judge will determine whether a vocational expert meets the minimum qualifications established in §§ 123.202 and 123.202a (relating to qualifications for current vocational experts under Act 57 of 1996; and qualifications for vocational experts under Act 53 of 2003).

(b) Except for subsection (c), this subchapter does not limit a workers' compensation judge's other statutory or regulatory authority and the ability to determine a vocational expert's bias or objectivity.

(c) A workers' compensation judge may not consider the results of an earning power assessment interview if the vocational expert has not complied with § 123.204 (relating to conduct of expert witness) or if the insurer has not complied with the requirements of § 123.205 (relating to financial interest disclosure).

§ 123.204. Conduct of expert witness.

(a) A vocational expert who conducts an earning power assessment interview on an insurer's behalf shall disclose to the employee the role and limits of the vocational expert's relationship with the insurer.

(b) A vocational expert who conducts an earning power assessment interview on an insurer's behalf shall generate written documentation, in the form of case notes or in a report, as to the expert's involvement in the litigation and conclusions from the interview.

**§ 123.205. Financial interest disclosure.**

(a) For the purposes of this section, a third-party administrator or another entity that performs services on behalf of an insurer, as specified in section 441(c) of the act (77 P. S. § 997(c)), is an insurer.

(b) Before an insurer refers an employee for an earning power assessment interview, the insurer shall disclose to the employee, under section 306 (b)(2.1) of the act (77 P. S. § 512(2.1)), any financial interest the insurer has with the person or entity

conducting the earning power assessment interview.

(c) The insurer is not required to disclose under this section the mere payment of the vocational interview's cost, without receipt of some other additional form of consideration.

[Pa.B. Doc. No. 05-1292. Filed for public inspection July 8, 2005, 9:00 a.m.]

# NOTICES

## DELAWARE RIVER BASIN COMMISSION

### Meeting and Public Hearing

The Delaware River Basin Commission (Commission) will hold an informal conference followed by a public hearing on Wednesday, July 20, 2005. The hearing will be part of the Commission's regular business meeting. Both the conference session and business meeting are open to the public and will be held at the Commission's office building, 25 State Police Drive, West Trenton, NJ.

The conference among the commissioners and staff will begin at 10 a.m. Topics of discussion will include: a status report on implementation of the pollutant minimization plan (PMP) regulation approved by the Commission on May 18, 2005, and formation of a peer review advisory committee to evaluate the PMP effort; a report and discussion on postflood activities; a proposal to rename the Flow Management Technical Advisory Committee and modify its membership; a proposed amendment to the *Basin Regulations—Water Supply Charges*, relating to entitlements; a status report on reevaluation of administrative agreements and project review procedures; an update on the Commonwealth's Act 220 State water planning process, including regional priorities; and a presentation on the Commission's water monitoring and assessment program, an Environmental Protection Agency "Ten Elements Plan."

The subjects of the public hearing to be held during the 1:30 p.m. business meeting include the following dockets:

1. *City of New Castle, Municipal Services Commission D-78-71 CP-3*. An application for renewal of a groundwater withdrawal project to continue to supply up to 48.0 million gallons per 30 days (mg/30 days) to the applicant's public water supply distribution system from existing Wells Nos. 1—4 in the Potomac Formation. The project is located in the Army Creek Watershed in the City of New Castle, New Castle County, DE.

2. *Wells Farms, Inc. D-99-67*. An application for approval of a groundwater withdrawal project to supply up to 80 mg/30 days of water from Wells Farm Nos. 1 and 2, Parold Davis and Shepard Prettyman for irrigation of the applicant's farm crops near the Town of Milton, Sussex County, DE. The water will be used to irrigate approximately 370 acres of grains and vegetables.

3. *Lazy Boy Farm, Inc. D-2000-50*. An application for approval of a groundwater withdrawal project to supply up to 45.240 mg/30 days of water to the applicant's agricultural irrigation system from existing Wells Nos. 1 and 2 in the Rancocas Aquifer and up to 43.4464 mg/30 days from Pond No. 1 and to limit the withdrawal from all sources to 86.8928 mg/30 days. The project is located near the Town of Middletown, New Castle County, DE.

4. *Richard M. Morgan D-2000-62*. A combined surface water and groundwater withdrawal project to supply a maximum of 137.562164 mg/30 days of water to irrigate approximately 585 acres of the applicant's farm crops. Approximately 74.293344 mg/30 days will be provided by the applicant's five existing wells and approximately 63.268820 mg/30 days of surface water will be withdrawn from a Hudson Pond tributary and Three Bridge Branch. The project is located near the Town of Lincoln, Sussex County, DE.

5. *Howard A. Webb D-2005-11-1*. An application for approval of a ground and surface water withdrawal project to supply up to 19 mg/30 days of water to the applicant's agricultural irrigation system from new Wells Nos. 1—4 in the Columbia Formation and up to 54 mg/30 days from Intakes Nos. 1 and 2 in the farm pond and to limit the withdrawal from all sources to 73 mg/30 days. The project is located in the Mispillion River and Cedar Creek watersheds in the Town of Milford, Sussex County, DE.

6. *Theodore Bobola D-2005-15-1*. A groundwater withdrawal project to supply a maximum of 35 mg/30 days of water from Wells Nos. 1—4 to irrigate the applicant's farm crops in the City of Dover, Kent County, DE. The water will be used to irrigate approximately 217 acres in the St. Jones River Watershed.

7. *Borough of Haddonfield D-75-84 CP-2*. An application for the renewal of a groundwater withdrawal project and decrease in withdrawal from 97.5 mg/30 days to 61.9 mg/30 days to supply the applicant's public supply distribution system from existing Wells Nos. 1A and 5—7. The project is located in the Cooper River Watershed in Haddonfield Borough, Camden County, NJ.

8. *Borough of Pennington D-84-33 CP-3*. An application for a renewal of a groundwater withdrawal project to continue to supply up to 6.48 mg/30 days of water to the applicant's public water supply distribution system from existing Well No. 7 in the Brunswick Formation, without a change in allocation. The applicant's distribution system is also supplied by four wells located outside of the Delaware River Basin. The project is located in the Jacobs Creek Watershed in Pennington Borough, Mercer County, NJ.

9. *Sunoco, Inc. (R & M) D-86-15-3*. An application for approval of a surface water and groundwater withdrawal project to revise and consolidate the allocations included in Dockets D-86-5 and D-86-15 REN. The applicant requests an increase in its surface water withdrawal from the Delaware River from 175.104 mg/30 days to 265.0 mg/30 days. The draft docket proposes a corresponding decrease in the existing groundwater allocation from 232 mg/30 days to 142 mg/30 days from Wells Nos. 1, 3, 5 and 6A in the Potomac-Raritan-Magothy Aquifer. Surface water withdrawals provide industrial cooling and process water. Groundwater withdrawals are used to provide industrial cooling, process water, and potable water as well as to maintain hydraulic control and meet groundwater remediation goals. The project is located in the Delaware River Watershed in West Deptford Township, Gloucester County, NJ.

10. *Polyone Corporation D-89-74-2*. An application for the renewal of a groundwater withdrawal project to continue withdrawal of 44.64 mg/30 days of water to supply the applicant's industrial manufacturing facility from existing Wells Nos. 4, 6 and 10 and new replacement Well No. 9A in the Potomac-Raritan-Magothy Aquifer. The project is located in Oldmans Township, Salem County, NJ. (This was NAR'd as D-89-74 Renewal.)

11. *Pennsgrove Water Supply Company—Bridgeport Division D-93-28 CP-2*. An application for the renewal of a groundwater withdrawal project to continue withdrawal of 4.7 mg/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. 2 and 3. The project is located in the Raccoon Creek Watershed in Logan Township, Gloucester County, NJ.

12. *Township of Greenwich D-94-51 CP-2*. An application for renewal of a groundwater withdrawal project to continue to supply up to 46.8 mg/30 days to the applicant's public water supply distribution system from existing Wells Nos. 4A, 5 and 6, located in the Potomac-Raritan-Magothy Formation within the Delaware River Watershed in Greenwich Township, Gloucester County, NJ.

13. *Estaugh Corporation t/a Medford Leas D-94-56 CP-2*. An application for a renewal of a surface water and groundwater withdrawal project to continue to supply up to 4.9 mg/30 days of water to the applicant's public water supply distribution system from existing surface water Intake No. 1 on the Southwest Branch Rancocas Creek and existing Wells Nos. 1 and 2 in the Potomac-Raritan-Magothy Formation, without a change in allocation. The project is located in the Sharps Run Watershed in Medford Township, Burlington County, NJ.

14. *Washington Township Municipal Utilities Authority D-99-43 CP*. An application for approval of a groundwater withdrawal project to supply up to 24.81 mg/30 days of water to the applicant's distribution system from new ASR Well No. ASR 20 and to increase the total withdrawal from all wells to 273.01 mg/30 days. The project is located in Washington Township, Gloucester County, NJ.

15. *South Jersey Water Supply Company D-99-57 CP*. An application for approval of a groundwater withdrawal project to supply up to 42 mg/30 days of water to the applicant's distribution system from new Wells Nos. 5 and 7 and existing Wells Nos. 2, 3 and 6 and to retain the withdrawal limit from all wells of 42 mg/30 days. Wells Nos. 2, 3 and 6 are located in the New Jersey's Department of Environmental Protection's Water Supply Critical Area No. 2. The project withdrawal is from the Potomac-Raritan-Magothy Aquifer and is located in Harrison Township, Gloucester County, NJ.

16. *Salem City Water Department D-2002-46 CP*. An application for approval of a groundwater withdrawal project to supply up to 36 mg/30 days of water to the applicant's public water supply from new Wells Nos. 6 and 7 and existing Well No. 2 in the Wenonah-Mt. Laurel Formation and up to 93 mg/30 days from the Laurel Lake and Elkinton Pond intakes and to limit the total system withdrawal to 93 mg/30 days. The project is located in the Salem River watershed in the City of Salem, Salem County, NJ.

17. *The Lawrenceville School D-2005-13-1*. An application for approval of a groundwater withdrawal project to supply up to 5.98 mg/30 days for the applicant's potable water supply and for irrigation of athletic fields from Wells Nos. 1—4 in the Stockton Formation. The allocation from all wells will be limited to 5.98 mg/30 days. The project is located in the Assunpink Creek Watershed in Lawrence Township, Mercer County, NJ.

18. *United Mobile Homes D-2005-3-1*. An application to expand an existing sewage treatment plant (STP) from 54,000 gallons per day (gpd) to 79,500 gpd to serve 48 additional units in the Kinnebrook Mobile Home Park. The project is located just south of Route 17B, near its intersection with Hamilton Road in the Town of Thompson, Sullivan County, NY, within the drainage area of the Special Protection Waters. Following tertiary treatment, the effluent will be discharged to an unnamed tributary of the Kinne Brook.

19. *Myerstown Water Authority D-81-67 CP-3*. An application for a renewal of a groundwater withdrawal project to continue to supply up to 33.0 mg/30 days of water to

the applicant's public water supply distribution system from existing Wells Nos. 3, 5, 6 and 8 in the Hamburg and Ontelaunee Formations, without a change in allocation. The project is located in the Tulpehocken Creek Watershed in Jackson Township and the Borough of Myerstown, Lebanon County.

20. *PennEngineering D-86-31 PA-3*. An application for the renewal of a groundwater withdrawal project to continue withdrawal of 1.3 mg/30 days from existing Well G to supply the applicant's manufacturing facility. The primary purposes of the withdrawal are domestic use and air conditioning during the summer months. Approximately 2% of the withdrawal is used for industrial processes. The project is located in the Lockatong Formation in Plumstead Township, Bucks County, within the Southeastern Pennsylvania Ground Water Protected Area.

21. *Grand Central Sanitary Landfill, Inc. D-88-52-2*. An application to upgrade a 0.1 million gallons per day (gpd) leachate treatment plant (LTP) located on a 537.9-acre tract, just east of State Route 512 in Plainfield Township, Northampton County. The LTP serves the Grand Central Sanitary Landfill, which receives interstate, non-hazardous refuse. The existing activated sludge treatment process will be upgraded with a sequencing batch reactor system that includes powdered activated carbon and polymer addition. The existing reverse osmosis system will be replaced with an improved model that includes microfiltration. This advanced treatment is designed to meet an effluent Total Dissolved Solids (TDS) limit of 1,000 milligrams per liter (mg/l). Thus, the Commission's TDS effluent limit of 2,400 mg/l will be reduced to 1,000 mg/l. Additional process and operational improvements will be made. No expansion of the LTP is proposed. The primary method of leachate disposal for the landfill is to discharge to the Pen Argyl STP following partial treatment, and the secondary alternative is to discharge fully treated effluent to Little Bush Kill in the drainage area of the Lower Delaware River Management Plan Area.

22. *Delaware County Solid Waste Authority D-89-18 CP-3*. An application to modify the Rolling Hills Sanitary Landfill (RHSL) (formerly Colebrookdale Landfill) LTP discharge to Manatawny Creek by means of Outfall 001 in the Schuylkill River Watershed. The landfill and LTP are located off Schenkel Road in Earl Township, Berks County. Following advanced treatment of 0.08 mgd, LTP effluent is discharged by means of a diffuser to a point on the Manatawny Creek in Oley Township, Berks County, approximately 1 mile downstream from RHSL. The docket holder has requested an increase in the average discharge concentration of TDS to 30,000 mg/l from the existing 15,000 mg/l. In support of its requested modification, the docket holder has submitted an analysis concluding that the proposed modification will cause no adverse effect on the downstream aquatic community, nor will it threaten potable water supply intakes located over 20 river miles downstream. In further support to this determination, the docket holder will demonstrate by means of in-stream monitoring and assessment of analytical data to be collected in at least a 1-year period that the project will not have an adverse impact. An alternatives analysis was completed by the docket holder. The LTP uses the Best Practicable Treatment technology. A wetlands treatment system is used to remove iron from up to 0.087 mgd of onsite groundwater. No expansion of the LTP or the wetlands treatment system is proposed. The Department of Environmental Protection (Department) has approved

the discharge from the wetlands treatment system by means of Outfall 006 to adjacent Furnace Run.

23. *Pennsylvania Utility Company D-89-33 CP-2.* An application for the renewal of a groundwater withdrawal project to continue to supply up to 6.4 mg/30 days of water to the applicant's public water distribution system from Wells Nos. 1—3 in the Catskill Formation. The project is located in Lehman Township, Pike County. (This was NAR'd under the name of Tamiment Water Company as D-89-33 CP Renewal.)

24. *Pilgrims Pride Corporation D-89-65-2.* An application to modify an industrial wastewater treatment plant (IWTP) discharge to an unnamed, intermittent tributary of Indian Creek in the Perkiomen Creek Watershed. The project, formerly owned by Wampler-Longacre, Inc. is located at the intersection of Allentown Road and Route 113 in Franconia Township, Montgomery County. The facility formerly processed tuna and poultry but currently processes only poultry products. Because the project is located in the Southeastern Pennsylvania Ground Water Protected Area, the applicant has implemented mandatory water conservation measures. As a result, TDS are present at an elevated concentration in the IWTP effluent. The applicant's current draft NPDES Permit limits the effluent TDS concentration to 1,000 mg/l. The applicant requests a limit of 4,700 mg/l, which is consistent with the Department's draft permit limit for osmotic pressure of 100 milliosmos per kilogram. The applicant has submitted with its requested modification an analysis that addresses environmental impact. The project is located in the drainage area of the Schuylkill River, which is conditionally designated as Modified-Recreational in the Delaware River Basin Commission *Comprehensive Plan*.

25. *Blue Mountain Water Cooperative D-93-27-2.* An application for the renewal of a groundwater withdrawal project to reduce withdrawal from 10.8 mg/30 days to 5 mg/30 days to supply the applicant's Tilden Industrial Park from existing Wells Nos. 1, 2 and 5. The project is located in the Schuylkill River Watershed in Tilden Township, Berks County.

26. *Filomina, Inc. D-93-47-2.* An application for renewal of a groundwater withdrawal project to continue to supply up to 9.1 mg/30 days of water for supplemental irrigation of the applicant's golf course from existing Wells Nos. 1, 6 and 8, all in the Catskill Formation. No

change in the existing allocation is proposed. The project is located in the Pohopoco Creek Watershed in Polk Township, Monroe County.

27. *Lower Makefield Township D-2002-48 CP-2.* An application for approval of a groundwater withdrawal project to supply up to 1.73 mg/30 days of water for supplemental irrigation of the applicant's golf course from new Well No. PW-3 in the Stockton Formation and to retain the maximum withdrawal from existing Wells Nos. PW-1 and PW-2 and new Well PW-3 of 8.64 mg/30 days. The project is located in the Delaware River Watershed in Lower Makefield Township, Bucks County.

In addition to the public hearing on the previous dockets, the Commission's 1:30 p.m. business meeting will include possible action on a resolution to rename the Flow Management Technical Advisory Committee and modify its membership; a resolution authorizing the Executive Director to engage a contractor to support the Commission in the collection and assessment of information for the "State of the Basin Report 2006"; and resolutions regarding health insurance benefits for Commission retirees.

The meeting will also include: adoption of the Minutes of the May 18, 2005, business meeting; announcements; a report on basin hydrologic conditions; a report by the Executive Director; a report by the Commission's general counsel; and an opportunity for public dialogue. Draft dockets and the resolutions scheduled for public hearing or action on July 20, 2005, will be posted on the Commission's website: [www.drbc.net](http://www.drbc.net) (select "Next DRBC Meeting/Public Hearing—July 20"). Additional documents relating to the dockets and other items may be examined at the Commission's offices. Contact William Muszynski at (609) 883-9500, Ext. 221 with docket-related questions.

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary at (609) 883-9500, Ext. 203 or through the Telecommunications Relay Services (TRS) at 711 to discuss how the Commission may accommodate their needs.

PAMELA M. BUSH,  
Secretary

[Pa.B. Doc. No. 05-1293. Filed for public inspection July 8, 2005, 9:00 a.m.]

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending June 28, 2005.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
6-22-05	F. N. B. Corporation, Hermitage, to acquire 100% of the voting shares of North East Bancshares, Inc., North East, and thereby indirectly acquire North East National Bank, North East	Hermitage	Filed

**New Charter Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-22-05	East River Bank Philadelphia Philadelphia County  <i>Correspondent:</i> John P. Soukenik, Esq. Elias, Matz, Tiernan & Herrick, LLP 734 15th Street, N.W., 12th Floor Washington, D. C. 20005	Philadelphia	Filed

**Conversions**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-22-05	The First National Bank of Canton Canton Bradford County  <i>To:</i> Bank of Canton Canton Bradford County  Application represents conversion from a National banking association to a Pennsylvania State-chartered bank.	Canton	Approved

**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-18-05	Clearfield Bank & Trust Company Clearfield Clearfield County  Purchase of assets/assumption of liabilities of one branch of First Commonwealth Bank, IN Located at: 511 Pine Grove Road State College Centre County	Clearfield	Effective

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-22-05	Abington Savings Bank Jenkintown Montgomery County	Messenger service to service customers in Bucks, Montgomery and Philadelphia Counties	Opened
6-22-05	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Giant Eagle 206 Seven Fields Boulevard Seven Fields Butler County	Filed

**Branch Relocations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-23-05	Lafayette Ambassador Bank Easton Northampton County	<i>To:</i> 1945 Sullivan Trail Forks Township Northampton County	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
		<i>From:</i> 1700 Sullivan Drive Forks Township Northampton County	

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-17-05	First Commonwealth Bank Indiana Indiana County	511 Pine Grove Road State College Centre County	Effective

**Articles of Amendment**

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
6-23-05	Pennsylvania Business Bank Philadelphia Philadelphia County	Amendment to Article Fifth of the Articles of Incorporation provides for an increase in the number of shares the bank has the authority to issue.	Filed

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

**Trade, Industry or Profession Charter Application**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-23-05	Lee Hospital Credit Union Johnstown Cambria County	Johnstown	Filed

Application represents a conversion from an occupational-based credit union to a Trade, Industry or Profession Charter with a proposed field of membership consisting of health care workers in Blair, Cambria and Somerset Counties to include employees, independent contractors or self-employed persons that work at or provide the following services: assisted living facilities that provide healthcare; birthing centers; blood, organ and tissue banks; emergency medical care; health clinics; health maintenance organizations facilities; home health care; hospices; hospitals; medical and diagnostic labs; nursing homes; nursing services; offices of chiropractors, dentists, licensed therapists, optometrists, physicians, podiatrists and psychologists; pain centers; paramedic services; pharmacy services; and rehabilitation centers providing medical treatment or licensed psychological or physical therapy.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 05-1294. Filed for public inspection July 8, 2005, 9:00 a.m.]

# DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

## Applicants for the Pennsylvania Recreational Trails Advisory Board

The Department of Conservation and Natural Resources (Department) is accepting nominations through August 1, 2005, for four new appointments to the Pennsylvania Recreational Trails Advisory Board (Board). The Board was created on October 29, 1992, in accordance with the provisions of the Transportation Equity Act for the 21st Century.

The Board consists of one member from each of the following nine recreational trail user organizations: hiking; cross-country skiing; off-highway motorcycling; snowmobiling; horseback riding; all-terrain vehicle (ATV) driving; bicycling; four-wheel driving; and water trails.

One member also represents physically challenged individuals.

The Board's main responsibilities include advising the Department on the use of Federal trails funding in this Commonwealth, reviewing and ranking trail project applications and presenting an annual report to the Secretary of the Department (Secretary) on the accomplishments of the preceding Federal fiscal year, including recommendations for changes.

Nominations for the four new appointees are to be made from individuals representing the following trail user organizations: snowmobiling; ATV driving; water trails; and physically challenged individuals.

Nominations must be submitted to the Department by August 15, 2005. Appointments will be made by the Secretary. Appointees will serve for 3 consecutive years.

To obtain a nomination form, contact the Pennsylvania Recreational Trails Program, P. O. Box 8475, Harrisburg, PA 17105-8475, (717) 787-2316, vtierney@state.pa.us.

Additional information about the Department can be found at [www.dcnr.state.pa.us](http://www.dcnr.state.pa.us).



Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Marlene Long at (717) 787-7672 or through the AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 05-1295. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Snowmobile and ATV Advisory Committee Meeting

The Snowmobile and ATV Advisory Committee of the Department of Conservation and Natural Resources (Department) will hold a meeting on Monday, July 11, 2005,

at 9 a.m. in the Main Hall, Heritage Discovery Center, 1421-27 12th Avenue, Altoona, PA.

Questions concerning this meeting or agenda items should be directed to Anthony DiGirolomo, (717) 787-9306.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Anthony DiGirolomo at (717) 787-9306 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL DIBERARDINIS,  
*Secretary*

[Pa.B. Doc. No. 05-1296. Filed for public inspection July 8, 2005, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

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### APPLICATIONS

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

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

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

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

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

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

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

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

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

### I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0221481	Norfolk Southern Railway Company 425 Holiday Drive Pittsburgh, PA 15220	Meadville City Crawford County	French Creek 16-D	Y
PA0222062	Remington Steakhouse, Inc. 1226 Perry Highway Mercer, PA 16137	Springfield Township Mercer County	UNT to Neshannock Creek 20-A	Y

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

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

**PA0239569**, Sewage. **Lezzer Martin, LP—Shannon Mills Estates**, 102 Donahue Drive, Renfrew, PA 16053. This proposed facility is located in Connoquenessing Township, **Butler County**.

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

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supplies (stream and Public Water Supplier) considered during the evaluation are Harmony Borough Intake and Little Connoquenessing Creek located approximately 8 miles below point of discharge.

The receiving stream, an UNT to Connoquenessing Creek, is in watershed 20-C and classified for CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.019115 mgd.

<i>Parameter</i>	<i>Concentrations</i>		
	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
NH <sub>3</sub> -N			
(5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	4.5		9.0
Fecal Coliform			
(5-1 to 9-30)	200/100ml as a geo- metric mean		1,000/100ml
(10-1 to 4-30)	2,000/100ml as a geo- metric mean		10,000/100ml
Total Residual Chlorine	0.26		0.61
Dissolved Oxygen		minimum of 6.0 mg/l at all times	
Phosphorus as "P"	2.0		4.0
pH		6.0 to 9.0 standard units at all times	

XX—Monitor and report on monthly DMRs.

The EPA waiver is in effect.

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

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

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023505002	James B. McDonough Hemingway Development LP 2 Glenmaura National Blvd. Moosic, PA 18507-1762	Lackawanna	Moosic Borough	Stafford-Meadow Brook HQ-CWF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050205006	Anthony J. Tomasello 1208 Canterbury Circle Libertyville, IL 60048	Allegheny	Sewickley Heights Borough	Little Sewickley Creek (HQ-TSF)

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

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

**PUBLIC WATER SUPPLY (PWS) PERMIT**

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

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

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

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

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

**SAFE DRINKING WATER**

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

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

**Permit No. 0105505, Public Water Supply.**

Applicant	<b>Arendtsville Municipal Authority</b>
Municipality	Arendtsville Borough
County	<b>Adams</b>
Responsible Official	William G. Hanne, Authority Secretary P. O. Box 181 Arendtsville, PA 17303
Type of Facility	Public Water Supply
Consulting Engineer	Janet R McNally, P. E. William F Hill & Assoc., Inc. 207 Baltimore St. Gettysburg, PA 17325
Application Received Date	6/2/2005

Description of Action Construction of Well No. 5 with corrosion control and disinfection.

**Permit No. 0605513, Public Water Supply.**

Applicant	<b>Aqua Pennsylvania, Inc.</b>
Municipality	Centre Township
County	<b>Berks</b>

Responsible Official Karl Kyriss, President  
76200 Lancaster Avenue  
Bryn Maur, PA 19010

Type of Facility Public Water Supply

Consulting Engineer William A. LaDieu  
CET Engineering Services  
1240 North Mountain Road  
Harrisburg, PA 17112

Application Received Date 6/10/2005

Description of Action The permit application requests approval to rerate Well No. 1 from 20 gpm to 34 gpm so that Fairview MHP can be connected to the public water system, providing residents with an acceptable potable water source.

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

**Permit No. 4905501—Construction, Public Water Supply.**

Applicant **Lower Mahanoy Township Municipal Authority**

Township or Borough Lower Mahanoy Township  
County **Northumberland**

Responsible Official Joseph Villone, Chairperson  
Authority Lower Mahanoy Township  
Municipal Authority  
P. O. Box 235  
Dalmatia, PA 17017-0235

Type of Facility Public Water  
Supply—Construction

Consulting Engineer Edward A. Ellinger, P. E.  
Herbert, Rowland & Grubic, Inc.  
369 East Park Drive  
Harrisburg, PA 17111-2730

Application Received Date June 24, 2005

Description of Action Addition of iron and manganese removal filters to existing water treatment plant.

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

**Application No. 4287502-MA3, Minor Amendment, Public Water Supply**

Applicant **Bradford City Water Authority**

Township or Borough Lafayette Township  
**McKean County**

Responsible Official Kim R. Benjamin, Utility  
Manager

Type of Facility PWS

Application Received Date 06/22/2005

Description of Action Construction of 400,000 gallon bolted steel standpipe, to supply service to approximately 41 residential connections along SR 59 as well as service to the Bradford Regional Airport.

#### **DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS**

**Application for Determination of Applicability Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and/or the Beneficial Use of Residual Waste other than Coal Ash**

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

**General Permit Application No. WMGR085D001. Hazleton Creek Properties, LLC, P. O. Box 1389, 580 Third Avenue, Kingston, PA 18704.** The application is for processing and beneficial use of freshwater, brackish and marine dredge material, cement kiln dust, lime kiln dust, coal ash and cogeneration ash in mine reclamation. The application for determination of applicability was received by the Central Office on June 20, 2005.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (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 may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

#### PLAN APPROVALS

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

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

**66-318-003: The Procter and Gamble Paper Products Co.** (P. O. Box 32, Mehoopany, PA 18629) for modification of a paper converting operation at their facility on Route 87, Washington Township, **Wyoming County**.

**45-310-036: Locust Ridge Quarry** (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) for installation of an air cleaning device (replacement) at their facility in Tobyhanna Township, **Monroe County**.

**13-302-024: Altadis USA** (1000 Treskow Road, McAdoo, PA 18237) for construction of a Johnson Boiler at their facility in Banks Township, **Carbon County**.

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

**06-05105: GAS Access Pioneer Crossing Energy, LLC** (2809 Boston Street, No. 340, Baltimore, MD 21224) for construction of up to four reciprocating internal combustion engines controlled by combustion technology in Exeter Township, **Berks County**. The source is subject to 40 CFR Part 60, Subpart WWW, Standards of Performance for Municipal Solid Waste Landfills.

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

**49-00020B: Truck Accessories Group—d/b/a Leer East** (3560 Housels Run Road, Milton, PA 17847) for construction of various fiberglass reinforced plastic and

aluminum truck cap and tonneau cover manufacturing operations in Milton Borough, **Northumberland County**.

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

**43-341A: Sample-O'Donnell Funeral Home, Inc.** (555 East State Street, Sharon, PA 16146) for installation of a human remains crematory at their Sharon facility in the City of Sharon, **Mercer County**.

**62-0017M: United Refining Co.** (15 Bradley Street, Warren, PA 16365) for replacement of burner on the DHT1 heater with new Low NOx Burner rated at 9 mmBtu/hr at the refinery in the City of Warren, **Warren County**. The company is a Title V facility.

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

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

**PA-15-0027H: Johnson Matthey, Inc.—Catalytic Systems** (456 Devon Park Drive, Wayne, PA 19087) for modification of a powder delivery system to include three new washcoat batching tanks and a dust collector at its facility in Tredyffrin Township, **Chester County**. This facility is a Title V facility. This replacement will result in a particulate matter emission increase of 0.169 ton per year. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

**06-03113B: Haines and Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474) for construction of additional nonmetallic mineral crushing equipment controlled by a wet suppression system and two fabric collectors in Robeson Township, **Berks County**. The facility is a non-Title V State-only facility. The sources are subject to 40 CFR Part 60, Subpart OOO, Standards of Performance for Nonmetallic Mineral Processing Plants. The approval will include testing, monitoring, work practices, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

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

**18-315-002A: First Quality Products, Inc.** (P. O. Box 331, McElhattan, PA 17748) for construction of four absorbent products manufacturing (converting) lines (UP2, UP3, BC2 and JP3) in Wayne Township, **Clinton County**.

The particulate matter emissions from each line will be controlled by either an "Ibis International" or "Osprey" unit which incorporates a drum filter, a cartridge filter and a HEPA filter operating in series. The resultant total combined particulate matter emissions from all four lines are not expected to exceed .017 ton per year. The VOC

emissions from the use of adhesives, inks and cleanup solvents are not expected to exceed 1.72 tons per year.

The Department of Environmental Protection's (Department) review of the information submitted by First Quality Products, Inc. indicates that the respective converting lines will comply with applicable regulatory requirement pertaining to air contamination sources and the emission of air contaminants, including the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval for the construction of the four converting lines.

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

1. The particulate matter emissions from each line shall be controlled by either an Ibis International or Osprey unit consisting of a drum filter, a cartridge filter and a HEPA filter operating in series. The concentration of particulate matter in the exhaust of each of these units shall not exceed .0000044 grain per dry standard cubic foot of effluent gas volume and there shall be no visible emissions from the exhaust of any Ibis International or Osprey unit (other than water vapor or steam).

2. Each of the Ibis International or Osprey units shall be equipped with instrumentation to monitor the pressure differential across each of its three component sections on a continuous basis.

3. Spare drum filters, cartridge filters and HEPA filters shall be kept on hand.

4. Any air compressors supplying compressed air to any Ibis International or Osprey unit shall be equipped with an air dryer and oil trap.

5. The total combined VOC emissions resulting from adhesive, ink and clean up solvent usage associated with the four converting lines shall not exceed 1.72 tons in any 12-consecutive month period and there shall be no volatile hazardous air pollutant emissions.

6. The adhesives used on, or in association with, the four converting lines shall be restricted to hot melt adhesives which do not contain, as an intentionally-added ingredient, any VOC or volatile hazardous air pollutant.

7. No ink used shall contain more than 5.46 pounds of VOCs and zero pounds of volatile hazardous air pollutants per gallon.

8. The cleanup solvents used on the four converting lines shall not contain more than 2.85 pounds of VOCs per gallon of solvent except that up to 468.2 gallons of cleanup solvent with a VOC content of up to 6.34 pounds of VOCs per gallon of solvent may be used in any 12-consecutive month period and up to another 50.2 gallons of cleanup solvent with a VOC content of up to 6.59 pounds of VOCs per gallon of solvent may be used in any 12-consecutive month period. No cleanup solvent which contains, as an intentionally-added ingredient, any volatile hazardous air pollutant may be used on these four converting lines.

9. Containers of VOC-containing materials, volatile hazardous air pollutant-containing materials and acetone-containing materials shall be kept closed except when in actual use. Used cleaning rags shall be stored in closed containers and rags shall never be treated in any manner which would unnecessarily promote the evaporative loss of any contained VOC, volatile hazardous air pollutant or acetone to the atmosphere.

10. Records shall be maintained of the identity and amount of each adhesive, ink and cleaning solvent used each month on the four converting lines. Records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

**57-310-001: Haines and Kibblehouse, Inc.—Dushore Construction Materials Division** (2052 Lucon Road, Skippack, PA 19474) for construction of a stone crushing plant on Route 220 in Cherry Township, Sullivan County.

The respective plant already physically exists at the site, having been constructed and operated to date under the Department of Environmental Protection's (Department) "General Plan Approval and General Operating Permit for Portable Nonmetallic Mineral Processing Plants" but the authority to operate granted by this general plan approval and general operating permit is due to expire soon.

The respective plant incorporates various pieces of stone crushing, screening, conveying, and the like, equipment as well as two associated diesel engines, an 890 horsepower engine and a 270 horsepower engine. The particulate matter emissions (including PM10) from the stone crushing, screening, conveying, and the like, equipment are controlled by a water spray dust suppression system. The resultant particulate matter and PM10 emissions from this equipment are not expected to exceed 13.0 and 5.61 tons per year, respectively. The NO<sub>x</sub>, CO, SO<sub>x</sub>, total hydrocarbons, particulate matter and PM10 emissions from the two associated diesel engines are not expected to exceed 10.46, 2.8, 2.76, 1.31, 1.02 and .95 tons per year, respectively.

The Department's review of the information submitted by Haines & Kibblehouse, Inc. indicates that the stone crushing plant will comply with applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12 and the particulate matter emission requirements of Subpart 000 of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676. Based on this finding, the Department proposes to issue plan approval for construction of the stone crushing plant.

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

1. Neither the stone crushing, screening, conveying, and the like, equipment nor the two associated diesel engines shall be operated more than 2,000 hours in any 12-consecutive month period.

2. The stone crushing, screening, conveying, and the like, equipment shall be equipped with a water spray dust suppression system which shall, at a minimum, incorporate four spray bars with at least three spray nozzles each. These shall be located at the discharge of the primary jaw crusher, the transfer between the 48" by 30' jaw crusher discharge conveyor and the 36" by 75' scalping screen feed conveyor, the entrance to the scalping screen, the discharge of the 36" by 50' scalping screen discharge conveyor, the transfer between the Swedala screen and the 36" by 40' conveyor screen discharge and the discharge of a 30" by 40' conveyor.

3. The water spray dust suppression system shall incorporate strainers to prevent nozzle pluggage.

4. If the water spray dust suppression system is incapable of operation for any reason, the stone crushing, screening, conveying, and the like, equipment shall not be operated.

5. An operable water truck equipped with a spray bar shall be kept on site at times and shall be used, as needed, for the control of fugitive particulate matter from plant roadways and stockpile areas. If the water truck is not operable, the stone crushing plant shall not be operated.

6. The plant shall incorporate hydrants or hose connections as needed to permit the use of hoses to control fugitive particulate matter emissions from material stockpiles.

7. The sulfur content of the diesel fuel used in the two diesel engines shall not exceed .3% by weight.

8. The NO<sub>x</sub>, CO and total hydrocarbon emission rates from the 890 horsepower diesel engine shall not exceed 2.77, .23 and .32 grams per horsepower-hour, respectively.

9. The NO<sub>x</sub>, CO and total hydrocarbon emission rates from the 270 horsepower diesel engine shall not exceed 8.44, 3.03 and 1.14 grams per horsepower-hour, respectively. Additionally, the engine's injection timing shall be retarded at least 4° relative to standard timing.

10. Records shall be maintained of the number of hours the stone crushing plant operates each month as well as the number of hours each of the two diesel engines operate each month. Records shall be retained for at least 5 years and shall be made available to the Department upon request.

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

**62-0017L: United Refining Co.** (15 Bradley Street Warren, PA 16365) for installation of four microturbines that will burn waste gas vapors from the loading rack in the City of Warren, **Warren County**.

Under 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval for the Warren Refinery located in the City of Warren, Warren County. The facility was issued a Title V permit No. TV-62-00017 on December 26, 2000, which was revised on March 21, 2001, and again on December 18, 2001. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

Plan approval No. 62-017L is for the installation of four microturbines that will burn waste gas vapors from the loading rack. The existing vapor combustion will continue to be utilized to handle the excess vapors or when the microturbines are not being operated. The microturbines will generate approximately 120 kilowatts/hr and will produce lower emissions than the vapor combustion unit. The emissions limits established for the source will remain the same. Emission testing is also required for the microturbines and the vapor combustion unit. The plan approval does not trigger NSR or PSD.

The permit will incorporate monitoring and recordkeeping requirements for the quantity of gasoline loaded, the hours of operation of the microturbines and the vapor combustion unit, the amount of electricity generated, the presence of a continuous flame and temperature of the

flame zone. The permit also incorporates the Federal MACT requirements for the loading racks (40 CFR Part 63, Subparts CC) and the bulk gasoline terminals (40 CFR Part 63, Subpart R). In addition the leak detection and repair requirements for the MACT and New Source Performance Standards were included in the permit (40 CFR Part 63, Subparts CC and R and 40 CFR Part 60, Subparts VV and GGG, respectively). The permit will also incorporate conditions to ensure compliance with applicable State and Federal Air Quality Requirements as well as the National Ambient Air Quality Standards.

Copies of the applications, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Northwest Regional Office, 230 Chestnut St., Meadville, PA 16335.

Persons who wish to provide Department with additional information that they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. The Department will consider any written comments received within 30 days of the publication of this notice. Written comment must contain the following:

Name, address and telephone number of the person submitting the comments.

Identification of proposed Permit No. 62-017L.

A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the comments received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Matthew Williams, New Source Review, Air Quality Program, 230 Chestnut Street, Meadville, PA 16335, (814) 332-6940.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should by contacting Matthew Williams, or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

If a plan approval has not undergone the public notice process, the change to an operating permit must be treated as a significant modification. In these situations the Department should follow the procedures described in 25 Pa. Code §§ 127.421—127.431 for State-only operating permits or 25 Pa. Code §§ 127.521—127.524 for Title V operating permits.

**43-270B: CCL Container** (One Llodio Drive, Hermitage, PA 16148-9015) for replacement of an existing 15,000 cfm incinerator with a new 45,000 cfm regenerative thermal oxidizer and the installation of an additional aluminum container line rated at 180 cans per minute in Hermitage City, **Mercer County**. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorpo-

rated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- The PM emissions shall not exceed 0.02 gr/dscf.
- The SO<sub>x</sub> emissions shall not exceed 500 ppmv with compliance being shown through an initial stack test.
- The VOC destruction/removal efficiency shall be greater than 95% by weight with compliance being shown through an initial stack test and annually thereafter.
- Maintain and operate the control device at all times the source is in operation and in accordance with the manufacturer's specifications.
- As part of the CAM plan, monitor and record continuously the exhaust temperature of the RTO and during the initial stack test develop the indicator range.
- As part of the CAM plan, monitor and record continuously the airflow or the fan amperage and during the initial stack test develop the indicator range.
- Monitor and record daily, the pressure drop across the baghouse, the pressure drop across the RTO and inlet duct pressure/vacuum.
- Test the permanent total enclosure for capture efficiency at operating permit renewal.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 685-7584.*

**AMS 04303: Purolite Co.** (3620 G Street, Philadelphia, PA 19134) for installation of a carbon unit to collect displaced vapors from the polymer reactor and the monomer premix tank, an inductor induced-draft system to prevent fugitive emissions from escaping from the reactor while the lid is open, and passive vent line on the wash tank in the City of Philadelphia, **Philadelphia County**. The VOC emissions are limited to less than 1.0 ton and the HAP emissions are limited to 700 pounds per rolling 12-month period. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

**AMS 04237: Sunoco Inc.—R and M** (3144 Passyunk Avenue, Philadelphia, PA 19145) for modification of their 865 Hydrodesulfurization Plant to produce ultra low sulfur diesel fuel in the City of Philadelphia, **Philadelphia County**. The modifications include changes to two catalyst bed feed distribution systems and the installation and replacement of various components including pipelines, heater tubes, heat exchangers and pumps. This Plan Approval authorizes increases in emissions up to 6.14 tons of NO<sub>x</sub>, 0.37 ton of VOC and 1.69 tons of SO<sub>2</sub> on an annual basis. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

**AMS 01026 and 05104: SunGard Availability Services, Inc.** (401 North Broad Street, Suite 600, Philadelphia, PA 19108) for installation of three 2,036 kW and two 2,060 kW emergency generators in the City of Philadelphia, **Philadelphia County**. The combined total operating time for the generators may not exceed 240 hours per year. Emissions are limited to 10.4 tons of NO<sub>x</sub>, 1.1 tons of CO, 0.6 ton of SO<sub>2</sub>, 0.2 ton of VOC and 0.1 ton of PM per year. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

## OPERATING PERMITS

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

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

**48-00069: United Panels Inc.** (8 Wildon Drive, Mt. Bethel, PA 18343) in Mount Bethel Township, **Northampton County**. The facility's major source of emissions is the Plastic Production Panel Line, which primarily emits VOCs.

**54-00008: Northeastern Power Co.** (P. O. Box 7, McAdoo, PA 18237) in Kline Township, **Schuylkill County**. The facility's major source of emissions is the CFB Boiler which primarily emits NO<sub>x</sub>. This is a renewal of their Title V Operating Permit issued in April 2000.

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

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

**46-00244: ACME Corrugated Box Co.** (2700 Turnpike Drive, Hatboro, PA 19040) in Upper Moreland Township, **Montgomery County**. The permit is for a non-Title V (State-only Natural Minor) facility. The facility's sources include a vapor power boiler and cold degreaser. The permittee does not have the potential to emit 24.9 tons/year for VOC and NO<sub>x</sub> and is therefore characterized as a Natural Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-00235: North Penn School District** (1340 Valley Forge Road, Lansdale, PA 19446) for a non-Title V Facility, State-only, Synthetic Minor Operating Permit in Towamencin Township, **Montgomery County**. The facility's primary emission sources are four boilers that combust natural gas and No. 2 fuel oil, two natural gas-fired emergency generators, one diesel fuel-fired emergency generator and three insignificant natural gas-fired combustion sources (that is, hot water heaters). The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements.

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

**14-00034: Jostens, Inc.** (401 Science Park Road, State College, PA 16803) for the operation of a printing facility in Ferguson Township, **Centre County**.

The facility incorporates 13 printing presses and processors as well as a parts washer. The air contaminant emissions from the facility are not expected to exceed 10.9 tons of VOCs, .65 ton of hazardous air pollutants and .41 ton of acetone per year.

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

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contami-



nation sources and the emission of air contaminants as well as the conditions previously established in "Request for Determination of Requirement for Plan Approval/Operating Permit" forms approved by the Department on June 16, 2003, and November 9, 2004. These previously-established conditions include restrictions on the types and amounts of materials which can be used in the presses and processors as well as associated recordkeeping requirements.

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

**04-00723: McDanel Advanced Ceramic Technologies, LLC** (510 Ninth Avenue, Beaver Falls, PA 15010) for operation of manufacturing technical ceramics at McDanel Advanced Ceramic Technologies Facility in Beaver Falls, **Beaver County**.

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

**10-00283: Ervin Industries, Inc.—Barnsteel Abrasives Division** (110 Etna St., Butler, PA 16001) for production of steel shot in the City of Butler, **Butler County**. The Department intends to issue a State-only operating permit for this facility. This facility produces steel shot and is comprised of melting, quenching, drying and sizing process equipment. This facility is currently deactivated under 25 Pa. Code § 127.11a. Reactivation of the facility after November 30, 2006, will require approval from the Department through the plan approval process.

**33-00133: HRI Inc.—Pine Creek Township** (State Route 830, Brookville, PA 15825) for issuance of Natural Minor Operating Permit to operate Asphalt Paving Mixtures and Blocks Plant in Pine Creek Township, **Jefferson 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	
pH <sup>1</sup>		greater than 6.0; less than 9.0	
alkalinity greater than acidity <sup>1</sup>			

<sup>1</sup> 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, Coal Center, PA 15423, (724) 769-1100.*

**32841303 and NPDES Permit No. PA0001775, Helvetia Coal Company**, (P. O. Box 219, 400 Overview Drive, Shelocta, PA 15774), to renew the permit for the Lucerne Mine No. 6 in Center Township, **Indiana County** and related NPDES permit for reclamation only. No additional discharges. Application received April 22, 2005.

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

**32000101 and NPDES No. PA0235253. Amerikohl Mining, Inc.**, 202 Sunset Drive, Butler, PA 16001, revision of an existing bituminous surface-auger mine to add 5.6 additional acres for mining to the SMP in Rayne Township, **Indiana County**, affecting 159.5 acres. Receiving streams: UNT to Crooked Creek, Crooked Creek to Allegheny River classified for the following uses: CWF, CWF and WWFN. There are no potable water supply intakes within 10 miles downstream. The application includes a stream encroachment for mining and support activities within the barrier area of a UNT to Crooked Creek. Application received June 15, 2005.

**11940201 and NPDES No. PA0212831. AMFIRE Mining Company, LLC**, One Energy Place, Latrobe, PA 15650, permit renewal for reclamation only of a bituminous surface coal refuse reprocessing and coal ash beneficial use mine in Adams Township, **Cambria County**, affecting 76.9 acres. Receiving streams: UNT to South Fork of the Little Conemaugh River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 16, 2005.

**11950201 and NPDES No. PA0213021. Ridge Energy Company**, 265 Swamp Road, Clymer, PA 15728, permit renewal for reclamation only of a bituminous surface coal refuse reprocessing and coal refuse disposal mine in West Carroll Township, **Cambria County**, affecting 18.0 acres. Receiving streams: UNT to West Branch Susquehanna River and West Branch Susquehanna River classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received June 20, 2005.

**32950201 and NPDES No. PA0213004. Cambria Reclamation Corporation**, 2929 Allen Parkway, Suite 2200, Houston, TX 77019-0000, permit renewal for the

continued operation and restoration of a bituminous surface coal refuse reprocessing mine in White and Rayne Townships, **Indiana County**, affecting 256.0 acres. Receiving stream: McKee Run to Crooked Creek classified for the following uses: CWF and WWF. There are no potable water supply intakes within 10 miles downstream. Application received June 17, 2005.

**32950202 and NPDES No. PA0213039. Cambria Reclamation Corporation**, 2929 Allen Parkway, Suite 2200, Houston, TX 77019-0000, permit renewal for the continued operation and restoration of a bituminous surface coal refuse reprocessing mine in Center Township, **Indiana County**, affecting 287.3 acres. Receiving streams: UNT to Yellow Creek and Yellow Creek classified for the following uses: CWF and TSF. There are no potable water supply intakes within 10 miles downstream. Application received June 17, 2005.

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

**17050104 and NPDES Permit No. PA0256200. Hepburnia Coal Company** (P. O. Box I, Grampian, PA 16838), commencement, operation and restoration of a bituminous surface mine-auger permit in Chest Township, **Clearfield County** affecting 295.9 acres. Receiving stream: North Camp Run classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is none. Application received: June 2, 2005.

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

**54851315R4 and NPDES Permit No. PA022464. Summit Anthracite, Inc.**, (196 Vista Road, Klingerstown, PA 17941), renewal and correction of an existing anthracite underground mine operation to include NPDES Permit for discharge of treated mine drainage in Blythe and Schuylkill Townships, **Schuylkill County** affecting 9.8 acres, receiving stream: Big Creek, classified for the following use: CWF. Application received June 15, 2005.

*Coal NPDES Permit Renewal Applications Received*

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

**3279103, Keystone Coal Mining Corporation**, P. O. Box 219, Shelocta, PA 15774), renewal of NPDES Permit No. PA0079791, Young Township, **Indiana County**, receiving stream UNT to Big Run, NPDES Renewal application received June 16, 2005.

*Noncoal Applications Received*

*Effluent Limits*

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

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

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

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

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

**26900306 and NPDES Permit Number PA0591483. Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425). NPDES renewal of an existing noncoal mining operation located in Connellsville Township, **Fayette County**, affecting 51.4 acres. Receiving streams: UNTs to Connell Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: June 17, 2005.

**26840402 and NPDES Permit Number PA0588075. Hanson Aggregates PMA, Inc.** (2200 Springfield Pike, Connellsville, PA 15425). NPDES renewal of an existing noncoal mining operation located in Connellsville Township, **Fayette County**, affecting 234.7 acres. Receiving streams: UNTs to Connell Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: June 17, 2005.

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

**58040865. Shawn Aukema**, (R. R. 1 Box 1366, Friendsville, PA 18818), Stage I and II bond release for a quarry operation in Silver Lake Township, **Susquehanna County** affecting 1.0 acre on land owned by Shawn Aukeman. Application received June 6, 2005.

### FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water

Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

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

### ENVIRONMENTAL ASSESSMENTS

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

**D21-033EA. Chris Turnpaugh**, 6103 Carlisle Pike, Mechanicsburg, PA 17050, Hampden and Silver Spring Townships, **Cumberland County**, ACOE Baltimore District.

Project proposes to breach and remove Silver Spring Mill Dam across Trindle Spring Run (HQ-CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The dam is located along Lambs Gap Road approximately 2,000 feet north of the intersection of Lambs Gap Road (SR 1011) and U. S. 11. (Wertzville, PA Quadrangle N: 0.4 inches; W: 1.1 inches).

## ACTIONS

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

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

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment

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

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

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

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

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

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## **I. NPDES Renewal Permit Actions**

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

**WQM Permit No. WQG018355**, Sewerage, **Flavia Beil**, 7421 Main Street, Conneaut Lake, PA 16316. This proposed facility is located in Greenwood Township, **Crawford County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**WQM Permit No. WQG018345**, Sewerage, **Andrew P. and Toni A. Kurelko**, 522 West Salem Road, Greenville, PA 16125. This proposed facility is located in West Salem Township, **Mercer County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**WQM Permit No. WQG018385**, Sewerage, **Rory D. Luvison**, P. O. Box 93, Youngsville, PA 16371. This proposed facility is located in Sugar Grove Township, **Warren County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**WQM Permit No. WQG018384**, Sewerage, **Myron Nestor**, 1090 North Darby Road, Hermitage, PA 16148. This proposed facility is located in Jefferson Township, **Mercer County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**WQM Permit No. WQG018388**, Sewerage, **Carl T. Beason**, 54 West Congress Street, Corry, PA 16407. This proposed facility is located in Columbus Township, **Warren County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**WQM Permit No. WQG018379**, Sewerage, **Thomas R. Wasiela**, 8731 Perry Highway, Erie, PA 16509. This proposed facility is located in LeBoeuf Township, **Erie County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**WQM Permit No. WQG018372**, Sewerage, **Dianna Malinowski**, 1121 Bartlett Road, Harborcreek, PA 16421. This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: A Single Residence Sewage Treatment Plant.

**IV. NPDES Stormwater Discharges from MS4 Permit Actions****V. NPDES Waiver Stormwater Discharges from MS4 Actions****VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions**

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

*Washington County Conservation District: 602 Courthouse Square, Washington, PA 15301, (724) 228-6774.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056304005	McDowell Estates, LP 300 Weyman Plaza Suite 210 Pittsburgh, PA 15236	Washington	North Strabane Township	Little Chartiers Creek (HQ-WWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056503008	Department of Transportation P. O. Box 459 Uniontown, PA 15401	Westmoreland	Derry Township	Loyalhanna Creek (WWF) Boatyard Run (CWF) Spruce Run (HQ-CWF)
PAI056505002	Michael J. Kennedy Valley School of Ligonier 153 Lupine Lane Rector, PA 15677	Westmoreland	Ligonier Township	Linn Run and Loyalhanna Creek (HQ-CWF)
PAI056504005	Robert G. Cypher 4790 Old Frankstown Road Monroeville, PA 15146	Westmoreland	Municipality of Murrysville	UNT to Steels Run (HQ-CWF)

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

*Lawrence County Conservation District, 430 Court Street, New Castle, PA 16101.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI063705001	Turnpike Commission 700 South Eisenhower Rd. Middletown, PA 17057-5529	Lawrence	Little Beaver Township	North Fork HQ CWF Little Beaver 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**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Saucon Township Northampton County	PAG2004804031	Kenneth and Betty Harmony 2903 Oakhurst Dr. Center Valley, PA 18034	UNT to Black River CWF	Northampton Co. Cons. Dist. (610) 746-1971
Beaver County Economy Borough	PAG2000405010	Mike Cinker Bradford Park, LLC P. O. Box 2059 Warrendale, PA 15096	Big Sewickley Creek (TSF)	Beaver County CD (724) 378-1701
Washington County South Strabane Township	PAG2006305007	Frank Noll, et al. 301 Oak Springs Road Washington, PA 15301	Chartiers Creek (WWF)	Washington County CD (724) 228-6774
Washington County Cecil Township	PAG2006305019	Universal Electric Corp. 3089 Washington Pike Ridgeville, PA 15017 and John Deklewa & Sons Inc. 1273 Washington Pike Bridgeville, PA 15017	Chartiers Creek (WWF)	Washington County CD (724) 228-6774
Westmoreland County Municipality of Murrysville	PAG2006505021	Dorito Pishko 1010 Murry Ridge Lane Murrysville, PA 15668	UNT to Turtle Creek (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Unity Township	PAG2006505024	Esther Glasser P. O. Box 159 Greensburg, PA 15601	UNT to Turtle Creek (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Municipality of Murrysville	PAG2006505027	Department of Transportation 825 North Gallatin Avenue Extension Uniontown, PA 15401	UNT to Turtle Creek (CWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Penn Township	PAG2006505034	F. S. Elliot Company 5710 Mellon Road Export, PA 15632	Tributary to Turtle Creek (TSF)	Westmoreland County CD (724) 837-5271
Butler County Jackson Township	PAG2001005012	Glick Fire Equipment Co., Inc. 350 Mill Creek Road Bird-In-Hand, PA 16525	Breakneck Creek WWF	Butler Conservation District (724) 284-5270
Clarion County Clarion Township	PAG2061605003	Clarion Limestone School District 4091 C-L School Road Strattanville, PA 16258	Little Piney Creek CWF	Northwest Regional Office (814) 332-6942

*General Permit Type—PAG-4**Facility Location:*

<i>Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lehigh Township Northampton County	PAG042215 and WQG012215	David A. Roth 211 Faith Drive Catasauqua, PA 18032	Lehigh River TSF	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

*Facility Location:  
Municipality &  
County*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
West Salem Township Mercer County	PAG049137	Andrew P. and Toni A. Kurelko 522 West Salem Road Greenville, PA 16125	UNT to Big Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Greenwood Township Crawford County	PAG049147	Flavia Beil 7421 Main Street Conneaut Lake, PA 16316	UNT to Conneaut Outlet	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Sugar Grove Township Warren County	PAG049177	Rory D. Luvison P. O. Box 93 Youngsville, PA 16371	UNT to Matthews Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Jefferson Township Mercer County	PAG049176	Myron Nestor 1090 North Darby Road Hermitage, PA 16148	UNT to the Shenango River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Washington Township Erie County	PAG048687	Frank R. Stefano, Jr. 13969 Route 86 Edinboro, PA 16412	Little Conneauttee Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Columbus Township Warren County	PAG049180	Carl T. Beason 54 West Congress Street Corry, PA 16407	Whites Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
LeBoeuf Township Erie County	PAG049171	Thomas R. Wasiela 8731 Perry Highway Erie, PA 16509	UNT to French Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Harborcreek Township Erie County	PAG049165	Dianna Malinowski 1121 Bartlett Road Harborcreek, PA 16421	Elliot's Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

## **PUBLIC WATER SUPPLY (PWS) PERMITS**

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel

Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of

itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

### SAFE DRINKING WATER

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

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

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

Applicant	<b>Aqua PA, Inc.</b>
Township or Borough	Coal Township
County	<b>Northumberland</b>
Responsible Official	Richard T. Subasic Executive Vice President/General Manager
Type of Facility	Public Water Supply—Construction
Consulting Engineer	Peter J. Lusardi, P. E. CET Engineering Services 1240 North Mountain Road Harrisburg, PA 17112
Permit Issued Date	6/21/05
Description of Action	Construction of the soda ash feed system.

#### Permit No. 1403505—Operation, Public Water Supply.

Applicant	<b>Penn State University</b>
Township or Borough	College Township
County	<b>Centre</b>
Responsible Official	Robert E. Cooper, P. E. Penn State University 101 Physical Plant Building University Park, PA 16802-1118
Type of Facility	Public Water Supply—Operation
Consulting Engineer	N/A
Permit Issued Date	6/24/05
Description of Action	Operation of the stripping towers, pump station and disinfection facilities.

## 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:

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

**American Refinery Group**, North Kendall Ave., City of Bradford, **McKean County**. Dayne Crowley, MACTEC Engineering & Consulting, 700 North Bell Avenue, Suite 200, Carnegie, PA 15106 on behalf of Steve Sherk, American Refining Group, Inc., 77 North Kendall Avenue, Bradford PA 16701, has submitted a Notice of Intent to Remediate. Site has been used for Crude Oil Transfer Pumphouse. Contaminants associated with crude oil have been detected in soil and groundwater. Intended future use of property will be unchanged from the current use. Proof of publication was submitted to *The Bradford Era* and published June 7, 2005.

### REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Registration approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and residual waste regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.

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



**Registration Under General Permit No. WMGR090R044. Guilford Township Supervisors**, 115 Spring Valley Road, Chambersburg, PA 17201.

General Permit No. WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement materials as a roadway construction material. Central Office approved this registration for coverage under the general permit on June 21, 2005.

Persons interested in obtaining more information, or obtaining copies of the general permit may contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department through the Pennsylvania Relay service, (800) 654-5984.

## AIR QUALITY

**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**46-0198J: Blommer Chocolate Co.** (1101 Blommer Drive, East Greenville, PA 18041) on June 23, 2005, to operate two bag filters in Upper Hanover Township, **Montgomery County**.

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

**36-05090A: The Hershey Co.** (400 Running Pump Road, Lancaster, PA 17603-2269) on June 21, 2005, to construct a new fabric collector at their candy manufacturing facility in East Hempfield Township, **Lancaster County**.

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

**30-00099B: Allegheny Energy Supply Co., LLC** (800 Cabin Hill Drive, Greensburg, PA 156601) on June 17, 2005, to install and operate a synthetic fuel manufacturing facility at their existing Hatfield's Ferry Power Station located in Monongahela Township, **Greene County**.

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

**42-061B: Dresser Manufacturing Division—Dresser Ind.** (41 Fisher Avenue, Bradford, PA 16701) on June 15, 2005, for modification of a plan approval to modify the VOC and HAP emission limits from the Binks Spray Booth and Plastisol Dip operations at their Fisher Avenue Plant, Bradford, **McKean County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**15-0114: Action Manufacturing Co** (100 East Erie Avenue, Philadelphia, PA 19134) on June 22, 2005, to operate a thermal treatment unit in West Fallowfield Township, **Chester County**.

**23-0038B: DELCORA** (100 East Fifth Street, Chester, PA 19016) on June 22, 2005, to operate a venturi scrubber in City of Chester, **Delaware County**.

**23-0077A: County of De Fair Acre** (340 North Middletown Road, Lima, PA 19037) on June 22, 2005, to operate a gas-fired generator in Middletown Township, **Delaware County**.

**46-0037Q: Cabot Supermetals** (P. O. Box 1608, County Line Road, Boyertown, PA 19512) on June 22, 2005, to operate a wet dust collector in Douglass Township, **Montgomery County**.

**46-0194A: Freedom Alloys, Inc.** (155 Railroad Plaza, Royersford, PA 19468) on June 22, 2005, to operate a 4,000 pound inductotherm furnace in Royersford Borough, **Montgomery County**.

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

**48-328-004: Lower Mount Bethel Energy LLC** (Two North Ninth Street, GEN PL 6, Allentown, PA 18101) on June 15, 2005, for construction of a combined cycle power plant at their facility on Depues Ferry Road, Lower Mount Bethel Township, **Northampton County**. The Plan Approval has been extended.

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

**22-05046A: Haines and Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474-0196) on June 23, 2005, to construct a fabric filter at their Handwerk Materials asphalt plant in Lower Swatara Township, **Dauphin County**. This facility is subject to 40 CFR Part 60, Subpart 000—Standards of Performance for Nonmetallic Mineral Processing Plants. This plan approval was extended.

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

**16-132B: Clarion Boards, Inc.** (1 Fiberboard Avenue, Shippensburg, PA 16245) on June 30, 2005, for modifications to their fiberboard plant in Paint Township, **Clarion County**.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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

**15-00103: Christiana Cabinetry** (406 Noble Road, P. O. Box 40, Christiana, PA 17509) on June 23, 2005, to operate a Natural Minor Operating Permit in Atglen Borough, **Chester County**.

**46-00201: Kirk and Nice Funeral Home and Crematory** (80 Stenton Avenue, Plymouth Meeting, PA

19462) on June 23, 2005, to operate a Natural Minor Operating Permit in Whitmarsh Township, **Montgomery County**.

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

**03-00050: Creekside Mushrooms, Ltd.** (One Moonlight Drive, Worthington, PA 15262) on June 17, 2005, to operate mushroom cultivation at their Worthington Plant in West Franklin Township, **Armstrong County**. This is a State Only Renewal.

**65-00353: Tech Spec, Inc.** (718 Y Street, Derry, PA 15627) on June 17, 2005, to operate grinders and saws, several natural gas fired furnaces and a shot-blasting unit at their Derry Plant in Derry Borough, **Westmoreland County**.

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

**43-00286: RW Sidley, Inc.** (3401 New Castle Road, West Middlesex, PA 16159) on June 22, 2005, to operate their concrete products manufacturing facility in Shenango Township, **Mercer County**. The facility includes a portable concrete batch plant.

**37-00271: Quality Aggregates Inc.—Slippery Rock Township** (Mount Hope Furnace Road, Portersville, PA 16051) on June 23, 2005, to operate their Limestone Crushing and Screening facility in Slippery Rock Township, **Lawrence County**.

**20-00175: Cardinal Home Products—Tel-O-Post Division** (205 North Pymatuning Street, Linesville, PA 16124) on June 23, 2005, to administratively amend the Natural Minor Operating Permit to incorporate the applicable conditions from Plan Approval No. 20-175B for the secondary red primer surface coating line at their facility in Linesville Borough, **Crawford County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 685-7584.*

**S04-011: Friends Hospital** (4641 Roosevelt Boulevard, Philadelphia, PA 19124) on May 12, 2005, to operate in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three 400 HP boilers, one 300,000 Btu/hr boiler and four emergency generators.

**S05-001: Roxborough Memorial Hospital** (5800 Ridge Avenue, Philadelphia, PA 19128) on June 15, 2005, to operate a hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three boilers and three emergency generators.

**N05-001: Jerith Manufacturing Co., Inc.** (14400 McNulty Road, Philadelphia, PA 19154) on June 15, 2005, to operate an aluminum fencing manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include three boilers and three emergency generators.

**S04-012: Saint Agnes Hospital** (1900 South Broad Street, Philadelphia, PA 19145) on June 15, 2005, to operate a hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 20.95 mmBtu/hr boilers, four emergency generators and two peak shaving generators.

**N04-008: Hillock Anodizing, Inc.** (5101 Comly Street, Philadelphia, PA 19135) on June 16, 2005, to operate an anodizing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include a 550-gallon chromic acid tank and a No. 2 oil 1.357 mmBtu/hr boiler.

**S04-016: Sea Gull Lighting Products, Inc.** (25th and Wharton Streets, Philadelphia, PA 19146) on June 22, 2005, to operate their lighting fixtures manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two <3 mmBtu/hr boilers, a drying oven, three paint booths, a paint stripping operation, and a polishing process with a dust collector.

## ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

**Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

### Coal Permits Actions

*California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-7100.*

**30841303 and NPDES Permit No. PA0013511, Cumberland Coal Resources, LP** (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine in Whiteley Township, **Greene County** for a stream and road variance for the No. 7 dewatering borehole. No additional discharges. Permit issued June 22, 2005.

**56971301 and NPDES Permit No. PA0214973, RoxCOAL, Inc.** (P. O. Box 149, Friedens, PA 15541), to transfer the permit for the Geronimo Mine in Jenner Township, **Somerset County** and related NPDES permit from G M & S Coal Corporation. No additional discharges. Permit issued June 22, 2005.

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

**33890119 and NPDES Permit No. PA0207560. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849). Renewal of an existing bituminous surface strip operation in Winslow Township, **Jefferson County** affecting 111.7 acres. Receiving streams: McCreight Run and Trout Run. Application received March 21, 2005. Permit issued June 21, 2005.

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

**40850101R4. Beaver Brook Coal Company**, (406 Moon Hill Drive, Schuylkill Haven, PA 17972), renewal of an existing coal refuse reprocessing and prep plant operation in Hazle Township, **Luzerne County** affecting 312.0 acres, receiving stream: none. Application received March 15, 2005. Renewal issued June 22, 2005.

*Noncoal Permits Actions*

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

**32040301 and NPDES Permit No. PA0249611. Penn Run Quarry, LLC**, 456 Weston Road, Penn Run, PA 15765, commencement, operation and restoration of a bituminous surface mine in Cherryhill and Pine Townships, **Indiana County**, affecting 97.8 acres. Receiving streams: UNTs to Yellow Creek to Two Lick Creek to Blacklick Creek classified for the following uses: CWF and TSF. The first downstream potable water supply intake from the point of discharge is Central Indiana County Water Authority Intake on Yellow Creek. Application received September 7, 2004. Permit issued June 17, 2005.

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

**33050802. Home Schaffer** (112 Kentucky Ave., Punxsutawney, PA 15767) Commencement, operation and restoration of a small noncoal sandstone and clay operation in Henderson Township, **Jefferson County** affecting 4.6 acres. Receiving streams: UNT to Stump Creek. Application received: March 7, 2005. Permit Issued: June 20, 2005.

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

**40050801. Dallas Nurseries & Landscape, Inc.** (R. R. 5 Box 120, Dallas, PA 18612), commencement, operation and restoration of a quarry operation in the City of Nanticoke, **Luzerne County** affecting 5.0 acres. Receiving stream: Susquehanna River. Application received March 8, 2005. Permit issued June 20, 2005.

**28042803. Norman R. Eyer** (3279 Portico Road, Chambersburg, PA 17201), commencement, operation and restoration of a quarry operation in Hamilton Township, **Franklin County** affecting 5.0 acres. Receiving stream: Conococheague Creek. Application received November 29, 2004. Permit issued June 21, 2005.

**58050805. Richard L. Arnold, II** (R. R. 4, Box 240-A, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Springville Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received February 16, 2005. Permit issued June 22, 2005.

**58052801. Joseph Zawisky, LLC** (301 Marion Street, Browndale, PA 18421), commencement, operation and restoration of a bluestone quarry operation in Oakland Township, **Susquehanna County** affecting 3.0 acres. Receiving stream: none. Application received March 23, 2005. Permit issued June 23, 2005.

**7775SM12C4 and NPDES Permit No. PA0223573. Highway Materials, Inc.** (1750 Walton Road, P. O. Box 1650, Blue Bell, PA 19422), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Alsace Township, **Berks County**, receiving stream: UNT to Laurel Run. Application received April 28, 2005. Renewal issued June 23, 2005.

## ACTIONS ON BLASTING ACTIVITY APPLICATIONS

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**Actions on applications under the Explosives Acts of 1937 and 1957 (43 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.**

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

**37054002. Demtech** (65 Bald Mountain Road, DuBois, WY 82513). Blasting activity permit to remove a bridge structure in Wampum Borough, **Lawrence County**. The blasting activity permit will expire on September 21, 2005. Application received: June 16, 2005. Application issued: June 21, 2005.

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

**22054004. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Northwood Crossing Development in Susquehanna Township, **Dauphin County** with an expiration date of July 31, 2006. Permit issued June 20, 2005.

**36054015. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Charter Homes Veranda Development in East Hempfield Township, **Lancaster County** with an expiration date of July 16, 2006. Permit issued June 20, 2005.

**28054130. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Rouzerville Wal-Mart in Washington Township, **Franklin County** with expiration date of March 30, 2006. Permit issued June 21, 2005.

**36054129. Horst Drilling & Blasting, Inc.** (141 Rancks Church Road, New Holland, PA 17557), construction blasting for Houston Run Corporate Center in Salisbury Township, **Lancaster County** with an expiration date of July 17, 2006. Permit issued June 21, 2005.

**40054107. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for College Crest Colony in Sugarloaf Township, **Luzerne County** with an expiration date of July 31, 2005. Permit issued June 21, 2005.

**40054112. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting at the Humboldt Industrial Park in the City of Hazleton, **Luzerne County** with an expiration date of June 15, 2006. Permit issued June 21, 2005.

**15054003. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting for Schuylkill Township Elementary School in Schuylkill Township, **Chester County** with an expiration date of June 30, 2006. Permit issued June 22, 2005.

**28054014. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Forest Ridge Acres in Southampton Township, **Franklin County** with an expiration date of June 30, 2006. Permit issued June 22, 2005.

**40054003. Holbert Explosives, Inc.** (237 Masthoke Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting for a house foundation at Laurel Brook

Estates in Bear Creek Township, **Luzerne County** with an expiration date of August 31, 2005. Permit issued June 22, 2005.

**36054014. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Willow Valley Retirement Village in West Lampeter Township, **Lancaster County** with an expiration date of June 30, 2006. Permit issued June 22, 2005.

**38054003. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Londoncroft Housing Subdivision in North Londonderry Township, **Lebanon County** with an expiration date of June 30, 2006. Permit issued June 22, 2005.

**67054025. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Spring Forge Tract in Spring Grove Borough, **York County** with an expiration date of June 30, 2006. Permit issued June 22, 2005.

**67054026. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Emigsville Quarry Crusher Area in East Manchester Township, **York County** with an expiration date of June 30, 2006. Permit issued June 22, 2005.

**67054027. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Chatham Creek Housing Subdivision in Windsor Township, **York County** with an expiration date of June 30, 2006. Permit issued June 22, 2005.

**09054105. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for The Reserves at Hilltown Ridge in Hilltown Township, **Bucks County** with an expiration date of December 23, 2005. Permit issued June 23, 2005.

**09054106. Rock Work, Inc.** (1257 DeKalb Pike, Blue Bell, PA 19422), construction blasting for Warner Meadows in Wrightstown Township, **Bucks County** with an expiration date of June 17, 2006. Permit issued June 23, 2005.

**35054110. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Kane Trucking in the City of Scranton and Taylor Borough, **Lackawanna County** with an expiration date of June 11, 2006. Permit issued June 23, 2005.

**36054130. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for a pool on Coach House Lane in Manheim Township, **Lancaster County** with an expiration date of August 30, 2005. Permit issued June 23, 2005.

**36054131. Gerlach's Drilling & Blasting** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Jo Anne Realty Corp Center in Salisbury Township, **Lancaster County** with an expiration date of June 30, 2006. Permit issued June 23, 2005.

**36054132. Gerlach's Drilling & Blasting** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for George Mann Farm Chicken House Expansion in Manor Township, **Lancaster County** with an expiration date of June 30, 2006. Permit issued June 23, 2005.

**36054133. Gerlach's Drilling & Blasting** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Red Rose Cabinetry in Warwick Township, **Lancaster County** with an expiration date of June 30, 2006. Permit issued June 23, 2005.

**38054113. Brubacher Excavating, Inc.** (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Annville-Cleona School in South Annville Township,

**Lebanon County** with an expiration date of December 31, 2006. Permit issued June 23, 2005.

**38054114. Keystone Blasting Service** (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Falcon Crest Development in South Lebanon Township, **Lebanon County** with an expiration date of December 30, 2006. Permit issued June 23, 2005.

**39054109. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Pidcock Project in Salisbury Township, **Lehigh County** with an expiration date of June 10, 2006. Permit issued June 23, 2005.

**39054110. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for The Hills at Lockridge in Lower Macungie Township, **Lehigh County** with an expiration date of December 23, 2005. Permit issued June 23, 2005.

**45054118. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Twin Lake Estates in Smithfield Township, **Monroe County** with an expiration date of June 11, 2006. Permit issued June 23, 2005.

**45054119. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for LTS Builder in Pocono Township, **Monroe County** with an expiration date of June 11, 2006. Permit issued June 23, 2005.

**45054120. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Highland Estates in Pocono Township, **Monroe County** with an expiration date of June 15, 2006. Permit issued June 23, 2005.

**45054121. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Penn Estate in Pocono Township, **Monroe County** with an expiration date of June 21, 2006. Permit issued June 23, 2005.

**45054122. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Penn Estate in Pocono and Stroud Townships, **Monroe County** with an expiration date of June 15, 2006. Permit issued June 23, 2005.

**48054109. Brubacher Excavating, Inc.** (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Hay Terrace South in Palmer Township, **Northampton County** with an expiration date of December 31, 2006. Permit issued June 23, 2005.

**52054109. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Saw Creek Estates in Middle Smithfield and Lehman Townships, **Monroe and Pike Counties** with an expiration date of July 31, 2006. Permit issued June 23, 2005.

**52054110. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Hemlock Farms in Blooming Grove Township, **Pike County** with an expiration date of June 28, 2006. Permit issued June 23, 2005.

**64054107. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting for Wallenpaupack Lake Estates in Paupack Township, **Wayne County** with an expiration date of July 3, 2006. Permit issued June 23, 2005.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously

received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

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

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

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

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E65-867. Department of Transportation, Engineering District 12-0**, P. O. Box 469, Uniontown, PA 15401. To construct and widen highway in New Alexandria Borough and Derry Township, **Westmoreland County**, Pittsburgh ACOE District. (Begin Saltsburg, PA Quadrangle N: 4.9 inches; W: 5.2 inches and Latitude: 40° 24' 7"—Longitude: 79° 24' 44" and End: Blairsville, PA Quadrangle N: 8.4 inches; W: 13.2 inches and Latitude: 40° 25' 17"—Longitude: 79° 20' 41"). To construct and maintain the following structures and activities as part of 4.5 miles of highway widening and safety improvements to US 22, Section B08. (Begin Saltsburg, PA Quadrangle N: 4.9 inches; W: 5.2 inches and Latitude: 40° 24' 7"—Longitude: 79° 24' 44" and End: Blairsville, PA Quad-

range N: 8.4 inches; W: 13.2 inches and Latitude: 40° 25' 17"—Longitude: 79° 20' 41") in New Alexandria Borough and Derry Township:

1. To extend and maintain, with matching span and rise, and existing 163.0-foot long, 6.0-foot wide by 5.0-foot high box culvert 40.0 feet at the upstream end and 118.0 feet at the downstream end in a UNT to the Loyalhanna Creek (WWF). Also, to construct and maintain a temporary stream crossing. The temporary crossing will be constructed in accordance with General Permit BDWM-GP-8, SR 0022, Station 853 + 40 (Saltsburg, PA Quadrangle N: 5.0 inches; W: 5.0 inches and Latitude: 40° 24' 10"—Longitude: 79° 24' 10").

2. To extend and maintain, with matching diameter, an existing 150.0-foot long, 36-inch diameter reinforced concrete pipe 125.0 feet at the upstream end and 115.0 feet at the downstream end in Boatyard Run (CWF). This structure qualifies for Department waiver 105.12(a)(2). SR 0022, Station 968 + 50 (Blairsville, PA Quadrangle N: 7.5 inches; W: 17.0 inches and Latitude: 40° 24' 59" and longitude: 79° 22' 20").

3. To extend and maintain, with matching span and rise, and existing 119.0-foot long, 7.0-foot wide by 6.0-foot high box culvert 62.0 feet at the upstream end in a UNT to Spruce Run (HQ-CWF). SR 0022 Station 1018 + 40. (Blairsville, PA Quadrangle N: 8.4 inches; W: 14.9 inches and Latitude: 40° 25' 21"—Longitude: 79° 21' 25"). Also, to realign 40 linear feet of the stream channel at the inlet of this culvert.

4. To extend and maintain, with matching span and rise, an existing 107.0-foot long, 20.0-foot wide by 10.0 foot high box culvert 17.25 feet at the upstream end and 39.0 feet at the downstream end in Spruce Run (HQ-CWF). SR 0022, Station 1051 + 66. (Blairsville, PA Quadrangle N: 8.4 inches; W: 13.3 inches and Latitude: 40° 25' 15"—Longitude: 79° 20' 40").

5. To relocate and maintain 105.0 linear feet of a UNT to Spruce Run (HQ-CWF) (SR 0022, Station 1052 + 00 to Station 1053 + 00). Also, to construct and maintain a temporary stream crossing. The temporary stream crossing will be constructed in accordance with General Permit BDWN-GP-8. (Blairsville, PA Quadrangle N: 8.4 inches; W: 13.3 inches and Latitude: 40° 25' 17"—Longitude: 79° 20' 44").

6. To construct and maintain the following outfalls in the Loyalhanna Creek Watershed: An 18-inch diameter pipe with 10.0 linear feet of R-4 rock lined channel at SR 0022, Station 839, 127.0 feet left; a 30-inch diameter reinforced concrete pipe with 80.0 linear feet of R-7 rock lined channel, SR 0022, Station 861 + 60, 115.0 feet left; a 24-inch diameter reinforced concrete pipe with 190.0 feet of gabion-lined mattress. SR 0022, Station 861 + 60, 115 feet right.

7. To construct and maintain the following outfalls in the Spruce Run Watershed: a 30-inch diameter reinforced concrete pipe with 15.0 linear feet rock basin. SR 0022, Station 1023 + 55 85.0 feet left; a 30-inch diameter reinforced concrete pipe with 25.0 linear feet of R-4 rock lined channel, SR 0022, Station 1026 + 00, 60.0 feet left; an 18-inch diameter corrugated metal pipe with 35.0 linear feet of erosion control mat, SR 0022, Station 1027 + 50, 85.0 feet left; a 24-inch diameter reinforced concrete pipe with 160.0 linear feet of R-5 lined channel, SR 0022, Station 1041 + 40, 250.0 feet left.

8. To temporarily place and maintain fill in 0.04 acre of wetland and to permanently place and maintain fill in 2.05 acres of wetland (1.26 acres PEM, 0.77 acre PSS and 0.02 acre POW).

The applicant proposes to create 2.05 acre of replacement wetlands at a 5.20 acre mitigation site located in the Loyalhanna Flood Protection Area.

**SPECIAL NOTICES**

**Public Hearing for NPDES Permit No. PAI023505002**

The Department of Environmental Protection (Department) will hold a public hearing to accept comments on individual NPDES Permit Application No. PAI023505002 for discharge of stormwater from construction activities at the proposed Hemingway Development retail shops in Moosic Borough, Lackawanna County

The public hearing will be conducted on Thursday, August 11, 2005, at 7 p.m. in the Moosic Borough Municipal Building, 715 Main Street, Moosic, PA 18507, by the Department of Environmental Protection, Water Management Program, Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511. The hearing is in response to an application submitted by Hemingway Development Limited Partnership. The NPDES permit application proposes the discharge of stormwater from construction activities to Stafford-Meadow Brook.

The Department requests that individuals wishing to testify at the hearing submit a written notice of intent to Hemingway Development Retail Shops Public Hearing, Department of Environmental Protection, Water Management Program, Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790. The Department will accept notices up to the day of the hearing. The Department requests that individuals limit their testimony to 10 minutes so that all individuals have the opportunity to testify. The Department can only review comments made with regard to NPDES Permit Application No. PAI023505002. Written copies of oral testimony are requested. Relinquishing of time to others will not be allowed. Individuals attending the hearing will have the opportunity to testify if they so desire; however, individuals who preregister to testify will be given priority on the agenda.

Persons with a disability who wish to testify and require an auxiliary aid, service or other accommodation should contact Christine Domashinski, (570) 826-2511 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department can meet their needs.

The NPDES permit application is available for review at the Department's Northeast Regional Office in Wilkes-Barre. Contact the Records Management Section at (570) 826-2511 to schedule an appointment to review the application. The permit application is also available for review at the Lackawanna County Conservation District offices, (570) 281-9495.

For further information, contact Mark Carmon, Northeast Regional Office, (570) 826-2511.

**Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) for the Little Mill Creek Watershed**

The Department of Environmental Protection (Department) is holding a public meeting in conjunction with the

Mill Creek Coalition meeting on August 10, 2005, at 7 p.m in Room 222, Pierce Science Center Building, Clarion University, Clarion, PA. The purpose of the meeting is to discuss and accept comments on the proposed TMDL for Little Mill Creek, established in accordance with the requirements of section 303(d) of The Clean Water Act. Twenty-one stream segments in the Little Mill Creek Watershed have been identified as impaired on the 1996, 1998, 2000 and 2004 Pennsylvania 303(d) list due to depressed pH and/or high concentrations of metals. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
49727	Little Mill Creek	7.8
49728	UNT Little Mill Creek	1.4
49729	UNT Little Mill Creek	1.2
49730	UNT Little Mill Creek	1.2
49731	UNT Little Mill Creek	0.3
49732	UNT Little Mill Creek	0.4
49733	UNT Little Mill Creek	0.4
49734	UNT Little Mill Creek	1.4
49737	UNT Little Mill Creek	1.4
49739	UNT Little Mill Creek	0.4
49740	UNT Little Mill Creek	0.9
49741	UNT Little Mill Creek	0.7
49742	UNT Little Mill Creek	0.9
49743	UNT Little Mill Creek	0.6
49744	UNT Little Mill Creek	1.9
49745	UNT Little Mill Creek	1.2
49746	UNT Little Mill Creek	0.6
49747	UNT Little Mill Creek	0.5
49748	UNT Little Mill Creek	0.2
49749	UNT Little Mill Creek	0.5
49750	UNT Little Mill Creek	0.1

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
	0.3	Dissolved
Manganese	1.00	Total Recoverable
PH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal from the late 19th century through the mid 20th century. All of the allocations made in the TMDL are load allocations that are made to nonpoint sources of pollution.

The TMDL was developed using Monte Carlo Simulation to determine long term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation

allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected over the past 10 years.

The data and supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Elias Heferle, Water Pollution Biologist, Knox District Mining Office, P. O. Box 669, White Memorial Building, Knox, PA 16232, (814) 797-1191, eheferle@state.pa.us. Directions to Clarion University can also be obtained by contacting this address.

The TMDL can be viewed and printed on the following website: [www.dep.state.pa.us/watermanagement\\_apps/tmdl/](http://www.dep.state.pa.us/watermanagement_apps/tmdl/).

Written comments will be accepted at the previously listed address and must be postmarked by September 7, 2005. Persons who plan to make a presentation at the public meeting should notify the Department by 4 p.m. on Tuesday, August 9, 2005. The Department will consider all comments in developing the final TMDL, which will be submitted to the Environmental Protection Agency for approval.

[Pa.B. Doc. No. 05-1297. Filed for public inspection July 8, 2005, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Aestique Ambulatory Surgical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Aestique Ambulatory Surgical Center has requested an exception to the requirements of 28 Pa. Code § 551.21(a)(1) and (2) and (c)(2) (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number or for speech and/or

hearing impaired persons V/TT, (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 05-1298. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Application of Fairgrounds Surgical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Fairgrounds Surgical Center has requested an exception to the requirements of 28 Pa. Code § 551.21 (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number, for speech and/or hearing impaired persons V/TT, (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 05-1299. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Application of Magee-Womens Hospital of University of Pittsburgh Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Magee-Womens Hospital of University of Pittsburgh Medical Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.7.4 (relating to cystoscopy procedure room).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.



Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT, (717) 783-6154 or for speech and/or hearing impaired persons 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. 05-1300. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Application of The Scranton Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Scranton Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number or for speech and/or hearing impaired persons V/TT, (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-1301. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Application of UPMC Braddock for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives

notice that UPMC Braddock has requested an exception to the requirements of 28 Pa. Code § 107.31 (relating to medical staff meetings).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone number or for speech and/or hearing impaired persons V/TT, (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,  
Secretary

[Pa.B. Doc. No. 05-1302. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Decisions on Requests for Exceptions to Health Care Facility Regulations

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), effective June 6, 1998, the Department of Health (Department) has published in the *Pennsylvania Bulletin* all requests by entities licensed under the Health Care Facilities Act (35 P.S. §§ 448.101—448.904b) for exceptions to regulations contained in 28 Pa. Code Part IV, Subparts B—G.

Section 51.33(d) provides that the Department will publish notice of all approved exceptions on a periodic basis. The Department has determined that it will publish notice of all exceptions, both approved and denied. The following list contains the decisions made on exception requests published in the *Pennsylvania Bulletin* from April 1, 2005, through June 30, 2005. Future publications of decisions on exception requests will appear on a quarterly basis.

Requests for additional information on the exception requests and the Department's decision should be made to the relevant division of the Department. Inquiries regarding hospitals and ambulatory surgical facilities should be addressed to the Division of Acute and Ambulatory Care, Sandra Knoble, Director, P. O. Box 90, Harrisburg, PA 17108. Inquiries regarding long-term care facilities shall be addressed to William Bordner, Director, Division of Nursing Care Facilities, P. O. Box 90, Harrisburg, PA 17108. Persons requiring special assistance for speech and/or hearing impairment should call V/TT, (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).



**Exception Requests—Hospitals**

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
UPMC Passavant Cranberry Brookville Hospital	28 Pa. Code § 51.23	PET scanning services	04/02/05	granted
Milton S. Hershey Medical Center	28 Pa. Code § 51.23	PET scanning services	04/16/05	granted
UPMC Passavant	28 Pa. Code § 51.23	PET scanning services	04/16/05	granted
UPMC/HVHS Cancer Center	28 Pa. Code § 51.23	PET scanning services	06/11/05	granted in part
Allegheny General Hospital	28 Pa. Code § 101.4	definitions—chairman, chief	04/23/05	denied
Healthsouth Rehabilitation Hospital of Greater Pittsburgh	28 Pa. Code § 107.2	medical staff membership	04/16/05	granted
Brookville Hospital	28 Pa. Code § 107.26(b)(2)	tissue committee	06/25/05	granted
Millcreek Community Hospital	28 Pa. Code § 107.32	meetings and attendance	04/16/05	granted
Lancaster Regional Medical Center	28 Pa. Code § 107.64	admin of medication—RCIS	02/12/05	not necessary
Frick Hospital	28 Pa. Code § 127.32	written orders—chiropractors	04/16/05	denied
Latrobe Area Hospital	28 Pa. Code § 127.32	written orders—chiropractors	04/16/05	denied
Westmoreland Regional Hospital	28 Pa. Code § 127.32	written orders—chiropractors	04/16/05	denied
Elk Regional Health Center	28 Pa. Code § 138.18	EPS studies	06/25/05	denied
Crozer Chester Medical Center	28 Pa. Code § 153.1	construction standards	02/12/05	granted
Hospital of the University of PA	28 Pa. Code § 153.1	Table 7.5 construction stds	04/02/05	granted in part
Central Montgomery Medical Center	28 Pa. Code § 153.1	construction standards	04/16/05	granted
Altoona Surgery Center, LLC	28 Pa. Code § 153.1	construction standards	04/16/05	granted
Suburban General Hospital	28 Pa. Code § 153.1	NFPA Life Safety Code	05/22/04	withdrawn
Canonsburg General Hospital	28 Pa. Code § 153.1	construction standards	05/21/05	granted
Gettysburg Hospital	28 Pa. Code § 153.1	construction standards	05/21/05	denied
UPMC Presbyterian Shadyside	28 Pa. Code § 153.1	construction standards	05/21/05	granted in part
Allegheny General Hospital—Suburban Campus	28 Pa. Code § 153.1	construction standards	06/11/05	granted in part
The Children's Institute	28 Pa. Code § 153.1	construction standards	06/11/05	granted
Elk Regional Health Center McKeesport	28 Pa. Code § 153.1	construction standards	06/11/05	granted
Jameson Memorial Hospital	28 Pa. Code § 153.1	construction standards	06/11/05	granted in part

**Exception Requests—Ambulatory Surgical Facilities**

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Schuylkill Endoscopy Center, LLC	28 Pa. Code § 551.3	definitions, class levels (ii) Class B	04/16/05	granted
Manoa Diagnostic Center	28 Pa. Code § 551.3	definitions, class levels (ii) Class B	06/25/05	granted
Leader Surgical Center	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery—lap chole	04/02/05	denied
Southwestern Ambulatory Surgery Center	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery—lap chole	04/02/05	denied
Pocono Ambulatory Surgery Center	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery—lap chole	04/16/05	denied
Evangelical Ambulatory Surgical Center	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery—lap chole	04/23/05	denied
Geisinger Medical Center	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery—lap chole	05/14/05	denied in part
Outpatient Surgery—Woodbine	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery—lap chole	05/14/05	denied
Hamot Surgery Center	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery—lap chole	05/14/05	denied
Village SurgiCenter of Erie	28 Pa. Code § 551.21(d)(2)	criteria for ambulatory surgery—lap chole	06/11/05	denied
Four Seasons Endoscopy Center	28 Pa. Code §§ 555.31—555.33	anesthesia services	06/25/05	granted
The Surgical Center at Pennsylvania Reproductive Associates	28 Pa. Code § 571.1	construction standards	03/19/05	granted in part
The Surgical Center at Pennsylvania Reproductive Associates	28 Pa. Code § 571.1	construction standards	03/19/05	not necessary

**Expedited Exception Requests—Ambulatory Surgical Facilities**

<i>Facility Name</i>	<i>Regulation</i>	<i>Request Published</i>	<i>Decision</i>
CHS Ambulatory Surgery Center	28 Pa. Code § 551.21(d)	03/26/05	granted
Center for Same Day Surgery	28 Pa. Code § 551.21(d)	03/26/05	granted
North East Surgery Center	28 Pa. Code § 551.21(d)	04/16/05	granted
Fairgrounds Surgical Center	28 Pa. Code § 551.21(d)	03/26/05	granted
Hamot Surgery Center	28 Pa. Code § 551.21(d)	03/26/05	granted
Susquehanna Valley Surgery Center	28 Pa. Code § 551.21(d)	03/26/05	granted
The Reading Hospital SurgiCenter at Spring Ridge	28 Pa. Code § 551.21(d)	03/26/05	granted
West Shore Surgery Center	28 Pa. Code § 551.21(d)	03/26/05	granted
Holy Redeemer Ambulatory Surgery	28 Pa. Code § 551.21(d)	03/26/05	granted
Regional Ambulatory Surgery Center	28 Pa. Code § 551.21(d)	03/26/05	granted
Mount Nittany Surgical Center	28 Pa. Code § 551.21(d)	03/26/05	granted
Lebanon Outpatient Surgical Center	28 Pa. Code § 551.21(d)	04/16/05	granted
Exeter Surgery Center	28 Pa. Code § 551.21(d)	03/26/05	granted
Summit Surgery Center	28 Pa. Code § 551.21(d)	03/26/05	granted
Childrens Hospital of Philadelphia Ambulatory Surgery Center at Bucks	28 Pa. Code § 551.21(d)	04/16/05	granted
Ambulatory Surgery Center at Bucks	28 Pa. Code § 551.21(d)	04/16/05	granted
Evangelical Ambulatory Surgery	28 Pa. Code § 551.21(d)	04/16/05	granted
Southwestern Ambulatory Surgery	28 Pa. Code § 551.21(d)	04/02/05	granted
Surgical Center of York	28 Pa. Code § 551.21(d)	04/16/05	granted
Healthsouth Scranton Surgery & Laser	28 Pa. Code § 551.21(d)	04/02/05	granted
Wyomissing Surgical Services	28 Pa. Code § 551.21(d)	04/02/05	granted
Huntington Valley Surgery Center	28 Pa. Code § 551.21(d)	04/16/05	granted
Endoscopy Center of PA	28 Pa. Code § 551.21(d)	04/16/05	granted
Heritage Valley Surgery Center	28 Pa. Code § 551.21(d)	04/02/05	granted
Northwood Surgery Center	28 Pa. Code § 551.21(d)	04/16/05	granted
Village SurgiCenter	28 Pa. Code § 551.21(d)	04/16/05	granted
Carlisle Regional Surgery Center	28 Pa. Code § 551.21(d)	04/16/05	granted
Valley Surgery Center	28 Pa. Code § 551.21(d)	04/16/05	granted
Grandview Surgery and Laser Center	28 Pa. Code § 551.21(d)	04/16/05	granted
Hershey Outpatient Surgery Center	28 Pa. Code § 551.21(d)	04/16/05	granted
Healthsouth Surgery Center of Lancaster	28 Pa. Code § 551.21(d)	04/16/05	granted
Surgery Center of Pennsylvania, LLC	28 Pa. Code § 551.21(d)	04/16/05	granted
Apple Hill Surgical Center	28 Pa. Code § 551.21(d)	04/02/05	granted
Geisinger Medical Center Outpatient	28 Pa. Code § 551.21(d)	04/30/05	granted
Saint Vincent Surgery Center of Erie	28 Pa. Code § 551.21(d)	04/30/05	granted
Doylestown Surgery Center	28 Pa. Code § 551.21(d)	05/21/05	granted
Altoona Hospital Ambulatory Surgery	28 Pa. Code § 551.21(d)	05/21/05	granted
Indiana Ambulatory Surgical	28 Pa. Code § 551.21(d)	06/04/05	granted

**Exception Requests—Nursing Care Facilities**

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
The Patriot, A Choice Community	28 Pa. Code § 201.3	definitions	02/12/05	granted
Presbyterian Lodge	28 Pa. Code § 201.3	definitions	02/26/05	granted
Ohesson Manor	28 Pa. Code § 201.3	definitions	03/19/05	granted
Susquehanna Lutheran Village	28 Pa. Code § 201.3	definitions	03/19/05	granted
Perry Village	28 Pa. Code § 201.3	definitions	03/19/05	granted
Frey Village	28 Pa. Code § 201.3	definitions	03/19/05	granted
Cumberland Crossings Retirement Community	28 Pa. Code § 201.3	definitions	03/19/05	granted
William Penn Care Center	28 Pa. Code § 201.3	definitions	03/26/05	granted
Sena Kean Manor	28 Pa. Code § 201.3	definitions	03/26/05	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Colonial Manor Nursing Home	28 Pa. Code § 201.3	definitions	04/16/05	granted
Evanagelical Manor	28 Pa. Code § 201.3	definitions	04/30/05	granted
Crawford County Care Center	28 Pa. Code § 201.3	definitions	04/30/05	granted
HealthSouth Transitional Rehabilitation Center	28 Pa. Code § 201.17	location	04/16/05	granted
West Shore Health & Rehab Center	28 Pa. Code § 201.18	management	01/22/05	not needed
Heartland Health Care Center	28 Pa. Code § 201.18	management	01/22/05	not needed
Sky Vue Terrace	28 Pa. Code § 201.18	management	01/22/05	not needed
The Shadyside Nursing & Rehab Ctr	28 Pa. Code § 201.18	management	01/22/05	not needed
Community Medical Center Transitional Care Unit	28 Pa. Code § 201.18(e)	management	04/16/05	granted
HealthSouth Transitional Rehab Unit	28 Pa. Code § 201.18(e)	management	04/23/05	granted
Mercy Skilled Nsng Facility Scranton	28 Pa. Code § 201.18(e)	management	05/14/05	granted
Mercy Skilled Nursing Unit Wilkes-Barre	28 Pa. Code § 201.18(e)	management	05/14/05	granted
Sacred Heart Hosp Transitional Care Facility	28 Pa. Code § 201.18(e)	management	05/21/05	granted
UPMC Magee-Womens Transitional Care Unit	28 Pa. Code § 201.18(e)	management	05/21/05	granted
Madlyn and Leonard Abramson Center for Jewish Life	28 Pa. Code § 205.6(a)	function of building	03/26/05	granted
Frederick Mennonite Community	28 Pa. Code § 205.6(a)	function of building	03/26/05	granted
Sugar Creek Station Skilled Nursing & Rehab Complex	28 Pa. Code § 205.6(a)	function of building	04/16/05	granted
HealthSouth Transitional Rehabilitation Center	28 Pa. Code § 205.6(a)	function of building	04/16/05	granted
Sugar Creek Station Skilled Nursing & Rehab Complex	28 Pa. Code § 205.6(a)	function of building	04/16/05	granted
Jameson Memorial Hosp Transitional Care Unit	28 Pa. Code § 205.6(a)	function of building	04/23/05	granted
Lackawanna County Health Care Ctr.	28 Pa. Code § 205.10(b)	doors	04/16/05	granted
HealthSouth Transitional Rehab Unit	28 Pa. Code § 205.24	dining room	04/23/05	denied
Jameson Memorial Hosp Transitional Care Unit	28 Pa. Code § 205.24	dining room	04/23/05	granted
HealthSouth Transitional Rehab Unit	28 Pa. Code § 205.25(a) and (b)	kitchen	04/23/05	granted in part not needed in part
HealthSouth Transitional Rehab Unit	28 Pa. Code § 205.26(c) and (d)	laundry	04/23/05	not needed
HealthSouth Transitional Rehab Unit	28 Pa. Code § 205.27	lounge and recreation rooms	04/23/05	denied
Jameson Memorial Hosp Transitional Care Unit	28 Pa. Code § 205.27	lounge and recreation rooms	04/23/05	granted
UPMC Transitional Care Unit	28 Pa. Code § 205.27	lounge and recreation rooms	04/23/05	granted
HealthSouth Transitional Rehab Unit	28 Pa. Code § 205.28(a)	nurses station	04/23/05	granted
HealthSouth Transitional Rehab Unit	28 Pa. Code § 205.33(a) and (b)	utility rooms	04/23/05	granted in part not needed in part
HealthSouth Transitional Rehab Ctr	28 Pa. Code § 205.33	utility room	04/30/05	granted
St. Joseph's Manor	28 Pa. Code § 205.33	utility room	05/14/05	granted
UPMC Magee-Womens Transitional Care Unit	28 Pa. Code § 205.33(a)	utility room	05/21/05	granted
Scranton Health Care Center	28 Pa. Code § 205.36(h)	bathing facilities	03/26/05	granted
HealthSouth Transitional Rehab Unit	28 Pa. Code § 205.36(h)	bathing facilities	04/23/05	not needed
Scranton Health Care Center	28 Pa. Code § 205.38(b)	toilet facilities	03/26/05	granted

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Hamilton Arms Center	28 Pa. Code § 205.38(a)	toilet facilities	06/04/05	temp grant
UPMC Magee-Womens Transitional Care Unit	28 Pa. Code § 211.12(b)	nursing services	05/21/05	granted

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 05-1303. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Monticello House at Riddle Village  
1048 West Baltimore Pike  
Media, PA 19063-5168

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.19(b) (relating to windows and windowsills):

Orchard Manor, Inc.  
20 Orchard Drive  
Grove City, PA 16127-8901

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.6(a), 205.26(e), 205.33(c), 205.36(f) and (g), 205.38(d), 205.39(b) and 205.67(e):

HealthSouth Transitional Rehabilitation Unit  
1850 Normandie Drive  
York, PA, 17404

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, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address 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 Braille) should contact the Division of Nursing Care Facilities at the address 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. 05-1304. Filed for public inspection July 8, 2005, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Transportation Funding and Reform Commission Meeting

The Transportation Funding and Reform Commission (Commission) will meet on Friday, July 15, 2005, at 10 a.m. in Conference Room 125A, Plaza Level, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA. Chairperson Allen D. Biehler will be presiding. The purpose of this meeting will be to review and finalize the Commission's work program. The meeting is open to the public.

The meeting location is accessible to persons with disabilities. Persons with special needs or requiring special aides should contact Jeanie Schneider, Department of Transportation, Bureau of Public Transportation, (717) 787-3921 prior to the meeting.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 05-1305. Filed for public inspection July 8, 2005, 9:00 a.m.]

## ENVIRONMENTAL QUALITY BOARD

### Acceptance of Rulemaking Petition for Study

On June 21, 2005, the Environmental Quality Board (Board) accepted a rulemaking petition for study under 25 Pa. Code Chapter 23 (relating to Environmental Quality Board policy for processing petitions—statement of policy). The petition, submitted by Barbara L. Smith on behalf of the Tobyhanna Creek/Tunkhannock Creek Watershed Association, requests the Board redesignate the stream segment that appears in 25 Pa. Code § 93.9d (relating to drainage list D) as Tunkhannock Creek in Monroe County from its present designation of High Quality—Cold Water Fishes to Exceptional Value water.

Under 25 Pa. Code § 93.4d(a) (relating to processing petitions, evaluations and assessments to change a designated use), the Department of Environmental Protection (Department) is required to publish a notice of intent to assess candidate waters before performing survey work. The Department's assessment notice for the West Branch and Main Stem of the Delaware River will appear in a future issue of the *Pennsylvania Bulletin*.

The petition is available to the public by contacting the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526. The petition is accessible on the Department's website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: EQB (June 21, 2005 meeting)).

KATHLEEN A. MCGINTY,  
*Chairperson*

[Pa.B. Doc. No. 05-1306. Filed for public inspection July 8, 2005, 9:00 a.m.]

## HEALTH CARE COST CONTAINMENT COUNCIL

### Meetings Scheduled

The Health Care Cost Containment Council (Council) has scheduled the following meetings: Wednesday, July 13, 2005, Data Systems Committee Meeting—10 a.m., Education Committee Meeting—1 p.m., Mandated Benefits Committee Meeting—3 p.m.; Thursday, July 14, 2005, Council Meeting—10 a.m. The meetings will be held in the Conference Room, Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodation due to a disability and wish to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101, (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

MARC P. VOLAVKA,  
*Executive Director*

[Pa.B. Doc. No. 05-1307. Filed for public inspection July 8, 2005, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Keystone Health Plan West, Inc.; Individual HMO Plan; Rate Filing

On June 17, 2005, Keystone Health Plan West, Inc. submitted Filing No. 1-DPHMO-05-KHPW to increase the premium rates for its Individual HMO Plan. The filing requests an average rate increase of about 4.6% or \$16.33 per contract per month. This will affect about 11,000 contract holders and produce additional annual premium income of about \$2.2 million. The requested effective date of the change is October 1, 2005.

A copy of the filing is available on the Insurance Department's (Department) website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA

17120 within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-1308. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Peerless Insurance Company; Homeowners Program; Rate Filing

On June 15, 2005, the Insurance Department (Department) received from Peerless Insurance Company a filing for a rate revision for homeowners insurance.

The company requests an overall 4.7% increase amounting to \$851,000 annually, to be effective October 1, 2005, for new business and January 1, 2006, for renewal business.

Unless formal administrative action is taken prior to August 14, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [xlu@state.pa.us](mailto:xlu@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-1309. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of Act 68, 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Robert Voneida; file no. 05-181-03738; State Farm Mutual Insurance Company; doc. no. P05-06-011; July 26, 2005, 10 a.m.

Appeal of Richard and Rose Ann Whitesell; file no. 05-182-04246; Deerbrook Insurance Company; doc. no. P05-06-010; July 28, 2005, 2 p.m.

Appeal of Scott M. Carr; file no. 05-188-04023; AIG; doc. no. P05-06-025; August 2, 2005, 10 a.m.

The following hearing will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Robert Sitoski; file no. 05-267-01644; Erie Insurance Exchange; doc. no. PH05-06-026; August 4, 2005, 3 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-1310. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' homeowners policies. The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Lynn W. Findley; file no. 05-130-04260; Shelby Casualty Insurance Company; doc. no. P05-06-007; July 28, 2005, 10 a.m.

Appeal of Lori and John A. Sr. Ouimette; file no. 05-130-04504; Mutual Benefit Insurance Company; doc. no. P05-06-024; August 9, 2005, 10 a.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Melvin and Darla Hunter Kirkwood; file no. 05-303-70584; Nationwide Insurance Company; doc. no. PI05-06-005; July 14, 2005, 10 a.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-1311. Filed for public inspection July 8, 2005, 9:00 a.m.]

### Sewickley Township; Prehearing

#### Appeal of Sewickley Township under the Storage Tank and Spill Prevention Act; Underground Storage Tank Indemnification Fund; USTIF File No. 2000-304(M); Doc. No. UT05-06-023

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on July 27, 2005. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102 on or before July 13, 2005. Answers to petitions to intervene, if any, shall be filed on or before July 27, 2005.

A date for a hearing shall be determined, if necessary, at the prehearing/settlement telephone conference.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-1312. Filed for public inspection July 8, 2005, 9:00 a.m.]

# LIQUOR CONTROL BOARD

## Expiration of Leases

The following Liquor Control Board lease will expire:

Chester County, Wine & Spirits Shoppe #1513, 1006 Lancaster Avenue, Berwyn, PA 19312.

90-day status since September 1, 2004

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space along Lancaster Avenue (Route 30) in Berwyn.

*Proposals due:* July 29, 2005, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128  
**Contact:** James M. Bradley, (215) 482-9671

JONATHAN H. NEWMAN,  
*Chairperson*

[Pa.B. Doc. No. 05-1313. Filed for public inspection July 8, 2005, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

**Implementation of the Alternative Energy Portfolio Standards Act of 2004; Standards for the Participation of Demand Side Management Resources; Doc No. M-00051865**

Public Meeting held  
 June 23, 2005

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

## Tentative Order

*By the Commission:*

The Alternative Energy Portfolio Standards Act of 2004, 73 P. S. §§ 1648.1—1648.8 (“Act 213” or the “Act”), includes demand side management, energy efficiency and load management programs and technologies (“DSM/EE”) among the resources eligible for participation in Pennsylvania’s alternative energy market. The Commission previously announced that it would be issuing standards governing the tracking and verification of DSM/EE measures undertaken for purposes of compliance with Act 213. *Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Docket No. M-00051865 (Order entered March 25, 2005) (“Implementation Order”). Today’s Tentative Order and Annex A represents the Commission’s initial proposal for enabling the participation of DSM/EE in this new market. Interested parties are encouraged to file comments on all aspects of these proposed standards.

## BACKGROUND AND HISTORY OF THIS PROCEEDING

On November 30, 2004, Governor Edward Rendell signed Act 213 into law. Generally, Act 213 requires that

electric distribution companies (“EDCs”) and electric generation suppliers (“EGSS”) include a specific percentage of electricity from alternative resources in the generation that they sell to Pennsylvania customers. The level of alternative energy required gradually increases according to a fifteen year schedule found in Act 213, as clarified in the Implementation Order. While Act 213 does not mandate exactly which resources must be utilized and in what quantities, certain minimum thresholds must be met for the use of Tier I and Tier II resources. DSM/EE was included within the definition of “Alternative energy sources” in Section 1648.2 of Act 213, 73 P. S. § 1648.2:

(12) Demand side management consisting of the management of customer consumption of electricity or the demand for electricity through the implementation of:

(i) energy efficiency technologies, management practices or other strategies in residential, commercial, institutional or government customers that reduce electricity consumption by those customers;

(ii) load management or demand response technologies, management practices or other strategies in residential, commercial, industrial, institutional and government customers that shift electric load from periods of higher demand to periods of lower demand, including pump storage technologies; or

(iii) industrial by-product technologies consisting of the use of a by-product from an industrial process, including the reuse of energy from exhaust gases or other manufacturing by-products that are used in the direct production of electricity at the facility of a customer.

DSM/EE resources have been assigned to the Tier II category pursuant to Section 2 of Act 213.

The Pennsylvania General Assembly recognized that the inclusion of DSM/EE in the category of eligible alternative resources would present certain challenges not implicated by the utilization of other resources. Accordingly, the Commission was directed to establish standards for the verification and tracking of DSM/EE measures well in advance of the commencement of the first Act 213 reporting year on June 1, 2006:

The commission shall within 120 days of the effective date of this act develop a depreciation schedule for alternative energy credits created through demand side management, energy efficiency and load management technologies and shall develop standards for tracking and verifying savings from energy efficiency, load management and demand-side management measures. The commission shall allow for a 60-day public comment period and shall issue final standards within 30 days of the close of the public comment period.

73 P. S. § 1648.3(e)(11)

As Act 213 went into effect on February 28, 2005, the Commission was obligated to issue these standards by June 28, 2005. Section 1648.3(e)(10) of Act 213, 73 P. S. § 1648.3(e)(10), requires the Commission to eventually include these standards in a proposed rulemaking.

On March 3, 2005, the Commission convened the first meeting of the Alternative Energy Portfolio Standards Working Group (“AEPS WG”). The AEPS WG was established in order to provide a forum for considering the technical standards, business rules and regulatory frame-

work necessary for Act 213's successful implementation. The Commission charged the AEPS WG with, among other tasks, studying the development of rules necessary for the participation of DSM/EE resources in the alternative energy market. The AEPS WG was to report back to the Commission on its findings within a period of time that allowed the Commission to meet the June 28, 2005 deadline.

The AEPS WG has met periodically since March 3 to discuss and develop standards for the participation of DSM/EE resources. Interested parties first had the opportunity to file comments on this topic in response to an issues list developed by Commission staff. After reviewing these comments, Commission staff issued a draft proposal on May 2, 2005, for consideration by the AEPS WG. Stakeholders provided commentary on the details of this proposal, and offered specific recommendations for changes to the draft. The proposal being released today has been revised to reflect those suggestions and further discussion of relevant issues by Commission staff.

### DISCUSSION

Clear rules will be critical for the future success of this initiative as well as for the ease of implementing the Act. The Commission will be guided by the following principles in establishing the rules for DSM/EE measures:

- Market values for individual measures or measures installed as group program items.
- Easily understood rules with minimal transaction and administrative costs.
- Reliance upon existing state and federal protocols.
- Equitable opportunities for residential, commercial and industrial customers to benefit directly.

The Commission proposes to use two means to the extent appropriate to establish qualifications for Alternative Energy Credits ("Credits")—a catalog approach for standard energy savings measures and general guidelines for metered and custom energy savings measures.

#### A. *Standard Energy Savings Measures*

The first method is a "catalog approach" that will establish the number of Credits available for standard energy savings measures. The intent of this approach is to address standard energy savings measures that are available to large number of customers through retail consumer-products and whose effects cannot be directly metered. Retail consumer-products to be addressed by the catalog approach include items such as energy efficient appliances, light bulbs, and HVAC equipment.

The energy savings from these standard measures are referred to as "deemed savings." Deemed savings are ranges of energy savings above standard usage ranges from a particular application or equipment over a given period of time.

Standard energy savings measures are detailed in the Technical Reference Manual ("TRM"), follows as Annex A. The TRM provides a consistent framework for calculating deemed savings for a menu of energy efficiency measures using supported assumptions and customer data as input values in industry-accepted algorithms. The framework in this TRM was developed for the purpose of estimating annual energy savings for a limited selection of energy efficient technologies and measures.

The TRM builds on comparable protocols used in other states, including Vermont and New Jersey. Input values

and baselines are based on the best available measured or industry data, and will be updated periodically with new information or Pennsylvania-specific information over time. The limited selection of energy efficient technologies may be expanded over time as well.

#### B. *Metered and Custom Measures*

The second group of measures not covered by the catalog approach involves custom or metered measures and requires general guidelines for qualification and availability of Credits from these measures. Metered measures require actual metered usage or self-generation. An example of a metered measure would be distributed-generation where the value of the savings measure—i.e. generator output—can be directly measured.

Custom measures include measures that may be considered too complex or unique to be included in the catalog. It also would include measures that may involve metered data, but require additional assumptions to arrive at a "typical" level of savings as opposed to an exact measurement. An example includes a time-of-use pricing program that determines savings by comparing actual metered usage to typical load profiles of similar customers.

The qualification for Credits and availability of Credits from metered and custom savings measures will need to be determined on a case-by-case basis. As a result, a set of guidelines that can facilitate such determinations and promote consistency among those determinations are necessary.

Set forth below are general guidelines for custom and metered measures, which are a combination of proposals filed by the Energy Association of Pennsylvania and US Steel in the DSM/EE WG process. The Commission seeks input on the appropriateness of the general guidelines from interested parties in written comments to this Tentative Order:

1. Entities eligible to apply for credits include, but are not limited to: retail customers who have undertaken measures, EDCs or EGSs whose customers are participating in tariffed programs or retail contracts and who, in accordance with the language of the tariff or contract, have acquired the right to any Credits resulting from operations under the tariff or contract; and equipment or service providers who have provided equipment or services to customers pursuant to a contract that gives the provider the right to any Credits resulting from the installation of that equipment or use of the service.
2. The Commission will at a later date provide for the requirements of a Program Administrator as required by the Act. The Commission will also establish by way of regulation the duties and responsibilities of the Administrator. Eligible entities may submit an application to the Administrator of the Alternative Energy Credits Program requesting a review for qualifying status. The application must be signed by the customer or his representative and be supported by an affidavit or verification.
3. The metered or custom measure contained in the application may incorporate or use any of the technologies or load management practices defined as Tier II resource contained in Act 213. The metered or custom measure identified in the application may use or incorporate equipment installed prior to the effective date of Act 213.



4. The application shall include adequate documentation to fully describe the DSM or EE measures installed or proposed by the customer and an explanation of how the installed facilities qualify for alternative energy credits under the Act.

5. The application must include a proposed evaluation plan by which the Administrator may evaluate the effectiveness of the DSM or EE measures provided by the installed facilities. All assumptions contained in the proposed evaluation plan should be identified, explained and supported by documentation where possible. The applicant may propose incorporating tracking and evaluation measures using existing data streams currently in use provided that they permit the Administrator to evaluate the program using the reported data.

6. To the extent possible, the DSM or EE measures identified in the application should be verified by the meter readings submitted to the Administrator.

7. The Administrator may request additional information as needed.

8. The application will be approved if the Administrator determines that the proposal is consistent with the DSM and EE definitions contained in the Act and that the proposed evaluation measures will accurately identify the effectiveness of the proposed custom measure.

9. Denial of any application must be fully explained by the Administrator.

10. The Administrator's decision is subject to review by the Commission.

#### C. Depreciation Schedule for Alternative Energy Credits

Section 1648.3(e)(11) of Act 213 requires the Commission to develop a depreciation schedule for alternative energy credits created through demand side management, energy efficiency and load management technologies. In implementing this portion of the Act for standard energy savings measures, each savings measure in the TRM is assigned a "measure life" that inherently reflects depreciation. A measure life represents the average expected life of the equipment, including adjustments for possible early removal or remodeling. The measure life simply determines the number of years to count savings for the particular measure.

The depreciation reference in Section 1648.3(e)(11) appears related to aging assets and is designed to capture the decline in energy savings and correspondingly reduce the production of alternative energy credits to reflect the decreased savings over time. The Commission believes it should adopt flexible depreciation standards for alternative energy credits produced through demand side management since not all of the technologies involve the use of depreciating assets. The Commission seeks input from interested parties in terms of developing flexible depreciation standards for demand side management involving depreciating assets whose production of energy savings declines over time.

The Commission believes that an estimated depreciation factor is unneeded for measures that are separately metered. The reason is because the meter will reflect any decline in the performance of the equipment; therefore, eliminating the need to estimate a depreciation factor.

#### D. Qualifying Measures

Section 1648.2 of Act 213 defines alternative energy sources to include existing and new sources for the production of electricity by demand side management and self-generation. Thus, the Commission determines that standard, metered and custom energy savings measures that were installed prior to implementation of the Act shall be eligible to qualify for credits on a moving forward basis.

For the standard energy savings measures that are contained in the TRM, this principle will be accounted for through each technology's measure life. For newly installed measures, the savings should be claimed over the entire measure life, even if common practice changes during the life of the measure. For previously installed measures, the savings should only extend for the remaining life of the measure. For example, if a measure with a ten year life was installed two years prior to the effective date of Act 213, the savings should only be counted for eight years.

In implementing this portion of Act 213 for demand side management technologies, US Steel advocated in their comments to the DSM/EE WG that the Commission should avoid using a baseline calculation that only recognizes subsequent incremental on-site electricity production or conservation. US Steel argues that using a theoretical baseline calculation and recognizing only the incremental production would be inconsistent with the Act's direction to recognize existing sources and unfair to customers who have acted early and responsibly to implement energy conservation prior to the Act.

It appears reasonable and consistent with Act 213 to recognize all of the electricity produced on-site by these facilities and not require a calculation of incremental production over a baseline figure reflecting historic energy production.<sup>1</sup> At the same time, implementation issues arise with such an approach. Currently, the PJM Interconnection, LLC ("PJM") Economic Load Response Program utilizes the Customer Baseline Load ("CBL")<sup>2</sup> calculation as a way for those customers that wish to measure load reductions to compare metered load against an estimate of what metered load would have been absent the reduction. The CBL method for determining customer baseline for reductions uses the average of highest five days of prior ten peak days. The PJM Demand Side Response Working Group is transitioning from the CBL baseline to an approach called the "Firm Power Contract" for resale, which uses a daily submitted schedule as the baseline for judging curtailment.

The Commission seeks input from interested parties on how to treat the issue of baseline calculations. Adopting a baseline calculation methodology may provide consistency for the Administrator in terms of evaluation and review. If the Commission adopts the use of a baseline approach, then it appears reasonable to use the existing CBL methodology contained in the PJM Operating Agreement

<sup>1</sup> While we accept US Steel's argument on the inappropriateness of using a baseline calculation generally, the Commission acknowledges that Section 1648.3(e)(7), 73 P. S. § 1648.3(e)(7), of Act 213 places a restriction on the banking of credits during the cost-recovery period for certain alternative resource utilization that predated Act 213's effective date. Rules for the banking of alternative energy credits and any restrictions on this practice will be separately addressed by the Commission at a later date in this implementation proceeding.

<sup>2</sup> *Operating Agreement of the PJM Interconnection, LLC*, pages 151-166. The Customer Baseline calculation provision is set forth in Original Sheet Nos. 156-158 and the Weather Sensitivity provisions are set forth in Original Sheet Nos. 158-159.

until alternative methodologies, including the "Firm Power Contract," are fully developed under the PJM Demand Side Response Working Group.

Qualifying measures must also comply with Section 1648.4 of the Act, 73 P. S. § 1648.4, which, one, prohibits the double-counting of resources towards both Pennsylvania's and another state's portfolio standard, and, two, establishes a geographic eligibility requirement. The Commission intends to address the issues of double-counting and geographic eligibility for both DSM/EE and all other alternative resources at the same time later in this implementation proceeding.

#### E. *Implementation and Maintenance of TRM and General Guidelines*

The Commission's Bureau of Conservation, Economics and Energy Planning ("CEEP") will oversee the implementation, maintenance and periodic update of the TRM for the catalog measures and the general guidelines for the metered and custom measures. Updates to the TRM and general guidelines may be made on an annual basis or more or less frequently. The alternative energy credits program administrator will manage the credit certification process.<sup>3</sup> The administrator will a) award certificates based on its review and verification of applications; b) maintain a log of issues and opportunities for improvement; and c) communicate issues to the Bureau of CEEP. The DSM/EE WG will convene periodically as requested by the Bureau of CEEP to provide input and recommendations on issues that may arise, and to develop enhancements and revisions to the TRM and general guidelines.

#### CONCLUSION

This Tentative Order represents the first step in establishing a comprehensive regulatory framework for the successful implementation of Act 213. We extend our thanks to the participants in the AEPS WG for their hard work in helping the Commission to comply with Act 213's aggressive implementation schedule. The Commission welcomes comments from interested parties on the proposed standards. After the conclusion of the public comment period, the Commission will issue a final order establishing the standards governing the participation of DSM/EE resources in the alternative energy market; *Therefore,*

#### *It Is Ordered That:*

1. Interested persons may submit an original and 15 copies of written comments to the Office of the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, within 60 days from the entry date of this Tentative Order. A copy of all comments should be forwarded through e-mail to Carrie Beale at cbeale@state.pa.us.

2. A copy of this Tentative Order and Annex A shall be served upon the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, all jurisdictional electric distribution companies, all licensed electric generation suppliers, the Department of Environmental Protection, and all other members of the Alternative Energy Portfolio Standards Working Group.

<sup>3</sup> The administrator will use a credits registry to monitor compliance and provide reports to the Commission, as required by 73 P. S. § 1648.3(e)(8). The Commission continues to study PJM's Generation Attribute Tracking System. PJM continues to improve the functionality of GATS, including its ability to manage data on behind the meter applications, which will be critical to the integration of DSM/EE measures into this market.

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

JAMES J. MCNULTY,  
*Secretary*

#### Annex A

### ENERGY-EFFICIENCY AND DSM RULES FOR PENNSYLVANIA'S ALTERNATIVE ENERGY PORTFOLIO STANDARD

#### PROPOSED TECHNICAL REFERENCE MANUAL

June 23, 2005

#### INTRODUCTION

The Technical Reference Manual (TRM) provides specific efficiency thresholds and formulas to use in calculating energy-efficiency electricity savings (kWh) for Pennsylvania's Alternative Energy Portfolio Standard (AEPS). The technologies presently included in the TRM are those that are relatively easy to characterize and require few inputs for calculating savings. Other technologies may be added to the TRM over time to provide a common reference for claiming electricity savings.

Technologies are presented in two sections, each with several end use categories:

- Residential Technologies
  - HVAC
  - Lighting
  - Appliances
- Commercial and Industrial Technologies
  - HVAC
  - Motors
  - Lighting

A separate table is provided for each technology with an algorithm for calculating annual kWh savings, along with the required input assumptions to be used in the algorithm. Baseline efficiencies—based on expected Pennsylvania code or federal standards in 2006—are included in the tables for the benchmark from which to count savings for the efficient measure in the algorithm. Efficiency thresholds are included for setting the minimum efficiency requirement for equipment to receive a savings credit. For illustrative purposes, example calculations are provided in the tables to show savings for measures with specific efficiencies, size or other characteristics. For proposed measures with characteristics different than the example calculation, the savings should be calculated with the algorithm using the input parameters for the particular measure.

Each technology table also provides a measure life assumption for determining the number of years to count savings. For newly installed measures the savings should be claimed over the entire measure life, even if common practice changes during the life of the measure. For previously installed measures, the savings should only extend for the remaining life of the measure. For example, if a measure with a 10 year life was installed 2 years ago, the savings should only be counted for 8 years.

Measure lifetimes represent the average expected life of the equipment, including adjustments for possible early removal or remodeling. In many cases the engineering technical lifetime is greater than the measure lifetime in the table used for claiming savings. The lifetime assump-

tions are based on lifetime assumptions used in other savings protocols, such as Vermont's Technical Reference Manual.

#### **PURPOSE**

The framework in this TRM was developed for the purpose of estimating annual energy savings for a limited selection of energy efficient technologies and measures. The framework will provide guidance to an Administrator responsible for award of certified credits ("certificates"). The framework requires a verified number of qualifying installed units to which savings apply that would be documented by the Applicant and validated by the Administrator in awarding certificates.

#### **GENERAL FRAMEWORK**

In general, energy and demand savings will be estimated using customer data as input values in algorithms in the protocols, tracking systems, and information from application forms, worksheets, and field tools.

To receive energy efficiency credits, applicants must submit information in sufficient detail to support objective verification of performance, including physical verification of the measures installed, and certified performance of the measures (e.g. efficiency ratings) through Project Registration Forms and Technical Support Worksheets, which may include information as follows:

#### **Customer Information**

Company Name  
Contact Person/Title  
Address  
City  
State  
Zip  
Phone  
Fax  
E-mail

#### **Project Location and Information**

Address  
City  
State  
Zip  
Utility Account No

#### **Project Participant Information**

Company Name  
Contact Person/Title  
Address  
City  
State  
Zip  
Phone  
Fax  
E-mail

#### **Contractor/Vendor Information**

Company  
Contact Name  
Street Address  
City  
State  
Zip  
Telephone Number

#### **Energy Efficient Equipment Information**

(in sufficient detail to allow verification), i.e.:  
Manufacturer  
Model No  
Efficiency rating  
Quantity  
Capacity  
etc.

#### **Proof of Purchase**

Receipts, UPC, etc.

The Administrator will review application forms and tracking systems for all measures and conduct field inspections on a sample of installations. For some programs and jobs (e.g., custom, large process, large and complex comprehensive design), post-installation review and on-site verification of a sample of application forms and installations will be used to ensure the reliability of site-specific savings estimates.

#### **BASELINE ESTIMATES**

Baseline values are based on the performance of new standard efficiency equipment. Baselines will be updated periodically to reflect changing codes, and common market practices.

#### **ENERGY SAVINGS IN CURRENT AND FUTURE YEARS; DEEMED LIFE OF MEASURES / MEASURE LIVES**

Credits will apply in equal annual amounts corresponding to either a) PJM planning years or b) calendar years beginning with the year deemed appropriate by the Administrator, and lasting for the approved life of the measure as documented in Appendix 1.

Measure lives are assigned to each technology to reflect a number of factors, including 1) the expected life of the technology according to industry life-expectancy statistics, 2) the likelihood units are actually installed and operational (i.e. are not purchased for stand-by service or removed through future facility upgrades) and 3) the persistence of savings (e.g. through energy substitution or supplement).

#### **PROSPECTIVE APPLICATION OF CERTIFICATES**

The TRM will be updated periodically based on new information and available data, and then applied prospectively for future years. Such updates will not alter the number of credits, once awarded, by the Administrator.

**SAVINGS CALCULATIONS WITH EXAMPLES**  
**RESIDENTIAL TECHNOLOGIES**

**Central Air Conditioner**

Current typical central air-conditioner (CAC) market	SEER 11
Federal standard as of January 2006 ( <i>baseline</i> )	SEER 13
Minimum threshold for credit—ENERGY STAR	SEER 14
Estimated savings credit for a SEER 14 installation <sup>1</sup>	119 kWh
Estimated savings credit for a SEER 15 installation <sup>1</sup>	222 kWh
Estimated savings credit per CAC if SEER 14 plus documented proper sizing, charge, flow through Manual J and site measurements <sup>2</sup>	407 kWh
Estimated savings credit per CAC if SEER 15 plus documented proper sizing, charge, flow through Manual J and site measurements <sup>2</sup>	473 kWh
Change in usage calculation <sup>3</sup>	$\Delta\text{kWh} = ((\text{tons} \times 12,000)/1,000) \times (1/\text{SEER}_{\text{bas}} - 1/\text{SEER}_{\text{eff}}) \times \text{FLH}$
Credit for proper sizing, charge and air flow <sup>4</sup>	$\Delta\text{kWh} = 0.20 \times ((3 \text{ tons} \times 12,000)/1,000) \times (1/\text{SEER}) \times \text{FLH}$
Measure life <sup>3</sup>	18 years

[1] Based on 600 annual full load operating hours (FLH), ARI adjusted cooling hours.

[2] Based on reduction from 3 tons to 2.5 tons.

[3] From Efficiency Vermont Technical Reference Manual

[4] Based on the LIPA Cool Homes Program (20% of improper sizing use).

**Heat Pump**

Current typical central air-conditioner (CAC) market	SEER 11
Federal standard as of January 2006 ( <i>baseline</i> )	SEER 13 HSPF 7.7
Minimum threshold for credit	SEER 14 HSPF 9.0
Estimated savings credit for a SEER 14 installation <sup>1</sup>	119 kWh
Estimated savings credit for a SEER 15 installation <sup>1</sup>	222 kWh
Estimated savings credit for a HSPF 9.0 installation <sup>2</sup>	1013 kWh
Estimated savings credit if SEER 14 plus documented proper sizing, charge, flow through Manual J and site measurements <sup>3</sup>	407 kWh
Estimated savings credit if SEER 15 plus documented proper sizing, charge, flow through Manual J and site measurements <sup>3</sup>	473 kWh
Change in usage calculation <sup>4</sup>	$\Delta\text{kWh}_{\text{cool}} = ((\text{tons} \times 12,000)/1,000) \times (1/\text{SEER}_{\text{bas}} - 1/\text{SEER}_{\text{eff}}) \times \text{FLH}_{\text{cool}}$ $\Delta\text{kWh}_{\text{heat}} = ((\text{tons} ( 12,000)/1,000) \times (1/\text{HSPF}_{\text{bas}} - 1/\text{HSPF}_{\text{eff}}) \times \text{FLH}_{\text{heat}}$
Credit for proper sizing, charge and air flow <sup>5</sup>	$\Delta\text{kWh} = 0.20 \times ((3 \text{ tons} ( 12,000)/1,000) \times (1/\text{SEER}) \times \text{FLH}_{\text{cool}}$
Measure life <sup>4</sup>	18 years

[1] Based on 600 annual cooling full load operating hours (FLH), ARI adjusted cooling hours.

[2] Based on 1,500 annual heating FLH, ARI adjusted heating hours (excludes electric resistance hours).

[3] Based on reduction from 3 tons to 2.5 tons.

[4] From Efficiency Vermont Technical Reference Manual

[5] Based on the LIPA Cool Homes Program (20% of improper sizing use), only cooling savings.

**Compact Fluorescent Lamps**

Baseline wattage purchased <sup>1</sup>	15	20	25	30
Assumed wattage replaced <sup>2</sup>	60	75	75	100
Assumed avg hrs/day use <sup>3</sup>	3.2	3.2	3.2	3.2
Estimated annual kWh savings credit	52.5	64.2	58.4	81.7
Savings calculation	$\Delta\text{kWh} = (\text{Watts}_{\text{bas}} - \text{Watts}_{\text{eff}})/(1,000 \times \text{HOURS})$	$\Delta\text{kWh} = (\text{Watts}_{\text{bas}} - \text{Watts}_{\text{eff}})/(1,000 \times \text{HOURS})$	$\Delta\text{kWh} = (\text{Watts}_{\text{bas}} - \text{Watts}_{\text{eff}})/(1,000 \times \text{HOURS})$	$\Delta\text{kWh} = (\text{Watts}_{\text{bas}} - \text{Watts}_{\text{eff}})/(1,000 \times \text{HOURS})$
Measure life <sup>4</sup>	6 years	6 years	6 years	6 years

[1] Based on typical CFL wattages

[2] Based on typical lumen equivalent substitutions

[3] From light logger study update to Impact Evaluation of the Massachusetts, Rhode Island, and Vermont 2003 Residential Lighting Programs by Nexus Market Research, Inc. and RLW Analytics, Inc., October 1, 2004

[4] Based on presumed 6,000 hour lamp life although many lamps have a rated 10,000 hour life

**Compact Fluorescent Fixtures**

Baseline wattage purchased <sup>1</sup>	15	20	25	30
Assumed wattage replaced <sup>2</sup>	60	75	75	100
Assumed avg hrs/day use <sup>3</sup>	2.0	2.0	2.0	2.0
Estimated annual kWh savings credit	32.8	40.1	36.5	51.1
Savings calculation	$\Delta\text{kWh} = (\text{Watts}_{\text{bas}} - \text{Watts}_{\text{eff}})/(1,000 \times \text{HOURS})$	$\Delta\text{kWh} = (\text{Watts}_{\text{bas}} - \text{Watts}_{\text{eff}})/(1,000 \times \text{HOURS})$	$\Delta\text{kWh} = (\text{Watts}_{\text{bas}} - \text{Watts}_{\text{eff}})/(1,000 \times \text{HOURS})$	$\Delta\text{kWh} = (\text{Watts}_{\text{bas}} - \text{Watts}_{\text{eff}})/(1,000 \times \text{HOURS})$
Measure life <sup>4</sup>	20 years	20 years	20 years	20 years

[1] Based on typical CFL wattages

[2] Based on typical lumen equivalent substitutions

[3] From light logger study update to Impact Evaluation of the Massachusetts, Rhode Island, and Vermont 2003 Residential Lighting Programs by Nexus Market Research, Inc. and RLW Analytics, Inc., October 1, 2004

[4] Based on presumed 40,000 hour ballast life adjusted for replacements due to remodeling, etc.

**Energy Star Clothes Washers**

Baseline <sup>1</sup>	MEF 1.14
Minimum threshold for credit—ENERGY STAR <sup>2</sup>	MEF 1.73
Estimated savings credit <sup>3</sup>	329 kWh
Change in usage calculation <sup>5</sup>	$\Delta\text{kWh} = ((\text{volume}/\text{MEF}_{\text{bas}}) \times 379) - ((\text{volume}/\text{MEF}_{\text{eff}}) \times 379)$
Measure life <sup>4</sup>	14

[1] Minimum 1.04 MEF adjusted for average sales MEF

[2] Minimum 1.42 ENERGY STAR MEF adjusted for average ENERGY STAR MEF

[3] Includes estimated weighted average electric water heating and dryer savings

[4] From Efficiency Vermont Technical Reference Manual

[5] Weighted average volume calculated to be 2.9 cu.ft. from AHAM data; weighted average 379 cycles per year from December 2000 DOE Technical Support Document for Clothes Washers

**Energy Star Refrigerators**

Baseline <sup>1</sup>	Minimum federal standard
Minimum threshold for credit—ENERGY STAR <sup>2</sup>	ENERGY STAR standard
Estimated savings credit	85.5 kWh
Change in usage calculation <sup>4</sup>	$\Delta\text{kWh} = (\text{Watts}_{\text{bas}} - \text{Watts}_{\text{effi}}) / (1,000 \times \text{HOURS})$
Measure life <sup>3</sup>	17

- [1] Value varies based on adjusted volume  
 [2] 15% higher efficiency than minimum federal standard  
 [3] From Efficiency Vermont Technical Reference Manual  
 [4] Assumed typical 5,000 operating hours per year

**Energy Star Dish Washer**

Baseline <sup>1</sup>	Minimum federal standard
Minimum threshold for credit—ENERGY STAR <sup>2</sup>	ENERGY STAR standard
Estimated savings credit	68.6 kWh
Change in usage calculation <sup>4</sup>	$\Delta\text{kWh} = (113.3 \times \text{electric water heating frequency})$
Measure life <sup>3</sup>	13

- [1] 0.46 energy factor  
 [2] 0.58 energy factor  
 [3] From Efficiency Vermont Technical Reference Manual  
 [4] assumes typical 264 cycles per year, 0.5 gal reduced water consumption per cycle and 43.6% electric water heating frequency as cited in Efficiency Vermont Technical Reference Manual

**COMMERCIAL AND INDUSTRIAL TECHNOLOGIES****<5.4 Ton Unitary/Split HVAC Systems (5 ton example)**

Current typical unitary HVAC market	SEER 11
Federal standard as of January 2006 (baseline)	SEER 13
Minimum threshold for credit	SEER 14
Estimated savings credit per Unitary HVAC if install SEER 14	330 kWh
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{tons} \times 12,000) / 1,000) \times (1/\text{SEER}_{\text{bas}} - 1/\text{SEER}_{\text{effi}}) \times \text{FLH}$
Measure life	15 years

- [1] Based on 1,000 annual full load operating hours (FLH), from Optimal Energy

**≥5.4 to <11.25 Ton Unitary/Split HVAC Systems (10 ton example)**

Baseline (Penn. Code, IECC 2003)	EER 10.1
Minimum threshold for credit (CoolChoice)	EER 11
Estimated savings credit per Unitary HVAC if install EER 11	972 kWh
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{tons} \times 12,000) / 1,000) \times (1/\text{EER}_{\text{bas}} - 1/\text{EER}_{\text{effi}}) \times \text{FLH}$
Measure life	15 years

- [1] Based on 1,000 annual full load operating hours (FLH), from Optimal Energy

**≥11.25 to <20 Ton Unitary/Split HVAC Systems (15 ton example)**

Baseline (Penn. Code, IECC 2003)	EER 9.3
Minimum threshold for credit (CoolChoice)	EER 10.8
Estimated savings credit per Unitary HVAC if install EER 11	2,688 kWh
Change in usage calculation <sup>1</sup>	$\Delta kWh = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{\text{bas}} - 1/EER_{\text{effi}}) \times FLH$
Measure life	15 years

[1] Based on 1,000 annual full load operating hours (FLH), from Optimal Energy

**≥20 to <30 Ton Unitary/Split HVAC Systems (25 ton example)**

Baseline (Penn. Code, IECC 2003)	EER 9.0
Minimum threshold for credit (CoolChoice)	EER 10.0
Estimated savings credit per Unitary HVAC if install EER 10	3,333 kWh
Change in usage calculation <sup>1</sup>	$\Delta kWh = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{\text{bas}} - 1/EER_{\text{effi}}) \times FLH$
Measure life	15 years

[1] Based on 1,000 annual full load operating hours (FLH), from Optimal Energy

**<5.4 Ton Air-to-Air Heat Pump Systems (5 ton example)**

Current typical unitary HVAC market	SEER 11
Federal standard as of January 2006 (baseline)	SEER 13 HSPF 7.7
Minimum threshold for credit	SEER 14 HSPF 9.0
Estimated savings credit per Unitary HVAC if install SEER 14 and HSPF 9.0	330 kWh cooling 1,812 kWh heating
Change in usage calculation <sup>1</sup>	$\Delta kWh_{\text{cool}} = ((\text{tons} \times 12,000)/1,000) \times (1/SEER_{\text{bas}} - 1/SEER_{\text{effi}}) \times FLH_{\text{cool}}$ $\Delta kWh_{\text{heat}} = ((\text{tons} \times 12,000)/1,000) \times (1/HSPF_{\text{bas}} - 1/HSPF_{\text{effi}}) \times FLH_{\text{heat}}$
Measure life	15 years

[1] Based on 1,000 annual cooling full load operating hours (FLH) and 1,610 heating FLH, from Optimal Energy

**≥5.4 to <11.25 Ton Air-to-Air Heat Pump Systems (10 ton example)**

Baseline (Penn. Code, IECC 2003)	EER 10.1
Minimum threshold for credit (CoolChoice)	EER 11
Estimated savings credit per Unitary HVAC if install EER 11	972 kWh cooling 1,137 kWh heating
Change in usage calculation <sup>1</sup>	$\Delta kWh_{\text{cool}} = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{\text{bas}} - 1/EER_{\text{effi}}) \times FLH_{\text{cool}}$ $\Delta kWh_{\text{heat}} = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{\text{bas}} - 1/EER_{\text{effi}}) \times FLH_{\text{heat}}$
Measure life	15 years

[1] Based on 1,000 annual cooling full load operating hours (FLH) and 1,170 heating FLH, from Optimal Energy

**≥11.25 to <20 Ton Air-to-Air Heat Pump Systems (15 ton example)**

Baseline (Penn. Code, IECC 2003)	EER 9.3
Minimum threshold for credit (CoolChoice)	EER 10.8
Estimated savings credit per Unitary HVAC if install EER 11	2,688 kWh cooling 3,145 kWh heating
Change in usage calculation <sup>1</sup>	$\Delta kWh_{cool} = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{bas} - 1/EER_{effi}) \times FLH_{cool}$ $\Delta kWh_{heat} = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{bas} - 1/EER_{effi}) \times FLH_{heat}$
Measure life	15 years

[1] Based on 1,000 annual cooling full load operating hours (FLH) and 1,170 heating FLH, from Optimal Energy

**≥20 to <30 Ton Air-to-Air Heat Pump Systems (25 ton example)**

Baseline (Penn. Code, IECC 2003)	EER 9.0
Minimum threshold for credit (CoolChoice)	EER 10.0
Estimated savings credit per Unitary HVAC if install EER 10	3,333 kWh cooling 3,900 kWh heating
Change in usage calculation <sup>1</sup>	$\Delta kWh_{cool} = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{bas} - 1/EER_{effi}) \times FLH_{cool}$ $\Delta kWh_{heat} = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{bas} - 1/EER_{effi}) \times FLH_{heat}$
Measure life	15 years

[1] Based on 1,000 annual cooling full load operating hours (FLH) and 1,170 heating FLH, from Optimal Energy

**≤30 Ton Water Source Heat Pumps (10 ton example)**

Baseline (Penn. Code, IECC 2003)	EER 12.0
Minimum threshold for credit (CoolChoice)	EER 14.0
Estimated savings credit per Unitary HVAC if install EER	2,857 kWh cooling 4,700 kWh heating
Change in usage calculation <sup>1</sup>	$\Delta kWh_{cool} = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{bas} - 1/EER_{effi}) \times FLH_{cool}$ $\Delta kWh_{heat} = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{bas} - 1/EER_{effi}) \times FLH_{heat}$
Measure life	15 years

[1] Based on 1,000 annual cooling full load operating hours (FLH) and 1,645 heating FLH, from Optimal Energy

**≤150 Ton Air Cooled Chiller (100 ton example)**

Baseline (Penn. Code, IECC 2003)	9.6 EER
Minimum threshold for credit	10.2 EER
Estimated savings credit per chiller for 10.2 EER	8,824 kWh
Change in usage calculation <sup>1</sup>	$\Delta kWh = ((\text{tons} \times 12,000)/1,000) \times (1/EER_{bas} - 1/EER_{effi}) \times FLH$
Measure life	25 years

[1] Based on 1,200 annual full load operating hours (FLH), from Optimal Energy



**>150 to <300 Ton Air Cooled Chiller (200 ton example)**

Baseline (Penn. Code, IECC 2003)	8.5 EER
Minimum threshold for credit	10.2 EER
Estimated savings credit per chiller for 10.2 EER	55,180 kWh
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{tons} \times 12,000)/1,000) \times (1/\text{EER}_{\text{bas}} - 1/\text{EER}_{\text{effi}}) \times \text{FLH}$
Measure life	25 years

[1] Based on 1,200 annual full load operating hours (FLH), from Optimal Energy

**≥30 to <70 Ton Water Cooled Chiller (50 ton example)**

Baseline (Penn. Code, IECC 2003)	0.79 peak kW/ton
Minimum threshold for credit	0.75 peak kW/ton
Estimated savings credit per chiller for 0.75 kW/ton	2,407 kWh
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = (\text{tons} \times (\text{kW}/\text{ton}_{\text{bas}} - \text{kW}/\text{ton}_{\text{effi}}) \times \text{FLH}$
Measure life	25 years

[1] Based on 1,200 annual full load operating hours (FLH), from Optimal Energy

**≥70 to <150 Ton Water Cooled Positive Displacement Chiller (100 ton example)**

Baseline (Penn. Code, IECC 2003)	0.84 peak kW/ton
Minimum threshold for credit	0.74 peak kW/ton
Estimated savings credit per chiller for 0.74 kW/ton	11,657 kWh
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{tons} \times (\text{kW}/\text{ton}_{\text{bas}} - \text{kW}/\text{ton}_{\text{effi}}) \times \text{FLH}$
Measure life	25 years

[1] Based on 1,200 annual full load operating hours (FLH), from Optimal Energy

**≥70 to <150 Ton Water Cooled Centrifugal Chiller (100 ton example)**

Baseline (Penn. Code, IECC 2003)	0.70 peak kW/ton
Minimum threshold for credit	0.65 peak kW/ton
Estimated savings credit per chiller for 0.65 kW/ton	6,384 kWh
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{tons} \times (\text{kW}/\text{ton}_{\text{bas}} - \text{kW}/\text{ton}_{\text{effi}}) \times \text{FLH}$
Measure life	25 years

[1] Based on 1,200 annual full load operating hours (FLH), from Optimal Energy

**≥150 to <300 Ton Water Cooled Centrifugal Chiller (200 ton example)**

Baseline (Penn. Code, IECC 2003)	0.63 IPLV kW/ton
Minimum threshold for credit	0.51 IPLV kW/ton
Estimated savings credit per chiller for 0.51 kW/ton	29,643 kWh
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{tons} \times (\text{kW}/\text{ton}_{\text{bas}} - \text{kW}/\text{ton}_{\text{effi}}) \times \text{FLH}$
Measure life	25 years

[1] Based on 1,200 annual full load operating hours (FLH), from Optimal Energy

**≥150 to <300 Ton Water Cooled Screw Chiller (200 ton example)**

Baseline (Penn. Code, IECC 2003)	0.71 IPLV kW/ton
Minimum threshold for credit	0.51 IPLV kW/ton
Estimated savings credit per chiller for 0.51 kW/ton	48,073 kWh
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{tons} \times (\text{kW}/\text{ton}_{\text{bas}} - \text{kW}/\text{ton}_{\text{effi}}) \times \text{FLH})$
Measure life	25 years

[1] Based on 1,200 annual full load operating hours (FLH), from Optimal Energy

**≥300 to ≤1,000 Ton Water Cooled Chiller (500 ton example)**

Baseline (Penn. Code, IECC 2003)	0.58 IPLV kW/ton
Minimum threshold for credit	0.51 IPLV kW/ton
Estimated savings credit per chiller for 0.51 kW/ton	39,836 kWh
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{tons} \times (\text{kW}/\text{ton}_{\text{bas}} - \text{kW}/\text{ton}_{\text{effi}}) \times \text{FLH})$
Measure life	25 years

[1] Based on 1,200 annual full load operating hours (FLH), from Optimal Energy

**Motor 1,200 RPM, Open Drip Proof (ODP), (1 HP example)**

Current typical motor market	80.0%
Federal standard as of January 1, 2006 (EPAAct) (baseline) <sup>1</sup>	80.0%
Minimum threshold for credit	82.5%
Estimated savings credit per motor if install MotorUp minimum	95 kWh
Change in usage calculation <sup>2</sup>	$\Delta\text{kWh} = (\text{kW}_{\text{base}} - \text{kW}_{\text{effic}}) \times \text{HOURS}$ $\text{kW} = \text{HP} \times 0.746 \times (1/\text{efficiency}) \times \text{LF}$
Measure life	15 years

[1] See the tables by motor type, speed and HP of baseline efficiencies, minimum qualifying efficiencies, and incremental costs that follow these examples.

[2] Based on 4,500 annual operating hours; LF = default load factor of 0.75, from Efficiency Vermont 2004 Technical Reference Manual

**Motor 1,800 RPM, Open Drip Proof (ODP), (10 HP example)**

Current typical motor market	89.5%
Federal standard as of January 1, 2006 (EPAAct) (baseline) <sup>1</sup>	89.5%
Minimum threshold for credit	91.7%
Estimated savings credit per motor if install MotorUp minimum	675 kWh
Change in usage calculation <sup>2</sup>	$\Delta\text{kWh} = (\text{kW}_{\text{base}} - \text{kW}_{\text{effic}}) \times \text{HOURS}$ $\text{kW} = \text{HP} \times 0.746 \times (1/\text{efficiency}) \times \text{LF}$
Measure life	15 years

[1] See the tables by motor type, speed and HP of baseline efficiencies, minimum qualifying efficiencies, and incremental costs that follow these examples.

[2] Based on 4,500 annual operating hours; LF = default load factor of 0.75, from Efficiency Vermont 2004 Technical Reference Manual

**Motor 3,600 RPM, Open Drip Proof (ODP), (100 HP example)**

Current typical motor market	93.0%
Federal standard as of January 1, 2006 (EPAAct) (baseline) <sup>1</sup>	93.0%
Minimum threshold for credit	95.0%
Estimated savings credit per motor if install MotorUp minimum	5,699 kWh
Change in usage calculation <sup>2</sup>	$\Delta\text{kWh} = (\text{kW}_{\text{base}} - \text{kW}_{\text{effic}}) \times \text{HOURS}$ $\text{kW} = \text{HP} \times 0.746 \times (1/\text{efficiency}) \times \text{LF}$
Measure life	15 years

[1] See the tables by motor type, speed and HP of baseline efficiencies, minimum qualifying efficiencies, and incremental costs that follow these examples.

[2] Based on 4,500 annual operating hours; LF = default load factor of 0.75, from Efficiency Vermont 2004 Technical Reference Manual

**Motor 1,200 RPM, Totally Enclosed Fan Cooled (TEFC), (1 HP example)**

Current typical motor market	80%
Federal standard as of January 1, 2006 (EPAAct) (baseline) <sup>1</sup>	80%
Minimum threshold for credit	82.5%
Estimated savings credit per motor if install MotorUp minimum	95 kWh
Change in usage calculation <sup>2</sup>	$\Delta\text{kWh} = (\text{kW}_{\text{base}} - \text{kW}_{\text{effic}}) \times \text{HOURS}$ $\text{kW} = \text{HP} \times 0.746 \times (1/\text{efficiency}) \times \text{LF}$
Measure life	15 years

[1] See the tables by motor type, speed and HP of baseline efficiencies, minimum qualifying efficiencies, and incremental costs that follow these examples.

[2] Based on 4,500 annual operating hours; LF = default load factor of 0.75, from Efficiency Vermont 2004 Technical Reference Manual

**Motor 1,800 RPM, Totally Enclosed Fan Cooled (TEFC), (10 HP example)**

Current typical motor market	89.5%
Federal standard as of January 1, 2006 (EPAAct) (baseline) <sup>1</sup>	89.5%
Minimum threshold for credit	91.7%
Estimated savings credit per motor if install MotorUp minimum	675 kWh
Change in usage calculation <sup>2</sup>	$\Delta\text{kWh} = (\text{kW}_{\text{base}} - \text{kW}_{\text{effic}}) \times \text{HOURS}$ $\text{kW} = \text{HP} \times 0.746 \times (1/\text{efficiency}) \times \text{LF}$
Measure life	15 years

[1] See the tables by motor type, speed and HP of baseline efficiencies, minimum qualifying efficiencies, and incremental costs that follow these examples.

[2] Based on 4,500 annual operating hours; LF = default load factor of 0.75, from Efficiency Vermont 2004 Technical Reference Manual

**Motor 3,600 RPM, Totally Enclosed Fan Cooled (TEFC), (100 HP example)**

Current typical motor market	93.6%
Federal standard as of January 1, 2006 (EPAAct) (baseline) <sup>1</sup>	93.6%
Minimum threshold for credit	95.4%
Estimated savings credit per motor if install MotorUp minimum	5,075 kWh
Change in usage calculation <sup>2</sup>	$\Delta\text{kWh} = (\text{kW}_{\text{base}} - \text{kW}_{\text{effic}}) \times \text{HOURS}$ $\text{kW} = \text{HP} \times 0.746 \times (1/\text{efficiency}) \times \text{LF}$
Measure life	15 years

[1] See the tables by motor type, speed and HP of baseline efficiencies, minimum qualifying efficiencies, and incremental costs that follow these examples.

[2] Based on 4,500 annual operating hours; LF = default load factor of 0.75, from Efficiency Vermont 2004 Technical Reference Manual

**Motor Baseline Efficiencies Table**

Size HP	Open Drip Proof (ODP)			Totally Enclosed Fan-Cooled (TEFC)		
	Speed (RPM)			Speed (RPM)		
	1,200	1,800	3,600	1,200	1,800	3,600
1	80.0%	82.5%	75.5%	80.0%	82.5%	75.5%
1.5	84.0%	84.0%	82.5%	85.5%	84.0%	82.5%
2	85.5%	84.0%	84.0%	86.5%	84.0%	84.0%
3	86.5%	86.5%	84.0%	87.5%	87.5%	85.5%
5	87.5%	87.5%	85.5%	87.5%	87.5%	87.5%
7.5	88.5%	88.5%	87.5%	89.5%	89.5%	88.5%
10	90.2%	89.5%	88.5%	89.5%	89.5%	89.5%
15	90.2%	91.0%	89.5%	90.2%	91.0%	90.2%
20	91.0%	91.0%	90.2%	90.2%	91.0%	90.2%
25	91.7%	91.7%	91.0%	91.7%	92.4%	91.0%
30	92.4%	92.4%	91.0%	91.7%	92.4%	91.0%
40	93.0%	93.0%	91.7%	93.0%	93.0%	91.7%
50	93.0%	93.0%	92.4%	93.0%	93.0%	92.4%
60	93.6%	93.6%	93.0%	93.6%	93.6%	93.0%
75	93.6%	94.1%	93.0%	93.6%	94.1%	93.0%
100	94.1%	94.1%	93.0%	94.1%	94.5%	93.6%
125	94.1%	94.5%	93.6%	94.1%	94.5%	94.5%
150	94.5%	95.0%	93.6%	95.0%	95.0%	94.5%
200	94.5%	95.0%	94.5%	95.0%	95.0%	95.0%

**Motor Minimum Qualifying Efficiencies Table**

Size HP	Open Drip Proof (ODP)			Totally Enclosed Fan-Cooled (TEFC)		
	Speed (RPM)			Speed (RPM)		
	1,200	1,800	3,600	1,200	1,800	3,600
1	82.5%	85.5	77.0	82.5%	85.5%	77.0%
1.5	86.5%	86.5%	84.0%	87.5%	86.5%	84.0%
2	87.5%	86.5%	85.5%	88.5%	86.5%	85.5%
3	88.5%	89.5%	88.5%	89.5%	89.5%	86.5%
5	89.5%	89.5%	86.5%	89.5%	89.8%	88.5%
7.5	90.2%	91.0%	88.5%	91.0%	91.7%	89.5%
10	91.7%	91.7%	89.5%	91.0%	91.7%	90.2%
15	91.7%	93.0%	90.2%	91.7%	92.4%	91.0%
20	92.4%	93.0%	91.0%	91.7%	93.0%	91.0%
25	93.0%	93.6%	91.7%	93.0%	93.6%	91.7%
30	93.6%	94.1%	91.7%	93.0%	93.6%	91.7%
40	94.1%	94.1%	92.4%	94.1%	94.1%	92.4%
50	94.1%	94.5%	93.0%	94.1%	94.5%	93.0%
60	94.5%	95.0%	93.6%	94.5%	95.0%	93.6%
75	94.5%	95.0%	93.6%	95.5%	95.4%	93.6%
100	95.0%	95.4%	93.6%	95.0%	95.4%	94.1%
125	95.0%	95.4%	94.1%	95.0%	95.4%	95.0%
150	95.4%	95.8%	94.1%	95.8%	95.8%	95.0%
200	95.4%	95.8%	95.0%	95.8%	96.2%	95.4%

**Commercial Lighting—New Construction 20% Lighting Power Density (LPD) Reduction (20,000 sq. ft. Office Building example)**

Current typical new construction lighting market LPD—PA Energy Code (baseline)	2003 IECC (ASHRAE/IESNA 90.1-2001)
Assumed PA Energy Code upgrade as of April 1, 2007	2006 IECC (ASHRAE/IESNA 90.1-2004)
Minimum threshold for credit	Lighting Power Density (LPD) 20% < 2003 IECC (ASHRAE/IESNA 90.1-2001)
Estimated savings credit if installed LPD is 20% less than PA energy code, plus site inspection documents installed LPD	15,828 kWh (1.0 W/sq. ft. baseline)
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{W/sq. ft.}_{\text{base}} - \text{W/sq. ft.}_{\text{effic}})/1000) \times \text{HOURS} \times \text{WHF}$
Measure life	20 years

[1] Based on 3,435 annual operating hours, From Efficiency Vermont 2004 Technical Reference Manual (see table of default lighting hours by building type below.)

WHF = Waste heat factor for energy to account for cooling savings from efficient lighting. For a cooled space, the value is 1.15 (calculated as  $1 + 0.38/2.5$ ). Based on 0.29 ASHRAE Lighting waste heat cooling factor for Pittsburgh and 2.5 C.O.P. typical cooling system efficiency. For an uncooled space, the value is one. The default for this measure is a cooled space.

Factor from "Calculating lighting and HVAC interactions," Table 1, ASHRAE Journal November 1993.

**Commercial Lighting—New Construction 20% Lighting Power Density (LPD) Reduction (50,000 sq. ft. Retail example)**

Current typical new construction lighting market LPD—PA Energy Code (baseline)	2003 IECC (ASHRAE/IESNA 90.1-2001)
Assumed PA Energy Code upgrade as of April 1, 2007	2006 IECC (ASHRAE/IESNA 90.1-2004)
Minimum threshold for credit	Lighting Power Density (LPD) 20% < 2003 IECC (ASHRAE/IESNA 90.1-2001)
Estimated savings credit if installed LPD is 20% less than PA energy code, plus site inspection documents installed LPD	52,923 kWh (1.5 W/sq. ft. baseline)
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{W/sq. ft.}_{\text{base}} - \text{W/sq. ft.}_{\text{effic}})/1,000) \times \text{HOURS} \times \text{WHF}$
Measure life	20 years

[1] Based on 3,068 annual operating hours, From Efficiency Vermont 2004 Technical Reference Manual. (See table of default lighting hours by building type below.)

WHF = Waste heat factor for energy to account for cooling savings from efficient lighting. For a cooled space, the value is 1.15 (calculated as  $1 + 0.38/2.5$ ). Based on 0.29 ASHRAE Lighting waste heat cooling factor for Pittsburgh and 2.5 C.O.P. typical cooling system efficiency. For an uncooled space, the value is one. The default for this measure is a cooled space.

Factor from "Calculating lighting and HVAC interactions," Table 1, ASHRAE Journal November 1993.

<i>Interior Lighting Operating Hours by Building Type</i>	
<i>Building Type</i>	<i>Annual Hours</i>
Office	3,435
Restaurant	4,156
Retail	3,068
Grocery/Supermarket	4,612
Warehouse	2,388
Elemen./Second. School	2,080
College	5,010
Health	3,392
Hospital	4,532
Hotel/Motel	2,697
Manufacturing	5,913
Source: From Impact Evaluation of Orange & Rockland's Small Commercial Lighting Program, 1993.	

**Commercial Lighting—Existing Buildings 4-Lamp Fluorescent Lighting Fixture (Office Building example)**

Current typical existing lighting market (baseline)	Standard T8 Lamp/Ballast System
Federal standard as of January 1, 2006	Energy Savings T12 (34 Watt) Lamps and Energy Efficient Magnetic Ballast
Minimum threshold for credit	High Performance (Super) T8 Lamp/Low Power Ballast System
Estimated savings credit for installing High Performance (Super) T8 Lamp/Low Power Ballast System	79 kWh (per fixture)
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{Watts}_{\text{base}} - \text{Watts}_{\text{effic}})/1,000) \times \text{HOURS} \times \text{WHF}$
Measure life	15 years

[1] Based on 3,435 annual operating hours, Efficiency Vermont 2004 Technical Reference Manual. (See table of default lighting hours by building type above.)

WHF= Waste heat factor for energy to account for cooling savings from efficient lighting. For indoors, the value is 1.15 (calculated as  $1 + 0.38/2.5$ ). Based on 0.38 ASHRAE Lighting waste heat cooling factor for Pittsburgh and 2.5 C.O.P. typical cooling system efficiency. For outdoors, the value is one.

Factor from "Calculating lighting and HVAC interactions," Table 1, ASHRAE Journal November 1993

**Commercial Lighting—Existing Buildings 3-Lamp Fluorescent Lighting Fixture (Office Building example)**

Current typical existing lighting market (baseline)	Standard T8 Lamp/Ballast System
Federal standard as of January 1, 2006	Energy Savings T12 (34 Watt) Lamps and Energy Efficient Magnetic Ballast
Minimum threshold for credit	High Performance (Super) T8 Lamp/Low Power Ballast System
Estimated savings credit for installing High Performance (Super) T8 Lamp/Low Power Ballast System	63 kWh (per fixture)
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{Watts}_{\text{base}} - \text{Watts}_{\text{effic}})/1,000) \times \text{HOURS} \times \text{WHF}$
Measure life	15 years

[1] Based on 3,435 annual operating hours, Efficiency Vermont 2004 Technical Reference Manual. (See table of default lighting hours by building type above.)

WHF= Waste heat factor for energy to account for cooling savings from efficient lighting. For indoors, the value is 1.15 (calculated as  $1 + 0.38/2.5$ ). Based on 0.38 ASHRAE Lighting waste heat cooling factor for Pittsburgh and 2.5 C.O.P. typical cooling system efficiency. For outdoors, the value is one.

Factor from "Calculating lighting and HVAC interactions," Table 1, ASHRAE Journal November 1993

**Commercial Lighting—Existing Buildings 2-Lamp Fluorescent Lighting Fixture (Office Building example)**

Current typical existing lighting market (baseline)	Standard T8 Lamp/Ballast System
Federal standard as of January 1, 2006	Energy Savings T12 (34 Watt) Lamps and Energy Efficient Magnetic Ballast
Minimum threshold for credit	High Performance (Super) T8 Lamp/Low Power Ballast System
Estimated savings credit for installing High Performance (Super) T8 Lamp/Low Power Ballast System	40 kWh (per fixture)
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{Watts}_{\text{base}} - \text{Watts}_{\text{effic}})/1,000) \times \text{HOURS} \times \text{WHF}$
Measure life	15 years

[1] Based on 3,435 annual operating hours, Efficiency Vermont 2004 Technical Reference Manual. (See table of default lighting hours by building type above.)

WHF= Waste heat factor for energy to account for cooling savings from efficient lighting. For indoors, the value is 1.15 (calculated as  $1 + 0.38/2.5$ ). Based on 0.38 ASHRAE Lighting waste heat cooling factor for Pittsburgh and 2.5 C.O.P. typical cooling system efficiency. For outdoors, the value is one.

Factor from "Calculating lighting and HVAC interactions," Table 1, ASHRAE Journal November 1993

**Commercial Lighting—Existing Buildings 1-Lamp Fluorescent Lighting Fixture (Office Building example)**

Current typical existing lighting market (baseline)	Standard T8 Lamp/Ballast System
Federal standard as of January 1, 2006	Energy Savings T12 (34 Watt) Lamps and Energy Efficient Magnetic Ballast
Minimum threshold for credit	High Performance (Super) T8 Lamp/Low Power Ballast System
Estimated savings credit for installing High Performance (Super) T8 Lamp/Low Power Ballast System	28 kWh (per fixture)
Change in usage calculation <sup>1</sup>	$\Delta\text{kWh} = ((\text{Watts}_{\text{base}} - \text{Watts}_{\text{effc}})/1,000) \times \text{HOURS} \times \text{WHF}$
Measure life	15 years

[1] Based on 3,435 annual operating hours, Efficiency Vermont 2004 Technical Reference Manual. (See table of default lighting hours by building type above.)

WHF= Waste heat factor for energy to account for cooling savings from efficient lighting. For indoors, the value is 1.15 (calculated as  $1 + 0.38/2.5$ ). Based on 0.38 ASHRAE Lighting waste heat cooling factor for Pittsburgh and 2.5 C.O.P. typical cooling system efficiency. For outdoors, the value is one.

Factor from "Calculating lighting and HVAC interactions," Table 1, ASHRAE Journal November 1993

[Pa.B. Doc. No. 05-1314. Filed for public inspection July 8, 2005, 9:00 a.m.]

**Rescission of Relief Plan for the 610/484 NPAs; P-00961061F0002**

Public Meeting held  
June 23, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzigrilli; Terrance J. Fitzpatrick

**Order**

*By the Commission:*

In this Order, the Commission revisits the issue of the implementation of area code relief in southeastern Pennsylvania. The most recent numbering data concerning the 610 and 484 Numbering Plan Areas (NPAs) demonstrates that both of these NPAs continue to experience an efficient use of numbering resources due to the implementation of various number conservation measures. As a result, there are adequate numbering resources available, both in the form of full NXX codes and thousands-blocks (1K blocks), for telecommunications carriers in these NPAs at the current time. Accordingly, the Commission orders the rescission of the relief plan for the proposed 835 NPA in southeastern Pennsylvania.

**I. Background****1. Introduction of 484 Numbering Plan Area**

When the supply of numbering resources within an NPA or area code<sup>1</sup> is estimated to exhaust, some form of area code relief must be implemented so that customers in that area can continue to obtain the services they desire from the carrier of their choice. It is the duty of the North American Numbering Plan Administrator (NANPA) to monitor the viability of area codes so as to determine when all of the numbers available in the area code are nearing exhaust.<sup>2</sup>

On May 24, 1996, the NANPA made a filing with the Commission in which the NANPA indicated that the

<sup>1</sup> Numbering Plan Area (NPA), or "area code," refers to the first three digits of a 10-digit telephone number in the form of NPA-NXX-XXXX.

<sup>2</sup> The Industry Numbering Committee (INC) Guidelines provide that when an area code is nearing exhaust, the NANPA, in the appropriate circumstances, must act as the NPA Relief Planner and discuss relief alternatives so as to address the numbering exhaust. See *NPA Code Relief Planning and Notification Guidelines* (May 2005).

supply of NXX codes, or telephone numbers, in the 610 area code was nearing total exhaustion.<sup>3</sup> In that filing, the NANPA also informed the Commission that the telecommunications industry had reached consensus to implement an all-services-distributed overlay as the relief plan. The new NPA was to overlay and share the same geographic boundaries of the 610 NPA. By an Order entered May 21, 1998,<sup>4</sup> the Commission directed that the 610 NPA in southeastern Pennsylvania receive an overlay to address the prevailing NXX code shortage problem.<sup>5</sup> The NANPA assigned the 484 NPA to overlay the 610 NPA.<sup>6</sup>

In May 1999, the 484 overlay NPA was activated and placed into service with a projected life of 5.8 years as forecasted by the NANPA. Based upon the initial demand for NXX codes from the 484 NPA by telecommunications service providers in southeastern Pennsylvania, in October 1999, the NANPA declared the 610/484 NPAs in jeopardy of exhausting prior to when relief could be provided.<sup>7</sup>

**2. Industry Consensus to Introduce the 835 NPA over the 610/484 NPAs**

In December 1999, the NANPA convened a meeting with the telecommunications industry to discuss relief alternatives for addressing the numbering exhaust in the 484 NPA.<sup>8</sup> The NANPA indicated that 506 NXX codes had

<sup>3</sup> This filing also dealt with the 215 NPA as both NPAs in southeastern Pennsylvania had been declared to be nearing NXX code exhaustion by the NANPA. However, this instant Order only deals with the 610 NPA because the Commission previously rescinded the relief plan for the 215/267 NPAs in September 2003. *Rescission of Relief Plan for the 215/267 NPAs*, Docket No. P-00961061F0002 (Order entered September 18, 2003).

<sup>4</sup> *Petition of NPA Relief Coordinator Re: 215/610 Area Code Relief Plan*, Docket No. P-00961061 (Order entered May 21, 1998). Pursuant to section 251(e) of the Telecommunications Act of 1996, 47 U.S.C. § 251(e), the Federal Communication Commission (FCC) has delegated authority to state commissions to direct the form of area code relief in such situations.

<sup>5</sup> The FCC has consistently stated that state commissions may not utilize number conservation measures in lieu of implementing timely area code relief. See *Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215, and 717*, Memorandum Opinion and Order on Reconsideration, 13 FCC Rcd 19009, 19025 (1998) (*Pennsylvania Numbering Order*). Accordingly, the Commission permitted the industry consensus plan of implementing an all-services-distributed overlay to alleviate the number exhaust in the 610 NPA to go forward.

<sup>6</sup> See NANP Planning Letter No. 135 at www.nanpa.com.

<sup>7</sup> See NANP Planning Letter No. 199 at www.nanpa.com.

<sup>8</sup> See Notice of Relief Plan for the 267 and 484 NPAs filed by Neustar, Inc., as the North American Numbering Plan Administrator on January 19, 2000 at Docket No. P-00961061.

been assigned from the 484 NPA between April and December 1999. The industry reached consensus to recommend to the Commission an all-services-distributed overlay as its preferred alternative for area code relief in the 484 NPA.<sup>9</sup> This overlay was to cover the same geographic boundaries as the existing 610 and 484 NPAs.

In January 2000, the NANPA, on behalf of the industry, filed with the Commission the industry's relief recommendation. The filing informed the Commission that the industry would begin implementation of the overlay NPA on or about April 3, 2000.<sup>10</sup> The NANPA assigned the 835 NPA as the overlay NPA for the 610/484 area codes.<sup>11</sup>

### 3. Modification of the Implementation Schedule for the 835 NPA

On May 18, 2000, the Pennsylvania telecommunications industry finalized the proposed implementation schedule to activate the 835 NPA on May 1, 2001.<sup>12</sup> In response to the industry's recommended implementation schedule, the Commission reviewed the 2001 number utilization data for both the 610 and 484 area codes and the amount of NXX codes available for assignment within those existing area codes. As a result, the Commission concluded that the industry-proposed implementation schedule was inappropriate.

In its March 12, 2001 Order, the Commission determined that the 835 NPA should not be activated on May 1, 2001. Rather, the Commission concluded that the new 835 overlay NPA should not be activated until three months prior to NXX code exhaust in the existing 610/484 NPAs.<sup>13</sup> Additionally, the Commission directed the NANPA to provide monthly updates on the projected exhaust dates for the existing 610/484 NPAs.<sup>14</sup> The Commission further ordered the NANPA to inform the Commission when the supply of NXX codes in the 610/484 NPAs was to exhaust in ten months.<sup>15</sup>

### 4. Release of the April 2005 Numbering Resource Utilization Forecast Data

In its effort to ensure that new area codes are not introduced prematurely, the Commission has continued to monitor the numbering data that is compiled by the NANPA. In May 2005, the NANPA released the April 30, 2005 NPA Numbering Resource Utilization Forecast (NRUF) exhaust projections for all area codes in the North American Numbering Plan (NANP). The NRUF data indicates that the NPAs in Pennsylvania, including the 610/484 NPAs, continue to experience an efficient use of numbering resources due to the implementation of 1K number pooling<sup>16</sup> and other number conservation measures such as NXX code reclamation.<sup>17</sup>

Accordingly, the NANPA modified the projected exhaust date for the 610/484 NPAs to second quarter 2009 or approximately four years from now.

<sup>9</sup> Id.

<sup>10</sup> The FCC regulations at 47 CFR 52.19(a) set forth that "state commissions may resolve matters involving the introduction of new area codes within their states, which includes establishing the necessary dates for the implementation of relief plans." However, the Commission chose not to open a docket on the industry's consensus recommendation for relief for the 484 NPA.

<sup>11</sup> See NANP Planning Letter No. 237 at [www.nanpa.com](http://www.nanpa.com).

<sup>12</sup> Id.

<sup>13</sup> *Investigation into Relief Plans for the 215/267 NPAs and the 610/484 NPAs*, Docket No. P-00961061 (Order entered March 12, 2001).

<sup>14</sup> Id.

<sup>15</sup> Id.

<sup>16</sup> Thousands-block number pooling is the process by which a 10,000 block of numbers is separated into ten sequential blocks of 1,000 numbers and allocated separately to providers within the same rate center.

<sup>17</sup> NXX code reclamation involves the return of unused NXX codes to the NANPA. Within six months of receiving an NXX code, a carrier must assign at least one number to an end user or the entire NXX code must be returned to the NANPA. 47 CFR 52.15(g)(iii). In addition, the reclamation process has been extended to individual thousands-blocks.

## II. Discussion

It is beyond dispute that the most recent numbering data concerning the 610/484 NPAs clearly demonstrates that the proposed 835 NPA is no longer necessary at this time. According to information on the NANPA website,<sup>18</sup> as of May 31, 2005, there were approximately 17 full NXX codes still available for assignment in the 610 NPA and 182 full NXX codes still available for assignment in the 484 NPA.<sup>19</sup> In addition, the 610/484 NPAs have been utilizing 1K number pooling since April 2001, and thus, all pooling capable telecommunications carriers, including wireless providers, receive blocks of 1,000 telephone numbers from the Pooling Administrator to satisfy their numbering needs. As of June 14, 2005, there are over 3,400 1K blocks available for assignment in the rate centers comprising the 610/484 mandatory pool.<sup>20</sup>

Because of the longevity of the 610/484 mandatory pool as well as the continued use of number conservation measures, the projected exhaust date for the 610/484 NPAs has been extended over the past year. In April 2004, the projected exhaust date for the 610/484 NPAs was lengthened 11 quarters, from third quarter 2005 until second quarter 2008. Six months later, in October 2004, the projected exhaust date for the 610/484 NPAs was lengthened again by one year, from second quarter 2008 to the current date of second quarter 2009.<sup>21</sup> As stated previously, the exhaust date of second quarter 2009 remains in place as of May 2005. Thus, the Commission concludes that there continues to be adequate numbering resources available to the telecommunications carriers providing service in the 610/484 NPAs.

Also, the Commission continues to utilize its reclamation authority begun in August 2000<sup>22</sup> to reclaim full NXX codes and 1K blocks of telephone numbers that service providers have not used in a timely fashion. The Commission determines that additional NXX codes and 1K blocks from the 610/484 NPAs will be subject to reclamation, adding further to the available numbering resources in these NPAs.

In addition, the December 2004 NRUF data shows that the utilization rate<sup>23</sup> for the total NXX codes assigned in the 610 NPA is 52% and that the utilization rate for the total NXX codes assigned in the 484 NPA is only 27%. This data demonstrates that the telecommunications carriers still have the ability to assign many more numbers from their current inventories in order to meet customer demand.

The current numbering data for the 610/484 NPAs clearly demonstrates that there are significant numbering resources for telecommunications carriers providing service in these area codes. Consequently, the 610/484 NPAs will not be nearing exhaust of their numbering resources in the near future. This fact is evident by the projected exhaust date of the 610/484 NPAs at second quarter 2009. Thus, the Commission determines that the implementation of the 835 NPA is not appropriate at this time since the proliferation of new area codes before they are necessary is detrimental to both consumers and the telecommunications industry.

<sup>18</sup> [www.nanpa.com](http://www.nanpa.com)

<sup>19</sup> In fact, the NANPA's Central Office Code Assignment Activity Report for May 2005 shows that only two NXX codes per NPA have been assigned during 2005. See [www.nanpa.com](http://www.nanpa.com).

<sup>20</sup> See [www.nationalpooling.com](http://www.nationalpooling.com)

<sup>21</sup> See [www.nanpa.com](http://www.nanpa.com).

<sup>22</sup> *Implementation of Number Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order released March 31, 2000-NXX Code Reclamation*, Docket No. M-00001373 (Order entered August 22, 2000)

<sup>23</sup> "Utilization" rate has been defined as the percentage of NXX codes assigned to end-users from the carriers total inventory of NXX codes within a NPA.



Further, the Commission determines that the rescission of the proposed relief plan for the 610/484 NPAs is in the public interest. As stated above, the relief plan for the area codes was filed in January 2000, or over five years ago. Since that time, many changes have occurred in the 610/484 NPAs including 1K pooling, NXX code and 1K block reclamation, and increased number utilization rates.<sup>24</sup> Also, the telecommunications service providers that agreed to the 610/484 NPA relief plan also have changed as the telecommunications market has evolved. Thus, the current 610/484 NPA relief plan does not reflect the current number conservation measures and other stated changes, and, therefore, should be rescinded.

The continued efficient use of the numbering resources in the 610/484 NPAs resulting in a projected exhaust date for the area codes of at least four years removes the urgency to implement the 835 NPA. Accordingly, since the numbering data does not justify the retention of the 835 NPA for area code relief in the 610/484 NPAs, we will direct the NANPA to reclaim the 835 NPA and return it to the pool of available area codes within the NANP.<sup>25</sup> However, we recognize that the telecommunications industry may have completed their network preparation for the implementation of the 835 NPA by February 2001. Therefore, in order to prevent the telecommunications industry from having to perform the task of undoing their prior implementation work, we shall direct the NANPA to hold the 835 NPA in "reserved" status.<sup>26</sup>

### Conclusion

The policy of the Commission is to ensure that numbering resources are made available on an equitable, efficient

<sup>24</sup> In June 2004, the number utilization rate increased from 70 percent to 75 percent as required by the Federal Communications Commission's regulations. 47 CFR 52.15(h).

<sup>25</sup> The NANP is the basic numbering scheme for the public switched telecommunications networks located in 19 countries, including the United States and its territories. Of the 685 area codes that were available for assignment from the entire NANP, there are currently 266 area codes remaining as of December 2004.

<sup>26</sup> By returning the 835 NPA to "reserved" status, the NANPA, in essence, will hold the 835 NPA for reassignment to the 610/484 NPAs but only if circumstances warrant its use.

and timely basis in Pennsylvania while ensuring that the impact of proliferating new area codes on consumers is minimized to the extent possible. The recent numbering data from the NANPA clearly demonstrates that the implementation of number conservation measures such as mandatory 1K pooling and NXX code reclamation have contributed to the efficient use of numbering resources in the 610/484 NPAs. As a result, telecommunications carriers will have adequate numbering resources available to them and, thus, the implementation and activation of the 835 NPA is no longer appropriate and the January 2000 relief plan should be rescinded. In addition, we find that directing the NANPA to reclaim the 835 NPA will prolong the life of the NANP. Further, we determine that rescinding the 835 NPA will not deter telecommunications carriers from providing services to their customers or compromise the ability of timely area code relief to be implemented in the 610 and 484 NPAs in the future, if circumstances warrant; *Therefore,*

### *It Is Ordered That:*

1. The January 2000 consensus relief plan of the 835 NPA overlaying the 610/484 NPAs in southeastern Pennsylvania and the previously adopted implementation schedule for the 835 overlay NPA is rescinded.

2. The North American Numbering Plan Administrator shall reclaim the 835 NPA and return it to the pool of available area codes within the North American Numbering Plan but place it in "reserved" status.

3. A copy of this order shall be sent to the North American Numbering Plan Administrator.

4. A copy of this order shall also be published in the *Pennsylvania Bulletin* and posted on the Commission's website at [www.puc.state.pa.us](http://www.puc.state.pa.us).

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-1315. Filed for public inspection July 8, 2005, 9:00 a.m.]

## STATE POLICE

### Registration of Sexual Offenders

The Commissioner of the State Police, under 42 Pa.C.S. § 9799.1 (relating to duties of Pennsylvania State Police) shall publish a list of approved registration sites located throughout this Commonwealth where individuals subject to the requirements of 42 Pa.C.S. §§ 9795.1 and 9796 (relating to registration; and verification of residence) can report to fulfill these requirements.

The approved registration sites are as follows:

<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Adams	PSP Gettysburg	3033 Old Harrisburg Pike Gettysburg, PA 17325	(717) 334-8111
Allegheny	PSP Pittsburgh	449 McCormic Road Moon Township, PA 15108	(412) 787-2000
Allegheny	PSP Gibsonia	3000 Haberlein Road Gibsonia, PA 15044	(724) 443-5907
Armstrong	PSP Kittanning	184 Nolte Drive Kittanning, PA 16201	(724) 543-2011
Beaver	PSP Beaver	1400 Brighton Road Beaver, PA 15009	(724) 773-7400
Bedford	PSP Bedford	1475 Country Ridge Road Bedford, PA 15522	(814) 623-6133

## NOTICES

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<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Bedford	PSP Everett	1605 Ashcom Road Suite 2 Everett, PA 15537-7217	(814) 652-6131
Berks	PSP Reading	600 Kenhorst Blvd. Reading, PA 19611	(610) 378-4011
Berks	PSP Hamburg	90 Industrial Drive Hamburg, PA 19526	(610) 562-6885
Blair	PSP Hollidaysburg	1510 N. Juniata Street Hollidaysburg, PA 16648-0403	(814) 696-6100
Bradford	PSP Towanda	R. D. 1 Towanda, PA 18848	(570) 265-2186
Bucks	PSP Trevoise	3501 Neshaminy Boulevard Bensalem, PA 19020	(215) 942-3900
Bucks	PSP Dublin	3218 Rickert Road Perkasie, PA 18944	(215) 249-9191
Butler	PSP Butler	200 Barracks Road Butler, PA 16001-2689	(724) 284-8100
Cambria	PSP Ebensburg	100 Casale Court Ebensburg, PA 15931	(814) 471-6500
Cameron	PSP Emporium	12921 Route 120 Emporium, PA 15834	(814) 486-3321
Carbon	PSP Pocono	HCR No. 1 P. O. Box 18 White Haven, PA 18661	(570) 443-9511
Carbon	PSP Lehighton	5730 Interchange Road Lehighton, PA 18235	(610) 377-4270
Centre	PSP Philipsburg	3104 Port Matilda Highway Phillipsburg, PA 16866	(814) 342-3370
Centre	PSP Rockview	745 South Eagle Valley Road Bellefonte, PA 16823	(814) 355-6020
Chester	PSP Embreeville	1818 W. Strasburg Road Coatesville, PA 19320	(484) 340-3241
Chester	PSP Avondale	2 Moxley Lane Avondale, PA 19311	(610) 268-2022
Clarion	PSP Clarion	209 Commerce Road Clarion, PA 16214-9412	(814) 226-1710
Clearfield	PSP Clearfield	147 Doe Hill Road Woodland, PA 16881	(814) 857-3800
Clinton	PSP Lamar	7127 Nittany Valley Drive Mill Hall, PA 17751-9515	(570) 726-6000
Columbia	PSP Bloomsburg	6850 Hidlay Church Road Bloomsburg, PA 17815	(570) 387-4261
Crawford	PSP Meadville	11176 Murray Road Meadville, PA 16335-0479	(814) 332-6911
Cumberland	PSP Carlisle	1538 Commerce Avenue Carlisle, PA 17013	(717) 249-2121
Cumberland	PSP Newville	248 Center Road Newville, PA 17241	(717) 776-3135
Dauphin	PSP Highspire	P. O. Box 67676 Harrisburg, PA 17106-7676	(717) 939-9551, Ext. 4290
Dauphin	PSP Harrisburg	8000 Bretz Drive Harrisburg, PA 17112	(717) 671-7500
Dauphin	PSP Lykens	301 State Road Elizabethville, PA 17023	(717) 362-8700
Delaware	PSP Media	1342 W. Baltimore Pike Media, PA 19063	(484) 840-1000

<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Elk	PSP Ridgway	15010 Boot Jack Road Ridgway, PA 15853	(814) 776-6136
Erie	PSP Erie	4320 Iroquois Avenue P. O. Box 10607 Erie, PA 16511-2135	(814) 898-1641
Erie	PSP Corry	11088 Route 6 East Union City, PA 16438	(814) 663-2043
Erie	PSP Girard	5950 Meadville Road Girard, PA 16417	(814) 774-9611
Fayette	PSP Uniontown	Uniontown Station 1070 Eberly Way Lemont Furnace, PA 15456	(724) 439-7111
Forest	PSP Tionesta	R. D. 1, Box 43 DD Tionesta, PA 16353-9502	(814) 755-3565
Franklin	PSP Chambersburg	679 Franklin Farms Lane Chambersburg, PA 17201	(717) 264-5161
Fulton	PSP McConnellsburg	23170 Great Cove Road McConnellsburg, PA 17233	(717) 485-3131
Greene	PSP Waynesburg	255 Elm Drive Waynesburg, PA 15370	(724) 627-6151
Huntingdon	PSP Huntingdon	R. D. 1, Box 10-A Huntingdon, PA 16652	(814) 627-3161
Indiana	PSP Indiana	4221 Route 286 Highway West Indiana, PA 15701	(724) 357-1960
Jefferson	PSP DuBois	101 Preston Way Falls Creek, PA, 15840	(814) 371-4652
Jefferson	PSP Punxsutawney	485 N. Findley Street P. O. Box 445 Punxsutawney, PA 15767-0445	(814) 938-0510
Lackawanna	PSP Dunmore	85 Keystone Industrial Park P. O. Box 159 Dunmore, PA 18512-0159	(570) 963-3156
Lancaster	PSP Bowmansville	443 Panorama Drive Denver, PA 17517	(717) 445-6716
Lancaster	PSP Ephrata	21 Springhouse Road Ephrata, PA 17522	(717) 721-7667
Lancaster	PSP Lancaster	2099 Lincoln Highway East Lancaster, PA 17602-3384	(717) 299-7650
Lawrence	PSP New Castle	3539 Wilimington Road New Castle, PA 16105	(724) 598-2211
Lebanon	PSP Jonestown	2632 SR 72 Jonestown, PA 17038	(717) 865-2194
Lehigh	PSP Fogelsville	8320 Schantz Road Breinigsville, PA 18031	(610) 395-1438
Lehigh	PSP Bethlehem	2930 Airport Road Bethlehem, PA 18017-2149	(610) 861-2026
Luzerne	PSP Hazleton	250 Dessen Drive West Hazleton, PA 18202	(570) 459-3890
Luzerne	PSP Shickshinny	872 Salem Blvd. Berwick, PA 18603	(570) 542-4117
Luzerne	PSP Wyoming	475 Wyoming Avenue Wyoming, PA 18644	(570) 697-2000
Lycoming	PSP Montoursville	899 Cherry Street Montoursville, PA 17754-0068	(570) 368-5700
McKean	PSP Kane	3178 Route 219 Kane, PA 16735	(814) 778-5555

<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Mercer	PSP Mercer	826 Franklin Road Mercer, PA 16137	(724) 662-6162
Mifflin	PSP Lewistown	34 Arch Rock Road R. R. 5, Box 34 Mifflintown, PA 17059	(717) 320-1010
Monroe	PSP Swiftwater	HC1 Box 121 Swiftwater, PA 18370	(570) 839-7701
Monroe	PSP Fern Ridge	HC No. 1, Box 1327 Blakeslee, PA 18610	(570) 646-2271
Montgomery	Pottstown Police Department	100 East High Street Pottstown, PA 19464	(610) 970-6570
Montgomery	PSP King of Prussia	251 Flint Hill Road King of Prussia, PA 19406	(610) 279-1605
Montgomery	PSP Skippack	2047C Bridge Rd. Schwenksville, PA 19473	(610) 584-1250
Northampton	PSP Belfast	622 Bangor Road Easton, PA 18040	(610) 258-0816
Northumberland	PSP Stonington	R. D. 2, Box 83 Sunbury, PA 17801	(570) 286-5601
Northumberland	PSP Milton	50 Lawton Lane Milton, PA 17847	(570) 524-2662
Perry	PSP Newport	52 Red Hill Court Newport, PA 17074	(717) 567-3110
Philadelphia	PSP Philadelphia	2201 Belmont Avenue Philadelphia, PA 19131	(215) 560-6200
Pike	PSP Blooming Grove	HC 6, Box 6810 Hawley, PA 18428-9013	(570) 226-5718
Potter	PSP Coudersport	3140 East Second Street Coudersport, PA 16915	(814) 274-8690
Schuylkill	PSP Schuylkill Haven	23 Meadowbrook Drive Schuylkill Haven, PA 17972	(570) 593-2000
Schuylkill	PSP Frackville	31 Eleanor Drive Frackville, PA 17931	(570) 874-5300
Snyder	PSP Selingsgrove	R. D. 1, Box 131 Selingsgrove, PA 17870	(570) 374-8145
Somerset	PSP Somerset	142 Sagamore Street Somerset, PA 15501-8356	(814) 445-4104
Somerset	PSP Somerset (Turnpike)	177 Menser Road Somerset, PA 15501	(814) 445-9606
Sullivan	PSP Laporte	P. O. Box 70, Laporte, PA 18626	(570) 946-4610
Susquehanna	PSP Gibson	R. D. 1, Box 227B New Milford, PA 18834	(570) 465-3154
Tioga	PSP Mansfield	1745 Valley Road Mansfield, PA 16933-0230	(570) 662-2151
Venango	PSP Franklin	6724 US 322 Franklin, PA 16323	(814) 676-6596
Warren	PSP Warren	2875 Pennsylvania Avenue—West Extension Warren, PA 16365	(814) 728-3600
Washington	PSP Washington	83 Murtland Avenue Washington, PA 15301-0488	(724) 223-5200
Wayne	PSP Honesdale	R. R. 6 14 Collan Park Honesdale, PA 18431-9681	(570) 253-7126

## NOTICES

<i>County</i>	<i>Police Station</i>	<i>Address</i>	<i>Phone</i>
Westmoreland	PSP Greensburg	100 North Westmoreland Avenue P. O. Box P Greensburg, PA 15601-0436	(724) 832-3288
Westmoreland	PSP Belle Vernon	560 Circle Drive Belle Vernon, PA 15012-9654	(724) 929-6262
Westmoreland	PSP New Stanton	2200 North Center Ave. New Stanton, PA 15672-9602	(724) 925-9463
Westmoreland	PSP Kiski Valley	4451 Route 66 Apollo, PA 15613	(724) 727-3434
Wyoming	PSP Tunkhannock	915 SR6W Tunkhannock, PA 18657	(570) 836-2141
York	PSP York	110 North Street York, PA 17403	(717) 428-1011

Comments, suggestions or questions should be directed to the State Police, Megan's Law Section, 1800 Elmerton Avenue, Harrisburg, PA 17110. Persons with a disability who require an alternative format of this document (that is, large print, audio tape or Braille) should contact the Megan's Law Section so the necessary arrangements can be made.

COLONEL JEFFREY B. MILLER,  
*Commissioner*

[Pa.B. Doc. No. 05-1316. Filed for public inspection July 8, 2005, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

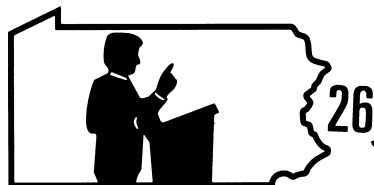
30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
PA Department of Community and Economic Development  
374 Forum Building  
Harrisburg, PA 17120  
800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
Location: Harrisburg, Pa.  
Duration: 12/1/93-12/30/93  
Contact: Procurement Division 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

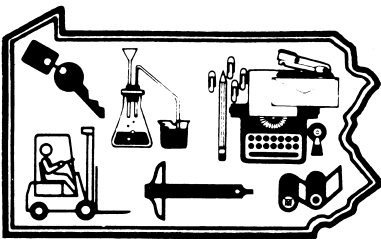
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at [www.patreaury.org](http://www.patreaury.org).

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania Treasury Department  
 201 Finance Building  
 Harrisburg, PA 17120  
 Phone: (717) 787-2990 or 1-800-252-4700  
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,  
*State Treasurer*



### Commodities

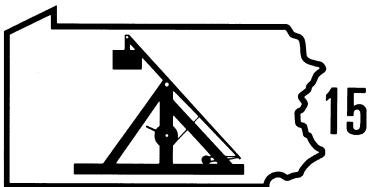
**SU-04-31** Shippensburg University is seeking vendors who are interested in supplying pre-insulated underground steam and condensate piping eliminating expansion loops via connection joints replacing existing lines on campus. Interested vendors may request a bid package by sending a fax to (717) 477-1350 or email to [kmsmit@ship.edu](mailto:kmsmit@ship.edu). All responsible bidders are encouraged to participate including MBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257  
**Duration:** Delivery by August 5, 2005  
**Contact:** Karen Smith, (717) 477-1386

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## SERVICES

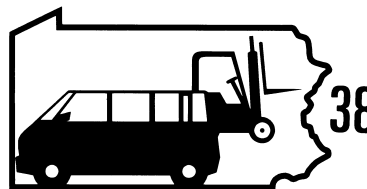
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### Environmental Maintenance Service

**OSM 35(1519,2087,2088)201.1** Abandoned Mine Reclamation Project, Fall Run, SW Carbondale, Carbondale TWP NE. The principal items of work and approximate quantities include 4,333,840 cubic yards of Grading, 18,960 cubic yards of Drainage Excavation, 12,340 square yards of Rock Lining and 234.5 acres of Seeding. This project issues on July 8, 2005 and bids will be opened on August 2, 2005 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. Federal funds have been made available for this project from the \$26,051,154 million for Pennsylvania's 2004 AML Grant.

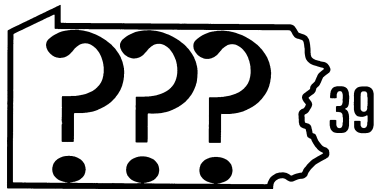
**Department:** Environmental Protection  
**Location:** Carbondale City and Carbondale Township, Lackawanna County  
**Duration:** 920 calendar days after the official starting date.  
**Contact:** Construction Contracts Section, (717) 787-7820



### Vehicle, Heavy Equipment and Powered Machinery Services

**580037** Moving Anti-Icing Unit from 1 chassy to another chassy. Extend frame to rear approx. 40' with all beveled joints. Solid welded splices. Add additional crossmember to rear. Move Drive axles to rear approx 36" to same C.A. as original Anti-Icing Unit. Includes all drive shaft work and relocation of crossmembers as/if required.

**Department:** Transportation  
**Location:** Pa. Department of Transportation, Route 30 East Donahue Road, Greensburg, PA 15601  
**Duration:** Proposed bid opening July 21, 2005 1:30 PM  
**Contact:** Keith Howard, (724) 832-5387, ext.220

**Miscellaneous**

**RFP 20050207** The PLCB has a requirement for a vendor to receive shipments of alcohol beverage products, supplies and accessories via truck at a PLCB provided warehouse facility, and to store this merchandise therein, and to deliver to the PLCB service area(s). Orders for merchandise to be delivered to the PLCB's stores must be protected from cold and heat. The fragile nature of the glass and liquid contents, and the high value associated with the merchandise requires responsible material handling.

**Department:** Liquor Control Board

**Location:** PLCB facility located at 8201 Enterprise Avenue, Philadelphia, PA

**Duration:** Approx. five (5) years

**Contact:** Debbie Brinser, (717) 787-9851

[Pa.B. Doc. No. 05-1317. Filed for public inspection July 8, 2005, 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> |
|--|---|

JAMES P. CREEDON,  
*Acting Secretary*