



Volume 35 (2005)

Pennsylvania Bulletin
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July 16, 2005 (Pages 3887-4074)

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PENNSYLVANIA BULLETIN

Volume 35

Number 29

Saturday, July 16, 2005 • Harrisburg, PA

Pages 3887—4074

See Part II page 4045 for the
Pennsylvania Gaming Control Board's
Temporary Regulations

Part I

Agencies in this issue:

The General Assembly
Department of Agriculture
Department of Banking
Department of Community and Economic
Development
Department of Conservation and Natural Resources
Department of Environmental Protection
Department of General Services
Department of Health
Department of Labor and Industry
Department of Public Welfare
Department of Revenue
Department of State
Department of Transportation
Environmental Hearing Board
Executive Board
Game Commission
Independent Regulatory Review Commission
Insurance Department
Legislative Reference Bureau
Liquor Control Board
Milk Marketing Board
Pennsylvania Gaming Control Board
Pennsylvania Public Utility Commission
State Architects Licensure Board
State Board of Osteopathic Medicine

Detailed list of contents appears inside.



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

No. 368, July 2005

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BULLETIN

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 647 Main Capitol Building, State & Third Streets, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

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CONTENTS

THE GENERAL ASSEMBLY

COMMISSION ON SENTENCING

Notices

Meetings scheduled 3896
 Recent actions during the 2005 regular session of
 the General Assembly 3896

THE COURTS

APPELLATE PROCEDURE

Order adopting amendments to Pa.R.A.P. 311 and
 342; no. 166 appellate procedural rules; doc.
 no. 1 3897

LOCAL COURT RULES

Berks County

Administrative order relative to amendment of rules
 of civil procedure; no. 98-8009 prothonotary; no.
 1-MD-2005 clerk of courts 3921

Delaware County

Amendment to local rule 1920.54 petitions for leave
 to withdraw as counsel, reconsideration and ap-
 peal of decisions rendered by the master in
 equitable distribution; 05-193 3921

Westmoreland County

Adopting rule W1910.11; no. 3 of 2005 3922
 Adopting rule W1910.21; no. 3 of 2005 3922

RULES OF CIVIL PROCEDURE

Order amending rules 1910.16-4, 1910.16-6 and
 1910.17; no. 430 civil procedural rules; doc.
 no. 5 3900

RULES OF CRIMINAL PROCEDURE

Order promulgating new rule 117; amending rules
 131, 132, 430, 431, 441, 509, 519, 525, and 535;
 approving the revision of the comment to rule
 520; and renumbering rule 117 as rule 118 and
 rule 118 as rule 119; no. 324 criminal procedural
 rules; doc. no. 2 3901
 Order rescinding rule 644; promulgating new rule
 644; amending rule 646, and approving the revi-
 sion of the comment to rule 647; no. 323 criminal
 procedural rules; doc. no. 2 3917

EXECUTIVE AGENCIES

DEPARTMENT OF AGRICULTURE

Proposed Rulemaking

CHEMSWEEP pesticide disposal program 3940

DEPARTMENT OF BANKING

Notices

Action on applications 3948

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Notices

Pennsylvania Minority Business Development Au-
 thority; revolving loan fund capitalization pro-
 gram 3950
 Pennsylvania State Planning Board meeting 3950

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Notices

Conservation and Natural Resources Advisory
 Council meeting 3950

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices

Applications, actions and special notices 3950
 Availability of technical guidance 4005
 Oil and Gas Management Technical Advisory Board
 meeting changes 4006

DEPARTMENT OF GENERAL SERVICES

Notices

State contracts information 4037

DEPARTMENT OF HEALTH

Notices

Laboratories approved to determine blood alcohol
 content under the Clinical Laboratory Act, the
 Vehicle Code, the Fish and Boat Code and the
 Game and Wildlife Code 4006
 Traumatic Brain Injury Advisory Board meeting ... 4014
 Traumatic brain injury (TBI) support group develop-
 ment and/or expansion to promote education and
 networking at the grass roots level 4015

DEPARTMENT OF LABOR AND INDUSTRY

Notices

Current Prevailing Wage Act debarments 4020

DEPARTMENT OF PUBLIC WELFARE

Notices

Designated exceptional durable medical equipment . 4020
 Federal poverty income guidelines for 2005 4021

DEPARTMENT OF REVENUE

Pennsylvania Ace In The Hole '05 instant lottery
 game 4022
 Pennsylvania Heads Or Tails instant lottery game .. 4024
 Pennsylvania Slingo® instant lottery game 4026

DEPARTMENT OF STATE

Notices

Proposed state plan amendments for 2005 Under
 the Help America Vote Act of 2002:
 Public comment 4028
 Public hearing 4028

DEPARTMENT OF TRANSPORTATION

Rules and Regulations

Ignition interlock 3938

Now Available Online at <http://www.pabulletin.com>

Notices

Implementation of Act 37 of 2005—commercial drivers' license disqualification program..... 4029

ENVIRONMENTAL HEARING BOARD**Notices**

Borough of Conshohocken Authority v. DEP; EHB doc. no. 2005-209-K 4029

EXECUTIVE BOARD**Statements of Policy**

Reorganization of the Department of Labor and Industry 3946

GAME COMMISSION**Rules and Regulations**

Big game harvest report requirement 3933
 Deadline for purchasing a bear license 3934
 Hunting and furtaker licenses 3935
 Lands and buildings 3924
 Middlecreek and Pymatuning waterfowl management areas; youth shooting day..... 3926
 Seasons and bag limits (2 documents)..... 3927, 3928
 Special permits 3936

INDEPENDENT REGULATORY REVIEW COMMISSION**Notices**

Notice of comments issued 4029
 Notice of filing of final rulemakings..... 4031

INSURANCE DEPARTMENT**Notices**

Application for merger 4031
 Capital Blue Cross; community-rated group prescription drug card; rate filing..... 4031

Keystone Health Plan Central; base rates; rate filing..... 4031

LEGISLATIVE REFERENCE BUREAU**Notices**

Documents filed but not published..... 4032

LIQUOR CONTROL BOARD**Notices**

Expiration of leases 4032

MILK MARKETING BOARD**Notices**

Hearing and presubmission schedule for:
 All milk marketing areas; over-order premium.... 4033
 All milk marketing areas; three liter plastic containers; eight ounce plastic containers..... 4034
 Milk marketing area no. 5..... 4034
 Milk marketing area no. 6..... 4035

PENNSYLVANIA GAMING CONTROL BOARD**Temporary Regulations**

Temporary Regulations..... 4045

PENNSYLVANIA PUBLIC UTILITY COMMISSION**Notices**

Service of notice of motor carrier applications..... 4036

STATE ARCHITECTS LICENSURE BOARD**Rules and Regulations**

Definitions and fees..... 3923

STATE BOARD OF OSTEOPATHIC MEDICINE**Notices**

Bureau of Professional and Occupational Affairs v. Charles Neal Jeck, D. O.; doc. no. 0637-53-2005 4036

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.

4 Pa. Code (Administration)

Adopted Rules

6	348
65	1663
161	3143
243	2275
249	2275

Statements of Policy

1	358, 2116
9	20, 1223, 1584, 1775, 2315, 2414, 2753, 3147, 3426, 3946
114	1669

7 Pa. Code (Agriculture)

Proposed Rules

128b	3940
130b	2101
145	1772

22 Pa. Code (Education)

Adopted Rules

73	1982
215	2276
403	3662

25 Pa. Code (Environmental Protection)

Adopted Rules

86	1663
93 (with correction)	1197, 1762, 1885
121	2278
211	3406
401	2628

Proposed Rules

252	519
1021	2107

Statements of Policy

16	1223, 1890
----------	------------

28 Pa. Code (Health and Safety)

Adopted Rules

18	14
----------	----

31 Pa. Code (Insurance)

Adopted Rules

89	2729
----------	------

34 Pa. Code (Labor and Industry)

Proposed Rules

121	3807
123	3820

37 Pa. Code (Law)

Adopted Rules

42	254
91	2279
93	2279
94	2279

Statements of Policy

97	3053
----------	------

40 Pa. Code (Liquor)

Adopted Rules

3	3547
---------	------

Proposed Rules

5	2112
11	2112
13	2112
17	2112

49 Pa. Code (Professional and Vocational Standards)

Adopted Rules

1	1763
9	3923
13	1667
15	353
16	3019
23	3220
25	3021
33	2880, 2899
35 (with correction)	1567, 2630
42	2750

Proposed Rules

7	2400
11	1573
13	1208
25	2639
47	2640
48	2640
49	2640
15	2404
16	1210
18	1210
19	2408
21	1213
27	1219
35	2411
37	258
39	2402
41	1582
47	1221
48	1221
49	1221

Statements of Policy

49	3150
----------	------

52 Pa. Code (Public Utilities)

Adopted Rules

53	3024
57	1886
59	1886
63	2289
101	3299

Proposed Rules

54	1421, 3146
57	1421, 3146
101	740

55 Pa. Code (Public Welfare)

Adopted Rules

297	1567
-----------	------

299 1567
 2600 (with correction) 2499, 2752
 2620 (with correction) 2499, 2752
 3040 3491
 3041 3491

Statements of Policy

3270 3665
 3280 3665
 3290 3665

58 Pa. Code (Recreation)

Adopted Rules

65 2391
 91 3308
 111 2392
 135 3924, 3926
 139 3927, 3928
 141 (with correction) 353, 2304, 2393, 3933
 143 354, 3934, 3935
 147 355, 356, 357, 2305, 2306, 3936

Proposed Rulemaking

51 3416, 3419
 53 3416, 3419
 61 2395
 63 3419, 3421
 65 2395, 2633, 2634, 3419
 69 2395, 3421
 75 (with correction) 3425
 103 3423
 111 2394, 3423
 135 2310, 2311, 3229
 139 1766, 2312
 141 2313, 3230
 143 1765, 2313, 3231, 3550
 147 1771, 3550

Temporary Regulations

401 4045
 403 4045
 407 4045
 421 4045
 423 4045
 427 4045
 433 4045
 435 4045
 451 4045
 461 4045
 471 4045
 481 4045
 491 4045
 495 4045
 497 4045
 499 4045

Draft Temporary Regulations

401 2569
 403 2569
 407 2569
 421 2569
 423 2569
 427 2569
 431 2569
 433 2569
 435 2569
 437 3199
 451 2569
 461 2569
 471 2569
 481 2569

491 2569
 495 2569
 497 2569
 499 2569
 501 3199

Statements of Policy

Adopted

57 2416

Proposed

57 2417

61 Pa. Code (Revenue)

Adopted Rules

32 256

64 Pa. Code (Securities)

Adopted Rules

203 2307
 303 2307
 304 2307
 404 2307

67 Pa. Code (Transportation)

Adopted Rules

88 3938
 171 3039

Proposed Rules

71 3145
 491 2309

70 Pa. Code (Weights, Measures and Standards)

Proposed Rules

2 2631
 10 2631
 110 2631

204 Pa. Code (Judicial System General Provisions)

Adopted Rules

29 2095, 3542
 71 1970, 2208, 2854
 81 496, 497, 1972, 2386
 82 349
 83 1972, 2208, 3286
 85 1656
 87 1656
 89 1656
 91 1656
 93 1656
 99 2722
 303 (with correction) 1508, 2599

Proposed Rules

303 198

210 Pa. Code (Appellate Procedures)

Adopted Rules

3 3897
 63 2854
 67 1880

Proposed Rules

3 2602

225 Pa. Code (Rules of Evidence)

Adopted Rules

I 2209
 VIII 8

Proposed Rules

IV 3287
 VI 1330

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules

200500, 3289
 1000349, 1416
 1900 2994
 1910 2994, 3216, 3900
 2250 501

Proposed Rules

100 2602
 200 9
 1300734, 2604
 3000 2603

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules

1 1331, 2210, 2855, 3901
 2 2210
 4 2210, 3901
 5 2210, 3901
 6 2868, 3917
 7 2855, 3217, 3543
 9 2855
 10 3901

Proposed Rules

1 1556
 2 2861
 4 2863
 5 1558, 2865
 6 2967
 10 1416

237 Pa. Code (Juvenile Rules)

Adopted Rules

1 2214
 2 2214
 3 2214
 4 2214
 5 2214
 6 2214
 8 2214

246 Pa. Code (Minor Court Civil Rules)

Adopted Rules

200 10
 300 10
 400 3218
 500 10

Proposed Rules

100 1974
 200 1560, 2258
 300 2258
 400 245
 500 2258

249 Pa. Code (Philadelphia Rules)

Unclassified1334, 1880, 1975, 1977, 2096,
 2272, 2605, 3290, 3404, 3658

252 Pa. Code (Allegheny County Rules)

Unclassified 1881, 2273

255 Pa. Code (Local Court Rules)

Unclassified12, 246, 247, 350, 501, 505, 647, 654,736,
 1190, 1196, 1334, 1417, 1419, 1561, 1566, 1759,
 1882, 1883, 1978, 1979, 2097, 2099, 2390, 2618,
 2722, 2727, 2870, 2871, 2874, 2875, 2995, 3004,
 3014, 3018, 3290, 3291, 3660, 3921, 3922

THE GENERAL ASSEMBLY

COMMISSION ON SENTENCING Meetings Scheduled

Wednesday,
August 24, 2005

Quarterly
Commission Mtg.

9 a.m.
Beam Building
4th Floor

The Commission on Sentencing announces the following public meetings to be held at The Penn Stater, Innovation Boulevard, State College, PA 16801 and at the Beam Building, 4th Floor, University Park Campus:

MARK H. BERGSTROM,
Executive Director

[Pa.B. Doc. No. 05-1318. Filed for public inspection July 15, 2005, 9:00 a.m.]

Tuesday, August 23, 2005 Strategic Planning Session 9 a.m.—4 p.m.
The Penn Stater
Room 108

Recent Actions during the 2005 Regular Session of the General Assembly

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

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2005 GENERAL ACTS ENACTED—ACT 006 through 009					
006	Jun 30	HB0402	PN2067	60 days	Michael A. Cannavino Way—designation
007	Jun 30	HB1110	PN1317	Immediately	Ricky Hafer Highway and Aaron Rusin Boulevard—designations
008	Jun 30	HB1178	PN2132	120 days	Repeal—act to incorporate the State police of Crawford and Erie counties.
009	Jun 30	HB1338	PN2275	Immediately	Conveyance—Commonwealth property in Columbia Borough, Lancaster County

* denotes an effective date with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

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

ROBERT ZECH,
Director,
Legislative Reference Bureau

[Pa.B. Doc. No. 05-1319. Filed for public inspection July 15, 2005, 9:00 a.m.]

THE COURTS

Title 210—APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

[210 PA. CODE CH. 3]

Order Adopting Amendments to Pa.R.A.P. 311 and 342; No. 166 Appellate Procedural Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 29th day of June, 2005, upon the recommendation of the Appellate and Orphans' Court Procedural Rules Committees, the proposal having been published before adoption at 34 Pa.B. 5014 on September 11, 2004, and a Final Report to be published with this *Order*:

It Is Ordered, pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the amendments to the Pennsylvania Rules of Appellate Procedure 311 and 342 thereto, are adopted in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective 60 days after adoption.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART I. RULES OF APPELLATE PROCEDURE

ARTICLE I. PRELIMINARY PROVISIONS

CHAPTER 3. ORDERS FROM WHICH APPEALS MAY BE TAKEN

INTERLOCUTORY APPEALS

Rule 311. Interlocutory Appeals as of Right.

(a) *General rule.* An appeal may be taken as of right and without reference to Pa.R.A.P. 341(c) from:

* * * * *

(8) *Estate and trust matters.* An order determining the validity of a will or trust.

(9) *Other cases.* An order which is made appealable by statute or general rule.

* * * * *

(g) *Waiver of objections.*

(1) Where an interlocutory order is immediately appealable under this rule, failure to appeal:

(i) Under Subdivisions (a)(1)—(7), (a)(9), (b)(2) or (f) of this rule shall not constitute a waiver of the objection to the order and the objection may be raised on any subsequent appeal in the matter from a determination on the merits.

* * * * *

(iii) Under [**Subdivision**] Subdivisions (a)(8) or (e) of this rule shall constitute a waiver of all objections to such orders and any objection may not be raised on any subsequent appeal in the matter from a determination on the merits.

* * * * *

Explanatory Comment—2005

Orders determining the validity of a will or trust including, but not limited to, orders of the Orphans' Court following the grant or denial of probate by the Register of Wills are immediately appealable pursuant to the 2005 amendment of this rule. Prior to the 2005 amendment, the Superior Court often permitted an immediate appeal from such orders without determining the basis for an immediate appeal under the Rules of Appellate Procedure. See *Estate of Janosky*, 2003 Pa. Super. 230, 827 A.2d 512 (2003), and *Estate of Luongo*, 2003 Pa. Super. 171, 823 A.2d 942 (2003). However, in *Estate of Schmitt*, 2004 Pa. Super. 43, 846 A.2d 127 (2004), a panel of the Superior Court held that an order sustaining the Register's striking of a caveat was not immediately appealable as a final order under Pa.R.A.P. 341(b). In response to the *Schmitt* decision, the Appellate Court Procedural Rules Committee decided that while orders determining the validity of a will or trust are not strict final orders under Subdivision (b) of Rule 341, it is not practical to administer an estate or trust while there is a pending challenge to the validity of the instrument. Accordingly, a party seeking to probate an instrument, or to challenge the validity of an instrument, will be allowed to take an immediate interlocutory appeal as of right under Rule 311, and shall be bound by the waiver doctrine if such party does not file an immediate appeal. See the 2005 amendment to Subdivision (g) of this rule.

FINAL ORDERS

Rule 342. Orphans' Court Orders Appealable. Orders Determining Realty, Personalty and Status of Individuals or Entities. Orders Making Distribution.

[In addition to final orders pursuant to Subdivision (b) of Rule 341 or determined to be final under Subdivision (c) of Rule 341, an order of the Orphans' Court Division determining an interest in realty, personalty, the status of individuals or entities or an order of distribution not final under Subdivision (b) of Rule 341 or determined to be final under Subdivision (c) of Rule 341 shall constitute a final order upon a determination of finality by the Orphans' Court division.]

An order of the Orphans' Court Division making a distribution, or determining an interest in realty or personalty or the status of individuals or entities, shall be immediately appealable:

(1) upon a determination of finality by the Orphans' Court Division, or

(2) as otherwise provided by Chapter 3 of these rules.

Explanatory Comment—1976

See comment following Rule 341.

Official Note: This rule was amended in 2001 to allow appeals from orders determining an interest in realty, personalty or status of individuals or entities, upon certification of the Orphans' Court judge. Prior to the 2001 amendment, this rule only permitted appeals from an order of distribution not

final under Rule 341(b). The amendment to the rule was not intended to preclude immediate appeals in Orphans' Court matters as heretofore permitted under Rule 311 (Interlocutory Appeals as of Right) and Rule 313 (Collateral Orders).

However, Rule 342 may have been ambiguous in that regard because in *Estate of Sorber*, 2002 Pa. Super. 226, 803 A.2d 767 (2002), a panel of the Superior Court interpreted the 2001 amendment of Rule 342 to preclude immediate appeals from collateral orders unless determined to be final by the Orphans' Court judge. The holding in *Estate of Sorber*, to wit, that Rule 342 precludes collateral order appeals under Rule 313, is now superseded by the 2005 amendment to Rule 342.

The 2005 amendment provides that Rule 342 is not the exclusive means for appealing orders: (a) determining an interest in realty or personalty or the status of individuals or entities, or (b) making a distribution. An aggrieved party may appeal such orders under any other Rule in Chapter 3 of the Rules of Appellate Procedure to the extent that the order meets the requirements for appealability under any such rule.

FINAL COMMITTEE REPORT OF THE ORPHANS' COURT PROCEDURAL RULES COMMITTEE¹

Background

In 1992, the Supreme Court of Pennsylvania amended Rule 341 to redefine final orders as "any order that disposes of all claims and all parties." See Pa.R.A.P., Rule 341(b)(1), 42 Pa.C.S.A. This amendment was intended to limit excessive and unnecessary interlocutory appeals that had proliferated under the "final aspect doctrine." Under that doctrine, a final order was any order that either, disposed of the entire case, or that, as a practical matter, put the appellant out of court. The 1992 amendments to Rule 341 added Subdivision (c), which provided for immediate appeals following a certification of finality where an order dismissed fewer than all claims and all parties. The discretion to certify an immediate appeal from such orders is circumscribed by specific criteria enumerated in the Note to Rule 341. Otherwise, where an order denies a motion to dismiss less than all claims and all parties, the aggrieved party generally has to wait until the end of the entire case, or attempt to appeal under one or more of the other rules in Chapter 3 that permit an appeal of "non-final" orders.²

While elimination of the "final aspect doctrine" decreased the number of interlocutory appeals, and is thus, widely perceived by the bench and bar of this Commonwealth to have facilitated case management and the orderly administration of justice, it has caused significant problems for Orphans' Court litigants and judges. The alternative vehicles for appeal are not sufficiently inclu-

sive to allow interlocutory appeals from certain Orphans' Court orders, even though such appeals are necessary to the orderly administration and adjudication of estates, trusts and other Orphans' Court matters.

In 1996, a panel of the Superior Court decided that an appeal filed by co-executors from an order approving the sale of the family farm and farmhouse was interlocutory under the 1992 amendment redefining final orders. See *In re Estate of Habazin*, 451 Pa. Super. 421, 679 A.2d 1293 (1996). Following input from the Orphans' Court bench and bar, the Supreme Court of Pennsylvania amended Rule 342 on December 20, 2000, effective January 2, 2001, to permit an immediate appeal from orders determining an interest in realty, personalty or individual rights upon a determination of finality by an Orphans' Court judge. The 2001 version of Rule 342 did not limit the Orphans' Court judge's discretion to determine the propriety of an immediate appeal. Nonetheless, the right to appeal depended on the aggrieved party persuading the Orphans' Court judge that such an appeal is appropriate to facilitate the ultimate resolution of the case. At that time, the only way to seek review of the denial of such a determination was a petition for review, addressed to the intermediate appellate court, alleging an abuse of discretion. Such petitions are reviewed narrowly and are very rarely granted.

Since 2001, Rule 342 has permitted interlocutory appeals in Orphans' Court proceedings while providing for judicial oversight so that an aggrieved party is not given an unfettered immediate right to appeal orders such as those disposing of incidental property, making small interim distributions or permitting or compelling the payment of debts and taxes.³ Within the past two years, however, several decisions of the Superior Court raised the issue of whether the 2001 version of Rule 342 is sufficient to provide a comprehensive vehicle for interlocutory appeals in Orphans' Court matters.

For example, a number of Orphans' Court judges and practitioners expressed the view that appeals from orders removing executors or trustees, or refusing to do so, should be immediately appealable as of right. Prior to the 2001 amendment to Rule 342, such orders were considered immediately appealable as collateral orders. See *Estate of Georgiana*, 312 Pa. Super. 339, 458 A.2d 989 (1983), affirmed, 504 Pa. 510, 475 A.2d 744 (1984) (holding that such orders were separable from and collateral to the main cause of action, and that if an immediate appeal was not allowed, such orders would evade appellate review and result in the irreparable loss of important rights). See also *McGillick Foundation*, 537 Pa. 194, 642 A.2d 467 (1994) (where the Supreme Court ruled on the merits of a trustee's removal without addressing the jurisdictional issue of whether or not the Orphans' Court order was final and immediately appealable).⁴

However, in 2002, a Superior Court panel held that following the 2001 amendments to Rule 342, orders removing an executor or trustee, or declining to do so, were no longer immediately appealable. See *Estate of*

¹ The Orphans' Court Procedural Rules Committee has prepared this Final Committee Report for the convenience of the bench and bar. It is not a part of the Appellate Rules and has not been officially adopted by the Court.

² There are several other vehicles for appealing from "non-final" orders. Rule 311 permits interlocutory appeals as of right for certain specific kinds of orders, while Rules 312 and 1311 allow interlocutory appeals by permission under certain specific circumstances. Rule 313 allows an appeal as of right from collateral orders, and while such orders are not, strictly speaking, characterized as interlocutory, once the three prongs of the collateral order doctrine test are satisfied, they are not "final" in the sense of "ending the case as to all claims and all parties."

Finally, there is a procedure under Rule 341(c) for an aggrieved party to seek and obtain a "determination of finality" to permit an immediate appeal. Such determinations of finality are fictional in a sense because they are not final as to all claims and all parties, but are more closely akin to interlocutory orders appealable by permission. In order to be appealable, such orders must involve a controlling question of law in which an immediate appeal would facilitate resolution of the entire case. Subdivision (c) of Rule 341, somewhat like Rules 312 and 1311, also has strict standards as a predicate for a "determination of finality."

³ Prior to the 2005 amendments, Rule 342 provided, as follows: "In addition to final orders pursuant to Subdivision (b) of Rule 341 or determined to be final under Subdivision (c) of Rule 341, an order of the Orphans' Court Division determining an interest in realty, personalty, the status of individuals or entities, or an order of distribution not final under Subdivision (b) of Rule 341, or determined to be final under Subdivision (c) of Rule 341, shall constitute a final order upon a determination of finality by the Orphans' Court Division."

⁴ See *Geniviva v. Frisk*, 555 Pa. 589, 725 A.2d 1209 (1999) (where the Supreme Court of Pennsylvania clarified the meaning of the "importance" factor of the collateral order doctrine, stating that "... it is not sufficient that the issue be important to the particular parties. Rather, it must involve rights deeply rooted in public policy going beyond the particular litigation at hand." Id. at 598, 725 A.2d at 1214). Even absent the *Sorber* decision, the *Geniviva* case calls into question the continued use of the collateral order doctrine for appeals from Orphans' Court orders removing executors or trustees, or refusing to do so.

Sorber, 2002 Pa. Super. 226, 803 A.2d 767 (2002). In *Sorber*, the Superior Court panel interpreted Rule 342 to be the sole vehicle for appeal of "non-final" Orphans' Court orders determining an interest in realty, personalty or the status of individuals. *Sorber* held that the new Rule 342 had, in effect, overruled *Georgianna*.

Orphans' Court practitioners and judges commenting on the *Sorber* decision have unanimously stated their view that the inability to obtain immediate review of orders removing executors or trustees, or refusing to so remove them, substantially upsets the orderly administration of an estate. It is essential that there be a final determination that a competent and trustworthy fiduciary was in place to carry out, carefully and faithfully, the intentions of the testator or settlor. See *Georgianna*, *supra*.

The second decision calling the 2001 version of Rule 342 into question is *Estate of Schmitt*, 2004 Pa. Super. 43, 846 A.2d 127 (2004), appeal dismissed, _____ Pa. _____, 857 A.2d 679 (2004), where a panel of the Superior Court sua sponte quashed an appeal from an Orphans' Court order striking a caveat to a will. The *Schmitt* panel, citing *Sorber*, held that an Orphans' Court order in a matter involving the validity of a will is not "final" until confirmation of the personal representative's final account. However, an arguably different result was reached by Superior Court panels in *Estate of Janosky*, 2003 Pa. Super. 230, 827 A.2d 512 (2003), and *Estate of Luongo*, 2003 Pa. Super. 171, 823 A.2d 942 (2003), appeal denied, 577 Pa. 722, 847 A.2d 1287 (2003). In both *Janosky* and *Luongo*, the panels did not sua sponte raise the issue of whether orders determining the validity of a will are appealable as final orders, and thus, in both cases, the Superior Court decided the appeals on their merits.

In *Schmitt*, the Superior Court determined that since the aggrieved party had not requested a determination of finality under the previous Rule 342, the Orphans' Court did not need to decide whether that rule was broad enough to cover orders determining the validity of a will. The *Schmitt* decision left open the possibility that the only vehicle for appealing an order determining the validity of a will or trust might be an interlocutory appeal by permission pursuant to Rules 312 and 1311. However, because those rules mandate a strict standard which must be met before interlocutory appellate review will be allowed, including a requirement that the appeal involve a controlling question of law, Rules 312 and 1311 did not represent a realistic avenue of appeal for those seeking to challenge an Orphans' Court determination of an instrument's validity.

Some Orphans' Court judges and practitioners have suggested that orders determining the validity of a will or trust are "final orders" because they decide the only matter at issue in a will contest, to wit, the validity of the will or trust itself. The fact that there may be subsequent litigation involving the administration of a will or trust after its validity is determined by order of court does not mean that the aggrieved party should be deprived of the opportunity for an immediate appeal. Once the validity of the instrument is determined, the administration of the estate or trust may be routine and not result in a formal

accounting. Consequently, there would be no final order approving the accounting, and hence, no final, appealable order. Simply put, the failure to allow an immediate appeal from orders determining the validity of a will may put the losing party out of court without any right of appeal if he or she must wait until "confirmation of the personal representative's final account." Since that party may not be a beneficiary under the document admitted to probate, he may not have standing to compel the filing of a final account.⁵ Moreover, it would not be efficient to administer an estate under one instrument only to have it supplanted with a new instrument after a successful appeal challenging the initial instrument's validity.

Summary of Recommendation

As a result of the 2005 amendments, orders determining the validity of a will or trust are immediately appealable under Rule 311 as interlocutory appeals as of right.⁶ In order to assure that parties will have the opportunity to take an immediate appeal as of right from such orders, the Appellate Court and Orphans' Court Procedural Rules Committees have recommended, and the Supreme Court has adopted, new Rule 311(a)(8).⁷

In order to assure that orders removing executors and trustees, or refusing to remove such fiduciaries, are immediately appealable as of right, as was the practice prior to the Superior Court panel decision in *Sorber*, the Supreme Court has amended Rule 342 to clarify that the 2001 amendment was not intended to overrule the *Georgianna* case, or to otherwise preclude an aggrieved party from pursuing immediate appeals in Orphans' Court matters from any order that meets the requirements of any other Rule in Chapter 3 of the Pennsylvania Rules of Appellate Procedure. The 2005 amendment to Rule 342 authorizes interlocutory appeals by permission under Rules 312 and 1311.

However, because the standard for permitting an appeal under Rule 342 is in the discretion of the trial judge, and because the standard for permitting an interlocutory appeal pursuant to Rules 312 and 1311 is much stricter, it is doubtful, as a practical matter, that those Rules will be used as alternative bases for the appeal of orders covered by Rule 342. Moreover, any final order in an Orphans' Court matter that ends a case as to all claims and all parties is still appealable as a final order pursuant to Rule 342(b).

[Pa.B. Doc. No. 05-1320. Filed for public inspection July 15, 2005, 9:00 a.m.]

⁵ For example, in the *Pennsylvania Probate, Estates and Fiduciaries Code*, ("the P.E.F. Code"), 20 Pa.C.S.A. § 101 et seq., personal representatives who act pursuant to a will that has been admitted to probate are protected. Section 793 of the P.E.F. Code states: "No appeal from an order or decree . . . concerning the validity of a will or the right to administer shall suspend the powers or prejudice the acts of a personal representative acting thereunder."

⁶ The 2005 amendments were published in the following periodicals: *Pennsylvania Bulletin*, the *Pittsburgh Legal Journal*, *The Legal Intelligencer*, the *Pennsylvania Law Journal*, as well as on the internet website of the Administrative Office of Pennsylvania Courts. Comments were received and considered by the Committee, resulting in several changes of the Final Recommendation submitted to the Court.

⁷ Former Subdivision (a)(8) of Rule 311 concerned "other cases," in which an order was made appealable by statute or rule.

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 1910]

Order Amending Rules 1910.16-4, 1910.16-6 and 1910.17; No. 430 Civil Procedural Rules; Doc. No. 5

Amended Order

Per Curiam:

And Now, this 17th day of May, 2005, Rules 1910.16-4, 1910.16-6 and 1910.17 of the Pennsylvania Rules of Civil Procedure are amended as follows.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 1910. ACTIONS FOR SUPPORT

Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation, Formula.

* * * * *

(e) *Support Obligations When Custodial Parent Owes Spousal Support.* Where children are residing with the spouse obligated to pay spousal support **or alimony pendente lite** (custodial parent) and the other spouse (non-custodial parent) has a legal obligation to support these children, the guideline amount of spousal support **or alimony pendente lite** shall be determined by offsetting the non-custodial parent's obligation for support of the children and the custodial parent's obligation of spousal support **or alimony pendente lite**, and awarding the net difference **either to the non-custodial parent as spousal support/alimony pendente lite or to the custodial parent as child support as the circumstances warrant.**

* * * * *

Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation.

* * * * *

(b) *Health Insurance Premiums.*

(1) A party's payment of a premium to provide health insurance coverage on behalf of the other party or the children shall be allocated between the parties in proportion to their net incomes, including the portion of the premium attributable to the party who is paying it, **as long as a statutory duty of support is owed to the party who is paying the premium.** If the obligor is paying the premium, then the obligee's share is deducted from the obligor's basic support obligation. If the obligee is paying the premium, then the obligor's share is added to his or her basic support obligation. Employer-paid premiums are not subject to allocation.

(2) When the health insurance covers a **party to whom no statutory duty of support is owed** or other persons who are not parties to the support action or children who are not the subjects of the support action, the portion of the premium attributable to them must be excluded from allocation. In the event this portion is not

known or cannot be verified, it shall be calculated as follows. First, determine the cost per person by dividing the total cost of the premium by the number of persons covered under the policy. Second, multiply the cost per person by the number of persons who are not **owed a statutory duty of support, or are not parties to, or the subject of the support action.** The resulting amount is excluded from allocation.

[**For example, if**] *Example 1.* **If the parties are separated, but not divorced, and Husband pays \$200 per month [for] toward the cost of a health insurance policy provided through his employer which covers himself, Wife, the parties' child, and two additional children from a previous marriage, the portion of the premium attributable to the additional two children, if not otherwise verifiable or known with reasonable ease and certainty, is calculated by dividing \$200 by five persons and then multiplying the resulting amount of \$40 per person by the two additional children, for a total \$80 to be excluded from allocation. Deduct this amount from the total cost of the premium to arrive at the portion of the premium to be allocated between the parties—\$120. Since Husband is paying the premium, and spouses have a statutory duty to support one another pursuant to 23 Pa.C.S.A. § 4321, Wife's percentage share of the \$120 is deducted from Husband's support obligation. If Wife had been providing the coverage, then Husband's percentage share would be added to his basic support obligation.**

Example 2. **If the parties are divorced and Father pays \$200 per month toward the cost of a health insurance policy provided through his employer which covers himself, the parties' child and two additional children from a previous marriage, the portion of the premium attributable to Father and the two additional children will not be allocated between the parties. Thus, using the same calculations in Example 1, the amount of the premium attributable to Father and the two other children is \$150 (\$200 premium divided among four covered persons equals \$50 per person multiplied by three) and that amount is deducted from the total cost of the premium, leaving \$50 (\$200 - \$150 = \$50) to be allocated between the parties.**

(3) Pursuant to 23 Pa.C.S.A. § 4326, the non-custodial parent bears the initial responsibility of providing health care coverage for the children if it is available at a reasonable cost on an employment-related or other group basis.

* * * * *

Official Note: Subdivision (b) of this [Rule] rule does not apply to Medical Assistance. See 23 Pa.C.S.A. § 4326(l). **The 2005 amendments to Rule 1910.16-6(b)(1) and (2) clarify that the portion of the insurance premium covering the party carrying the insurance cannot be allocated between the parties if there is no statutory duty of support owed to that party by the other party. See *Maher v. Maher*, 575 Pa. 181, 835 A.2d 1281 (2003) and 23 Pa.C.S.A. § 4321.**

(c) *Unreimbursed Medical Expenses.* Unreimbursed medical expenses of the obligee or the children shall be allocated between the parties in proportion to their respective net incomes. **Notwithstanding the prior sentence, there shall be no apportionment of unreimbursed medical expenses incurred by a party who is not owed a statutory duty of support by the other party.** The court may direct that obligor's

share be added to his or her basic support obligation, or paid directly to the obligee or to the health care provider.

* * * * *

[Explanatory Comment—2003

Subdivision (b)(2) has been amended to clarify that in calculating the amount of the health care premium to be allocated between the parties, subdivision (b)(1) requires the inclusion of that portion of the health insurance premium covering the party who is paying the premium, but not the portion of the premium attributable to non-parties and children who are not the subjects of the support order.]

Rule 1910.17. Support Order. Effective Date. Change of Circumstances. Copies of Order.

(a) An order of support shall be effective from the date of the filing of the complaint or petition for modification unless the order specifies otherwise. However, a modification of an existing support order may be retroactive to a date preceding the date of filing if the petitioner was precluded from filing a petition for modification by reason of a significant physical or mental disability, misrepresentation of another party or other compelling reason and if the petitioner, when no longer precluded, promptly filed a petition.

Official Note: Subdivision (a) was amended in 2005 to include the statutory provision at 23 Pa.C.S.A. § 4352(e) that authorizes the court to enter a modified order that is effective to a date prior to the date on which the petition for modification was filed in certain circumstances. To the effect that the holding in *Kelleher v. Bush*, 832 A.2d 483 (Pa. Super. Ct. 2003), is inconsistent, it is superseded. See 23 Pa.C.S.A. § 4352(e) for additional provisions.

* * * * *

[Pa.B. Doc. No. 05-1321. Filed for public inspection July 15, 2005, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1, 4, 5 AND 10]

Order Promulgating New Rule 117; Amending Rules 131, 132, 430, 431, 441, 509, 519, 525, and 535; Approving the Revision of the Comment to Rule 520; and Renumbering Rule 117 as Rule 118 and Rule 118 as Rule 119; No. 324 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the June 30, 2005 promulgation of new Rule of Criminal Procedure 117; the changes to Rules of Criminal Procedure 131, 132, 430, 431, 441, 509, 519, 520, 525, and 535; and the renumbering of current Rule 117 as Rule 118 and current Rule 118 as Rule 119. The changes, which will be effective August 1, 2006, clarify the requirements for coverage to provide the services required under the Criminal Rules, and place the responsibility of ensuring sufficient availability of

issuing authorities and other officials to provide the services required by the Criminal Rules on the president judge of each judicial district. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 30th day of June, 2005, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 33 Pa.B. 5607 (November 15, 2003) and 34 Pa.B. 4412 (August 14, 2004), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vols. 833 and 853), and a Final Report to be published with this *Order*:

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

(1) New Rule of Criminal Procedure 117 is promulgated;

(2) Rules of Criminal Procedure 131, 132, 430, 431, 441, 509, 519, 525, and 535 are amended;

(3) the revision of the Comment to Rule of Criminal Procedure 520 is approved; and

(4) Rules of Criminal Procedure 117 and 118 are renumbered Rules 118 and 119 respectively, all in the following form.

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

Annex A

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

PART A. Business of the Courts

Rule 117. Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail.

(A) The president judge of each judicial district shall ensure sufficient availability of issuing authorities to provide the services required by the Rules of Criminal Procedure as follows:

(1) continuous coverage for the issuance of search warrants pursuant to Rule 203 and arrest warrants pursuant to Rule 513;

(2) coverage using one or a combination of the systems of coverage set forth in paragraph (B) to:

(a) conduct summary trials or set collateral in summary cases following arrests with a warrant issued pursuant to Rule 430(A) as provided in Rule 431(B)(3) and following arrests without a warrant as provided in Rule 441(C);

(b) conduct preliminary arraignments without unnecessary delay whenever a warrant of arrest is executed within the judicial district pursuant to Rule 516;

(c) set bail without unnecessary delay whenever an out-of-county warrant of arrest is executed within the judicial district pursuant to Rule 517(A);

(d) accept complaints and conduct preliminary arraignments without unnecessary delay whenever a case is initiated by an arrest without warrant pursuant to Rule 519(A)(1); and

(3) coverage during normal business hours for all other business.

(B) The president judge, taking into consideration the rights of the defendant and the judicial district's resources and coverage needs, by local rule promulgated pursuant to Rule 105, shall establish one or a combination of the following systems of coverage to provide the services enumerated in paragraph (A)(2):

- (1) a traditional on-call system providing continuous coverage;
- (2) an "after-hours court" or a "night court" staffed by an on-duty issuing authority and staff;
- (3) a regional on-call system; or
- (4) a schedule of specified times for after-hours coverage when the "duty" issuing authority will be available to conduct business.

(C) The president judge of each judicial district, by local rule promulgated pursuant to Rule 105, shall ensure that coverage is provided pursuant to Rule 520(B) to admit defendants to bail on any day and at any time in any case pending within the judicial district.

Comment

By this rule, the Supreme Court is clarifying the responsibility of president judges in supervising their respective judicial districts to ensure compliance with the statewide Rules of Criminal Procedure to prevent the violation of the rights of defendants caused by the lack of availability of the issuing authority. See also Rule 116 (General Supervisory Powers of President Judge) and Rule 131 (Location of Proceedings Before Issuing Authority).

Paragraph (A), derived from former Rule 132(A) (Continuous Availability), clarifies that it is the president judge's responsibility to make sure that there are issuing authorities available within his or her judicial district (1) on a continuous basis to issue search and arrest warrants, paragraph (A)(1); (2) pursuant to one or a combination of the systems of coverage enumerated in paragraph (B) to conduct summary trials and preliminary arraignments, and perform related duties, paragraph (A)(2); and (3) during normal business hours to conduct all other business of the minor judiciary, paragraph (A)(3). It is expected that the president judge will continue the established procedures in the judicial district or establish new procedures to ensure sufficient availability of issuing authorities consistent with this paragraph.

By providing the alternate systems of coverage in paragraph (B), this rule recognizes the differences in the geography and judicial resources the judicial districts.

An issuing authority is "available" pursuant to paragraph (A) when he or she is able to communicate in person or by using advanced communication technology ("ACT") with the person requesting services pursuant to this rule. See Rule 103 for the definition of ACT. Concerning the use of ACT, see Rule 118 (Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings). See also Rules 203, 513, 518, and 540 providing for the use of ACT to request and obtain warrants and conduct preliminary arraignments.

Nothing in this rule limits an issuing authority from exercising sound judicial discretion, within the parameters established by the president judge pursuant to paragraph (B), in deciding how to respond to a request for services outside normal business hours. See, e.g., Rule 509, paragraphs (1) and (2), that authorize the use of summonses instead of warrants in certain court cases;

and Rule 519(B) that requires the police officer to release a defendant arrested without a warrant in certain specified court cases.

In determining which system of coverage to elect, the president judge must consider the rights of the defendant, see, e.g., *Commonwealth v. Duncan*, 514 Pa. 395, 525 A.2d 1177 (1987), and the judicial district's resources and coverage needs, as well as the obligations of the police and attorney for the Commonwealth to ensure the defendant is brought before an issuing authority without unnecessary delay as required by law, see, e.g., Rules 431, 441, 516, 517, and 519. See also *Commonwealth v. Perez*, 577 Pa. 360, 845 A.2d 779 (2004).

When the police must detain a defendant pursuant to these rules, 61 P. S. § 798 provides that the defendant may be housed for a period not to exceed 48 hours in "the borough and township lockups and city or county prisons."

The proceedings enumerated in paragraph (A)(2) include (1) setting bail before verdict pursuant to Rule 520(A) and Rule 540, and either admitting the defendant to bail or committing the defendant to jail, and (2) determining probable cause whenever a defendant is arrested without a warrant pursuant to Rule 540(C).

Pursuant to paragraph (C), the president judge also is responsible for making sure there is an issuing authority or other designated official available within the judicial district on a continuous basis to accept bail pursuant to Rule 520(B). The president judge, by local rule, may continue established procedures or establish new procedures for the after-hours acceptance of deposits of bail by an issuing authority, a representative of the office of the clerk of courts, or such other individual designated by the president judge. See Rule 535(A). Given the complexities of posting real estate to satisfy a monetary condition of release, posting of real estate may not be feasible outside normal business hours.

When the president judge designates another official to accept bail deposits, that official's authority is limited under this rule to accepting the bail deposit, and under Rule 525 to releasing the defendant upon execution of the bail bond. Pursuant to Rule 535(A), the official is authorized only to have the defendant execute the bail bond and to deliver the bail deposit and bail bond to the issuing authority or clerk of courts.

The local rule requirements in paragraphs (B) and (C):

- (1) ensure there is adequate notice of (a) the system of coverage, thereby providing predictability in the issuing authority's duty schedule, and (b) the official authorized to accept bail; (2) promote the efficient administration of justice; and (3) provide a means for the Supreme Court to monitor the times and manner of coverage in each judicial district.

The local rules promulgated pursuant to this rule should include other relevant information, such as what are the normal business hours of operation or any special locations designated by the president judge to conduct business, that will assist the defendants, defense counsel, attorneys for the Commonwealth, police, and members of the public.

Concerning other requirements for continuous coverage by issuing authorities in Protection from Abuse Act cases, see 23 Pa.C.S. § 6110 and Pa.R.C.P.D.J. 1203.

Official Note: Former Rule 117 adopted September 20, 2002, effective January 1, 2003; renumbered Rule 118

June 30, 2005, effective August 1, 2006. New Rule 117 adopted June 30, 2005, effective August 1, 2006.

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Comment

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Committee Explanatory Reports:

Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. (July 16, 2005).

Paragraph (B) of this rule is intended to facilitate compliance with the requirement that defendants be represented by counsel at the preliminary hearing. *Coleman v. Alabama*, 399 U.S. 1 [, 90 S.Ct. 1999] (1970).

* * * * *

Rule [117] 118. Court Fees Prohibited For Two-Way Simultaneous Audio-Visual Communication.

* * * * *

Official Note: New Rule 117 adopted September 20, 2002, effective January 1, 2003; renumbered Rule 118 June 30, 2005, effective August 1, 2006.

Official Note: Formerly Rule 156, paragraph (a) adopted January 16, 1970, effective immediately; paragraph (a) amended and paragraph (b) adopted November 22, 1971, effective immediately; renumbered Rule 22 September 18, 1973, effective January 1, 1974; renumbered Rule 131 and amended March 1, 2000, effective April 1, 2001; amended March 12, 2002, effective July 1, 2002; amended May 10, 2002, effective September 1, 2002; amended June 30, 2005, effective August 1, 2006.

Committee Explanatory Reports:

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Final Report explaining the June 30, 2005 renumbering of Rule 117 as Rule 118 published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

Committee Explanatory Reports:

Rule [118] 119. Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings.

* * * * *

Comment

* * * * *

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

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Nothing in this rule is intended to limit any right of a defendant to waive his or her presence at a criminal proceeding in the same manner as the defendant may waive other rights. See, e.g., Rule 602 Comment. Negotiated guilty pleas when the defendant has agreed to the sentence and probation revocation hearings are examples of hearings in which the defendant's consent to proceed using two-way simultaneous audio-visual communication would be required. Hearings on post-sentence motions, bail hearings, bench warrant hearings, extradition hearings, and Gagnon I hearings are examples of proceedings that may be conducted using two-way simultaneous audio-visual communication without the defendant's consent. It is expected the court or issuing authority would conduct a colloquy for the defendant's consent when the defendant's constitutional right to be physically present is implicated.

Final Report explaining the June 30, 2005 deletion in paragraph (A) of "at all times" published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

Rule 132. [Continuous Availability and] Temporary Assignment of Issuing Authorities.

[(A) Continuous Availability

(1) The president judge of each judicial district shall be responsible for ensuring the availability at all times within the judicial district of at least one issuing authority.

(2) The issuing authority assigned to be on duty after business hours shall set bail as provided in Chapter 5 Part C, and shall accept deposits of bail in any case pending in any magisterial district within the judicial district.

(B) Temporary Assignment

(1)] (A) * * *

[(a)] (1) to satisfy the requirements of [paragraph (A)(1)] Rule 117;

[(b)] (2) * * *

[(c)] (3) * * *

[(d)] (4) * * *

* * * * *

[(2)] (B) * * *

[(3)] (C) A motion may be filed requesting a temporary assignment under [paragraph (B)(1)] this rule on the ground that the assignment is needed to insure fair and impartial proceedings. Reasonable notice and opportunity to respond shall be provided to the parties.

Official Note: New Rule 118 adopted August 7, 2003, effective September 1, 2003; renumbered Rule 119 and Comment revised June 30, 2005, effective August 1, 2006.

Committee Explanatory Reports:

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Final Report explaining the June 30, 2005 renumbering of Rule 118 as Rule 119 and the revision of the second paragraph of the Comment published at 35 Pa.B. 3911 (July 16, 2005).

PART C. Venue, Location, and Recording of Proceedings before Issuing Authority

Rule 131. Location of Proceedings Before Issuing Authority.

(A) An issuing authority within the magisterial district for which he or she is elected or appointed shall have jurisdiction and authority [at all times] to receive complaints, issue warrants, hold preliminary arraignments, set and receive bail, issue commitments to jail, and hold hearings and summary trials.

[(4)] (D) A motion shall be filed requesting a temporary assignment under paragraph [(B)(1)(c)] (A)(3) whenever the attorney for the Commonwealth elects to proceed under Rule 544(B) following the refile of a complaint.

Comment

[This rule is intended to impose the responsibility on the president judge to prevent the violation of the rights of defendants caused by the lack of availability of the issuing authority.

Paragraph (A)(2) requires an issuing authority on duty after business hours to set bail, as provided by law, and to accept deposits of bail in any case pending in any magisterial district within the judicial district, so that a "defendant may be admitted to bail on any date and at any time." Rule 520(B).

Nothing in this rule is intended to preclude judicial districts from continuing established procedures or establishing new procedures for the after-hours acceptance of deposits of bail by a representative of the clerk of courts' office.]

The provisions of former paragraph (A) (Continuous Availability) were incorporated into new Rule 117 (Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail) in 2005.

Paragraphs [(B)(1)(b)] (A)(2) and [(3)] (C) make explicit the authority of president judges to assign issuing authorities when necessary to insure fair and impartial proceedings, and to provide a procedure for a party to request such an assignment. Temporary assignment in this situation is intended to cover what might otherwise be referred to as "change of venue" at the [district justice] magisterial district level. See, e.g., *Sufrich v. Commonwealth*, 68 Pa. Cmwlth. 42, 447 A.2d 1124 [Pa. Cmwlth.]1982).

The motion procedure of paragraph [(B)(3)] (C) is intended to apply when a party requests temporary assignment to insure fair and impartial proceedings. The president judge may, of course, order a response and schedule a hearing with regard to such a motion. However, this paragraph is not intended to require "a formal hearing... beyond the narrow context of a motion for temporary assignment of issuing authority to insure fair and impartial proceedings predicated upon allegations which impugn the character or competence of the assigned issuing authority and which seek the recusal of the assigned issuing authority." See *Commonwealth v. Allem*, 367 Pa. Super. 173, 532 A.2d 845 [Pa. Super.] 1987) (filing and service of the written motion and answer, and allowance of oral argument were more than adequate to meet the rule's requirements).

Paragraphs [(B)(1)(c)] (A)(3) and [(4)] (D) govern those situations in which the attorney for the Commonwealth, after refile of the complaint following the withdrawal or dismissal of any criminal charges at, or prior to, a preliminary hearing, determines that the preliminary hearing should be conducted by a different issuing authority. See also Rule 544 (Reinstating Charges [following] Following Withdrawal or Dismissal). Under Rule 544, the president judge may designate another judge within the judicial district to handle reassignments.

* * * * *

Official Note: Formerly Rule 152, adopted January 16, 1970, effective immediately; amended and renumbered Rule 23 September 18, 1973, effective January 1, 1974; amended October 21, 1983, effective January 1, 1984; amended February 27, 1995, effective July 1, 1995; amended October 8, 1999, effective January 1, 2000; renumbered Rule 132 and amended March 1, 2000, effective April 1, 2001; amended June 30, 2005, effective August 1, 2006.

Committee Explanatory Reports:

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

Final Report explaining the June 30, 2005 changes to the rule correlative to the changes in procedure in new Rule 117 published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

CHAPTER 4. PROCEDURES IN SUMMARY CASES

PART D. Arrest Procedures in Summary Cases

PART D(1). Arrests With a Warrant

Rule 430. Issuance of [Arrest] Warrant.

(A) ARREST WARRANTS INITIATING PROCEEDINGS

A warrant for the arrest of the defendant shall be issued when:

[(1) the defendant fails to respond to a citation or summons that was served upon the defendant personally or by certified mail return receipt requested;

(2)] (1) * * *

[(3)] (2) * * *

[(4) the defendant has failed to appear for the execution of sentence as required in Rule 454(E)(3).]

(B) BENCH WARRANTS

(1) A bench warrant shall be issued when:

(a) the defendant fails to respond to a citation or summons that was served upon the defendant personally or by certified mail return receipt requested; or

(b) the defendant has failed to appear for the execution of sentence as required in Rule 454(E)(3).

(2) A bench warrant [for the arrest of the defendant] may be issued when a defendant has entered a not guilty plea and fails to appear for the summary trial, if the issuing authority determines, pursuant to Rule 455(A), that the trial should not be conducted in the defendant's absence.

[(C)] (3) A bench warrant [for the arrest of the defendant] may be issued when:

[(1)] (a) * * *

[(2)] (b) * * *

[(3)] (c) * * *

[(D)] (4) No warrant shall issue under paragraph [(C)] (B)(3) unless the defendant has been given notice in person or by first class mail that failure to pay the

amount due or to appear for a hearing may result in the issuance of **[an arrest] a bench** warrant, and the defendant has not responded to this notice within 10 days. Notice by first class mail shall be considered complete upon mailing to the defendant's last known address.

Comment

Personal service of a citation under paragraph **[(A)] (B)(1)** is intended to include the issuing of a citation to a defendant as provided in Rule 400(A) and the rules of Chapter 4, Part B(1).

When the defendant is under 18 years of age, and the defendant has failed to respond to the citation, the issuing authority must issue a summons as provided in Rule 403(B)(4)(a). If the juvenile fails to respond to the summons, the issuing authority should issue **[an arrest] a warrant** as provided in **either** paragraph (A)(1) **[and (2)] or (B)(1)**.

[An arrest] A bench warrant may not be issued under paragraph **[(A)] (B)(1)** when a defendant fails to respond to a citation or summons that was served by first class mail. See Rule 451.

* * * * *

Ordinarily, pursuant to Rule 455, the issuing authority must conduct a summary trial in the defendant's absence. However, if the issuing authority determines that there is a likelihood that the sentence will include imprisonment or that there is other good cause not to conduct the summary trial, the issuing authority may issue a **bench** warrant for the arrest of the defendant pursuant to paragraph (B)(2) in order to bring the defendant before the issuing authority for the summary trial.

The **[arrest] bench** warrant issued under paragraph **[(C)] (B)(3)** should state the amount required to satisfy the sentence.

When a defendant is arrested pursuant to paragraph **[(C)] (B)(3)**, the issuing authority must conduct a hearing to determine whether the defendant is able to pay the amount of restitution, fine, and costs that is due. See Rule 456.

If the defendant is under 18 years of age and has not paid the fine and costs, the issuing authority must issue the notice required by paragraph **[(D)] (B)(4)** to the defendant and the defendant's parents, guardian, or other custodian informing the defendant and defendant's parents, guardian, or other custodian that, if payment is not received or the defendant does not appear within the 10-day time period, the issuing authority will certify notice of the failure to pay to the court of common pleas as required by the Juvenile Act, 42 Pa.C.S. § 6302, definition of "delinquent act," paragraph (2)(iv). Thereafter, the case will proceed pursuant to the Rules of Juvenile Court Procedure and the Juvenile Act instead of these rules.

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Official Note: Rule 75 adopted July 12, 1985, effective January 1, 1986; effective date extended to July 1, 1986; amended January 31, 1991, effective July 1, 1991; amended April 18, 1997, effective July 1, 1997; amended October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 430 and amended March 1, 2000, effective April 1, 2001; amended February 28, 2003, effective July 1, 2003;

Comment revised August 7, 2003, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005; **amended June 30, 2005, effective August 1, 2006.**

Committee Explanatory Reports:

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Final Report explaining the June 30, 2005 changes distinguishing between warrants that initiate proceedings and bench warrants in summary cases published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

Rule 431. Procedure When Defendant Arrested With Warrant.

(A) **[A] When a warrant [of arrest] is issued pursuant to Rule 430 in a summary case, the warrant** shall be executed by a police officer as defined in Rule 103.

(1) **If the warrant is executed between the hours of 6 a.m. and 10 p.m., the police officer shall proceed as provided in paragraphs (B) or (C).**

(2) **If the warrant is executed outside the hours of 6 a.m. and 10 p.m., unless the time period is extended by the president judge by local rule enacted pursuant to Rule 105, the police officer shall call the proper issuing authority to determine when the issuing authority will be available pursuant to Rule 117.**

(B) Arrest Warrants Initiating Proceedings

(1) When **[a] an arrest warrant [of arrest]** is executed, the police officer shall either:

[(1)] (a) * * *

[(2)] (b) accept from the defendant a signed not guilty plea and the full amount of collateral if stated on the warrant; **or**

[(3) accept from the defendant the amount of restitution, fine, and costs due as specified in the warrant if the warrant is for collection of restitution, fine, and costs after a guilty plea or conviction; or]

[(4)] (c) if the defendant is unable to pay, cause the defendant to be taken without unnecessary delay before the proper issuing authority.

[(C)] (2) When the police officer accepts **[restitution,] fine[,]** and costs, or collateral under paragraphs (B)(1) **[, (2), or (3),] (a) or (b)** the officer shall issue a receipt to the defendant setting forth the amount of **[restitution,] fine[,]** and costs, or collateral received and return a copy of the receipt, signed by the defendant and the police officer, to the proper issuing authority.

[(D)] (3) When the defendant is taken before the issuing authority under paragraph (B) **[(4)] (1)(c),**

[(1)] (a) * * *

[(2)] (b) * * *

[(a)] (i) the Commonwealth is not ready to proceed, or the defendant requests a postponement or is not capable of proceeding, and in any of these circumstances, the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial; **or**

[(b)] (ii) the defendant's criminal record must be ascertained prior to trial as specifically required by statute for purposes of grading the offense charged, in which event the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial, which shall be after the issuing authority's receipt of the required information[; or].

[(c) the warrant was issued for the collection of restitution, fine, and costs after a guilty plea or conviction, in which event the issuing authority shall proceed as specified in Rule 456.

(3)] (c) * * *

(C) Bench Warrants

(1) When a bench warrant is executed, the police officer shall either:

(a) accept from the defendant a signed guilty plea and the full amount of the fine and costs if stated on the warrant;

(b) accept from the defendant a signed not guilty plea and the full amount of collateral if stated on the warrant;

(c) accept from the defendant the amount of restitution, fine, and costs due as specified in the warrant if the warrant is for collection of restitution, fine, and costs after a guilty plea or conviction; or

(d) if the defendant is unable to pay, promptly take the defendant for a hearing on the bench warrant as provided in paragraph (C)(3).

(2) When the defendant pays the restitution, fines, and costs, or collateral pursuant to paragraph (C)(1), the police officer shall issue a receipt to the defendant setting forth the amount of restitution, fine, and costs received and return a copy of the receipt, signed by the defendant and the police officer, to the proper issuing authority.

(3) When the defendant does not pay the restitution, fines, and costs, or collateral, the defendant promptly shall be taken before the proper issuing authority when available pursuant to Rule 117 for a bench warrant hearing. The bench warrant hearing may be conducted using two-way simultaneous audio-visual communication.

Comment

For the procedure in court cases following arrest with a warrant initiating proceedings, see Rules 516 [and], 517, and 518.

Section 8953 of the Judicial Code, 42 Pa.C.S. § 8953, provides for the execution of warrants of arrest beyond the territorial limits of the police officer's primary jurisdiction. See also *Commonwealth v. Mason*, 507 Pa. 396, 490 A.2d 421 ([Pa.] 1985).

Nothing in paragraph (A) is intended to preclude the issuing authority when issuing a warrant pursuant to Rule 430 from authorizing in writing on the warrant that the police officer may execute the warrant at any time and bring the defendant before that issuing authority for a hearing under these rules.

For what constitutes a "proper" issuing authority, see Rule 130.

Delay of trial under paragraph **[(D)(2)(b)] (B)(3)(b)(ii)** is required by statutes such as 18 Pa.C.S. § 3929 (pretrial fingerprinting and record-ascertainment requirements).

* * * * *

When the police must detain a defendant pursuant to this rule, 61 P.S. § 798 provides that the defendant may be housed for a period not to exceed 48 hours in "the borough and township lockups and city or county prisons."

In cases in which a defendant who is under 18 years of age has failed to "comply with a lawful sentence" imposed by the issuing authority, the Juvenile Act requires the issuing authority to certify notice of the failure to comply to the court of common pleas. See the definition of "delinquent act," paragraph (2)(iv), in 42 Pa.C.S. § 6302. Following the certification, the case is to proceed pursuant to the Rules of Juvenile Court Procedure and the Juvenile Act instead of these rules.

If the defendant is 18 years of age or older when the default in payment occurs, the issuing authority must proceed under these rules.

For the procedures required before a **[an arrest]** a bench warrant may issue for a defendant's failure to pay restitution, a fine, or costs, see Rule 430 **[(D)] (B)(4)**. When contempt proceedings are also involved, see Chapter 1 Part D for the issuance of arrest warrants.

[For what constitutes a "proper" issuing authority, see Rule 130.]

For the procedures when a bench warrant is issued in court cases, see Rule 150.

Concerning an issuing authority's availability, see Rule 117 (Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail). Pursuant to Rule 117(B), when establishing the system of coverage best suited for the judicial district, the president judge may require defendants arrested on summary case bench warrants after hours to be taken to the established night court where the defendant would be given a notice to appear in the proper issuing authority's office the next business day or be permitted to pay the full amount of fines and costs.

Concerning the defendant's right to counsel and waiver of counsel, see Rules 121 and 122.

For the procedures in summary cases within the jurisdiction of Philadelphia Traffic Court or Philadelphia Municipal Court, see Chapter 10.

Official Note: Rule 76 adopted July 12, 1985, effective January 1, 1986; Comment revised September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; Comment revised January 31, 1991, effective July 1, 1991; amended August 9, 1994, effective January 1, 1995; amended October 1, 1997, effective October 1, 1998; amended July 2, 1999, effective August 1, 1999; renumbered Rule 431 and amended March 1, 2000, effective April 1, 2001; amended August 7, 2003, effective July 1, 2004; Comment revised April 1, 2005, effective October 1, 2005; **amended June 30, 2005, effective August 1, 2006.**

Committee Explanatory Reports:

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Final Report explaining the June 30, 2005 changes distinguishing between procedures for warrants that initiate proceedings and bench warrants procedures in summary cases published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

PART D(2). Arrests Without a Warrant

Rule 441. Procedure Following Arrest Without Warrant.

* * * * *

(B) When a defendant has been arrested without a warrant, the arresting officer **[may, when the officer deems it appropriate,]** shall promptly release the defendant from custody when the following conditions have been met:

[(1) the defendant is a resident of the Commonwealth;

(2)] (1) the defendant poses no threat of immediate physical harm to any other person or to himself or herself; **and**

[(3)] (2) the arresting officer has reasonable grounds to believe that the defendant will appear as required **]; and]**.

[(4) the defendant does not demand to be taken before an issuing authority.]

* * * * *

(C) When the defendant has not been released from custody under paragraph (B),

(1) the defendant shall be taken without unnecessary delay before the issuing authority **when available pursuant to Rule 117** where a citation shall be filed against the defendant, and

[(1)] (a) * * *

[(2)] (b) * * *

[(a)] (i) * * *

[(b)] (ii) * * *

[(3)] (2) * * *

Comment

This rule **[provides]** was amended in 2005 to require the arresting police officer **[with a choice to be made based upon the criteria set forth in paragraph (B). Under the rule, the police will either]** to promptly arrange for the defendant's release **[or, if it is necessary to detain the defendant, provide for immediate trial. Prompt release allows for the completion of any post-arrest procedures authorized by law]** if the two criteria set forth in paragraph (B) are met.

"Reasonable grounds" as used in paragraph (B)(2) would include such things as concerns about the validity of the defendant's address, the defendant's prior contacts with the criminal justice system, and the police officer's personal knowledge of the defendant.

Delay of trial under paragraph **[(C)(2)(b)] (C)(1)(b)(ii)** is required by statutes such as 18 Pa.C.S. § 3929 (pretrial fingerprinting and record-ascertainment requirements). Although the defendant's trial may be

delayed under this paragraph, the requirement that the defendant be taken without unnecessary delay before the proper issuing authority remains unaffected. See also Rules 408, 413, and 423.

* * * * *

For the procedure in court cases initiated by arrest without warrant, see Rule 518.

For the procedures in summary cases within the jurisdiction of Philadelphia Traffic Court or Philadelphia Municipal Court, see Chapter 10.

Concerning an issuing authority's availability, see Rule 117 (Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail).

When the police must detain a defendant pursuant to this rule, 61 P.S. § 798 provides that the defendant may be housed for a period not to exceed 48 hours in "the borough and township lockups and city or county prisons."

Official Note: Rule 71 adopted July 12, 1985, effective January 1, 1986; Comment revised September 23, 1985, effective January 1, 1986; January 1, 1986 effective dates extended to July 1, 1986; amended August 9, 1994, effective January 1, 1995; amended May 14, 1999, effective July 1, 1999; renumbered Rule 441 and amended March 1, 2000, effective April 1, 2001; amended August 7, 2003, effective July 1, 2004; **amended June 30, 2005, effective August 1, 2006.**

Committee Explanatory Reports:

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

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Final Report explaining the June 30, 2005 changes concerning release of defendant following arrest and procedures when defendant is not released published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART B(1). Complaint Procedures

Rule 509. Use of Summons or Warrant of Arrest in Court Cases.

If a complaint charges an offense **[which]** that is a court case, the issuing authority with whom it is filed shall:

(1) issue a summons and not a warrant of arrest in cases in which the **most serious** offense charged is **[punishable by a sentence to imprisonment of not more than one year]** a misdemeanor of the second degree or a misdemeanor of the first degree in cases arising under 75 Pa.C.S. § 3802, except as set forth in paragraph (2);

(2) issue a warrant of arrest when:

(a) **[the offense charged is punishable by a sentence to imprisonment of more than five years]** one or more of the offenses charged is a felony or murder; or

* * * * *

(c) the issuing authority has reasonable grounds for believing that the defendant poses a threat of physical harm to any other person or to himself or herself; or

(d) the summons has been returned undelivered; or

[(d)] (e) * * *

[(e)] (f) the identity of the defendant is unknown[;] or

(3) issue a summons or a warrant of arrest, within the issuing authority's discretion, when the offense charged does not fall within any of the categories specified in paragraphs (1) or (2)[; or] .

[(4) when a defendant is charged with more than one offense and one of such offenses is punishable by a sentence to imprisonment for more than five years, issue a warrant of arrest.]

Comment

This rule provides for the mandatory use of a summons instead of a warrant in court cases except in the special circumstances [as specified therein] enumerated in paragraphs (2) and (3).

Before a warrant may be issued pursuant to paragraph (2)[(c)](d) when a summons is returned undelivered, the summons must have been served as provided in Rule 511(A), and both the certified mail and the first class mail must have been returned undelivered.

When a defendant has been released pursuant to Rule 519(B), the issuing authority must issue a summons.

See Rule 1003 (Procedure in Non-Summary Municipal Court Cases), paragraph (C), for the procedures for issuing a summons and a warrant in Philadelphia.

It is expected when a case meets the requirements for the issuance of a summons, the police officer will proceed during the normal business hours of the proper issuing authority except in extraordinary circumstances. See Rule 117 (Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail).

The procedure in paragraph (3) allows the issuing authority to exercise discretion in whether to issue a summons or an arrest warrant depending on the circumstances of the particular case. Appropriate factors for issuing a summons rather than an arrest warrant will, of course, vary. Among the factors that may be taken into consideration are the severity of the offense, the continued danger to the victim, the relationship between the defendant and the victim, the known prior criminal history of the defendant, etc. However, in all cases in which the defendant has been released pursuant to Rule [518] 519(B), a summons shall be issued.

Official Note: Original Rule 108 adopted June 30, 1964, effective January 1, 1965; suspended January 31, 1970, effective May 1, 1970. New Rule 108 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 102 and amended September 18, 1973, effective January 1, 1974; amended December 14, 1979, effective April 1, 1980; Comment revised April 24, 1981, effective July 1, 1981; amended October 22, 1981, effective January 1, 1982; renumbered Rule 109 and amended August

9, 1994, effective January 1, 1995; renumbered Rule 509 and amended March 1, 2000, effective April 1, 2001; Comment revised August 24, 2004, effective August 1, 2005; amended June 30, 2005, effective August 1, 2006.

Committee Explanatory Reports:

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

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Final Report explaining the June 30, 2005 amendments concerning in which cases a summons or a warrant are issued published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

PART B(3). Arrest Procedures in Court Cases

(b). Arrests Without Warrant

Rule 519. Procedure in Court Cases Initiated by Arrest Without Warrant.

* * * * *

(B) RELEASE

(1) [When the arresting officer deems it appropriate, the] The arresting officer [may] shall promptly release from custody a defendant who has been arrested without a warrant, rather than taking the defendant before the issuing authority, when the following conditions have been met:

(a) the most serious offense charged is a misdemeanor of the second degree or a misdemeanor of the first degree in cases arising under 75 Pa.C.S. § 3802;

(b) [the defendant is a resident of the Commonwealth;

(c)] the defendant poses no threat of immediate physical harm to any other person or to himself or herself; and

[(d)] (c) the arresting officer has reasonable grounds to believe that the defendant will appear as required[; and].

[(e) the defendant does not demand to be taken before an issuing authority.]

(2) When a defendant is released pursuant to paragraph (B)(1), a complaint shall be filed against the defendant within 5 days of the defendant's release. Thereafter, the issuing authority shall issue a summons, not a warrant of arrest, [shall be issued and the case] and shall proceed as provided in Rule 510.

Comment

See Rule 1003 (Procedure in Non-Summary Municipal Court Cases) for procedures in Philadelphia Municipal Court.

Paragraph (A) requires that the defendant receive a prompt preliminary arraignment. See Rule 540 (Preliminary Arraignment).

* * * * *

Paragraph (B)(1) [provides an exception to the requirement that a defendant be afforded a preliminary arraignment after a warrantless arrest. It permits an] requires the arresting officer, in specified circumstances, to release a defendant rather than take

the defendant before an issuing authority for preliminary arraignment. [Prior to 1994, this exception applied to all DUI cases, but in other cases was only available at the election of individual judicial districts. With the 1994 amendments, the exception is now an option available to arresting officers statewide and] Prior to the 2005 amendments, the release provision in paragraph (B) was optional. With the 2005 amendments, release is mandatory if the three criteria are met, and this requirement may not be [prohibited] modified by local rule.

“Reasonable grounds” as used in paragraph (B)(1)(c) would include such things as concerns about the validity of the defendant’s address, the defendant’s prior contacts with the criminal justice system, and the police officer’s personal knowledge of the defendant.

Pursuant to paragraph (B), the police will either promptly arrange for the defendant’s release or, if it is necessary to detain the defendant, proceed pursuant to paragraph (A). See Rule 117 (Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail).

Prompt release allows, of course, for the administration of any sobriety tests pursuant to the Vehicle Code, 75 Pa.C.S. § 1547, and for the completion of any procedures authorized by law.

With respect to “necessary” delay, see, e.g., *Commonwealth v. Williams*, 484 Pa. 590, 400 A.2d 1258 ([Pa.] 1979).

[Appropriate circumstances for following the procedure under paragraph (B)(1) may vary. Among the factors that may be taken into account are whether the defendant resides in the Commonwealth, and whether he or she can safely be released without danger to self or others.]

By statute, a defendant may not be released but must be brought before the issuing authority for a preliminary arraignment when a police officer has arrested the defendant for failure to comply with the registration requirements for sexual offenders, see 18 Pa.C.S. § 4915(E)(2), or when a police officer has arrested [a] the defendant in a domestic violence case, [the defendant may not be released but must be brought before the issuing authority for preliminary arraignment. See] see 18 Pa.C.S. § 2711. See also 23 Pa.C.S. § 6113(c) of the Protection from Abuse Act.

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Official Note: Original Rule 118 and 118(a) adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 118 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 130 September 18, 1973, effective January 1, 1974; amended December 14, 1979, effective April 1, 1980; amended April 24, 1981, effective July 1, 1981; amended January 28, 1983, effective July 1, 1983; Comment revised July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; renumbered Rule 102 and amended August 9, 1994, effective January 1, 1995; Comment revised September 26, 1996, effective immediately; renumbered Rule 518 and amended March 1, 2000, effective April 1, 2001; renumbered Rule 519 and amended May 10, 2002, effective September 1, 2002; amended June 30, 2005, effective August 1, 2006.

Committee Explanatory Reports:

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

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Final Report explaining the June 30, 2005 amendments concerning in which cases a defendant must be promptly released published with the Court’s Order at 35 Pa.B. 3911 (July 16, 2005).

PART C. Bail

Rule 520. Bail Before Verdict.

* * * * *

Comment

* * * * *

See *Commonwealth v. Truesdale*, 449 Pa. 325, 296 A.2d 829 ([Pa.] 1972), concerning the bail authority’s discretion to refuse bail under paragraph (A).

Under paragraph (A), whenever the bail authority is a judicial officer in a court not of record, that officer must set forth in writing his or her reasons for refusing bail, and the written reasons must be included with the docket transcript.

Rule 117(C) requires the president judge to ensure coverage is provided to satisfy the requirements of paragraph (B).

Official Note: Former Rule 4001 adopted July 23, 1973, effective 60 days hence, replacing prior Rule 4002; amended January 28, 1983, effective July 1, 1983; Comment revised September 23, 1985, effective January 1, 1986; rescinded September 13, 1995, effective January 1, 1996, and replaced by present Rule 520. Present Rule 4001 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; Comment revised September 3, 1999, effective immediately; renumbered Rule 520 and Comment revised March 1, 2000, effective April 1, 2001; Comment revised April 1, 2005, effective October 1, 2005; **Comment revised June 30, 2005, effective August 1, 2006.**

Committee Explanatory Reports:

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Final Report explaining the June 30, 2005 revision of the Comment adding a cross-reference to Rule 117(C) published with the Court’s Order at 35 Pa.B. 3911 (July 16, 2005).

PART C(1). Release Procedures

Rule 525. Bail Bond.

(A) A bail bond is a document [executed by a defendant, and, when applicable, one or more sureties,] whereby the defendant agrees that while at liberty after being released on bail, he or she will appear at all subsequent proceedings as required and comply with all the conditions of the bail bond.

(B) At the time the bail is set, the bail authority shall

(1) have the bail bond prepared; and

(2) sign the bail bond verifying the conditions the bail authority imposed.

(C) If the defendant is unable to post bail at the time bail is set, when the bail authority commits the defendant to jail, he or she shall send the prepared and verified bail bond and the other necessary paperwork with the defendant to the place of incarceration.

(D) When the defendant is going to be released, the defendant, and, when applicable, one or more sureties, shall sign the bail bond. The official who releases the defendant also shall sign the bail bond witnessing the defendant's signature.

[(B)] (E) * * *

[(C)] (F) The defendant shall not be released until he or she [executes] signs the bail bond.

[(D) A] (G) After the defendant signs the bail bond, a copy of the bail bond shall be given to the defendant, and the original shall be included in the record.

Comment

For the types of release and the conditions of release, see Rule 524.

Paragraph (G) requires the court official who accepts a deposit of bail and has the defendant sign the bail bond to include the original of the bail bond in the record of the case. See Rule 535(A) for the other contents of the record in the context of the bail deposit.

* * * * *

Official Note: Former Rule 4004 adopted July 23, 1973, effective 60 days hence, replacing prior Rule 4005; rescinded September 13, 1995, effective January 1, 1996, and replaced by Rule 523. Present Rule 4004 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 525 and amended March 1, 2000, effective April 1, 2001; amended June 30, 2005, effective August 1, 2006.

Committee Explanatory Reports:

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

Final Report explaining the June 30, 2005 changes clarifying the bail authority's responsibility concerning the preparation of the bail bond published with the Court's Order at 35 Pa.B. (July 16, 2005).

PART C(2). General Procedures in all Bail Cases
Rule 535. Receipt for Deposit; Return of Deposit.

(A) [The issuing authority or the clerk of courts who accepts a deposit of cash in satisfaction of a monetary condition of bail shall give the depositor an itemized receipt, and shall note on the transcript or in the list of docket entries and the bail bond the amount deposited and the name of the person who made the deposit.] Any deposit of cash in satisfaction of a monetary condition of bail shall be given to the issuing authority, the clerk of courts, or another official designated by the president judge by local rule pursuant to Rule 117(C). The issuing authority, clerk, or other official who

accepts the deposit shall give the depositor an itemized receipt, and shall note on the bail bond the amount deposited and the name of the person who made the deposit. The defendant shall sign the bail bond, and be given a copy of the signed bail bond.

(1) When the issuing authority accepts [such] a deposit of bail, the issuing authority shall note on the docket transcript the amount deposited and the name of the person who made the deposit. The issuing authority shall have the deposit, the docket transcript, and a copy of the bail bond [shall be] delivered to the clerk of courts.

(2) When another official is designated by the president judge to accept a bail deposit, that official shall deliver the deposit and the bail bond to either the issuing authority, who shall proceed as provided in paragraph (A)(1), or the clerk of courts, who shall proceed as provided in paragraph (A)(3).

(3) When the clerk of courts accepts the deposit, the clerk shall note in the list of docket entries the amount deposited and the name of the person who made the deposit, and shall place the bail bond in the criminal case file.

(B) When the deposit is the percentage cash bail authorized by Rule 528, the depositor shall be notified that by signing the bail bond, the depositor becomes a surety for the defendant and is liable for the full amount of the monetary condition in the event the defendant fails to appear or comply as required by these rules.

* * * * *

Comment

This rule is not intended to change current practice.

When the president judge has designated another official to accept the bail deposit as provided in Rule 117, the other official's authority under Rule 117 and this rule is limited to accepting the deposit, having the defendant sign the bail bond, releasing the defendant, and delivering the bail deposit and bail bond to the issuing authority or the clerk of courts.

A deposit of cash to satisfy a defendant's monetary bail condition that is made by a person acting as a surety for the defendant may not be retained to pay for the defendant's court costs and/or fines. See *Commonwealth v. McDonald*, 476 Pa. 217, 382 A.2d 124 ([Pa.] 1978).

Given the complexities of posting real estate to satisfy a monetary condition of release, posting of real estate may not be feasible outside the normal business hours.

* * * * *

When cash bail that is deposited in a bank pursuant to paragraph (C) is retained by a county in an interest-bearing account, case law provides that the county retains the earned interest. See *Crum v. Burd*, 131 Pa. Cmwlth. 550, 571 A.2d 1 ([Pa. Commw.] 1989), allocatur denied 525 Pa. 649, 581 A.2d 574 ([Pa.] 1990).

* * * * *

Official Note: Former Rule 4015, previously Rule 4009, adopted November 22, 1965, effective June 1, 1966; renumbered Rule 4015, former paragraph (b) integrated into paragraph (a) and new paragraph (b) adopted July 23, 1973, effective 60 days hence; rescinded September

13, 1995, effective January 1, 1996, and replaced by present Rule [535] 4015. Present Rule 4015 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 535 and amended March 1, 2000, effective April 1, 2001; amended April 20, 2000, effective July 1, 2000; amended March 3, 2004, effective July 1, 2004; **amended June 30, 2005, effective August 1, 2006.**

Committee Explanatory Reports:

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

Final Report explaining new paragraph (E) concerning the interplay with Rules 130(B) (former Rule 21(B)) and 555 (former Rule 300) published with Court's Order at 30 Pa.B. 2219 (May 6, 2000).

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Final Report explaining the June 30, 2005 changes to the rule correlative to new Rule 117 published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT

Rule 1000. Scope of Rules.

* * * * *

(B) Any procedure that is governed by a statewide [rule of criminal procedure, but which] Rule of Criminal Procedure that is not specifically covered in Chapter 10[,] or by a Philadelphia local rule adopted pursuant to Rule 105 shall be governed by the relevant statewide rule.

* * * * *

Official Note: Rule 6000 adopted December 30, 1968, effective January 1, 1969; amended March 28, 1973, effective March 28, 1973; amended July 1, 1980, effective August 1, 1980; renumbered Rule 1000 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; **amended June 30, 2005, effective August 1, 2006.**

Committee Explanatory Reports:

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

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Final Report explaining the June 30, 2005 amendments to paragraph (B) concerning local rules published with the Court's Order at 35 Pa.B. 3911 (July 16, 2005).

FINAL REPORT¹

New Pa.R.Crim.P. 117, Amendments to Pa.Rs.Crim.P. 131, 132, 430, 431, 441, 509, 519, 525, and 535, Revision of the Comment to Pa.R.Crim.P. 520, and Renumbering Rule 117 as Rule 118 and Rule 118 as Rule 119

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

Coverage: Issuing Warrants; Preliminary Arraignment and Summary Trial; Arrests Without Warrant and Release; and Setting and Accepting Bail

On June 30, 2005, effective August 1, 2006, upon the recommendation of the Criminal Procedural Rules Committee, the Court adopted new Pa.R.Crim.P. 117 (Coverage: Issuing Warrants; Preliminary Arraignments and Summary Trials; and Setting and Accepting Bail); amended Pa.Rs.Crim.P. 131 (Location of Proceedings Before Issuing Authority), 132 (Continuous Availability and Temporary Assignment of Issuing Authorities), 430 (Issuance of Arrest Warrant), 431 (Procedure When Defendant Arrested with Warrant), 441 (Procedure Following Arrest without Warrant), 509 (Use of Summons or Warrant of Arrest in Court Cases), 519 (Procedure in Court Cases Initiated by Arrest without Warrant), 525 (Bail Bond), and 535 (Receipt for Deposit; Return of Deposit); approved the revision of the Comment to Rule 520 (Bail Before Verdict); and renumbered current Rule 117 as Rule 118 and current Rule 118 as Rule 119. The changes clarify the requirements for coverage to provide the services required under the Criminal Rules, and place the responsibility of ensuring sufficient availability of issuing authorities and other officials to provide the services required by the Criminal Rules on the president judge of each judicial district.

I. INTRODUCTION

New Rule of Criminal Procedure 117 provides a clear set of procedures governing the requirements for providing adequate coverage by issuing authorities and other officials within the judicial districts to perform the services required by the Criminal Rules. In addition, the correlative changes to Rules 131, 132, 430, 431, 441, 509, 519, 520, 525, and 535 more clearly explain what the services are that require coverage.

As explained more fully in the following background discussion, these rule changes are the culmination of several years of work by

- the Criminal Procedural Rules Committee (the Committee)
- the Special Courts Administration Subcommittee of the Supreme Court's Intergovernmental Task Force to Study the District Justice System (the Subcommittee)
- the Supreme Court's District Justice Task Force Ad Hoc Committee (the Ad Hoc Committee) and
- a joint Subcommittee of Criminal Procedural Rules Committee members and District Justice Task Force Ad Hoc Committee members (the Joint Subcommittee).

The work of each of these groups identified the problems encountered by the judicial districts in meeting the current Rule 132 requirements that (1) the president judge of each judicial district must ensure the availability at all times within the judicial district of at least one issuing authority, paragraph (A)(1), and (2) the issuing authority assigned to be on duty after business hours shall set bail and shall accept deposits of bail in any case pending in any magisterial district within the judicial district. These rule changes, the product of a hard fought compromise, provide a workable resolution for these problems that is fair and equitable for defendants and issuing authorities specifically, and the bench, bar, law enforcement, and the public generally.

II. BACKGROUND

For a number of years, most recently in 2001, the Committee, pursuant to Rule 105 (Local Rules), has been

reviewing local rules that have limited the night time and weekend availability of issuing authorities. We learned from this review, in most cases, the president judges are implementing these local rules to accommodate specific problems with providing Rule 132 coverage within their judicial districts, such as geography,² unavailability of one or more magisterial district judges in their judicial districts,³ and limited police resources.⁴ Although the Committee thought these local rules may have some merit, we were concerned because the local rules conflicted with the requirements of paragraphs (A)(1) and (A)(2) of Rule 132 (Continuous Availability and Temporary Assignment of Issuing Authorities). After consulting with the president judges who had promulgated the local rules, we initiated a review of possible means to address their problems and concerns.

As the Committee was considering this matter, on November 1, 2001, the Court's Intergovernmental Task Force to Study the District Justice System released the Report of the Special Courts Administration Subcommittee. One of the issues the Court directed the Subcommittee to address was night and weekend duty coverage.⁵ After completing its review, the Subcommittee recommended to the Court that changes be implemented that would provide a menu of coverage options from which president judges could choose in order to provide the required coverage, based on the after-hours responsibilities of magisterial district judges required by rule, case law, and statute, and the types of things for which a magisterial district judge is typically called out to handle.

Following the release of the Task Force's Report, the Court appointed the Ad Hoc Committee to develop implementation strategies for specific recommendations contained in the Task Force's Report, including the recommendation about night and weekend duty coverage. The Ad Hoc Committee met several times during 2002, and developed a draft of proposed changes to the Rule 132 Comment providing the president judges with a suggested menu of coverage options to use in meeting the Rule 132 requirements based on the needs of their respective judicial districts. The Court asked the Committee to review this proposal and directed both Committees to work together on this matter. In late 2002, a Joint Subcommittee of the two Committees was convened to develop a proposal that would incorporate the respective views of the Committee, the Subcommittee, and the Ad Hoc Committee.

The Joint Subcommittee debated at length the merits of the Ad Hoc Committee's proposal for a Rule 132 Comment revision and the Committee's suggestions for changes to Rule 132, and eventually settled on a compromise procedure the members agreed provides some flex-

² For example, some judicial districts are rural, with many mountainous roads that are difficult to traverse during the winter months, making the transport of defendants at night to the on-call district justice unsafe and difficult for the police.

³ For example, in the less populated judicial districts, there are many fewer magisterial district judges to provide coverage, and when the one on-call magisterial district judge is located at the opposite end of the judicial district from the location of an arrest, the defendant and police can face travel times as long as 2 or 3 hours. In addition, when one magisterial district judge is ill and another on vacation, the remaining magisterial district judge ends up being on-call 24 hours a day for a week or two at a time, making it difficult for the magisterial district judge to properly perform his or her duties.

⁴ For example, in the less populated judicial districts and the multi-county judicial districts, where the on-call duty magistrate could be located one or two hours away from the municipality where the offense occurred, when the municipality has only one or two police officers on duty, taking one away to transport the defendant before the duty magisterial district judge puts a significant strain on the limited police resources.

⁵ The Court, in its directive to the Intergovernmental Task Force to Study the District Justice System, has acknowledged there is a need for some procedural changes in providing for afterhours coverage to alleviate some of the burdens on magisterial district judges and the strains on the judicial system encountered in some of the judicial districts while continuing to protect the rights of the defendants. The Court's directive was interpreted as suggesting that a relaxation of the twenty-four hour/seven day a week ("24/7") system would not be inappropriate as long as the changes are consistent with the rules and law.

ibility to the president judges in determining the manner of coverage for their respective judicial districts, is fair to the defendants and the issuing authorities, and provides a mechanism for the Court to continue to monitor the various systems of coverage. The Joint Subcommittee submitted its recommendation to the Committee in March 2003.

At several meetings, the Committee reviewed the Joint Subcommittee's recommendation, as well as the Report of the Special Courts Administration Subcommittee of the Court's Intergovernmental Task Force to Study the District Justice System and the Ad Hoc Committee's proposal. Using the Joint Subcommittee's recommendation as the starting point, the Committee developed this proposal encompassing the goals of the Joint Subcommittee's recommendation. The Committee members believe the proposal (1) will alleviate the concerns articulated by some members of the Committee, and of the bench and bar, that any changes to the continuous availability requirements would lead to abuses in the methods of coverage within the judicial districts and denials of the defendants' rights to a prompt preliminary arraignment; (2) provides clear guidance to the president judges and magisterial district judges who have been struggling to comply with present Rule 132(A), giving president judges reasonable options and flexibility for providing the required coverage without unduly burdening the magisterial district judges or the judicial districts while encouraging continuous, "24/7," coverage, with the preference that the president judges continue current night courts and on-call systems; and (3) satisfies the directive from the Court to address night and weekend coverage.

III. DISCUSSION

Because the problems with providing coverage by issuing authorities identified by the Subcommittee and the Ad Hoc Committee stem from the Rule 132(A) requirements, the Committee began its analysis with Rule 132. We agreed the continuous availability provisions of Rule 132 raise two issues: (1) whether available "at all times" in paragraph (A)(1) means "24 x 7" availability in all cases; and (2) whether the bail requirement in paragraph (A)(2) means that issuing authorities must be the individuals who are to accept after-hour deposits of monetary bail. In order to understand the application of the availability requirement, the Committee, as did the Subcommittee and the Ad Hoc Committee,⁶ looked to the Criminal Rules themselves, to the extent that the specific rules address when an issuing authority must be available. We noted the rules requiring coverage break down into four categories:

- Rules requiring continuous or "24/7" availability of an issuing authority.
- Rules requiring availability of an issuing authority outside normal business hours.
- Rules requiring availability of an issuing authority during official business hours.
- Rules requiring continuous or "24/7" availability of a court official.

(1) *Rules requiring continuous or "24/7" availability of an issuing authority:* We identified two rules that come within this category, Rules 203 (Requirements for Issuance) (search warrants) and 513 (Requirements of Issu-

⁶ See, e.g., page 35 of the Report of the Special Courts Administration Subcommittee of the Court's Intergovernmental Task Force to Study the District Justice System.

ance) (arrest warrants).⁷ Although there is no specific provision in either rule for when an issuing authority must be available to issue warrants, the consensus is that an issuing authority must be available whenever a search or arrest warrant is requested.

(2) *Rules requiring availability of an issuing authority outside normal business hours:* The rules in this category all affect the amount of time a defendant is detained following an arrest before appearing before the issuing authority, requiring the issuing authority to conduct an immediate trial in summary cases or a preliminary arraignment in court cases⁸ without unnecessary delay or set collateral or bail. Included in this category are Rule 431(D)(1), (2) (Procedure When Defendant Arrested with Warrant) and Rule 441(C) (Procedure Following Arrest without Warrant) that require immediate trials or that collateral be set in summary cases following an arrest; Rule 516 (Procedure in Court Cases When Warrant of Arrest is Executed Within Judicial District of Issuance) that requires the issuing authority to conduct a preliminary arraignment without unnecessary delay following execution of an arrest warrant within the county; Rule 517(A) (Procedure in Court Cases When Warrant of Arrest is Executed Outside Judicial District of Issuance) that requires the issuing authority to set bail without unnecessary delay following execution of an arrest warrant outside the county;⁹ and Rule 519(A)(1) (Procedure in Court Cases Initiated by Arrest Without Warrant) that requires the issuing authority to receive complaints and conduct a preliminary arraignment without unnecessary delay following an arrest without a warrant.

(3) *Rules requiring availability of an issuing authority during official business hours:* The rules in this category require the issuing authorities to perform the functions of the office of the issuing authority but do not have the same impact on a defendant's liberty as the rules in category (2), and therefore these duties ordinarily will be performed during the normal business hours of the issuing authority's office. The list of rules is extensive, but examples include Rules 456 (Default Procedures: Restitution, Fines, and Costs) that requires the issuing authority to conduct an immediate default hearing or set bail whenever a defendant appears pursuant to a 10-day notice or is arrested on a warrant for failure to pay costs and fines in a summary case, and 430 (Issuance of Arrest Warrant) that provides the procedures for issuing arrest warrants in summary cases.

(4) *Rules requiring continuous or "24/7" availability of a court official:* A related category of coverage includes any rules that affect the defendant's liberty and therefore require availability on a continuous or "24/7" basis by a court official, but not necessarily the issuing authority. Rule 520 (Bail Before Verdict) fits into this category because it requires that a defendant to be admitted to bail on any day and at any time, but does not specifically require that it be an issuing authority who accepts the bail deposit.

From our discussions about these rules and Rule 132(A), and the input we received from magisterial district judges and common pleas court judges, the Committee realized there is a great deal of confusion about

⁷ The Committee also noted that, although not a Criminal Rule, disposition of emergency Protection From Abuse petitions, 23 Pa.C.S. § 6101 et seq., is another proceeding that necessitates continuous or "24/7" availability by an issuing authority.

⁸ See also Rule 540 (Preliminary Arraignment) that permits an issuing authority to conduct the preliminary arraignment using two-way simultaneous audio-visual communication.

⁹ Rule 518 authorizes the use of advanced communication technology for a preliminary arraignment or posting of bail when the warrant is executed outside the judicial district.

how the Rule 132(A) continuous availability requirements apply to these different Criminal Rules. The members agreed, if the rule governing the availability of issuing authorities was broken down into the categories we enumerate above, the confusion could be eliminated, the rule would provide more guidance to the bench and bar in determining the issuing authorities' responsibilities, and the rule would be helpful from an administrative perspective. We also thought the issue of continuous availability and the rule categorization would be easier to understand if the provisions are in a separate rule. Furthermore, Rule 132 is a rule specifically for issuing authorities.¹⁰ With the inclusion of a category of rules applicable to more than issuing authorities, it makes sense to have a separate rule in the general business of the courts section, Chapter 1 Part A. Accordingly, the availability/coverage provisions in Rule 132(A) have been moved into a separate new rule, new Rule 117.¹¹ The title for this new rule, "Coverage: Issuance of Warrants; Preliminary Arraignments and Summary Trials; Setting and Accepting Bail," reflects the categories of services requiring coverage we have identified in the rules. We have used the new term, "coverage," to describe more generally the concept of an official being available to conduct the court's business and provide the services required by the rules.

A. NEW RULE 117

New Rule 117 retains the provisions from Rule 132(A) that place on the president judges the responsibility for ensuring that the coverage needs of the judicial districts are met. Paragraph (A) enumerates the coverage requirements for issuing authorities, separating the requirements into the three categories we identified above: (1) continuous, or "24/7," coverage by issuing authorities to handle search warrants and arrest warrants, paragraph (A)(1); (2) one of the systems of coverage provided in the rule to conduct summary trials and preliminary arraignments following arrests,¹² set collateral or bail, and accept complaints, paragraph (A)(2); and (3) for all other matters handled by the issuing authorities, coverage during normal business hours, paragraph (A)(3).¹³

Paragraph (B) sets forth the only systems of coverage that a president judge may choose from for the conduct of the proceedings enumerated in paragraph (A)(2).¹⁴ The president judge is given the responsibility to select one or a combination of systems of coverage that will work the best in his or her judicial district. The rule makes it clear that the president judge must consider the rights of the defendant and the judicial resources and the needs of the judicial district in making this selection. Paragraph (B) also requires the president judge to promulgate a local rule pursuant to Rule 105 to enact the selected system of coverage.

The fifth paragraph of the Comment provides a gloss on the provisions of paragraph (B), emphasizing the importance of balancing the rights of the defendant with the judicial districts' resources and coverage needs, and the obligations of the prosecution. Also included in this

¹⁰ Rule 132 is located in Chapter 1 Part C (Issuing Authorities, Venue, Location, and Recording of Proceedings).

¹¹ To accommodate new Rule 117, current Rule 117 would be renumbered Rule 118, and current Rule 118 would be renumbered Rule 119.

¹² At the preliminary arraignment, the issuing authority is required to set bail and if not previously done, to make a probable cause determination. These duties also are contemplated within the requirements of paragraph (A)(2), as explained in the Comment.

¹³ We use the term "issuing authority" in Rule 117 to make it clear that the provisions of Rule 117 apply not only to magisterial district judges but to all members of the minor judiciary and common pleas court judges when sitting as magisterial district judges.

¹⁴ The systems of coverage permitted in paragraph (B) are similar to the menu of options proposed by the Subcommittee in its Report to the Court. See page 34 et seq. of the Report of the Special Courts Administration Subcommittee of the Court's Intergovernmental Task Force to Study the District Justice System.

portion of the Comment are references to the statewide rule requirements for prompt proceedings and the pertinent case law to alert the president judges to the importance of these issues when establishing a system of coverage.

Paragraph (C) addresses the members' conclusion that Rule 520 does not require the magisterial district judge to personally handle the proffer of the bond or other security. The president judge is required to promulgate a local rule that provides for the continuous, or "24/7," coverage by the official or officials designated by the president judge to accept bail pursuant to Rule 520(B). The Comment explains that the designated official does not have to be limited to an issuing authority or an employee of the clerk of courts, and includes a cross-reference to Rule 535(A). See discussion below of the correlative amendments.

The Rule 117 Comment includes several other explanatory provisions.¹⁵ As noted in the fourth paragraph, the use of advanced communication technology to facilitate providing the coverage required by paragraph (A) is encouraged. This provision also explains an issuing authority is "available" when he or she is able to communicate in person or by using advanced communication technology with the individual requesting services.

The seventh paragraph of the Comment cross-references 61 P. S. § 798 (Temporary Detention of Prisoners), that provides:

Sheriffs, constables, members of the State constabulary, or other persons authorized by the laws of this Commonwealth to make arrests, hereafter shall have the use, for a period not to exceed forty-eight hours, of borough and township lockups and city or county prisons, for the detention of prisoners until they can be disposed of according to law, if found necessary by the officer in charge,

to provide guidance to the police when they must detain a defendant pursuant to the rules.¹⁶

The ninth paragraph of the Comment includes a provision cautioning, given the complexities of posting realty for bail, that the posting of real estate may not be feasible outside normal business hours.¹⁷

The eleventh and twelfth paragraphs highlight the importance and purpose of the local rule requirements in paragraphs (B) and (C), explaining in the eleventh paragraph that the properly promulgated local rules ensure the designation information is published and readily available to members of the bench, bar, law enforcement, and public, and provide the means for the Committee and the Court to monitor the systems of coverage. The twelfth paragraph recommends the president judges include in these local rules other relevant information such as the normal business hours of the issuing authorities or special locations that have been designated, thus providing adequate and easily accessible notice of this information.

Included as the last paragraph of the Comment is a reference to the continuous coverage requirements for issuing authorities to handle emergency petitions under the Protection from Abuse Act, 23 Pa.C.S. § 6110, and the

¹⁵ The Comment is lengthy. The detail is necessary because new Rule 117 provides a significant change from what has been the rule for coverage by issuing authorities for at least 30 years. In addition, this area of law has been the source of much confusion and debate. The Committee believes providing the bench and bar with as much guidance as possible will aid in the smooth transition to the new procedures.

¹⁶ The same cross-reference is included in the Comments to Rules 431 and 441.

¹⁷ A similar cautionary provision is being added to the Rule 535 Comment.

Rule of Civil Procedure Governing Actions and Proceedings before District Justices 1203.

B. CORRELATIVE CHANGES

A number of correlative changes have been made that accommodate the procedures in new Rule 117(C). From our review of all the issues and concerns related to the continuous availability of issuing authorities, and the obvious confusion about what the rules' require, the Committee concluded several of the Criminal Rules should be amended to more clearly establish the coverage requirements for the procedures set forth in the rules. We also took this opportunity to streamline and update some of the arrest procedures in both summary and court case.

1. Summary Case Arrest Procedures

A major issue raised with the Committee concerns the continuous availability requirement as applied to summary trials—the requirement a defendant be taken before the proper issuing authority without unnecessary delay following an arrest—and the tension between the detention of defendants in summary cases and the availability of issuing authorities to conduct the summary trials. Communications with the Committee indicated strong views on both sides of the issue—those concerned about defendants in summary cases being unnecessarily detained pending the summary trial, and those concerned about the unnecessary burden on the magisterial district courts and the police in these cases involving less serious offenses. Sensitive to these concerns, the Committee explored possible changes to lessen the burden on the minor judiciary and police while protecting the rights of the defendant.

The Committee reviewed the summary warrant procedures in Rules 430 and 431, and noted that most of the cases when summary arrest warrants are authorized under Rules 430 and 431 are cases in which the defendant has failed to do something—failed to pay the fines and costs or failed to appear—cases more akin to the bench warrant cases in common pleas court. As with court cases, the Committee thought these summary bench warrant situations should be treated differently procedurally than the warrants issued to initiate summary cases. Although a defendant arrested pursuant to a bench warrant is entitled to a hearing within a reasonable amount of time, the Committee does not believe these cases fall within the constitutional requirement of appearing before the issuing authority without unnecessary delay that applies to arrests that initiate the proceedings.

Another aspect of the issues related to the summary warrant procedures concerns when the warrants are executed. From time to time, the Committee has examined the feasibility of limiting the execution of summary case arrest warrants to specific hours, such as between 6 am and 10 pm, similar to what other jurisdictions provide in their rules.¹⁸ The Committee considered that the basis for summary case warrants ordinarily does not necessitate the warrant be executed at all hours; rather, it would be reasonable to establish a time range when the warrant may be executed, which could fall either during the normal business hours of the issuing authority or at such times that a defendant would not be unnecessarily detained.

a. Rule 430

Having agreed that the summary case rules should distinguish between warrants that initiate proceedings,

¹⁸ We also discussed a procedure used in other jurisdictions that requires the police officer to release the defendant on ROR when the warrant is executed after these hours. However, in view of the other changes the Committee is proposing, this suggestion was not deemed necessary.

“arrest warrants,” and warrants issued when a defendant has failed to do something, “bench warrants,” the Committee has divided Rule 430 into two sections: warrants to initiate summary proceedings and warrants that would be issued in all the other circumstances enumerated in Rule 430. Paragraph (A) addresses only the warrants that initiate proceedings, paragraphs (A)(2) and (A)(3) of the current rule. New paragraph (B) addresses bench warrants, incorporating the provisions of current Rule 430(A)(1), (B), (C), and (D).

b. *Rule 431*

Rule 431 currently sets forth the procedures to be used when a summary case warrant is executed. Several changes have been made to the rule that incorporate the new distinction between arrest warrants and bench warrants, and establish new procedures for bench warrants.

Paragraph (A) has been amended to be an introductory paragraph applicable to all summary case warrants issued for the arrest of the defendant. Tying the execution of summary case warrants to the Rule 117 coverage procedures, a time frame of 6 am to 10 pm has been established as the time when an issuing authority should be available to conduct the summary trial following the execution of a summary case warrant, paragraph (B), or to conduct the bench warrant hearing following the execution of a bench warrant, paragraph (C). The president judge is given the authority to provide by local rule that this time frame may be extended. Accordingly, when a warrant is executed between the hours of 6 am to 10 pm, the police officer is to proceed as provided in paragraphs (B) or (C). When a warrant is executed outside the hours of 6 am to 10 pm, the police officer is required to first call the issuing authority to find out when he or she will be available pursuant to Rule 117 to conduct the proceeding. The Committee believes establishing this time frame and requiring that the police officer communicate with the issuing authority before executing a warrant after-hours will alleviate many of the concerns expressed to the Committee by significantly reducing the number of times a issuing authority is called out after-hours to conduct a summary trial. The Comment includes the suggestion that the issuing authority may indicate on the warrant when the issuing authority will be available for the police officer to bring the defendant in for a summary trial or bench warrant hearing if the warrant is executed outside the hours of 6 am to 10 pm.

Paragraph (B) sets forth the procedures when the warrant initiates proceedings. The procedures are, for the most part, the procedures in current Rule 431. Noting the rule encourages the police officer to accept the defendant's plea and the fines and costs or collateral rather than taking the defendant before the issuing authority, the Committee agreed to limit the cases when the police officer may take the defendant in to those cases in which the defendant is unable to pay, further emphasizing that accepting the pleas and payments is the preferred procedure in summary cases.

Paragraph (C) sets forth the new bench warrant procedures. New paragraph (C)(1) enumerates the same options to be considered when executing a summary bench warrant that are in current Rule 431(B), with the three payment options set out first to encourage the police to accept payments rather than taking the defendant into custody. New paragraph (C)(2) is the same as current Rule 431(C).

Paragraph (C)(3) establishes the new procedures when a defendant is taken into custody on a bench warrant in a

summary case, requiring the defendant to be taken before the proper issuing authority for a bench warrant hearing when the issuing authority is “available pursuant to Rule 117,” and permitting the use of two-way simultaneous audio-visual communication to conduct the hearing. The Comment points out that the president judge, in determining the system of coverage for his or her judicial district pursuant to Rule 117, may require the defendant to be taken to night court if there is an established night court where the defendant would be given a notice to appear in the proper issuing authority's office the next business day or the opportunity to pay the full amount of fines and costs.

c. *Rule 441*

The changes to Rule 441 are the same as or comparable to the Rule 519 changes discussed more fully below—the prompt release provisions are mandatory if the criteria in paragraph (B) are met, the residency requirement is deleted as no longer necessary, and the meaning of “reasonable grounds” in paragraph (B)(3) is explained in the Comment.

In addition to the changes correlative to the Rule 519 changes, paragraph (C) has been amended by adding a reference to Rule 117, and the last sentence of the first paragraph of the Comment concerning completion of post-arrest procedures has been deleted because it is unnecessary and mischievous.

2. *Arrest Warrants in Court Cases*

A number of correlative changes have been made to Rules 509 (Use of Summons or Warrant of Arrest in Court Cases) and 519 (Procedure in Court Cases Initiated by Arrest Without Warrant) that address a major area of concern raised in correspondence with the Committee: what “continuous coverage” means in the context of arrests in court cases, and whether magisterial district judges are required to make themselves available immediately for every call for services from law enforcement, regardless of whether the nature of the matter really necessitates immediate availability.

The Committee noted that (1) the substantive and procedural requirements for a prompt preliminary arraignment are only triggered when there has been an arrest, and (2) Rules 509 and 519 provide for non-custodial proceedings—the use of summonses in Rule 509 and the release provisions in Rule 519¹⁹—in certain cases involving misdemeanors. After reviewing these “exceptions” to the arrest procedures, the current criteria in Rules 509 and 519 when these exceptions may be used, and the offenses that are graded misdemeanors, the Committee agreed Rules 509 and 519 should be amended to encourage the use of summonses whenever appropriate to reduce the number of cases in which an issuing authority is going to have to be available to conduct preliminary arraignments. The Committee considered providing the same grade of misdemeanor as the trigger for the mandatory summons provisions in Rule 509 and the trigger for the release provisions in Rule 519, and that the grade should be all first degree misdemeanors. However, given the seriousness of many of the first degree misdemeanors, the Committee ultimately decided to modify the outside limit for the triggers in Rules 509 and 519 to be misdemeanors of the second degree except for DUI cases in which case the outside limit would be a

¹⁹ Rule 519 requires summons be issued following any release under this rule.

misdeemeanor of the first degree in cases arising under 75 Pa.C.S. § 3802.²⁰ See Rule 509(1) and Rule 519(B)(1)(a).

a. *Rule 509*

In addition to the changes to Rule 509(1) that require the issuing authority to issue a summons and not a warrant when the most serious offense charged is a misdemeanor of the second degree or a misdemeanor of the first degree in cases arising under 75 Pa.C.S. § 3802, the following correlative changes have been made to Rule 509:

(1) paragraph (2)(a) restates the requirements for issuance of an arrest warrant to be when “one or more of the offenses charged is a felony or murder;”

(2) a new paragraph (2)(c) adds, as another consideration for when an arrest warrant should be issued rather than a summons, cases in which the defendant poses a threat of any physical harm to any other person or to himself or herself; and

(3) current paragraph (4) has been deleted as no longer necessary in view of the changes to paragraphs (1) and (2).

b. *Rule 519*

Several correlative changes also have been made to Rule 519(B). The procedure permitting the prompt release following an arrest without a warrant in Rule 519(B) was originally added to the rules in 1979 to apply only to drunk driving cases in the discretion of the police officer.²¹ The reasons offered in the Committee’s 1981 explanatory Report in support of the prompt release provision—the substantial burden the requirement of a prompt preliminary arraignment in misdemeanor cases places on the local police, the magisterial district judges, and the defendant—remain valid today.

Considering this background into the prompt release provisions and the issues related to arrests and the continuous availability of issuing authorities to conduct preliminary arraignments, the Committee reassessed the discretionary aspect of the release provision and the criteria that must be met for release. We agreed once the police officer determines the defendant meets the criteria for release, the prompt release should be mandatory. From the members’ experience and from our research, we did not discern any reasons in support of maintaining the discretionary nature of the release provision. Accordingly, paragraph (B) has been amended to require the police officer to release the defendant when the defendant satisfies the criteria set forth in the rule.

In reviewing the five criteria set forth in paragraph (B)(1), the members concluded the residency requirement in paragraph (a) and the criteria that the defendant does not demand to be taken before the issuing authority in paragraph (e) are unnecessary because these two criteria are considerations when making a judgment whether there are reasonable grounds to believe the defendant will appear as required, the criteria in paragraph (d). In view of these considerations, Rule 519(B) has been amended to require the police officer to promptly release a defendant following an arrest without a warrant when (1) the most serious offense is a misdemeanor of the second degree or a misdemeanor of the first degree in cases arising under

²⁰ Rule 519(B) as originally adopted by the Court applied only to DUI cases, and was subsequently expanded to apply to all cases in which the most serious offense was a misdemeanor of the second degree, the most serious grading for a DUI offense at that time. The DUI statute, 75 Pa.C.S. § 3802, was amended in 2004 to increase some of the penalties to misdemeanors of the first degree.

²¹ See discussion of the historical development of this procedure in the Committee’s explanatory Reports at 9 Pa.B. 2326 (July 14, 1979), 11 Pa.B. 495 (January 31, 1981), and 24 Pa.B. 4342 (August 27, 1994).

75 Pa.C.S. § 3802; (2) the defendant poses no threat of immediate physical harm to any other person or to himself or herself; and (3) the arresting officer has reasonable grounds to believe the defendant will appear as required. The Comment includes an explanation of what would be considered “reasonable grounds” as a guide to the police officer.

3. *Bail-related Procedures*

a. *Rule 525*

Several correlative amendments have been made to Rule 525. First, a new paragraph (B) has been added requiring the issuing authority to have the bail bond prepared at the time bail is set, and to sign the bail bond verifying the conditions the bail authority has imposed. New paragraph (C) directs the issuing authority to send the prepared and verified bail bond with the defendant to the jail in those cases in which the defendant is unable to post bail. Finally, as an added precaution against potential abuses, new paragraph (D) sets forth the additional requirement that the official who releases the defendant when the bail is posted must sign the bail bond indicating he or she released the defendant.

Rule 535

The correlative amendments to Rule 535 make it clear bail may be accepted by the issuing authority, the clerk of courts, or another official designated by the president judge. Paragraph (A) has been divided into subparagraphs setting forth the procedures applicable to the acceptance of bail deposits by the issuing authority, the clerk of courts, and the other official designated by the president judge. Paragraphs (A)(1) and (3) are taken from current paragraph (A). Paragraph (A)(2) is new and requires the other official to deliver the deposit and bail bond to the issuing authority or the clerk of courts to ensure proper processing of the bail deposit.

(C) *CONFORMING CHANGES*

1. *Rule 131*

The phrase “at all times” has been deleted from Rule 131(A) to avoid any possible misconstruction that this language in some way overrides what is provided in new Rule 117.

2. *Rule 132*

Rule 132(A) has been deleted since this is now covered in new Rule 117, and the title changed “Temporary Assignment of Issuing Authorities.” In addition, the provisions in the Comment addressing paragraph (A) have been deleted.

3. *Rule 520*

The Rule 520 Comment has been revised to include a cross-reference to Rule 117(C), tying the requirements of paragraph (B) that “a defendant may be admitted to bail on any day and at any time” to the provisions Rule 117(C) that requires the president judge by local rule to ensure coverage is provided pursuant to Rule 520(B).

(D) *PHILADELPHIA MUNICIPAL COURT*

As we developed the continuous availability package, the Committee received communications from Philadelphia Municipal Court concerning the impact the proposed changes would have on that court. We agreed that summary and court cases in Philadelphia Municipal Court should not be subject to the changes being proposed for Rules 431, 441, 509, and 519. To make this clear in the rules, several cross-references to Municipal Court procedures have been added to the Comments as follows:

(1) Rules 431 and 441: "For the procedures in summary cases within the jurisdiction of Philadelphia Traffic Court or Philadelphia Municipal Court, see Chapter 10."

(2) Rule 509: "See Rule 1003 (Procedure in Non-Summary Municipal Court Cases), paragraph (C), for the procedures for issuing a summons and a warrant in Philadelphia."

(3) Rule 519: "See Rule 1003 (Procedure in Non-Summary Municipal Court Cases) for procedures in Philadelphia Municipal Court."

Rule 1000(B) has been amended to specifically permit Philadelphia Municipal Court to enact local rule provisions that elaborate on their procedures that are different from the statewide procedures. This local rule requirement provides the Court and the Committee with the ability to monitor the local procedures as permitted by Rule 105.

[Pa.B. Doc. No. 05-1322. Filed for public inspection July 15, 2005, 9:00 a.m.]

[234 PA. CODE CH. 6]

Order Rescinding Rule 644; Promulgating New Rule 644; Amending Rule 646, and Approving the Revision of the Comment to Rule 647; No. 323 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the June 30, 2005 rescission of current Rule of Criminal Procedure 644 (Note Taking by Jurors); promulgation of new Rule of Criminal Procedure 644 (Note Taking by Jurors); amendments to Rule of Criminal Procedure 646 (Materials Permitted in Possession of the Jury); and revision of the Comment to Rule of Criminal Procedure 647 (Request for Instructions, Charge to the Jury, and Preliminary Instructions). New Rule 644, which will be effective August 1, 2005, permits jurors to take notes during criminal trials on a three-year trial basis, and establishes the procedures for note taking. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 30th day of June, 2005, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 33 Pa.B. 2164 (May 3, 2003), and a Final Report to be published with this *Order*:

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

- (1) Rule of Criminal Procedure 644 is rescinded;
- (2) new Rule of Criminal Procedure 644 is promulgated;
- (3) Rule of Criminal Procedure 646 is amended; and
- (4) the Comment revision to Rule of Criminal Procedure 647 is approved; all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective August 1, 2005.

Mr. Justice Nigro dissents.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART C(2). Conduct of Jury Trial

Rule 644. [Note Taking by Jurors] (Reserved).

[The jurors shall not be permitted to take notes during the course of the trial.

Comment

This rule codifies the present Pennsylvania practice that discourages note taking by jurors. Cf. Fisher v. Strader, 160 A.2d 303 (Pa. 1960); Thornton v. Weaber, 112 A.2d 344 (Pa. 1955) (both involving civil cases); Commonwealth v. Fontaine, 128 A.2d 131 (Pa. Super. 1956) (involving a criminal case).]

Official Note: Rule 1113 adopted January 24, 1968, effective August 1, 1968; renumbered Rule 644 and Comment revised March 1, 2000, effective April 1, 2001; **Rule 644 rescinded June 30, 2005, effective August 1, 2005, and replaced by new Rule 644.**

Committee Explanatory Reports:

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

Final Report explaining the rescission of present Rule 644 published with the Court's Order at 35 Pa.B. 3919 (July 16, 2005).

Rule 644. Note Taking by Jurors.

(A) When a jury trial is expected to last for more than two days, jurors shall be permitted to take notes during the trial for their use during deliberations. When the trial is expected to last two days or less, the judge may permit the jurors to take notes.

(1) The jurors shall not take notes during the judge's charge at the conclusion of the trial.

(2) The court shall provide materials to the jurors that are suitable for note taking. These are the only materials that may be used by the jurors for note taking.

(3) The court, the attorney for the Commonwealth, and the defendant's attorney, or the defendant if unrepresented, shall not request or suggest that jurors take notes, comment on the jurors' note taking, or attempt to read any notes.

(4) The notes of the jurors shall remain in the custody of the court at all times.

(5) The jurors may have access to their notes and use their notes only during the trial and deliberations. The notes shall be collected or maintained by the court at each break and recess, and at the end of each day of the trial.

(6) The notes of the jurors shall be confidential and limited to use for the jurors' deliberations.

(7) Before announcing the verdict, the jury shall return their notes to the court. The notes shall be destroyed by court personnel without inspection upon the discharge of the jury.

(8) The notes shall not be used as a basis for a request for a new trial, and the judge shall deny any request that the jurors' notes be retained and sealed pending a request for a new trial.

(B) The judge shall instruct the jurors about taking notes during the trial. At a minimum, the judge shall instruct the jurors that:

- (1) the jurors are not required to take notes, and those jurors who take notes are not required to take extensive notes;
- (2) note taking should not divert jurors from paying full attention to the evidence and evaluating witness credibility;
- (3) the notes merely are memory aids, not evidence or the official record;
- (4) the jurors who take few or no notes should not permit their independent recollection of the evidence to be influenced by the fact that other jurors have taken notes;
- (5) the jurors may not show their notes or disclose the contents of the notes to other jurors until deliberations begin, but may show the notes or disclose the contents during deliberations;
- (6) the jurors may not take their notes out of the courtroom except to use their notes during deliberations; and
- (7) the jurors' notes are confidential, will not be reviewed by the court or anyone else, will be collected before the verdict is announced, and will be destroyed immediately upon discharge of the jury.

(C) This rule is rescinded three years from the effective date.

Comment

This rule was adopted in 2005 to permit the jurors to take notes during the course of any trial that is expected to last more than two days. Pursuant to this rule, except for trials expected to last two days or less, the jury may take notes as a matter of right without the permission of the court. See, e.g., ABA Standards For Criminal Justice, Second Edition, Standard 15-3.2 (Note taking by jurors) (1980). This is a temporary rule promulgated for the purpose of assessing whether juror note taking in criminal cases is beneficial to the system of justice in Pennsylvania.

The judge must instruct the jurors concerning the note taking. Paragraph (B) sets forth the minimum information the judge must explain to the jurors. The judge also must emphasize the confidentiality of the notes.

It is strongly recommended the judge instruct the jurors along the lines of the following:

We will distribute notepads and pens to each of you in the event you wish to take notes during the trial. You are under no obligation to take notes and it is entirely up to you whether you wish to take notes to help you remember what witnesses said and to use during your deliberations.

If you do take notes, remember that one of your responsibilities as a juror is to observe the demeanor of witnesses to help you assess their credibility. Do not become so involved with note taking that it interferes with your ability to observe a witness or distracts you from hearing the questions being asked the witness and the answers being given by the witness.

Your notes may help you refresh your recollection of the testimony and should be treated as a supplement to, rather than a substitute for, your memory. Your notes are only to be used by you as memory aids

and should not take precedence over your independent recollection of the facts.

Those of you who do not take notes should not be overly influenced by the notes of other jurors. It is just as easy to write something down incorrectly as it is to remember it incorrectly and your fellow jurors' notes are entitled to no greater weight than each juror's independent memory. Although you may refer to your notes during deliberations, give no more or no less weight to the view of a fellow juror just because that juror did or did not take notes. Although you are permitted to use your notes for your deliberations, the only notes you may use are the notes you write in the courtroom during the proceedings on the materials distributed by the court staff.

Each time that we adjourn, your notes will be collected and secured by court staff. Your notes are completely confidential and neither I nor any member of the court's staff will read your notes, now or at any time in the future. After you have reached a verdict in this case, your notes will be destroyed immediately by court personnel. Pennsylvania Bar Association Civil Litigation Update, *Juror Note-taking in Civil Trials: An Idea Whose Time Has Come*, Volume 5, No. 2 (Spring 2002), at 12.

Pursuant to paragraph (B)(6), the jurors are not permitted to remove the notes from the courtroom during the trial.

Pursuant to paragraph (A)(7), the judge must ensure the notes are collected and destroyed immediately after the jury renders its verdict. The court may designate a court official to collect and destroy the notes.

Official Note: Rule 1113 adopted January 24, 1968, effective August 1, 1968; renumbered Rule 644 and Comment revised March 1, 2000, effective April 1, 2001. Rule 644 rescinded June 30, 2005, effective August 1, 2005. New Rule 644 adopted June 30, 2005, effective August 1, 2005.

Committee Explanatory Reports:

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

Final Report explaining the provisions of new Rule 644 allowing note taking by jurors published with the Court's Order at 35 Pa.B. 3919 (July 16, 2005).

Rule 646. Material Permitted in Possession of the Jury.

* * * * *

(C) The jurors shall be permitted to have their notes for use during deliberations.

Comment

This rule prohibits the jury from receiving a copy of the indictment or information during its deliberations. The rule also prohibits the jury from taking into the jury room any written or otherwise recorded confession of the defendant. In *Commonwealth v. Pitts*, 450 Pa. 359, 301 A.2d 646, 650 n. 1 ([Pa.] 1973), the Court noted that "it would be a better procedure not to allow exhibits into the jury room which would require expert interpretation."

The 1999 amendment to paragraph (B) makes it clear that the trial court is prohibited from sending written jury instructions with a jury for use during deliberations. See *Commonwealth v. Karaffa*, 551 Pa. 173, 709 A.2d 887

([Pa.] 1998), in which the Court held it was reversible error to submit written jury instructions to the jury.

The 1996 amendment adding “or otherwise recorded” in paragraph (B)(2) is not intended to enlarge or modify what constitutes a confession under this rule. Rather, the amendment is only intended to recognize that a confession can be recorded in a variety of ways. See *Commonwealth v. Foster*, 425 Pa. Super. 61, 624 A.2d 144 ([Pa. Super.] 1993).

Paragraph (C) was added in 2005 to make it clear that the notes the jurors take pursuant to Rule 644 may be used during deliberations.

* * * * *

Official Note: Rule 1114 adopted January 24, 1968, effective August 1, 1968; amended June 28, 1974, effective September 1, 1974; Comment revised August 12, 1993, effective September 1, 1993; amended January 16, 1996, effective July 1, 1996; amended November 18, 1999, effective January 1, 2000; renumbered Rule 646 March 1, 2000, effective April 1, 2001; **amended June 30, 2005, effective August 1, 2005.**

Committee Explanatory Reports:

* * * * *

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

Final Report explaining the amendment concerning jurors’ notes published with the Court’s Order at 35 Pa.B. 3919 (July 16, 2005).

Rule 647. Request for Instructions, Charge to the Jury, and Preliminary Instructions.

* * * * *

Comment

* * * * *

Paragraph (D), added in 1985, recognizes the value of jury instructions to juror comprehension of the trial process. It is intended that the trial judge determine on a case by case basis whether instructions before the taking of evidence or at anytime during trial are appropriate or necessary to assist the jury in hearing the case. The judge should determine what instructions to give based on the particular case, but at a minimum the preliminary instructions should orient the jurors to the trial procedures and to their duties and function as jurors. In addition, it is suggested that the instructions may include such points as **note taking**, the elements of the crime charged, presumption of innocence, burden of proof, and credibility. Furthermore, if a specific defense is raised by evidence presented during trial, the judge may want to instruct on the elements of the defense immediately after it is presented to enable the jury to properly evaluate the specific defense. See also Pennsylvania Suggested Standard Criminal Jury Instructions, Chapter II (1979).

Official Note: Rule 1119 adopted January 24, 1968, effective August 1, 1968; amended April 23, 1985, effective July 1, 1985; renumbered Rule 647 and amended March 1, 2000, effective April 1, 2001; **Comment revised June 30, 2005, effective August 1, 2005.**

Committee Explanatory Reports:

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

Final Report explaining the Comment revision concerning the note taking instruction published with the Court’s Order at 35 Pa.B. 3919 (July 16, 2005).

FINAL REPORT¹

New Pa.R.Crim.P. 644; Amendments to Pa.R.Crim.P. 646; and Revision of the Comment to Pa.R.Crim.P. 647

Juror Note Taking

On June 30, 2005, effective August 1, 2005, upon the recommendation of the Criminal Procedural Rules Committee, the Court rescinded current Rule of Criminal Procedure 644 (Note Taking by Jurors); promulgated new Rule of Criminal Procedure 644 (Note Taking by Jurors); amended Rule of Criminal Procedure 646 (Materials Permitted in Possession of the Jury); and approved the revision of the Comment to Rule of Criminal Procedure 647 (Request for Instructions, Charge to the Jury, and Preliminary Instructions). New Rule 644 permits jurors to take notes during criminal trials on a three-year trial basis, and establishes the procedures for note taking.

I. INTRODUCTION

New Rule 644 and the correlative rule changes are the result of lengthy discussions, extensive and thorough research, and a nationwide evolution in the manner in which jury trials are conducted in both the criminal and civil sides of the courts.

The prohibition on juror note taking was the product of several common misconceptions held by many members of the judiciary and individuals who work within the judicial system concerning how jurors should approach trials to ensure impartial findings: jurors should be passive, and should not be permitted to take or use notes, or ask questions, during trial and deliberations; jurors should be “clean slates” and wipe all their life experiences, prejudices, and biases away at the start of trial; jurors should be “recorders” and should remember all information that is presented from case orientation through instructions, facts, and charges; and jurors should remain open-minded throughout the trial process. In the last twenty or so years, the extensive research into these misconceptions and studies of juror note taking has revealed that, in reality, active learners learn better, and for example, if jurors take a more active role during the trial process, they better learn about the trial procedures and the facts of the case they are trying; jurors have their lifetime of experiences, prejudices, and biases, and they view the trial through these experiences; people do not and cannot remember everything, and although they may like to recall all that is presented to them during a trial, their memories are selective; and jurors begin to construct a “story” in their minds from the moment they begin to hear information concerning the trial.

II. BACKGROUND

During the past several years, the Committee has visited and revisited the concept of jury trial innovations generally, and specifically the issue of note taking by jurors. The Committee’s interest in this review is kindled annually by the correspondence we receive from members of the bench, bar, and public suggesting that the prohibition on note taking should be removed. In fact, each time another jurisdiction has changed their rules, statutes, or case law to specifically authorize jurors to take notes

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

during trial, one regular correspondent has sent a request to the Committee to consider proposing that the note taking prohibition be lifted.

The Committee's current "re-review" of the note taking issue was undertaken in light of several factors: Pennsylvania is the only jurisdiction that does not permit note taking by jurors in criminal cases and to have an explicit prohibition on note taking by jurors; the issue of note taking by jurors has been receiving a lot of attention from the Legislature, the media, and some Pennsylvania trial judges;² and the members' own favorable experiences with note taking in other jurisdictions, including the federal courts. In addition, during the time of this re-review, the Court adopted the Civil Procedural Rules Committee's proposal permitting juror note taking in civil cases. See Pa.R.Civ.P. 223.2.

A. Committee Rule History

The issue of jurors taking notes was before the Committee as early as 1965 when the Committee suggested to the Court that note taking by jurors should be permitted in the discretion of the judge. However, after further consideration of this issue, including a thorough review of the case law,³ although recognizing that benefits might inure to the judicial process through discretionary permission to take notes, when warranted by the type of evidence presented and accompanied by the proper instructions, the Committee in June 1967 reversed its recommendation explaining to the Court the Committee's view that a blanket prohibition would be easier to administer. In 1984 during a review of the jury trial rules, the Committee recommended to the Court that the rule prohibition concerning note taking by jurors be changed to a permissive rule that would allow jurors to take notes,⁴ but the Court declined to adopt the recommendation.

B. Research

The Committee also researched other jurisdictions' rules, statutes, and case law, particularly our sister states;⁵ consulted the studies and reports by "jury innovation experts,"⁶ and had a presentation by some experts in

the field on the current practices nationwide for note taking and other jury innovations.⁷ All this research has revealed that note taking has been well accepted by the bench, bar, jurors, and parties, has had a positive effect on the trials in which it has been used, and has not caused problems or interruptions or delays in the trial process.

III. DISCUSSION OF RULE CHANGES

A. New Rule 644⁸

Because the prohibition on note taking by jurors has remained unchanged since 1968, and to emphasize the change to permit note taking, current Rule 644 prohibiting note taking has been rescinded, and new Rule 644 permitting note taking by jurors and establishing the procedures to effectuate note taking was promulgated.

Paragraph (A)

When the Committee published its explanatory Report for comment,⁹ proposed paragraph (A) provided that juror note taking would be permitted in every case, and the jurors would decide for themselves whether to take notes. At the request of the Court that new Rule 644 conform with the provisions of Civil Rule 223.2, paragraph (A) has been modified to incorporate the same mandatory/discretionary distinction based on the anticipated length of trial as provided in Civil Rule 223.2(a)(1) and the Note, so jurors are permitted to take notes in all cases lasting three days or longer, and in cases lasting two days or less, juror note taking is permitted only in the discretion of the trial judge.

Paragraphs (A)(1) through (A)(8) set forth the requirements for juror note taking. Paragraph (A)(1) prohibits the jurors from taking notes during the judge's charge at the conclusion of the trial. This requirement was added to conform with Civil Rule 223.2(a)(2).

Paragraph (A)(2) requires the court to provide suitable note taking materials to the jurors, and that these "court supplied" materials are the only materials the jurors may use for note taking. This paragraph makes it clear that the jurors are not permitted to bring outside materials for note taking. For example, a juror could not bring in his or her laptop computer or palm pilot to "store" his or her notes—a practice the Committee thinks would be distracting to other jurors and problematic for the court to control the notes and protect the confidentiality of the notes.

Paragraphs (A)(4), (5), and (6) require the jurors' notes to remain in the custody of the court at all times, spell out when the jurors may have access to their notes, and emphasize the notes of the jurors are confidential and the use of the notes is limited to deliberations. These paragraphs make it clear that the notes of the jurors are the property of the court, and safeguard against misuse, whether intended or unintended, of the notes by ensuring the notes are maintained by the court.

Paragraphs (A)(3) and (A)(8), added to Rule 644 to conform with Civil Rule 223.2(d)(1) and (d)(2), are cau-

Innovations at pp. 141-143 (1997), American Judicature Society, *Toward More Active Juries: Taking Notes and Asking Questions* (1991), B. Michael Dann, "Learning Lessons and Speaking Rights: Creating Educated and Democratic Juries," 68 *Ind. L.J.* 1229 (1993), B. Michael Dann, "Free the Jury," 23 *NO.1 Litigation* 5 (1996).

⁷The presenters were G. Thomas Munsterman, Director for Jury Studies at the National Center for State Courts, Hon. B. Michael Dann, Visiting Fellow at the National Institute of Justice, and Hon. Barry Schneider, Trial Judge in Phoenix, AZ.

⁸New Rule 644 is substantively in conformity with Civil Rule 223.2 thereby providing a standard, uniform procedure for juror note taking in civil and criminal cases. However, because the Criminal Rules and Civil Rules historically have been different in style and format, Rule 644 is stylistically and cosmetically consistent with the Criminal Rule format.

⁹See 33 Pa.B. 2165 (May 3, 2003).

²See, for example, Pennsylvania Bar Association Civil Litigation Update, Hon. Thomas King Kistler & Hon. Terrence R. Nealon, *Juror Note-taking in Civil Trials: An Idea Whose Time Has Come*, Volume 5, No. 2 (Spring 2002), at 12.

³The prohibition on note taking in Pennsylvania evolved from three cases: *Thornton v. Weber*, 380 Pa. 590, 112 A.2d 344 (1955); *Commonwealth v. Fontaine*, 183 Pa. Super. 45, 128 A.2d 131 (1956); and *Fisher v. Strader*, 399 Pa. 222, 160 A.2d 203 (1960). In *Thornton v. Weber*, the Supreme Court firmly established the note taking prohibition with favorable reference to the Indiana Supreme Court's decision in *Cheek v. State*, 35 Ind. 492 (1871).

In a well-reasoned opinion the Supreme Court of Indiana spoke to this subject as follows: "The juror is to register the evidence, as it is given, on the tablets of his memory, and not otherwise. Then the faculty of the memory is made, so far as the jury is concerned, the sole depository of all the evidence that may be given; unless a different course be consented to by the parties, or the court. *Burrill Cit. Ev* (2d ed.) 108 and note (a). The jury should not be allowed to take the evidence with them to their room, except in their memory. It can make no difference whether the notes are written by a juror or by some one else. Jurors would be too apt to rely on what might be imperfectly written, and thus make the case turn on part only of the facts. (*Cheek v. State*, 35 Ind. 492, 495.)"

In *Fontaine*, the Superior Court reaffirmed the note taking prohibition articulated by the Supreme Court. Finally, in *Fisher v. Strader*, the Supreme Court reaffirmed its decision in *Thornton v. Weber*, again relying on *Cheek*. (Note: on December 21, 2001, Indiana Rule 20 (Preliminary Instructions) that recognizes juror note taking by requiring trial courts to give the instruction that jurors may take notes was adopted, effective January 1, 2003, after the Indiana Courts since 1970 had eroded the holding in *Cheek* finding no authority in support of the rule prohibiting juror note taking announced in *Cheek*. See *Stevenson v. State*, 742 N.E.2d 463 (Ind. 2001), *Maxie v. State*, 481 N.E.2d 1087 (Ind. 1985), and *Dudley v. State*, 263 N.E.2d 161 (Ind. 1970).

⁴See Committee's Explanatory Report at 14 Pa.B. 3359 (September 29, 1984). At that time, the Committee was exploring various jury innovations and had been conducting limited, controlled experiments (by the judges on the Committee, with the consent of the parties, followed by exit questionnaires) with juror questions and tape recorded jury instructions.

⁵New York; New Jersey; Delaware; Maryland; West Virginia; Ohio; Massachusetts; and Kentucky.

⁶See, e.g., Larry Heuer and Steven Penrod, "Increasing Juror Participation in Trials Through Notetaking and Question Asking," 79 *Judicature* 256 (1996), Larry Heuer and Steven Penrod, "Tweaking Commonsense," 3 *Psych. Pub. Pol. and L.* 259 (1997), G. Thomas Munsterman, Paula L. Hannaford, and G. Marc Whitehead, *Jury Trial*

tionary provisions that specifically prohibit the attorneys or the defendant from suggesting the jurors take notes or trying to read the notes, and from using the notes for post-trial challenges.

Finally, paragraph (A)(7) requires that, before the verdict is announced, the jury must return their notes to the court, and the court personnel must destroy the jurors' notes upon discharge of the jury. This procedure ensures confidentiality of the notes, and also prevents the notes from becoming the subject of appeals.

Paragraph (B)

Paragraph (B) requires that the judge instruct the jurors about taking notes during the trial. Because of the significant change in practice the new procedure establishes, paragraph (B)(1)–(7) sets forth specific areas of instruction, comparable to the requirements set forth in Civil Rule 223.2(b), including: 1) taking notes is the juror's decision; 2) the importance of not allowing the note taking to interfere with the juror's observation of the proceedings; 3) parameters for using the notes; 4) confidentiality, security, and destruction of the notes. This is the minimum information the judge must explain to the jurors during the instructions.

The Comment augments the jury note taking instructions required by the new rule by setting forth a suggested set of jury instructions related to the jurors taking notes,¹⁰ instructions we believe will provide guidance to the judges as they prepare their juror instructions in this new and important area of procedure.

Paragraph (C)

Paragraph (C) sets forth the three-year sunset provision the Court has imposed to provide adequate opportunity to study juror note taking in criminal cases.

B. Correlative Changes: Rules 646 (Material Permitted in Possession of the Jury) and Rule 647 (Request for Instructions, Charge to the Jury, and Preliminary Instructions)

The Committee also is recommending correlative changes to Rules 646 and 647. Rule 646 includes a new paragraph (C) that makes it clear the jury may take their notes with them for use during deliberations. The Comment to Rule 647 has been changed to also include as "suggested preliminary instructions" that the trial judge include instructions on note taking.

[Pa.B. Doc. No. 05-1323. Filed for public inspection July 15, 2005, 9:00 a.m.]

Title 25—LOCAL COURT RULES

BERKS COUNTY

Administrative Order Relative to Amendment of Rules of Civil Procedure; No. 98-8009 Prothonotary; No. 1-MD-2005 Clerk of Courts

Order

And Now, this 18th day of May, 2005, as a result of the approval and adoption of the Berks County Rules Of Civil

¹⁰ The *Handbook of Pennsylvania Trial Judges* also advocates note taking and includes a suggested jury note taking instruction that is similar to the suggested note taking instruction the Committee has included in the new Rule 644 Comment.

Procedure Governing Petition And Motion And Practice, and the subsequent amendment thereto by Order entered on January 4, 2005, which follows, it is hereby *Ordered* that Berks County Rules Of Civil Procedure 206.5(d), 206.7(d), 207, 208, 1028(a) and 1028(c), are *Rescinded* in their entirety and made null and void effective this date, but no rights acquired thereunder shall be disturbed.

The District Court Administrator of Berks County is further *Ordered* and *Directed* to do the following:

1. File ten (10) certified copies of this Order with the Administrative Office of Pennsylvania Courts for distribution in accordance with Pa.R.J.A. 103(c);
2. File two (2) certified copies of this Order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
3. File one (1) certified copy of this Order with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania;
4. File one (1) certified copy of this order with the Berks County Law Library; and
5. Have other, non-certified copies of this Order continually available for public inspection and copying.

By the Court

ARTHUR E. GRIM,
President Judge

Administrative Order Adopting and Establishing Effective Date for Rules of Court Governing Petition and Motion Practice; No. 98-8009 Prothonotary; No. 1-MD-2005 Clerk of Courts

Order

And Now, this 4th day of January, 2005, it is hereby *Ordered* that Rule 208.3(b)(1) of the Berks County Rules Of Civil Court Governing Petition And Motion Practice, as adopted and approved by the 23rd Judicial District on June 15, 2004, is amended to read as follows:

- (1) motions which do not involve disputed facts for which a record must be developed shall proceed in accordance with B.R.C.P. 211.1 through 211.7, inclusive, which can be found at the Berks County Website, www.co.berks.pa.us/courts.

By the Court

ARTHUR E. GRIM,
President Judge

[Pa.B. Doc. No. 05-1324. Filed for public inspection July 15, 2005, 9:00 a.m.]

DELAWARE COUNTY

Amendment to Local Rule 1920.54 Petitions for Leave to Withdraw as Counsel, Reconsideration and Appeal of Decisions Rendered by the Master in Equitable Distribution; 05-193

Order

And Now, to wit, this 21st day of June, 2005, it is hereby *Ordered* that Delaware County Local Rule 1920.54 is *Amended* to provide as follows:

- (J)(i) In cases assigned to the Equitable Distribution Masters for disposition, petitions filed by counsel seeking

Leave to Withdraw as Counsel shall be filed pursuant to Local Rule 206.8. All Petitions filed by Counsel seeking Leave to Withdraw as Counsel, and the Certification required in connection therewith, shall be filed at least ten (10) days prior to any scheduled proceeding before the Equitable Distribution Master.

(ii) At the time of the filing of the Petition, or prior to the Hearing Date assigned thereto, petitioning counsel, when appropriate, may file a Certification reporting that all parties and counsel have been notified of the filing of the Petition, and that there is no opposition thereto. Upon the filing of such a Certification, the matter shall be removed from the Hearing List, and the Order submitted with the Petition shall be entered as a matter of course.

(K)(i) The parties to a Decision of an Equitable Distribution Master shall have the right to seek Reconsideration of the Decision by the filing of a detailed Petition within fourteen (14) days of the date of entry of the Decision. Grounds for Reconsideration shall be limited to miscalculation, failure of the Master to consider specific assets or liabilities, and other or similar errors. Reconsideration shall not lie in order to permit re-litigation by the parties of an award or denial of Alimony or Counsel Fees or Costs, the percentage of division, or other issues related to the dispositive plan decided-upon by the Master.

The Petition for Reconsideration shall be referred immediately to the Master making the Decision for disposition. Filing of the Petition shall not, in and of itself, serve to stay the time for Appeal. Grant of the Petition for Reconsideration shall act as a Supersedeas of all matters.

(ii) The parties to a decision of an Equitable Distribution Master shall have the right of Appeal from the Decision of the Equitable Distribution Master by the filing of a Request for Hearing De Novo within twenty (20) days of the date of entry of the Decision.

(iii) A party filing an Appeal of a Decision of the Equitable Distribution Master shall pay a fee to the Office of Judicial Support in the amount of Three Hundred Dollars (\$300.00) in consideration thereof.

By the Court

KENNETH A. CLOUSE,
President Judge

[Pa.B. Doc. No. 05-1325. Filed for public inspection July 15, 2005, 9:00 a.m.]

WESTMORELAND COUNTY
Adopting Rule W1910.11; No. 3 of 2005

Order

And Now, this 29th day of June, 2005, *It Is Hereby Ordered* that Westmoreland County Rule of Civil Procedure W1910.11 is adopted.

By the Court

DANIEL J. ACKERMAN,
President Judge

W 1910.11 Office Conference.

(a) The noncustodial parent should be prepared to pay the accumulated support due (arrearages) at the time of the conference.

(1) All accumulated support due from the entry of the complaint is due immediately upon entry of the temporary or consent support order.

(2) Upon verification, credit towards accumulated support due may be given to the defendant for direct payments to the plaintiff made prior to or at the conference.

(3) If an order is not entered at the time of the conference, payment of accumulated support due up to the date the order is received is due immediately upon receipt of the order.

(b) The filing of a Petition for a de novo proceeding before a hearing officer shall not stay payment of accumulated support due or payments pursuant to the temporary order.

(c) When a wage withholding order is issued, the defendant shall make payments to the State Collection and Disbursement Unit (SCDU) until payroll deductions begin.

[Pa.B. Doc. No. 05-1326. Filed for public inspection July 15, 2005, 9:00 a.m.]

WESTMORELAND COUNTY
Adopting Rule W1910.21; No. 3 of 2005

Order

And Now, this 29th day of June, 2005, *It Is Hereby Ordered* that Westmoreland County Rule of Civil Procedure W1910.21 is adopted.

By the Court

DANIEL J. ACKERMAN,
President Judge

W1910.21 Support Order. Enforcement. Withholding of Income.

Pursuant to Pa.R.C.P. 1910.21(f), upon review of the Domestic Relations Section and without the need of a hearing, the DRS may administratively assess a payment of no more than 15% of the obligation toward any arrearages, current or future.

[Pa.B. Doc. No. 05-1327. Filed for public inspection July 15, 2005, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE ARCHITECTS LICENSURE BOARD [49 PA. CODE CH. 9] Definitions and Fees

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

A. *Effective Date*

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

B. *Statutory Authority*

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

C. *Background and Purpose*

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

The final-form rulemaking, therefore, defines “sole proprietorship” and clarifies which firm practices are subject to the annual renewal fee.

D. *Description of Amendment*

The final-form rulemaking amends § 9.2 to define sole proprietorship as “[a] business form solely owned by an individual architect licensed in this Commonwealth.”

The final-form rulemaking further amends § 9.3 to clarify that only partnerships, professional associations, professional corporations, limited liability companies and limited liability partnerships are subject to the annual renewal fee for registered architecture firms.

E. *Comment and Regulatory Review of Proposed Rulemaking*

On March 30, 2004, the Board, in accordance with the Regulatory Review Act (71 P. S. §§ 745.1—745.15), submitted a copy of proposed rulemaking to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC), the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). Notice of proposed

rulemaking was published at 34 Pa.B. 1948 (April 10, 2004) with an invitation for public comment.

The Board did not receive any comments from the SCP/PLC, the HPLC or IRRC. A comment was received from AIA Pennsylvania (a Society of the American Institute of Architects). AIA Pennsylvania commented that, in its opinion, the Board’s definition of “sole proprietorship” in § 9.2 was confusing because it might be interpreted as not including a Pennsylvania architect who practices under a fictitious name. The Board adopted its suggestion that the definition in final-form rulemaking read as follows: “A business form solely owned by an individual architect licensed in this Commonwealth.” The Board also adopted an editorial change to § 9.3.

F. *Fiscal Impact and Paperwork Requirements*

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

G. *Sunset Date*

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

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 30, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 1948, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC and the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on May 10, 2005, the final-form rulemaking was approved by the HPLC. On May 25, 2005, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 26, 2005, and approved the final-form rulemaking.

I. *Contact Person*

Further information can be obtained by contacting Roberta Silver, Counsel, State Architects Licensure Board, P. O. Box 2649, Harrisburg, PA 17105-2649, rsilver@state.pa.us.

J. *Findings*

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 34 Pa.B. 1948.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this preamble.

K. Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 9, are amended by amending §§ 9.2 and 9.3 to read as set forth in Annex A.

(b) The Board shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

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

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

JOHN C. HAAS,
President

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 3368 (June 11, 2005).)

Fiscal Note: Fiscal Note 16A-418 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 9. STATE ARCHITECTS LICENSURE BOARD

GENERAL PROVISIONS

§ 9.2 Definitions.

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

ARE—Architect Registration Examination of the NCARB approved by the Board as the architecture licensure examination.

Accredited program—A program accredited by the National Architectural Accrediting Board to provide courses in architecture and related subjects and empowered to grant professional and academic degrees in architecture.

Act—The Architects Licensure Law (63 P. S. § § 34.1—34.22).

Administrative Code—The Administrative Code of 1929 (71 P. S. § § 51—732).

Board—The Architects Licensure Board as defined in section 4 of the act (63 P. S. § 34.4).

Board prosecutor—An attorney employed through the Office of General Counsel to act as the prosecutor for the Commonwealth before the Board.

Bureau—The Bureau of Professional and Occupational Affairs.

Commissioner—The Commissioner of the Bureau.

Examination—The examination for architectural registration approved by the Board.

IDP—Intern Development Program of NCARB.

IDP council record—A detailed authenticated record of an individual's education, training and character maintained by NCARB.

NAAB—National Architectural Accrediting Boards, Inc.

NCARB—National Council of Architectural Registration Boards, 1735 New York Avenue, NW, Suite 700, Washington, DC 20006.

Plans and models—Drawings, graphic representations or scaled models, or a combination of drawings, graphic representations or models, or reproduction thereof, prepared for the purpose of illustrating proposed or intended designs for the construction, enlargement or alteration of a building or project.

Sole proprietorship—A business form solely owned by an individual architect licensed in this Commonwealth.

Specifications—A written instruction or reproduction thereof describing a material or method of construction proposed or intended to be employed in the construction, enlargement or alteration of a building or project.

§ 9.3. Fees.

Table with 2 columns: Fee description and Amount. Includes items like Initial license (\$40), Reciprocal license with NCARB Certification (\$30), Certification of licensure, registration or scores (\$25), etc.

[Pa.B. Doc. No. 05-1328. Filed for public inspection July 15, 2005, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CH. 135]

Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted an amendment to § 135.2 (relating to unlawful actions) to improve consistency in the regulations by allowing the Director to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 35 Pa.B. 2310 (April 16, 2005).

1. *Purpose and Authority*

Sections 135.41 and 135.51 (relating to State game lands; and designated roads on State game lands open to ATVs) empower the Director to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission. Formerly, § 135.2 did not provide the same empowerment to the Director and therefore was inconsistent with the previously mentioned sections. The Commission amended § 135.2 to eliminate this inconsistency in the regulations.

The Commission had originally proposed to amend §§ 135.2, 135.41 and 135.51 by adding the words “or designee” after “Director” to allow the Director to authorize another individual to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission. The purpose of this proposed rulemaking was to allow the Commission to be more responsive to requests for permission for these restricted uses. However, after additional review of the definition of “Director” in section 102 of the code (relating to definitions) it is apparent that the term “designee” is already covered by the definition of “Director,” therefore this amendment was unnecessary.

Section 322(c)(10) of the code (relating to powers and duties of commission) specifically empowers the Commission to “Manage and develop its lands and waters and other government or private lands and waters under agreement with the owners as it considers advisable and, by proper action and proceedings, enact and enforce regulations to insure the prudent and proper use of these lands.” Section 721(a) of the code (relating to control of property) provides “The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters.” Section 2102(a) of the code (relating to regulations) provides that “The Commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat . . . in this Commonwealth.” The amendment to § 135.2 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will make the language of § 135.2 more consistent with §§ 135.41 and 135.51 by empowering the Director to authorize and designate the location of certain uses of lands, waters and buildings owned by the Commission.

3. *Persons Affected*

Persons using the lands, waters and buildings owned by the Commission will be affected by this final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

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

7. *Contact Person*

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.2 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

(Editor's Note: The proposal to amend §§ 135.41 and 135.51, included in the proposal at 35 Pa.B. 2310, has been withdrawn by the Commission.)

Fiscal Note: Fiscal Note 48-202 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter A. GENERAL PROVISIONS

§ 135.2. Unlawful actions.

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

(1) Camp or use campsites.

(2) Plant, gather, cut, dig, remove or otherwise injure plants or parts thereof, including trees, shrubs, vines, flowering plants, cultivated crops, mushrooms and fruits of berry-producing plants.

(3) Travel on lands by means of vehicle or conveyance propelled by motorized power. This prohibition does not include the travel by individuals permanently confined to a wheelchair propelled by electric power obtained from batteries. Individuals desiring to hunt from an electric powered wheelchair shall have a disabled person permit under section 2923 of the act (relating to disabled person permits).

(4) Swim in a dam, pond, lake or stream.

(5) Injure, destroy or cause damage to property—real, personal or mixed.

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

(7) Participate in, become a part of, contribute to or engage in disorderly conduct as defined in 18 Pa.C.S. §§ 5503 and 5505 (relating to disorderly conduct; and public drunkenness).

(8) Kindle, use or maintain an open fire.

(9) Travel on roads open to vehicular travel with vehicle or conveyance propelled by motorized power which is not licensed or authorized for operation on a public highway under 75 Pa.C.S. (relating to the Vehicle Code).

(10) Violate, fail or neglect to follow instructions posted on signs authorized by the Director.

(11) Travel by mechanical or motorized conveyance or ride animals on newly constructed, seeded or planted roads, or other areas, when posted against the travel.

[Pa.B. Doc. No. 05-1329. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CH. 135]

Middlecreek and Pymatuning Waterfowl Management Areas; Youth Shooting Day

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted an amendment to § 135.103 (relating to registration for controlled goose hunting areas) to allow the Director to designate 1 shooting day at the Middlecreek and Pymatuning Wildlife Management Areas as a youth-only day.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 35 Pa.B. 2311 (April 16, 2005).

1. Purpose and Authority

The Commission is constantly looking for ways to attract the attention of younger hunters to get them involved or keep them involved with the traditional sport of hunting and trapping. One tool that has been largely successful towards this end has been the creation of expanded or youth-only hunting opportunities. In an effort to continue attracting and maintaining younger generations, the Commission amended § 135.103 to allow the Director to designate a youth-only hunting day at the Middlecreek and Pymatuning Wildlife Management Areas. Specifically, the amended § 135.103 will allow for a special drawing of "junior license holder" applicants prior to the regular drawing. After the special drawing is completed, all unsuccessful "junior license holder" applicants and all other "regular" applicants will be eligible for the remainder of the scheduled shooting days.

Section 322(c)(6) of the code (relating to powers and duties of commission) specifically empowers the Commis-

sion to "Limit the number of hunters or furtakers in any designated area and prescribe the lawful methods of hunting or taking furbearers in these areas." Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations..for its use and protection as necessary to properly manage these lands or waters." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking . . ." The amendment to § 135.103 was adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking will amend § 135.103 to allow the Director to designate 1 shooting day at the Middlecreek and Pymatuning Wildlife Management Areas as a youth-only day.

3. Persons Affected

Persons wishing to hunt waterfowl at the Middlecreek and Pymatuning Wildlife Management Areas may be affected by the final-form rulemaking.

4. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

5. Cost and Paperwork Requirements

The final-form rulemaking may result in minor additional cost or paperwork, or both, associated with the expanded drawing process.

7. Effective Date

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

8. Contact Person

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.103 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-203 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 135. LANDS AND BUILDINGS

Subchapter F. SPECIAL WILDLIFE MANAGEMENT AREAS

§ 135.103. Registration for controlled goose hunting areas.

The following apply to reservations for controlled goose hunting areas:

(1) Applications are available in, and shall be submitted from, the current edition of *Digest of Pennsylvania Hunting and Trapping Regulations* supplied with each hunting license.

(2) Reservation requests on official application forms shall be submitted by mail. An application shall contain requested information, including the applicant's current valid hunting license back tag number, including letter.

(i) *Middle Creek Wildlife Management Area.* Applications shall be received by the close of business on the second Tuesday in September. Applications received later than the close of business on the second Tuesday in September will be rejected.

(ii) *Pymatuning Wildlife Management Area.* Applications shall be received by the close of business on the second Saturday in September. Applications received later than the close of business on the second Saturday of September will be rejected.

(3) One official application per person to hunt on one controlled goose hunting area in this Commonwealth may be submitted. Anyone submitting more than one application for a reservation will have all applications rejected.

(4) Selections of mailed application forms will be made by random drawing from all eligible applications submitted. The Director will establish, no later than 20 days prior to the drawing, the number of applications to be drawn.

(i) *Middle Creek Wildlife Management Area.* The drawing will be held on the second Wednesday in September and shall be open to the public.

(ii) *Pymatuning Wildlife Management Area.* The drawing will be held on the third Saturday in September and shall be open to the public.

(iii) *Disabled access blinds.*

(A) A separate drawing shall also be held for the disabled access blinds for persons in possession of a disabled person permit issued under section 2923(a) of the act (relating to disabled person permits). A copy of the current disabled person permit shall accompany the application.

(B) Other provisions of this section apply to disabled access blinds.

(iv) The Director may designate 1 shooting day at the Middle Creek and Pymatuning Wildlife Management Areas as a youth-only day. Adults who accompany a junior hunter on this day may participate in the hunt by calling only. Applications received from junior hunters will be separated and drawn prior to the other applications on the established drawing date for the management area. Unsuccessful applicants for the youth shooting day will then be placed with all other applications and the drawing will proceed until all shooting days are filled.

(5) A reservation is not transferable. The person whose name appears on the reservation shall present the reservation in person at the wildlife management area registration center designated. A reservation shall entitle the applicant to bring not more than three guests with him. Guests shall be present and register.

(6) An individual may hunt 1 day per season on one controlled goose hunting area as a reservation holder, a guest of a reservation holder or by applying for unclaimed reservations. An individual filing more than one application or hunting more than one time per season on a controlled goose hunting area in this Commonwealth shall be denied the privilege of hunting on these areas for 3 years.

(7) A reservation for 1 day is valid only up to 1/2 hour before the daily shooting time.

(8) Blinds will be assigned, by drawing, to reservation holders on the morning of the designated shooting day. A blind which is unclaimed will be assigned by drawing to persons present and applying for the unclaimed blinds on the morning of each shooting day, 1/2 hour prior to shooting time.

[Pa.B. Doc. No. 05-1330. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 139]

Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted an amendment to § 139.2 (relating to definitions) to remove redundant language to prevent confusion in the regulations regarding hunting hours.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 35 Pa.B. 2312 (April 16, 2005).

1. Purpose and Authority

It was brought to the attention of Commission staff that certain regulatory language in § 139.2 was redundant and therefore unnecessary. Section 139.2, in relevant part, formerly provided a one-sentence definition of "hunting hours." However, § 141.4 (relating to hunting hours) already establishes when legal hunting hours occur in general and for certain specific seasons. To remove this redundancy and prevent confusion in the regulations, the Commission removed the redundant language in § 139.2.

Section 322(c)(1) of the code (relating to powers and duties of commission) specifically empowers the commission to "fix seasons, daily shooting or taking hours, and any modification thereof . . ." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment to § 139.2 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking eliminates the redundant language in § 139.2 regarding hunting hours.

3. *Persons Affected*

Persons wishing to hunt or trap within this Commonwealth will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

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

7. *Contact Person*

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 139, are amended by amending § 139.2 to read as set forth at 35 Pa.B. 2312.

(b) The Executive Director of the Commission shall certify this order and 35 Pa.B. 2312 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-204 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 05-1331. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 139]

Seasons and Bag Limits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted an amendment to § 139.4 (relating to seasons and bag limits for the license year) to provide updated seasons and bag limits for the 2005-2006 hunting license year.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 35 Pa.B. 1766 (March 19, 2005).

1. *Purpose and Authority*

The Commission is required to set hunting and furtaking seasons and bag limits on an annual basis. The 2005-2006 seasons and bag limits have been amended to conform to current scientific data, harvest reports, field surveys and observations, staff and field input, as well as recommendations received from organized sporting groups, members of the agricultural community and others interested in the wildlife resources of this Commonwealth. Some notable changes for hunters next season will be expanded deer hunting opportunities in Wildlife Management Units (WMU) 5C and 5D, expanded deer hunting opportunities through the Deer Management Assistance Program, expanded bear hunting opportunities, expanded elk hunting opportunities and new and expanded youth-only hunting seasons. Additionally, the Commission has given final approval to the addition of the special wild turkey license, which will enable hunters who purchase this license the ability to harvest a second spring gobbler in the 2006 spring gobbler season. As the next license year is fast approaching, the Commission has amended § 139.4 to provide updated seasons and bag limits for the 2005-2006 license year.

Section 322(c)(1) of the code (relating to powers and duties of the commission) specifically empowers the commission to "fix seasons, daily shooting or taking hours, and any modification thereof, and daily, season and possession limits for any species of game or wildlife." Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking . . ." The amendment to § 139.4 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will establish when and where it is lawful to hunt and trap various game species and also place limits on the numbers that may be legally harvested.

3. *Persons Affected*

Persons wishing to hunt and trap game and wildlife in this Commonwealth will be affected by the final rulemaking.

4. *Comment and Response Summary*

The Commission received a total of 14,354 official comments and 9 petitions containing a total of 4,623 signatures regarding this final-form rulemaking. The comments received regarded the following subtopics:

Deer Season (in general)

Out of a total of 5,120 comments received regarding this subtopic, 963 support concurrent deer season, 3,992 oppose concurrent deer season, 135 oppose open antlerless season for the 2005-2006 hunting license year, 52 oppose current deer bag limits (allow too many per year) and 9 oppose October special firearms season. The breakdown of the 9 petitions received is as follows: 1) 826 oppose concurrent deer season and oppose open antlerless season on public lands north of I-80; 2) 1,677 oppose duration of antlerless season in north central Pennsylvania (too long); 3) 146 support antler restrictions but oppose duration of antlerless season (too long); 4) 46 oppose duration of antlerless season (too long); 5) 410 oppose open antlerless season in WMU 2C; 6) 147 oppose duration of antlerless season (too long); 7) 432 oppose concurrent deer seasons and oppose duration of antlerless season (too long); 8) 833 oppose concurrent deer seasons and oppose duration of antlerless season (too long); and 9) 106 oppose open antlerless season for the 2005-2006 hunting license year.

Archery Season

Out of a total of 4,701 comments received regarding this subtopic, 2,129 oppose duration of archery season (too long), 2,569 support duration of archery season and 3 oppose lack of bear archery season.

Muzzleloader Season

Out of a total of 4,530 comments received regarding this subtopic, 1,685 support October muzzleloader season and 2,845 oppose October muzzleloader season.

Small Game Season

All three comments received regarding this subtopic oppose the duration of small game season (too short).

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

The effective dates of the final-form rulemaking are July 1, 2005, to June 30, 2006.

7. *Contact Person*

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 139, are amended by amending § 139.4 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall be effective from July 1, 2005, to June 30, 2006.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-199 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 139. SEASONS AND BAG LIMITS

§ 139.4. Seasons and bag limits for the license year.

(SEASONS AND BAG LIMITS TABLE)

**2005-2006 OPEN HUNTING AND FURTAKING SEASONS, DAILY LIMIT,
FIELD POSSESSION LIMIT AND SEASON LIMIT
OPEN SEASON INCLUDES FIRST AND LAST DATES LISTED**

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined species) Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 8	Oct. 14	6	12
Squirrels—(Combined species)	Oct. 15	Nov. 26	6	12
	Dec. 12	and Dec. 23		
	Dec. 26	and Feb. 4, 2006		

<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Ruffed Grouse—(Statewide)	Oct. 15		Nov. 26	2	4
		and			
	Dec. 12		Dec. 23		
		and			
	Dec. 26		Jan. 28, 2006		
Ruffed Grouse—There is no open season for taking ruffed grouse in that portion of State Game Lands No. 176 in Centre County which is posted "RESEARCH AREA—NO GROUSE HUNTING"					
Rabbits, Cottontail	Oct. 22		Nov. 26	4	8
		and			
	Dec. 12		Dec. 23		
		and			
	Dec. 26		Feb. 4, 2006		
Ringneck Pheasant—Male only in Wildlife Management Units 2A, 2B, 2C, 4C, 4E, 5A, 5B, 5C & 5D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 8		Oct. 14	2	4
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B & 4D Eligible Junior Hunters only, with or without the required license, when properly accompanied as required by law	Oct. 8		Oct. 14	2	4
Ringneck Pheasant—Male only in Wildlife Management Units 2A, 2B, 2C, 4C, 4E, 5A, 5B, 5C & 5D	Oct. 22		Nov. 26	2	4
Ringneck Pheasant—Male or female combined in Wildlife Management Units 1A, 1B, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B & 4D	Oct. 22		Nov. 26	2	4
		and			
	Dec. 12		Dec. 23		
		and			
	Dec. 26		Feb. 4, 2006		
Bobwhite Quail—The hunting and taking of bobwhite quail is permitted in all Wildlife Management Units except in Wildlife Management Units 4A, 4B, 5A, 5B, 5C & 5D where the season is closed.	Oct. 22		Nov. 26	4	8
Hares (Snowshoe Rabbits) or Varying Hares	Dec. 26		Dec. 31	1	2
Woodchucks (Groundhog)	No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season.			Unlimited	
<i>Species</i>	<i>First Day</i>		<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Turkey—Male or Female				1	1
Wildlife Management Units 1A & 1B (Shotgun, Bow & Arrow only)	Oct. 29		Nov. 12		
Wildlife Management Units 2A & 2B (Shotgun, Bow & Arrow only)	Oct. 29		Nov. 19		
Wildlife Management Units 2C, 2E, 4A, 4B & 4D	Oct. 29		Nov. 12		

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Wildlife Management Units 2D, 2F, 2G, 3A, 3B, 3C, 3D, 4C & 4E	Oct. 29	Nov. 19		
Wildlife Management Units 5A & 5B (Shotgun, Bow & Arrow only)	Closed to fall turkey hunting			
Wildlife Management Units 5C & 5D	Oct. 29	Nov. 4		
Turkey (Spring Gobbler) Statewide ⁵ Bearded Bird only	April 29, 2006	May 27, 2006	1	2
Turkey (Spring Gobbler) Statewide Youth Hunt ⁵ Bearded Bird only Eligible junior hunters only with the required license and when properly accompanied	April 22, 2006	April 22, 2006	1	1

MIGRATORY GAME BIRDS

Except as further restricted by this chapter, the seasons, bag limits, hunting hours and hunting regulations for migratory game birds shall conform to regulations adopted by the United States Secretary of the Interior under authority of the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711) as published in the *Federal Register* on or about August 27 and September 28 of each year. Exceptions:

- (a) Hunting hours in § 141.4 (relating to hunting hours).
- (b) Nontoxic shot as approved by the Director of the United States Fish and Wildlife Service is required for use Statewide in hunting and taking of migratory waterfowl.
- (c) Subject to approval by the United States Fish and Wildlife Service, an early season for Canada geese will be held as defined in § 141.25.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Crows (Hunting permitted on Friday, Saturday and Sunday only)	July 1	Nov. 27		Unlimited
	Dec. 30	April 2, 2006		
Starlings and English Sparrows	No closed season except during the regular firearms deer seasons and until noon daily during the spring gobbler turkey season			Unlimited

FALCONRY

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Field Possession Limit After First Day</i>
Squirrels—(Combined species)	Sept. 1	Mar. 31, 2006	6	12
Quail	Sept. 1	Mar. 31, 2006	4	8
Ruffed Grouse	Sept. 1	Mar. 31, 2006	2	4
Cottontail Rabbits	Sept. 1	Mar. 31, 2006	4	8
Snowshoe or Varying Hare	Sept. 1	Mar. 31, 2006	1	2
Ringneck Pheasant—Male and Female—(Combined)	Sept. 1	Mar. 31, 2006	2	4

Migratory Game Birds—Seasons and bag limits shall be in accordance with Federal regulations.

DEER

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Deer, Antlered & Antlerless—(Statewide) ¹ (Archery—Bows and Arrows Only) Crossbows may be used in Wildlife Management Units 2B, 5C and 5D	Oct. 1	Nov. 12	One antlered and an antlerless deer with each required antlerless license.
	Dec. 26	Jan. 14, 2006	
Deer, Regular Antlered & Antlerless—(Statewide) ¹	Nov. 28	Dec. 10	One antlered, and an antlerless deer with each required antlerless license.

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Season Limit</i>
Deer, Antlerless only—(Statewide) Only Junior and Senior License Holders, ² PGC Disabled Person Permit Holders (to use a vehicle as a blind), and Residents serving on active duty in the U.S. Armed Forces, or in the U.S. Coast Guard, with required antlerless license	Oct. 20	Oct. 22	An antlerless deer with each required antlerless license.
Deer, Antlerless only—(Statewide) (Muzzleloading season)	Oct. 15	Oct. 22	An antlerless deer with each required antlerless license.
Deer, Antlered or Antlerless—(Statewide) ¹ (Flintlock Muzzleloading season)	Dec. 26	Jan. 14, 2006	One antlered, or one antlerless-plus an additional antlerless deer with each required antlerless license.
Deer, Antlerless Wildlife Management Unit 2B	Dec. 26	Jan. 14, 2006	An antlerless deer with each required antlerless license.
Deer, Antlerless Wildlife Management Units 5C & 5D	Dec. 12 and Dec. 26	Dec. 23 and Jan. 28, 2006	An antlerless deer with each required antlerless license.
Deer, Antlerless (Letterkenny Army Depot, Franklin County and New Cumberland Army Depot, York County and Fort Detrick, Raven Rock Site, Adams County)	Hunting is permitted on days established by the United States Department of the Army.		An antlerless deer with each required antlerless license.

BEAR

	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Bear, any age—(Statewide) ⁴	Nov. 21	Nov. 23	1	1
Bear, any age ⁴ Wildlife Management Units 3B, 3C, 3D, 4C and 4E	Nov. 28	Dec. 3	1	1
Bear, any age ⁴ Rockview Prison	Nov. 28	Dec. 3	1	1

ELK

	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Elk, Antlered & Antlerless ⁶ (With each required license)	Nov. 7, 2005	Nov. 12, 2005	1	1
Elk, Antlered & Antlerless ⁶ (With each required license)	Sept. 18, 2006	Sept. 23, 2006	1	1

FURTAKING—TRAPPING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Minks and Muskrats—(Statewide)	Nov. 19	Jan. 7, 2006	Unlimited	
Beaver—(Statewide)	Dec. 26	Mar. 31, 2006		
Wildlife Management Units 2F & 2G (Combined)			20	20
Wildlife Management Units 1A, 1B, 3A, 3B, 3C & 3D (Combined)			20	40
Wildlife Management Units 2A, 2B, 2C, 2D, 2E, 4A, 4B, 4C, 4D & 4E (Combined)			10	10
Wildlife Management Units 5A, 5B, 5C & 5D (Combined)			6	6

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyotes, Foxes, Opossums, Raccoons, Skunks, Weasels—(Statewide)	Oct. 16	Feb. 18, 2006		Unlimited
Bobcat ³ Wildlife Management Units 2C, 2E, 2F, 2G, 3A, 3B, 3C & 3D	Oct. 16	Feb. 18, 2006	1	1

FUR TAKING—HUNTING

<i>Species</i>	<i>First Day</i>	<i>Last Day</i>	<i>Daily Limit</i>	<i>Season Limit</i>
Coyotes—(Statewide)				Unlimited
Coyotes—(During any archery deer season)				May be taken while lawfully hunting deer or with a furtaker's license.
Coyotes—(During the regular firearms deer season and any bear season)				May be taken while lawfully hunting deer or bear or with a furtaker's license while wearing 250 square inches of daylight fluorescent orange-colored material in a 360° arc.
Coyotes—(During the spring gobbler turkey season)				May be taken by persons who have a valid tag and meet fluorescent orange and shot size requirements.
Opossums, Skunks, Weasels ⁷ (Statewide)				No closed season. These species may not be hunted prior to noon during the spring gobbler turkey season.
Raccoons and Foxes—(Statewide) ⁷ Bobcat ³ Wildlife Management Units 2C, 2E, 2F, 2G, 3A, 3B, 3C & 3D	Oct. 15	Feb. 18, 2006		Unlimited
	Oct. 15	Feb. 18, 2006	1	1

No open seasons on other wild birds or wild mammals.

¹ Only one antlered deer (buck) may be taken during the hunting license year.

² Includes persons who have reached or will reach their 65th birthday in the year of the application for the license and hold a valid adult license or qualify for license and fee exemptions under section 2706 of the act (relating to resident license and fee exemptions).

³ Bobcat may only be taken by furtakers in possession of a Bobcat Hunting-Trapping Permit and may not be taken during the regular antlered and antlerless deer season from 1/2 hour before sunrise to sunset.

⁴ Only one bear may be taken during the hunting license year.

⁵ Second spring gobbler may only be taken by persons who possess a valid special wild turkey license as provided for in section 2709 (relating to license costs and fees) of the act.

⁶ Only one elk may be taken during the hunting license year.

⁷ May not be taken during the regular antlered and antlerless deer season from 1/2 hour before sunrise to sunset.

[Pa.B. Doc. No. 05-1332. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]
Big Game Harvest Report Requirement

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted an amendment to § 141.41 (relating to general) to establish a big game harvest report requirement.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 35 Pa.B. 2313 (April 16, 2005).

1. *Purpose and Authority*

The Legislature recently amended section 2323 of the code (relating to tagging and reporting big game kills) by eliminating the statutory language setting forth the lawful methods and manners for reporting big game kills. The intent behind this amendment was to shift the authority to establish lawful methods and manners for reporting big game kills to the Commission to promote and facilitate alternative methods and manners for reporting other than the harvest report card. To reestablish the big game harvest report requirement in the regulations, the Commission amended § 141.41.

Section 322(c)(11) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Collect, classify and preserve such statistics, data and information as in its judgment will tend to promote the object of this title and take charge and keep all reports, books, papers and documents which shall, in the discharge of its duties, come into its possession or under its control." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat . . . in this Commonwealth." The amendment to § 141.41 was adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking establishes a big game harvest report requirement in § 141.41.

3. Persons Affected

Persons wishing to harvest big game within this Commonwealth will be affected by the final-form rulemaking.

4. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

5. Cost and Paperwork Requirements

The final-form rulemaking may result in minor additional cost or paperwork if alternative forms of reporting big game kills are created and implemented.

6. Effective Date

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

7. Contact Person

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.41 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-205 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter C. BIG GAME

§ 141.41. General.

(a) *Permitted acts.* It is lawful to take:

(1) Bear or elk with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds.

(2) Deer during any firearms season for deer with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds.

(3) Deer with a crossbow with a draw weight of not less than 125 pounds nor more than 200 pounds in Wildlife Management Units 2B, 5C and 5D.

(b) It is unlawful to:

(1) Hunt for big game birds or animals with arrows or crossbow bolts other than those tipped with broadheads of a cutting-edge design.

(2) Hunt for deer or bear through the use of any one or more of the following:

(i) A muzzleloading handgun.

(ii) A muzzleloading firearm that is not .44 caliber or larger.

(3) Kill big game by mistake or accident and immediately after killing and before removing any big game from the location of the killing, fail to fully complete the proper game fill tag in compliance with the instructions printed on the tag and attach only the game kill tag to the big game.

(4) Kill big game by mistake or accident and fail to report the killing to the appropriate Commission regional office as soon as possible but no later than 12 hours after the time of kill.

(5) Within 10 days of the kill, fail to complete the report card supplied with the hunting license for reporting big game killed and mail the report card to the Commission at Harrisburg or by any other method designated by the Director.

(6) Receive a DMAP permit without reporting in the manner prescribed on the permit.

[Pa.B. Doc. No. 05-1333. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 143]

Deadline for Purchasing a Bear License

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted an amendment to § 143.67 (relating to application) to establish a deadline

for purchasing a bear license prior to the opening of regular firearms deer season.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 35 Pa.B. 2313 (April 16, 2005).

1. *Purpose and Authority*

Formerly, a hunter could purchase a bear license at the time he purchased his license or at any time up to the close of established bear seasons. This expansive purchasing period had provided certain individuals with the opportunity to abuse the bear license requirement. Specifically, the Commission is aware of certain instances where individuals (without bear licenses) unlawfully harvested bears during the concurrent bear/deer season only to thereafter purchase a bear license to generate the false proof that they had lawfully harvested the bear. To prevent this type of abuse in the future, the Commission amended § 143.67 to establish a deadline for purchasing bear licenses prior to the opening of regular firearms deer season.

Section 2722(g) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment to § 143.67 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 143.67 to establish a deadline for purchasing bear licenses prior to the opening of regular firearms deer season.

3. *Persons Affected*

Persons wishing to purchase a bear license to hunt bear in this Commonwealth will be affected by the final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

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

7. *Contact Person*

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 143, are amended by amending § 143.67 to read as set forth at 35 Pa.B. 2313.

(b) The Executive Director of the Commission shall certify this order and 35 Pa.B. 2313 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-206 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 05-1334. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 143]

Hunting and Furtaker Licenses

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted Chapter 143, Subchapter L (relating to special wild turkey licenses) to provide regulations establishing the opportunity for hunters to purchase a special wild turkey license to take a second bird during the spring gobbler season if the Commission sets a two bird bag limit for the spring gobbler season.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 35 Pa.B. 1765 (March 19, 2005).

1. *Purpose and Authority*

The General Assembly recently amended section 2705 of the code (relating to classes of licenses) to permit the creation of a "special wild turkey license" to be used in conjunction with an adult or junior resident license, adult or junior nonresident license, senior resident lifetime license, senior lifetime combination hunting and furtaking license or junior resident and nonresident combination hunting and furtaking license. However, before the Commission could make this special license available, it had

to generate the regulatory framework to implement its creation and use. The Commission added Subchapter L accomplish this task.

Section 2722(g) of the code (relating to authorized license-issuing agents) directs the Commission to adopt regulations for the administration, control and performance of license issuing activities. Section 322(c)(3) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Increase or reduce bag limits or possession limits." Section 2102(b)(1) of the code (relating to regulations) authorizes the commission to "promulgate regulations relating to seasons and bag limits for hunting or furtaking, the possession of certain species or parts thereof, the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The addition of Chapter 143, Subchapter L was adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking will establish the regulatory framework for the creation and use of the special wild turkey license by licensed hunters.

3. Persons Affected

Persons wishing to apply for a special wild turkey license to hunt for and take an additional turkey during the spring gobbler season will be affected by the final-form rulemaking.

4. Comment and Response Summary

The Commission received a total of 11 official comments regarding this final-form rulemaking. Of this total, five comments were in support and six comments were in opposition to the special wild turkey license.

5. Cost and Paperwork Requirements

The final-form rulemaking will result in minor additional cost to the Commission in the form of printing and issuing the proposed special wild turkey licenses.

6. Effective Date

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

7. Contact Person

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 143, are amended by adding §§ 143.221—147.225 to read as set forth at 35 Pa.B. 1765.

(b) The Executive Director of the Commission shall certify this order and 35 Pa.B. 1765 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-201 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 05-1335. Filed for public inspection July 15, 2005, 9:00 a.m.]

GAME COMMISSION [58 PA. CODE CH. 147] Special Permits

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its April 26, 2005, meeting, adopted amendments to §§ 147.672, 147.674 and 147.676 (relating to definitions; issuance of DMAP harvest permits; and unlawful acts) to allow any defined hunting club to enroll its property in the Deer Management Assistance Program (DMAP), to allow a DMAP applicant to issue up to two coupons per qualified individuals per license year and to allow the Commission to deny refund of any application fees paid for DMAP harvest permits to persons who fail to complete and submit report and survey information from the prior season.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

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

Notice of proposed rulemaking was published at 35 Pa.B. 1771 (March 19, 2005).

1. Purpose and Authority

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

Formerly, hunting clubs that wished to enroll in DMAP were required to own and enroll 1,000 or more contiguous acres in the program. This restriction severely limited the eligibility of DMAP to smaller hunting clubs. In light of the proven effectiveness of DMAP thus far, the Commission has expanded accessibility to DMAP for smaller hunting clubs that wish to enroll in DMAP. Specifically, the Commission redefined "hunting club" in § 147.672 by removing the restrictive and limiting language regarding required minimum acreage. This amendment should make DMAP more accessible to hunting clubs that do not own or do not wish to enroll 1,000 or more contiguous acres.

Formerly, the requirements and restrictions of §§ 147.674 and 147.676 prevented a DMAP enrollee's ability to issue more than one coupon for each qualified individual per license year. In light of the proven effectiveness of DMAP thus far, the Commission has increased the number of coupons that may be issued by DMAP enrollees. Specifically, the Commission has replaced language in §§ 147.674 and 147.676 limiting the allowable number of coupons a DMAP enrollee may issue to one coupon per qualified individual per license year and replaced it with language limiting the allowable number of coupons a DMAP enrollee may issue to two coupons per qualified individual per license year. This amendment should help make DMAP even more effective in the future towards meeting the deer management goals of both public and private landowners.

The Commission recently amended § 147.674 to allow the Commission to deny issuance of DMAP harvest permits to persons who fail to complete and submit harvest report and survey information from the prior season. As previously mentioned, DMAP is a special program designed to assist landowners in reducing deer herd sizes in certain areas where specific problems exist due to excessive herd sizes. However, accurate harvest data is critically important to making DMAP work effectively. Without accurate harvest data, the Commission is unable to adequately determine DMAP's effectiveness in reaching the landowner's, as well as the Commission's, deer management goals. While the Commission believes that this recent amendment should encourage some complete and timely submissions by current DMAP harvest permitholders, it believes that additional measures are needed to ensure complete compliance with reporting requirements by all DMAP harvest permitholders. Towards this end, the Commission amended § 147.674 to allow the Commission to deny the refund of any application fees paid for DMAP harvest permits to persons who fail to complete and submit harvest report and survey information from the prior season.

Section 2901(b) of the code (relating to authority to issue permits) provides "The commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to regulations) provides "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting...in this Commonwealth, including regulations relating to the...management of game or wildlife . . ." The amendments to §§ 147.672, 147.674 and 147.676 were adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking will remove some limitations and expand the eligibility of hunting clubs to enroll in DMAP, will expand a DMAP applicant's ability to issue two coupons per qualified individuals per license year rather than one and will allow the Commission to deny refund of any application fees paid for DMAP harvest permits to persons who fail to complete and submit harvest report and survey information from the prior season.

3. *Persons Affected*

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

4. *Comment and Response Summary*

The Commission received a total of 138 official comments regarding DMAP. From this total, 65 comments were in support of DMAP, 64 comments were in opposition to the Department of Conservation and Natural Resource's eligibility for DMAP and 9 comments were in support of an increase in the number of coupons a DMAP applicant may issue to each qualified individuals per license year. The Commission also received a petition signed by 1,677 individuals recommending that DMAP be eliminated on public lands north of I-80.

5. *Cost and Paperwork Requirements*

The final-form rulemaking may result in minor additional cost or paperwork associated with additional enrollment and coupon processing costs.

6. *Effective Date*

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

7. *Contact Person*

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

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 147, are amended by amending §§ 147.672, 147.674 and 147.676 to read as set forth at 35 Pa.B. 1771.

(b) The Executive Director of the Commission shall certify this order and 35 Pa.B. 1771 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-200 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 05-1336. Filed for public inspection July 15, 2005, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 88]

Ignition Interlock

The Department of Transportation (Department), under the authority in 75 Pa.C.S. §§ 3805 and 6103 (relating to ignition interlock; and promulgation of rules and regulations by department), amends Chapter 88 (relating to ignition interlock) to read as set forth in Annex A.

Purpose of this Chapter

The purpose of this final-form rulemaking is to provide standards and procedures for compliance with 75 Pa.C.S. § 3805 regarding the installation of ignition interlock systems on vehicles as a condition for the restoration of the driving privilege after serving suspension for DUI convictions.

Publication for Public Comment

Proposed rulemaking was published at 34 Pa.B. 4885 (September 4, 2004) and the public was invited to submit comments. The proposed rulemaking was also submitted to the Independent Regulatory Review Commission (IRRC) and the House and Senate Transportation Committees (Committees). No comments or objections to the proposed rulemaking were received from the public, IRRC or the Committees.

Persons and Entities Affected

This final-form rulemaking will affect drivers required to install an ignition interlock system on one or more of their vehicles under 75 Pa.C.S. § 3805.

Clarifying Amendment

Federal policy guidelines are based on family income and the size of the family unit. Consequently, the word "household" was inserted into § 88.102(e)(1)(i) (relating to installation of ignition interlock system) to be consistent with the Federal guidelines.

Fiscal Impact

This final-form rulemaking will not require the expenditure of any significant additional funds by the Commonwealth. Providers of ignition interlock systems may incur additional costs in the maintenance of the systems and in monitoring and reporting driver compliance with the final-form rulemaking. These costs will be recouped in the installation and maintenance fee charged to the individual vehicle owners or lessees on whose vehicles an ignition interlock system is installed.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 4, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 4885, to IRRC and the Chairpersons of the Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 22, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on May 12, 2005, and approved the final-form rulemaking.

Effective Date

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

Sunset Date

The Department is not establishing a sunset for these regulations, since the regulations are needed to administer provisions required by 75 Pa.C.S. (relating to the Vehicle Code). The Department, however, will continue to closely monitor these regulations for their effectiveness.

Contact Person

The contact person for this final-form rulemaking is Anne P. Titler, Acting Manager, Driver Safety Division, Bureau of Driver Licensing, 4th Floor, Riverfront Office Center, 1101 S. Front Street, Harrisburg, PA 17104, (717) 783-4737.

Order

The Department orders that:

(a) The regulations of the Department, 67 Pa. Code Chapter 88, are amended by deleting §§ 88.1—88.8 and by adding §§ 88.101 and 88.103—88.108 to read as set forth at 34 Pa.B. 4885 and by adding § 88.102 to read as set forth in Annex A.

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

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

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

ALLEN D. BIEHLER, P. E.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 3179 (May 28, 2005).)

Fiscal Note: Fiscal Note 18-395 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 88. IGNITION INTERLOCK

§ 88.102 Installation of ignition interlock system.

(a) *General rule.* A person subject to 75 Pa.C.S. § 3805 (relating to ignition interlock) who seeks a restoration of operating privileges shall engage a provider, at the person's own expense, to install the ignition interlock systems required under 75 Pa.C.S. § 3805, and otherwise ensure compliance with this chapter.

(b) *Identification of owned vehicles.* The person seeking a restoration of operating privilege under 75 Pa.C.S. § 3805 shall submit to the provider a certification, on a form provided by the Department, that identifies each motor vehicle owned by the person or registered to the person. A vehicle is considered registered to a person under this chapter if Department records reflect that the vehicle is registered to a person or the person is otherwise designated as the registrant of the vehicle or named as the lessee of the vehicle under 75 Pa.C.S. § 1305 (relating to application for registration). The provider shall verify the accuracy of the facts in the person's certification through an inquiry to the Department's motor vehicle records system.

(c) *Installation and certification.* The provider shall install an ignition interlock system on each motor vehicle owned by the person or registered to the person and shall certify to the Department that the installation has been completed.

(d) *Installation not required.* Installation of an ignition interlock system is not required in the following situations:

(1) *No motor vehicles owned or registered.* If the person certifies to the provider, on a form provided by the Department, that there are no motor vehicles owned by the person or registered to the person, installation is not required on any motor vehicle.

(2) *Inoperable vehicles.* If the person certifies to the provider, on a form provided by the Department, that a motor vehicle owned or registered to the person is inoperable, installation is not required on the inoperable vehicle.

(3) *Verification.* The provider shall verify the accuracy of a certification submitted under paragraph (1) or (2) through an inquiry to the Department's motor vehicle records system and shall certify to the Department that the person is in compliance with this subsection.

(e) *Economic hardship exemption.* A person will be exempt from the requirement to install an ignition interlock system on each of the person's motor vehicles if the person demonstrates that the requirement will result in undue financial hardship.

(1) Undue financial hardship shall be demonstrated only by one of the following:

(i) Evidence on the person's most recently filed Federal Income Tax return showing an adjusted gross household income below 200% of the poverty guidelines issued for that tax year by the United States Department of Health and Human Services for the person's family size.

(ii) Documentation of participation in a governmental assistance program included on a list of applicable programs published by the Department in the *Pennsylvania Bulletin*.

(2) The person shall submit to the provider an application for a hardship exemption on a form provided by the Department along with the required documentation.

(3) The provider shall review the required documentation to confirm that it meets the requirements of paragraph (1).

(4) The provider shall then install an ignition interlock system on only one vehicle owned by the person or registered to the person, forward the application to the Department, and certify to the Department that the person has complied with this section.

[Pa.B. Doc. No. 05-1337. Filed for public inspection July 15, 2005, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 128b]

CHEMSWEEP Pesticide Disposal Program

The Department of Agriculture (Department) proposes to amend Chapter 128b (relating to CHEMSWEEP Pesticide Disposal Program) to read as set forth in Annex A. Chapter 128b was adopted under the specific authority of the Secretary of the Department to promulgate appropriate regulations for the safe handling, transportation, storage, display, distribution and disposal of pesticides in section 7(b)(2) of the Pesticide Control Act of 1973 (act) (3 P. S. § 111.27(b)(2)).

Purpose

This proposed rulemaking will specifically amend and expand the existing CHEMSWEEP Pesticide Disposal Program (Program) to include the safe and effective disposal of canceled, unused or suspended pesticides held by all citizens of this Commonwealth. The Program as set forth in Chapter 128b is currently limited to agricultural production businesses and "agricultural pesticides."

Background

Since its inception as a pilot program in 1992 and its subsequent promulgation as a regulatory program in 1993 (see 23 Pa.B. 3933 (August 21, 1993)), the Program has had tremendous success in safely disposing of agricultural pesticides or other crop production chemicals in various counties throughout this Commonwealth. Funding for the Program was authorized and continues to be authorized through the Pesticide Restricted Account. The express goal of the Program was the prevention of toxic environmental releases and pollution of ground and surface water. With each passing year and the Program's documented successes, the Department received requests from pesticide dealers, distributors, commercial applicators and businesses for inclusion into the Program. These pesticide-regulated entities had larger inventories of pesticide products that were similar to, and in some cases, the same as agricultural products. Accordingly, the Department as a matter of policy, along with the recommendation from the Pesticide Advisory Board, decided to accept requests from the those entities which handled unused, banned or cancelled agricultural chemicals from their pesticide inventories. These entities however, were not necessarily "agricultural production businesses" (farms). Accordingly, this rulemaking is specifically designed to bring the existing Chemsweep regulations into compliance with actual practice and procedures.

To that end, the Department concluded that as long as the products could be identified as having, or once having, a United States Department of Agriculture (USDA) or United State Environmental Protection Agency (EPA) registration number, the material was eligible for inclusion in the disposal efforts. At the conclusion of the 6th year of the Program, counties within this Commonwealth had had at least one round of collections—some were beginning a second round. At that time, it was noted that inventories of cancelled, unused or suspended pesticides began to be significantly reduced and that participants were becoming more remote and scattered.

During the latter part of 1999, the Program was showcased at a "Solid and Hazardous Waste" conference in Tucson, Arizona. Individuals from various states were interested in creating similar pesticide disposal programs. Shortly after that conference, discussions were held between representatives of the Department of Environmental Protection (DEP) and the Department to discuss the feasibility of coordinating a joint collection program for household hazardous waste materials and pesticides. It was determined that DEP's Household Hazardous Waste Program (HHW) may or may not include the collection or disposal, or both, of pesticides.

DEP and the Department subsequently agreed to link both collection programs, utilizing PDA's contractor. Specifically, pesticides would be included in all combined collections and that the Department would pay for all pesticides and DEP would cost share the other HHW materials with the entity sponsoring the collection event. This decision in effect, provided all citizens in this Commonwealth with an environmentally safe method for the disposal of household pesticide products. The combined HHW/CHEMSWEEP program, which was conducted as a pilot in one county in the year 2000, proved to be an overwhelming success collecting over 50,000 pounds of HHW, of which, 8,000 pounds were pesticides. In 2001, the combined programs included two additional counties, which collected over 30,000 pounds of HHW materials and over 7, 000 pounds of pesticides. In 2002, a total of 117,118 pounds of pesticides and HHW were collected in "farm to farm pickups." In 2003, a total of 107,744 pounds of pesticides and HHW were collected. The Program continues to increase its collection and disposal percentages yearly. By participating in this program, citizens of this Commonwealth can legally dispose of waste pesticides at no cost. Approximately 90% of those waste pesticides collected are burned in EPA approved incinerators. The remaining pesticides are either offered for recycling or are treated and placed in hazardous waste landfills permitted by the EPA.

Funding for the Program continues to be derived from the Pesticide Restricted Account upon the recommendation of the Pesticide Advisory Board. Additional grant funds were received from the EPA to assist the Program for the year 2003 and beyond. The expansion of the Program to service additional pesticides and entities has not greatly increased the costs to the Program since the totals of agricultural pesticide inventories have been significantly decreased since 1993. The advent of the DEP alliance created the need to update the Program regulations to more accurately reflect the ongoing process and procedures. This proposal has been discussed, commented upon and approved by the Pesticide Advisory Board, which consists of representatives from the Fish and Boar Commission, Department of Transportation, Department of Health, DEP, Game Commission, Department of Conservation and Natural Resources, Pest Management Association, Penn State University and members of the pesticide regulated community.

Need for the Proposed Rulemaking

The Department is satisfied of the need for the proposed amendments to bring the regulations of the existing Program into compliance.

Overview of the Major Provisions of the Proposed Rulemaking

Proposed § 128b.2 (relating definitions) would modify the existing limitation from “farmer” to persons or participants, or both, within this Commonwealth.

Proposed § 128b.3 (relating to selection of participating counties) would allow for yearly selection into the Program of certain counties of this Commonwealth.

Proposed § 128b.6 (relating to eligibility of persons to participate) would make all citizens of this Commonwealth able to participate in the disposal of canceled, unused or suspended pesticides, which would otherwise be limited to agricultural businesses and agricultural pesticides.

Affected Individuals and Organizations

This is a voluntary program that has limited requirements for compliance. The proposed rulemaking therefore allows all citizens and businesses within this Commonwealth to participate in the Program through county participation.

Fiscal Impact

Commonwealth: The Department has determined that the proposed rulemaking will have little or no adverse financial impact on the Commonwealth since all funds budgeted for the Program are derived from the Pesticide Restricted Account. The funds in that account are obtained from licensing, permitting and registration fees and civil penalties placed upon pesticide manufacturers, dealers and applicators doing business within this Commonwealth. However, there could be a significant savings since the costs associated with the remediation of an environmental spill or exposure far outweigh the cost associated with administering the Program.

Political Subdivisions: The proposed rulemaking will impose no costs and have no adverse fiscal impact on political subdivisions.

Private Sector: The proposed rulemaking will have no adverse fiscal impact on the private sector. However, the proposed rulemaking will likely reduce costs to the private sector for the individual disposal costs of canceled, unused and suspended pesticides within this Commonwealth.

General Public: The proposed rulemaking will not impose any costs and will have no adverse fiscal impact on the general public. The Department believes there will be a positive impact upon the general public in that the Program will continue to help remove canceled, unused or suspended pesticides presently in this Commonwealth.

Paperwork Requirements

The proposed rulemaking would not appreciably increase the paperwork burden of the Department or other government units or citizens.

Effective Date

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

Sunset Date

There is no sunset date for these regulations. The Department will review the efficacy of these regulations on an ongoing basis.

Contact Person

Interested persons are invited to submit written comments regarding the proposed rulemaking within 30 days following publication in the *Pennsylvania Bulletin*. Comments are to be submitted to the Department of Agriculture, Bureau of Plant Industry, 2301 N. Cameron Street, Harrisburg, PA 17110-9408, Attention: Vance Wagner.

Regulatory Review

On June 6, 2005, the Department submitted a copy of the proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs, in accordance with section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)). The Department also provided IRRC and the Committees with a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request. If IRRC has an objection to any portion of the proposed rulemaking, it must so notify the Department within 30 days of the close of the public review period.

The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act sets forth detailed procedures for review of these objections by the Department, the General Assembly and the Governor prior to the final publication of the proposed rulemaking.

DENNIS C WOLFF,
Secretary

Fiscal Note: 2-143. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 7. AGRICULTURE

PART V. BUREAU OF PLANT INDUSTRY
CHAPTER 128b. CHEMSWEEP PESTICIDE
DISPOSAL PROGRAM

§ 128b.1. Authority and purpose.

(a) Under the authority granted it under the act, the Department establishes a pesticide disposal program to be designated as [“Chemsweep.”] “CHEMSWEEP.” This Program, which is based upon the Chemsweep pilot pesticide disposal program described in Chapter 128a (relating to [Chemsweep] CHEMSWEEP pesticide disposal program—statement of policy), will allow the Department to identify and quantify canceled, unused or suspended pesticides held, owned or possessed by [the Commonwealth’s agricultural community] citizens of this Commonwealth. The information derived from this inventory shall be used in the solicitation of bids from hazardous waste [disposers] disposal contractors for the safe collection, transportation and disposal of the pesticides.

(b) This Program shall be conducted within counties which are designated by the Department each year [, and shall continue until each county within this Commonwealth has had the opportunity to participate] .

(c) By addressing the pesticide disposal needs of [the agricultural community, excluding counties which are designated in § 128b.3 (relating to selection of participating counties),] Commonwealth citizens, the Program addresses the needs of [farmers] persons who have accumulated and stored chemicals in this

Commonwealth with the potential to affect the environment and human safety. **[The agricultural community]** Citizens of this Commonwealth currently **[lacks]** lack an available, **economical, environmentally sound,** and effective means of disposing of **[large quantities of]** potentially hazardous pesticides.

§ 128b.2. Definitions.

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

* * * * *

Applicant—A **[farmer]** person who owns, holds or possesses pesticides within a participating county and who has filed a Program preregistration application form with the Department.

Central-site pesticide collection—The collection by a contractor of a portion of the pesticide inventory of a participating county from a site to which two or more **[participating farmers]** participants have transported their pesticides for collection.

* * * * *

Contractor—A person engaged in the business of **collecting,** packing, transporting and disposing of hazardous waste, who is contractually obligated, through the Program, to **collect,** pack, transport and dispose of the pesticide inventory of a participating county.

* * * * *

Emergency situation—An unforeseen or unexpected circumstance involving pesticides that requires immediate action to protect the public health, safety, environment, or general welfare in this Commonwealth.

* * * * *

[Farmer]—A person who engages, but who need not engage exclusively, or has engaged in the production and preparation for market of agricultural commodities.

On-farm] **Onsite pesticide collection**—The collection by a contractor of a portion of the pesticide inventory of a participating county from the site, usually a farm, at which it is stored by a **[participating farmer]** participant.

Participating county—A county designated by the Department to participate in the **[Chemsweep]** CHEMSWEEP Program.

[Participating farmer] **Participant**—An applicant whose application has been accepted by the Department and whose pesticides are the subject of a disposal contract between the Department and a contractor.

Person—**[An individual]** A citizen of this Commonwealth, firm, corporation, association or another form of business entity **doing business in this Commonwealth.**

* * * * *

Pesticide dealer—A person who **[sells]** distributes or offers for sale pesticides which are classified for restricted use under the act.

Pesticide inventory—The compilation of information with respect to the identification, quantification and

safety of pesticides held by a **[participating farmer]** participant within a particular participating county.

* * * * *

Program—The **[Chemsweep]** CHEMSWEEP Pesticide Disposal Program.

* * * * *

§ 128b.3. Selection of participating counties.

(a) **County participation.** The Department will conduct the Program **[a single time in each county of this Commonwealth, with the exceptions of Bedford, Fulton, Lebanon, Lehigh, Snyder and Union Counties, which are excluded from participation by virtue of the fact that each was a participating county in the Chemsweep Pilot Program. See Chapter 128a (relating to Chemsweep pesticide disposal program—statement of policy).]** yearly in selected counties of this Commonwealth.

(b) **Selection criteria.** In selecting the counties to participate in the Program during a particular fiscal year, the Department may consider:

* * * * *

(2) **[The intensity of agricultural activity within the County.**

(3) **The diversity of the agricultural activity conducted within the county.**

(4) **]** The availability of support from agricultural agencies and local governments within the county.

[(5)] (3) * * *

[(6)] (4) * * *

[(7)] (5) * * *

§ 128b.4. Limitation of the number of participating counties.

[If, after having accepted a particular county to participate in the Program during a particular fiscal year, the Department determines that there is not sufficient funding available to fund the packing, transport and disposal of the pesticide inventory of that county, the Department may exclude that county from participation in the Program for that particular fiscal year.] The number of eligible counties participating during a particular fiscal year may not exceed 21 except when emergency situations arise.

§ 128b.6. Eligibility of persons to participate.

(a) **Requirements.** To be eligible to be considered for participation in the Program, a person shall meet the following requirements:

(1) **[Be a farmer.**

(2) **]** Hold, own or possess pesticides that are or have been registered **[as having agricultural applications]** for sale and use within this Commonwealth.

[(3)] (2) * * *

(b) **Exclusions.** **[Commercial applicators of pesticides and holders of pesticides registered exclusively for residential or industrial applications are not eligible to participate in the Program. The inventory of a pesticide dealer may not be accepted**

for disposal.] Empty pesticide containers may not be accepted for disposal. **Individuals, corporations, associations, or other forms of business entities not located within this Commonwealth are not eligible for participation in the Program.**

§ 128b.7. Preregistration application.

* * * * *

(b) *Mandatory information.* The Department will develop a Program preregistration application form, and will provide prospective applicants with the form upon their request. The form will require that an applicant provide the following information, when known and applicable, with respect to each pesticide for which disposal is sought:

* * * * *

(10) The **exact** location of the pesticide.

* * * * *

(12) Verification that the applicant is **[a farmer] eligible for participation in the Program.**

(c) *Incomplete information.* If an applicant cannot ascertain the identity of a particular pesticide in its possession, or provide other applicable information required by subsection (b), the applicant shall state on the preregistration application form as much information relating to the particular pesticide as is known to the applicant. The Department will then endeavor to obtain the information which the applicant was unable to provide. If the applicable information required by subsection (b) cannot be readily obtained with respect to a particular pesticide, the Department **[will have discretion as to whether it will accept that pesticide for disposal] may obtain a sample for analysis, providing that the quantity of pesticide exceeds either 50 pounds or 5 gallons. If no pesticides are found in the sample through analysis, the Department may refuse to accept the product for disposal.**

(d) *Additional information.* The Department may require that an applicant provide additional information, which the Department deems relevant to its evaluation of a preregistration application.

§ 128b.8. Preregistration process.

(a) *Application period.* The Department will fix a **[120] 90** day period within which it will accept preregistration application forms within a particular participating county.

(b) *Dissemination of notice.* Prior to the commencement of the preregistration application period, the Department will publish notice of the Program and the preregistration period in either a newspaper of general circulation within the participating county or **[a newspaper or publication circulated primarily among the agricultural community of a] another publication of general circulation within a** participating county. When practicable, the Department may enlist the assistance of entities such as the County Extension Service of the United States Department of Agriculture, the Pennsylvania Farmers' Union, the Pennsylvania Grange Association, the Pennsylvania **[Farmers' Association] Farm Bureau**, County Conservation Districts and county and local governments in disseminating the notice and information.

(c) *Discretionary extension of application period.* In furtherance of the intent of the Program to arrange for the safe **collection and** disposal of pesticides within a

participating county, the Department has the discretion to accept a preregistration application form submitted to it beyond the **[120] 90**-day preregistration application period.

§ 128b.9. Inspection and verification.

(a) *Department inspection.* The Department may physically inspect the premises at which a pesticide listed on a preregistration application is stored. The inspection will be conducted at a time agreeable to both the Department and the applicant. The purpose of an inspection will be to:

* * * * *

(3) Ascertain the condition of pesticide containers and assess other factors relevant to the safe **collection, packing, transport or disposal** of the pesticides.

(b) *Contractor inspection.* A contractor or prospective contractor may physically inspect the premises at which a pesticide listed on a preregistration application is stored. An inspection shall be conducted at a time agreeable to both the contractor, or prospective contractor, and the applicant. The purpose of an inspection shall be to verify bid specification information and to otherwise assist the contractor or prospective contractor in its planning for the safe **collection, packing, transport and** disposal of the pesticide.

§ 128b.10. Responsibilities of applicant or **[participating farmer] participant.**

(a) **Generally.** An applicant or **[participating farmer] participant** is responsible for the safe storage of pesticides held, owned or possessed by the applicant or **[participating farmer] participant.** This exclusive responsibility does not lapse with the filing of a preregistration application, with an inspection of the pesticide or pesticide storage area or with the notice of acceptance of the pesticide for disposal through the Program as described in § 128b.15 (relating to notification of participants). Action by the Department does not relieve the applicant or **[participating farmer] participant** of the responsibility to store pesticides in a safe and lawful manner. With respect to central-site pesticide collection, the **[participating farmer] participant** shall retain sole responsibility for the safe transport of pesticides and for the cleanup, if necessary, of the **[on-farm] site** at which the pesticide was stored. With respect to **[on-farm] onsite** pesticide collection, the **[participating farmer shall retain sole responsibility] contractor is responsible** for the cleanup, if necessary, of the **[on-farm] site** at which the pesticide was stored **[, to the extent that the cleanup is not necessitated by spills or other contamination caused by the contractor].** The contractor is responsible for property damage, personal injuries and the cleanup of spills or other contamination which it causes. **The contractor will not be responsible for the clean up of any areas outside of the site at which the pesticides are stored, unless otherwise specified by State or Federal regulation or law.**

(b) *Right to withdraw.* An applicant or **[participating farmer] participant** may withdraw from the Program at any time.

§ 128b.11. Unidentified pesticides.

The Department will obtain a sample of an unidentified pesticide with respect to which disposal is sought through

the Program. [A] The sample will be analyzed by the laboratories of the Department. If the Department is subsequently able to identify the previously unidentified pesticide, it will determine whether that particular pesticide container shall be placed on the pesticide inventory for the participating county in which the pesticide is located. The Department has discretion whether it will accept unidentified pesticides or substances for disposal through the Program.

§ 128b.12. [Pesticide labeling] Program limitations.

[A pesticide may not be accepted for disposal through the Program unless it bears a legible, prominent label identifying the pesticide by active ingredient or common name and by the EPA or USDA registration number. Unidentified pesticides which are subsequently identified by the Department will be labeled by the Department in accordance with this chapter prior to being accepted for disposal.]

The Department will accept a maximum of 2,000 pounds of pesticide for disposal from any one participant annually. The participant may pay the contractor directly for collection, transport and disposal of pesticides in excess of 2,000 pounds at the Commonwealth's contract price. The Department reserves the right to accept any excess pesticides or renegotiate acceptable poundage when deemed necessary by the Department.

§ 128b.13. Pesticide inventory.

Following the expiration of the [120] 90 day preregistration application period in § 128b.8(a) (relating to preregistration process), the Department will compile an inventory of the pesticides which are located within a particular participating county and which are intended for collection and disposal under the Program. The sources of information for this pesticide inventory [shall] may include preregistration application forms, additional information requested from an applicant under § 128b.7(d) (relating to preregistration application), information obtained through interviews with applicants or physical inspection of pesticides, results of laboratory tests conducted by the Department and other sources of which the Department avails itself. The pesticide inventory shall include the information listed in § 128b.7(b) and other information the Department deems relevant to the bidding and contracting process [set forth] in § 128b.14 (relating to bid specifications).

§ 128b.14. Bid specifications.

* * * * *

(b) *Contractor qualifications.* The bid specifications for the collection, packing, transportation and disposal of a pesticide inventory shall require that the following requirements are met:

(1) A contractor shall be approved by the EPA to collect, handle, transport and dispose of hazardous materials.

(2) A contractor shall be approved by the Department of Environmental [Resources] Protection to collect, handle, transport and dispose of hazardous materials.

(3) A contractor shall provide a written, detailed description of the procedures which it would use in [disposing] collection, packing, transportation and disposal of the pesticide inventory, including packing

procedures, transportation methods, selection of pesticide collection sites, disposal sites and methods of disposal, including a description of required State and Federal permits and documentation necessary to accomplish disposal.

(4) A contractor shall handle, collect, pack, transport and dispose of pesticides, whether classified as hazardous, in accordance with applicable State and Federal law, and in compliance with the written description provided the Department.

* * * * *

(d) *Pesticide collection options.* The Department may solicit bids for several different pesticide collection options: The Department may require that [participating farmers] participants arrange for the safe transportation of their pesticides to a central site from which the contractor shall collect, pack, transport and dispose of the pesticides, or the Department may require that the contractor collect, pack, transport and dispose of pesticides from the individual [farms or] storage locations throughout the participating county, or the Department may require that a contractor employ a combination of [on-farm] onsite pesticide collection and central-site pesticide collection. Regardless of the pesticide collection options with respect to which the Department solicits bids, the contractor shall perform [on-farm] onsite pesticide collection when required under § 128b.17 (relating to conditions requiring on-farm pesticide collection).

§ 128b.15. Notification of participants.

After the Department awards a pesticide disposal contract with respect to a participating county, [it] the contractor will notify each selected applicant holding, owning or possessing pesticides to be disposed of under the disposal contract that his preregistration application has been accepted and that he shall be a [participating farmer] participant in the Program. The notice will be in writing, by regular United States mail, addressed to the same address as appears on the preregistration application. The notice will also inform the [participating farmer] participant of obligations with respect to either transporting his pesticides to a central site for collection or otherwise making pesticides available for [on-farm] onsite collection by the contractor.

§ 128b.16. Central-site.

Although the Department will assist the contractor in obtaining a central site for pesticide collection prior to transportation and disposal, the decision whether to use a particular site for pesticide collection is exclusively the contractor's. The contractor is responsible for establishing, insuring and operating the site in compliance with applicable laws, and is responsible in the event of a pesticide spill or other environmentally-impacting incident which gives rise to legal liability.

§ 128b.17. Conditions requiring on-farm pesticide collection.

A leaking, deteriorated or otherwise unsafe container of pesticide may not be transported by a [participating farmer] participant to a central site for collection by a contractor, but shall [instead] be [overpacked] overpacked and collected [on-farm] onsite by the contractor. Quantities of pesticide that are too large, too heavy, too unwieldy, in excess of allowable quantities for waste transport or otherwise incapable of being safely trans-

ported by a **[participating farmer] participant** to a central site for collection shall be collected **[on-farm] onsite** by a contractor. If either the contractor or the **[participating farmer] participant** makes the determination that a pesticide container is leaking, deteriorated or otherwise unsafe, or that a pesticide container is too large, too heavy, too unwieldy or otherwise incapable of being safely transported by a **[participating farmer] participant** to a central site for collection, the pesticide container shall be **[overpacked] overpacked** and collected **[on-farm] onsite** by the contractor.

§ 128b.18. State and Federal regulations.

To the extent that a conflict is subsequently found to exist between this chapter and other regulations of the Commonwealth or the United States pertaining to the **collection**, packing, transport, storage or disposal of hazardous waste, or pertaining to the qualification, authorization or licensure of persons to perform the foregoing activity, or pertaining to insurance or other surety requirements of persons performing the foregoing activities, other regulations of the Commonwealth or the United States supersede this chapter.

[Pa.B. Doc. No. 05-1338. Filed for public inspection July 15, 2005, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Labor and Industry

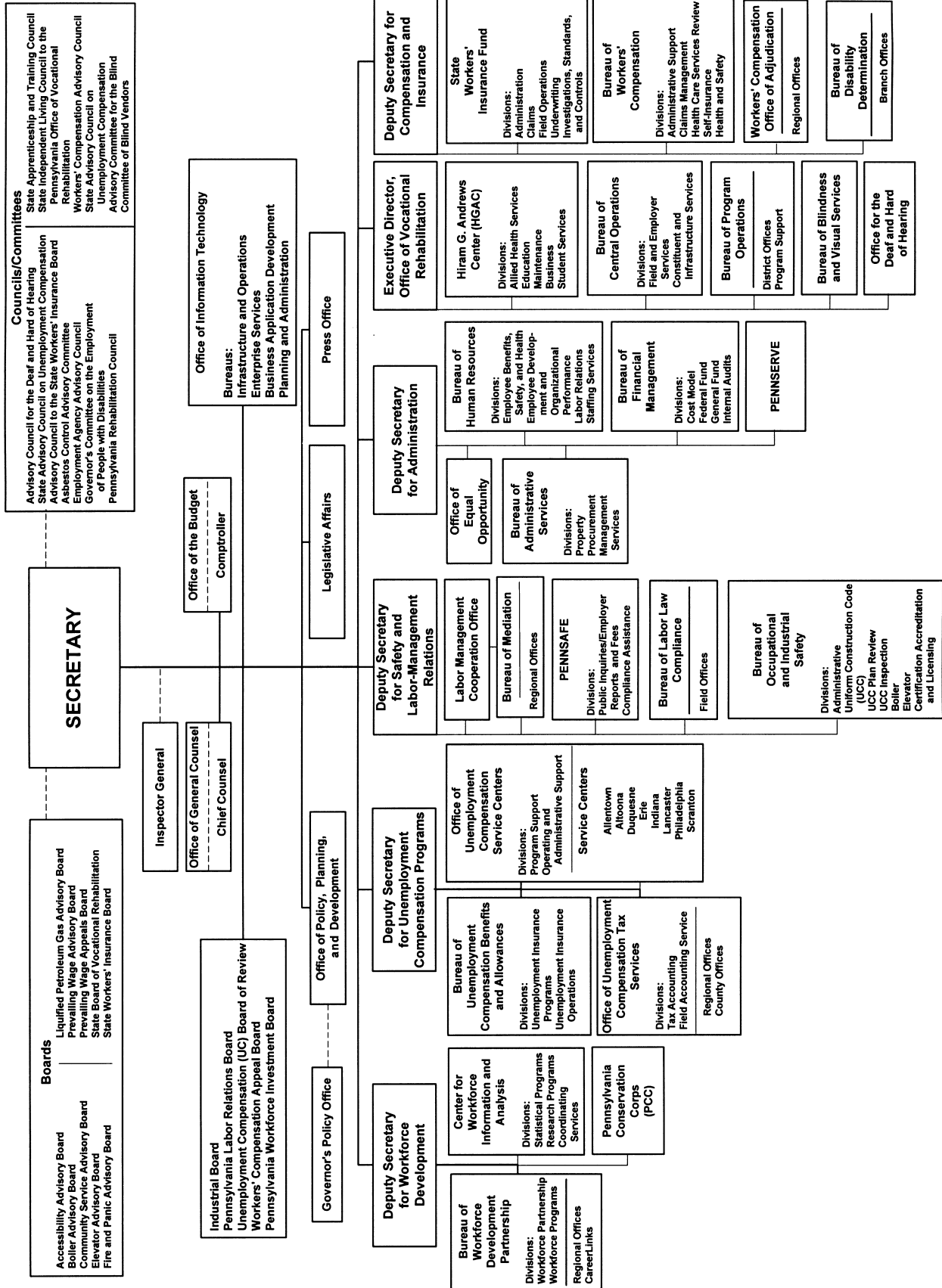
The Executive Board approved a reorganization of the Department of Labor and Industry effective June 27, 2005.

The organization chart at 35 Pa.B. 3947 (July 16, 2005) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

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

[Pa.B. Doc. No. 05-1339. Filed for public inspection July 15, 2005, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY



NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 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 July 5, 2005.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
7-1-05	Community Banks, Inc., Harrisburg, to acquire 100% of the voting shares of PennRock Financial Services Corp., Blue Ball PennRock Financial Services Corp. is the parent holding company of Blue Ball National Bank, which will be merged with and into Community Banks as a result of this transaction (see Consolidations, Mergers and Absorptions which appears later in this notice).	Harrisburg	Effective

Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-28-05	The First National Bank of Canton Canton Bradford County <i>To:</i> Bank of Canton Canton Bradford County Represents conversion from a National banking association to a State-chartered bank. Bank of Canton is a wholly owned banking subsidiary of Canton Bancorp, Inc., Canton, an existing bank holding company. The bank was previously approved as a member of the Federal Reserve System and membership became effective as of the date of conversion.	Canton	Effective

Branches Acquired by Means of Conversion:

304 Main Street Towanda Bradford County	410 Canton Street Troy Bradford County
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Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
7-1-05	Community Banks, Millersburg, and Blue Ball National Bank, Blue Ball Surviving Institution— Community Banks, Millersburg <i>Branches Acquired by Means of Merger:</i> State Routes 23 and 10 Morgantown Berks County 2900 St. Lawrence Avenue Mt. Penn Berks County 800 Kenhorst Plaza Shillington Berks County 2210 Quarry Drive West Lawn Berks County	Millersburg 219 Cats Bank Road Ephrata Lancaster County 1001 Sharp Avenue Ephrata Lancaster County Routes 30 and 41 Gap Lancaster County 2098 Spring Valley Road Lancaster Lancaster County	Effective

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
	5318 Allentown Pike Temple Berks County	333 West Main Street Leola Lancaster County	
	750 Crossings Boulevard Elverson Berks County	3130 Lititz Pike Lititz Lancaster County	
	4710 Horseshoe Pike Honey Brook Chester County	Route 23 and Shirk Road New Holland Lancaster County	
	850 Commons Drive Parkesburg Chester County	100 West Main Street Terre Hill Lancaster County	
	Corner of Routes 272 and 897 Adamstown Lancaster County	Main Street Mount Joy Lancaster County (Approved/Unopened)	
	1060 Main Street Blue Ball Lancaster County	90 Willow Valley Lakes Drive Willow Street Lancaster County	

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
6-28-05	Abington Savings Bank Jenkintown Montgomery County	329 North Main Street Chalfont Bucks County	Filed
6-28-05	Abington Savings Bank Jenkintown Montgomery County	800 Bethlehem Pike Springhouse Montgomery County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Trade, Industry or Professional Charter Notice

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
6-28-05	HVHS Credit Union Sewickley Allegheny County	Sewickley	Filed

Notice represents the intent to convert from an occupational-based credit union to a Trade, Industry or Professional Charter with a proposed field of membership consisting of "all employees, independent contractors, or self-employed persons and their family members who work regularly in the Health Care industry within the counties of the 2003 Pittsburgh Metropolitan Statistical Area (MSA) as defined by the U. S. Census Bureau. The Pittsburgh MSA is comprised of the following: Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties, in the Commonwealth of Pennsylvania."

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
7-1-05	Pittsburgh Teachers Credit Union, Pittsburgh, and MHE Federal Credit Union, McKeesport Surviving Institution— Pittsburgh Teachers Credit Union, Pittsburgh	Pittsburgh	Effective

A. WILLIAM SCHENCK, III,
Secretary

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Pennsylvania Minority Business Development Authority; Revolving Loan Fund Capitalization Program

The Department of Community and Economic Development (Department), through the Pennsylvania Minority Business Development Authority (PMBDA), gives notice of the establishment of the Revolving Loan Fund Capitalization Program to assist PMBDA with its primary mission of stimulating the creation, retention and expansion of minority owned businesses and to create jobs in this Commonwealth. PMBDA seeks to take advantage of successful programs already in existence in this Commonwealth and to partner with organizations engaged in these programs by providing funds with nominal interest payments and extended repayment terms. Eligible applicants are: (1) community development financial institutions which are certified in accordance with the Community Development Banking and Financial Institutions Act of 1994 and which have operated a revolving loan fund for at least 12 months; and (2) community-based revolving loan funds operated by nonprofit, community-based corporations that have as a purpose the promotion of business development within the communities that they serve.

Program inquiries and requests for hardcopy applications should be directed to the Pennsylvania Minority Business Development Authority, Department of Community and Economic Development, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0225, (717) 346-4773, fax (717) 772-2890, dwaters@state.pa.us.

DENNIS YABLONKSY,
Secretary

[Pa.B. Doc. No. 05-1341. Filed for public inspection July 15, 2005, 9:00 a.m.]

Pennsylvania State Planning Board Meeting

The Pennsylvania State Planning Board has scheduled a meeting to be held on July 29, 2005, from 10 a.m. to 4 p.m. in Conference Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Persons with a disability who require accommodations to attend the meeting should contact the Department of Community and Economic Development, Governor's Center for Local Government Services at (888) 223-6837.

DENNIS YABLONKSY,
Secretary

[Pa.B. Doc. No. 05-1342. Filed for public inspection July 15, 2005, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, July 27, 2005, at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

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

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

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 05-1343. Filed for public inspection July 15, 2005, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

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

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

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

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

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

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

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

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

I. NPDES Renewal Applications

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17710.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0085723 (Sewage)	Exit II WWTP, Inc. P. O. Box 1387 York, PA 17403	York County Springfield Township	Seaks Run/7-H	Y
PA0083135 (Sewage)	Mifflin County School District 103 Green Avenue Lewistown, PA 170444-2320	Mifflin County Derry Township	Jack's Creek/12-A	Y
PA0087718 (IW)	Genwove U. S. Limited P. O. Box 34 Crystal Springs, PA 15536	Fulton County Brush Creek Township	Little Brush Creek/11-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0113280 IW	Pennsylvania State University 101P Office of Physical Plant Building University Park, PA 16802-1118	State College Borough Centre County	UNT Slab Cabin Run 9-C	Y
PA0228273	Locust Township Municipal Authority—Numidia Treatment Facility 1223A Numidia Drive Catawissa, PA 17820	Columbia County Locust Township	UNT to Roaring Creek (5E)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0035521	Department of Transportation Satellite Maintenance Facility Bureau of Design P. O. Box 3060 Harrisburg, PA 17105-3060	Rome Township Crawford County	Allegheny River 16-E	Y
PA0025445	Borough of Wampum STP 355 Main Street Extension P. O. Box 65 Wampum, PA 16157	Wampum Borough Lawrence County	Beaver River 20-B	Y
PA0030724	Pleasant Ridge Manor—West 8300 West Ridge Road Girard, PA 16417	Fairview Township Erie County	Trout Run 15-TR	Y

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

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

Application No. PA 0085529, Industrial Waste, SIC Code 4941, **Altoona City Authority (Mill Run)**, 20 Greenwood Road, Altoona, PA 16602-7114. This facility is located in Logan Township, **Blair County**.

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

The receiving stream, Mill Run, is in Watershed 11-A, and classified for HQ-CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Newport Borough Water Authority located on the Juniata River, approximately 142 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.120 mgd are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH		from 6.0 to 9.0 inclusive	
Total Suspended Solids	30	45	60
Total Iron	2.0	4.0	5.0
Total Aluminum	2.1	4.2	5.2
Total Manganese	1.0	2.0	2.5

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

The EPA waiver is in effect.

Application No. PA 0085821, Industrial Waste, SIC Code 4941, **Altoona City Authority (Homer Gap)**, 20 Greenwood Road, Altoona, PA 16602-7114. This facility is located in Logan Township, **Blair County**.

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

The receiving stream, Homer Gap Run, is in Watershed 11-A, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Newport Borough Water Authority located on the Juniata River, approximately 124 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.120 mgd are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH		from 6.0 to 9.0 inclusive	
Total Suspended Solids	30	60	75
Total Iron	2.0	4.0	5.0
Total Aluminum	1.0	2.0	2.5
Total Manganese	1.0	2.0	2.5

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

The EPA waiver is in effect.

Application No. PA 0085812, Industrial Waste, SIC Code 4941, **Altoona City Authority (Kettle Creek)**, 20 Greenwood Road, Altoona, PA 16602-7114. This facility is located in Tyrone Township, **Blair County**.

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

The receiving stream, Kettle Creek, is in Watershed 11-A, and classified for trout stocking, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Newport Borough Water Authority located on the Juniata River, approximately 125 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.120 mgd are:

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
pH		from 6.0 to 9.0 inclusive	
Total Suspended Solids	30	45	60
Total Iron	2.0	4.0	5.0
Total Aluminum	1.4	2.8	3.5
Total Manganese	1.0	2.0	2.5

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

The EPA waiver is in effect.

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

No. PA0024406, Sewage SIC 4952, **Mount Carmel Municipal Authority**, 18 East Fifth Street, Mount Carmel, PA 17851-0365. This existing facility is located in Mount Carmel Township, **Northumberland County**.

Description of Proposed Activity: The Authority proposes the renewal of the existing NPDES permit, which, in addition to the discharge from the wastewater treatment plant, incorporates combined sewer overflow and stormwater outfalls.

The receiving stream, Shamokin Creek, is in the State Water Plan watershed 6B and is classified for WWF. The nearest downstream public water supply is the United Water Company, located on the Susquehanna River, Dauphin. It's located approximately 70 river miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.5 mgd:

Discharge Parameter	Monthly Average	Weekly Average	Instantaneous Maximum
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Total Chlorine Residual	0.8		2.7
Fecal Coliforms:			
(5-1 to 9-30)		200 col/100 ml as a geometric mean	
(10-1 to 4-30)		2,000 col/100ml as a geometric mean	
pH		within the range of 6.0 to 9.0	

Combined Sewer Overflows:

No.	Location	Receiving Stream
002	Pine Street	Shamokin Creek
003	Almond Street	Shamokin Creek
004	Spruce Street	Shamokin Creek
005	Locust Street	Shamokin Creek
006	Walnut Street	Shamokin Creek
007A	Chestnut Street	Shamokin Creek
007B	Chestnut Street	Shamokin Creek
007C	Chestnut Street	Shamokin Creek
008A	Market Street	Shamokin Creek
008B	Market Street	Shamokin Creek
009	Hickory Street	Shamokin Creek
010	Apple Street	Shamokin Creek
012	Water Street	Shamokin Creek
013	Manhole No. 36	Shamokin Creek
014	Manhole No. 57	Shamokin Creek
015	Willow Street	Butternut Creek
016	Oak Street	Shamokin Creek
017	Maple Street	Shamokin Creek

Stormwater Outfalls

<i>No.</i>	<i>Receiving Stream</i>
S01	Shamokin Creek
S02	Shamokin Creek

In addition to the effluent limits, the permit contains the following major special conditions:

1. Management and Control of Combined Sewer Overflows.
2. Requirements Applicable to Stormwater Outfalls.

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

PA0005037, Industrial Waste, SIC, 4911, **EME Homer City Generation LP**, 1750 Power Plant Road, Homer City, PA 15748. This application is for renewal of an NPDES permit to discharge treated process water, sewage, cooling water and stormwater, from the Homer City Power Station in Center Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, tributaries of Two Lick Creek, Blacklick Creek and Cherry Run, classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Buffalo Township Municipal Water Authority, located at Freeport, 57 miles below the discharge point.

Outfall 001: existing discharge, design flow of 3.28 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Free Available Chlorine			0.2	0.5	
Chromium			0.2	0.2	
Zinc			1.0	1.0	
Temperature (°F)					
(1-1 to 1-31)				97	
(2-1 to 2-29)				93	
(3-1 to 6-15)				110	
(6-16 to 6-30)				99	
(7-1 to 7-31)				79	
(8-1 to 8-15)				109	
(8-16 to 10-15)				110	
(10-16 to 11-16)				105	
(11-16 to 11-30)				89	
(12-1 to 12-31)				84	
pH	not less than 6.0 nor greater than 9.0				

Outfall 003: existing discharge, design flow of 1.45 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

Outfall 004: existing discharge, design flow of 0.32 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Dissolved Iron			2.0	4.0	
Manganese			2.0	4.0	
pH	not less than 6.0 nor greater than 9.0				

Outfall 005: existing discharge, design flow of 0.87 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

Outfall 007: existing discharge, design flow of 0.015 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	0.015				
TSS			30		60
CBOD ₅			25		60
Dissolved Oxygen			5.0 (minimum)		
Fecal Coliform					
(5-1 to 9-30) (#/100 ml)			200	1,000	
(10-1 to 4-30) (#/100 ml)			2,000		
TRC			1.4		3.3
pH	not less than 6.0 nor greater than 9.0				

Outfall 008: existing discharge, design flow of 0.016 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	0.016				
TSS			30		60
CBOD ₅			25		50
Dissolved Oxygen			5.0 (minimum)		
Fecal Coliform					
(5-1 to 9-30) (#/100 ml)			200	1,000	
(10-1 to 4-30) (#/100 ml)			2,000		
TRC			1.4		3.3
pH	not less than 6.0 nor greater than 9.0				

Outfall 011: existing discharge

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

Outfall 012: existing discharge

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

Outfall 014: existing discharge

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	60	

Outfall 015: existing discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

Outfall 016: existing discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

Outfall 018: existing discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Dissolved Iron			4	7	
pH	not less than 6.0 nor greater than 9.0				

Outfall 020: existing discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Dissolved Iron			2	4	
Manganese			2	4	
pH	not less than 6.0 nor greater than 9.0				

Outfall 021: existing discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS				Monitor and Report	
Aluminum				Monitor and Report	
Iron				Monitor and Report	
Pollution reduction report is necessary for TSS, Aluminum and Iron.					

Outfall 023: existing discharge

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
TSS				Monitor and Report	
Iron				Monitor and Report	
Pollution reduction report is necessary for TSS and Iron.					

Outfall 027: existing discharge, design flow of 0.179 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Total Suspended Solids			30	100	
CBOD ₅			25	50	
Oil and Grease			15	20	
Temperature (°F)				110	
Beryllium			0.8	1.6	
Lead			0.1	0.2	
Mercury			0.002	0.004	
Selenium			0.8	1.6	
Boron			Monitor and Report		
MBAS			Monitor and Report		
Osmotic Pressure			Monitor and Report		
TDS			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

Outfalls 126 and 226: existing discharges.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Free Available Chloride			0.2	0.5	
Chromium			0.2	0.2	
Zinc			1.0	1.0	
Temperature (°F)					
(1-1 to 1-31)				97	
(2-1 to 2-29)				93	
(3-1 to 6-15)				110	
(6-16 to 6-30)				99	
(7-1 to 7-31)				79	
(8-1 to 8-15)				109	
(8-16 to 10-15)				110	
(10-16 to 11-15)				105	
(11-16 to 11-30)				89	
(12-1 to 12-31)				84	
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is not in effect.

PA0096971, Industrial Waste, SIC, 4941, **West Carroll Township Water and Sewer Authority**, P. O. Box 328, Elmora, PA 15737-0374. This application is for renewal of an NPDES permit to discharge treated process water from Bakerton Water Treatment Plant in West Carroll Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT to West Branch Susquehanna River, classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation.

Outfall 001: existing discharge, design flow of 0.004 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Suspended Solids			30.0		60.0
Iron			2.0		4.0
Aluminum			2.2		4.4
Manganese			1.0		2.0
Total Residual Chlorine			0.5		1.0
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

PA0203661, Industrial Waste, SIC, 2819, **Goldschmidt Industrial Chemical Corporation**, 941 Robinson Highway, McDonald, PA 15057. This application is for renewal of an NPDES permit to discharge treated sewage and untreated cooling water, stormwater and groundwater from McDonald Plant in Robinson Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT to Robinson Run, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is West View Municipal Water Supply, located at Mile 4.4—Ohio River, 20 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.0003 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	0.0003				
CBOD ₅			25		30
Suspended Solids			30		60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)			200/100 ml as a geometric mean 2,000/100 ml as a geometric mean		
Total Residual Chlorine			1.4		3.3
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

Outfall 102: existing discharge, design flow of 0.094 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
pH	not less than 6.0 nor greater than 9.0				

Outfall 002: new discharge, design flow of 0.094 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				

The discharge through this outfall shall consist solely of uncontaminated stormwater runoff and noncontact cooling water from internal monitoring point 102.

pH Not less than 6.0 nor greater than 9.0

Outfall 003: existing discharge, design flow of 0.0032 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Oil and Grease			15		30
Arsenic			Monitor and Report		
Cadmium			Monitor and Report		
Zinc			Monitor and Report		
Free Cyanide			Monitor and Report		
Copper			Monitor and Report		
Nickel			Monitor and Report		
Phenols			Monitor and Report		
Manganese			1.0	2.0	
pH	not less than 6.0 nor greater than 9.0				

Outfall 004: existing discharge, design flow of 0.0032 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Oil and Grease			15		30
Arsenic			Monitor and Report		

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Cadmium			Monitor and Report		
Zinc			Monitor and Report		
Free Cyanide			Monitor and Report		
Copper			Monitor and Report		
Nickel			Monitor and Report		
Phenols			Monitor and Report		
Manganese			1.0	2.0	
pH	not less than 6.0 nor greater than 9.0				

PA0205231, Industrial Waste, SIC, 5093, **Azcon Corporation**, P. O. Box 7818, Pittsburgh, PA 15215. This application is for renewal of an NPDES permit to discharge untreated cooling water from the Sharpsburg Plant in Sharpsburg Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters of the Allegheny River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Shaler Water Works, located at Shaler, 1.60 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.0216 mgd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
Manganese				Monitor and Report	
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

Outfall 002: existing discharge, design flow of 0.0216 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
Manganese				Monitor and Report	
pH	not less than 6.0 nor greater than 9.0				

Outfall 003: existing discharge, design flow of 0.0216 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
Manganese				Monitor and Report	
pH	not less than 6.0 nor greater than 9.0				

Outfall 004: existing discharge, design flow of 0.0216 mgd

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	Monitor and Report				
Temperature (°F)				110	
Manganese				Monitor and Report	
pH	not less than 6.0 nor greater than 9.0				

Outfall 005: existing discharge, design flow of 0.043 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Temperature (°F)	110				
Manganese	Monitor and Report				
pH	not less than 6.0 nor greater than 9.0				

PA0218367, Industrial Waste, SIC 4941, **Saint Francis College**, P. O. Box 600, Loretto, PA 15940-0600. This application is for renewal of an NPDES permit to discharge treated process water from Saint Francis Water Treatment Plant in Loretto Borough, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT to Chest Creek, classified as a HQ-CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Patton Borough Water System, located at Chest Creek, 10 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.003 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
Total Suspended Solids			30		60
Iron			2		4
Aluminum			1.8		3.6
Manganese			1		2
Total Residual Chlorine			0.5		1.0
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

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

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

WQM Permit No. 0905408, Sewerage, **East Rockhill Township**, 1622 Ridge Road, Perkasio, PA 18944. This proposed facility is located in East Rockhill Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a sanitary sewer gravity collection pump station and force main.

WQM Permit No. 4605410, Sewerage, **East Norriton Plymouth Whitpain Joint Sewer Authority**, 200 Ross Street, Plymouth Meeting, PA 19462-2740. This proposed facility is located in Plymouth Township, **Montgomery County**.

Description of Action/Activity: Improvements and upgrades to the existing WWTP.

WQM Permit No. 0905409, Sewerage, **Falls Township Water and Sewer Department**, 188 Lincoln Highway, Suite 100, Fairless Hills, PA 19030. This proposed facility is located in Falls Township, **Bucks County**.

Description of Action/Activity: Abandonment of existing "can" type pump station and the construction of a new submersible pump station at site.

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

WQM Permit No. 6791403, Amendment 05-1, Sewerage, **East Prospect Borough Authority**, P. O. Box 334, East Prospect, PA 17317. This proposed facility is located in Lower Windsor Township, **York County**.

Description of Proposed Action/Activity: Installation of an Ultraviolet Disinfection System to existing Plant.

WQM Permit No. 2104405, Amendment 05-1, Sewerage, **Borough of Shippensburg Sewer Authority**, 111 North Fayette Street, P. O. Box 129, Shippensburg, PA 17259. This proposed facility is located in Southampton Township, **Franklin County**.

Description of Proposed Action/Activity: Modifications to existing activated sludge process tanks and construct an additional tank to facilitate implementation of biological nutrient removal treatment.

WQM Permit No. 6705403, Sewerage, **Northeastern York County Sewer Authority**, P. O. Box 516, 175 Chestnut Street Extended, Mount Wolf, PA 17347. This proposed facility is located in East Manchester Township, **York County**.

Description of Proposed Action/Activity: Construction/Operation of the Rentzel Pumping Station to serve the Rentzel Subdivision.

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

WQM Permit No. 1705405, Sewerage, **Marita W. Davis**, 100 Industrial Park Road, Clearfield, PA 16830. This proposed facility is located in Bigler Township, **Clearfield County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a single residence sewage plant. The sewage plant will be a septic tank, buried filter and chlorination.

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

WQG Permit No. 0161111, Sewerage, **Michael Heinlein**, 2726 Route 168, Hookstown, PA 15050. This proposed facility is located in Hanover Township, **Beaver County**.

Description of Proposed Action/Activity: Application for installation and operation of a small flow sewage treatment facility to service a four bedroom, single family residence.

WQM Permit No. 0205408, Sewerage, **Forward Township**, 500 Liggett Avenue, Monongahela, PA 15063. This proposed facility is located in Forward/Elizabeth Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for construction and operation of a gravity sewer line.

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

WQM Permit No. 6105401, Sewerage, **Camping Association of the Presbyteries of NW Pennsylvania**, 114 West Venango Street, Mercer, PA 16137-1109. This proposed facility is located in Scrubgrass Township, **Venango County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment system to serve the Westminster Highlands Church Camp.

WQM Permit No. 4205401, Sewerage, **United States Department of Agriculture—Forest Service**, 222 Liberty Street, Warren, PA 16365. This proposed facility is located in Hamilton Township, **McKean County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment system to serve the Red Bridge Recreation Area.

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)

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

<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
New Milford Borough P. O. Box 630 New Milford, PA 18834	Susquehanna	New Milford Borough	Salt Lick Creek Meylert Creek Smith Creek

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011505043	The Hankin Group Eagleview Condos on the Square 707 Eagleview Boulevard Exton, PA 19341	Chester	Uwchlan Township	Shamona Creek (HQ-TSF)

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

Lehigh County Conservation District: Lehigh Ag. Ctr., Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023905020	Bill Dion Pulte Homes 1100 Northbrook Dr. Suite 200 Trevose, PA 19053	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF
PAI023905022	Pulte Homes of PA, LP 1100 Northbrook Dr. Suite 200 Trevose, PA 19053	Lehigh	Upper Macungie and Lower Macungie Townships	Little Lehigh Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024505015	Gabriel Scavello 1555 Bayview Ave. Bronx, NY 10405	Monroe	Coolbaugh Township	Indian Run HQ-CWF

Northampton County Conservation District: Greystone Bldg., Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024805015	Valley Pain Specialists Attn: S. Mortazavi, MD 260 East Broad St. Bethlehem, PA 18018	Northampton	Bethlehem Township	Monocacy Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033605005	Lester O. Houck 5581 Old Philadelphia Pike Gap, PA 17527	Lancaster	Salisbury Township	Pequea Creek/Umbles Run HQ-CWF
PAI033605006	Richard H. Albright 151 Eshelman Road Lancaster, PA 17601	Lancaster	Eden Township	Bowery Run/HQ-CWF, MF
PAI032105006	Carlisle Area Family YMCA 311 S. West Street Carlisle, PA 17013	Cumberland	South Middleton Township	Letort Spring Run/HQ-CWF
PAI032105007	Southampton Stark LLC P. O. Box 6653 191 Throckmorton St.	Cumberland	Southampton Township	Reservoir Hollow Run tributary to Middle Spring Creek/CWF
PAI032105005	Yanek Custom Homes, Inc. 8 South Ridge Street Boiling Springs, PA 17007	Cumberland	South Middleton Township	UNT to Yellow Breeches Creek/HQ-CWF

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

Clearfield Conservation District: 650 Leonard St., Clearfield, PA 16830.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS101708R1	The Clearfield Foundation 126 E. Market St. Clearfield, PA 16830	Clearfield	Lawrence Township	W. Br. Susquehanna River WWF

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

Fayette County Conservation District: 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931, (814) 472-2120.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI052605002	George Family Limited Partnership P. O. Box 5 Farmington, PA 15437	Fayette	Wharton Township	Deadmams Run (HQ-CWF) Meadow Run (HQ-CWF)
PAI052605003	Judson Anderson Jay Anderson 295 Lakeview Road Confluence, PA 15424	Fayette	Wharton Township	Deadmams Run (HQ-CWF) Meadow Run (HQ-CWF)

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

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

MS 4 Renewal

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

<i>NPDES No. (Type)</i>	<i>Applicant Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PAR100461-R	Glenn D. Fite 5 Shady Lane Quarryville, PA 17566	East Drumore Township Lancaster County	South Fork of Big Beaver Creek—WWF/WWF	Y

**PUBLIC WATER SUPPLY (PWS)
PERMIT**

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

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

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

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

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Permit No. 0105502 , Public Water Supply.
Applicant Littlestown Borough Authority
Municipality Littlestown Borough
County Adams
Responsible Official Harry P. McKean 209 Locust St. East Berlin, PA 17316

Type of Facility	Public Water Supply
Consulting Engineer	Damon B. Wellman, P. E. Modern Pump & Equipment, Inc. 709 East Sunbury Street Millerstown, PA 17062
Application Received Date	3/15/2005
Description of Action	Rerating of the Heritage Hills II Well No. 9

Permit No. 0605506, Public Water Supply.

Applicant	Berks Properties
Municipality	Hereford Township
County	Berks
Responsible Official	David Rittenhouse, President 2620 Egypt Road Norrstown, PA 19403

Type of Facility	Public Water Supply
Consulting Engineer	Todd M. Duerr, P. E. American Water Services 453 Boot Road Downingtown, PA 19335
Application Received Date	5/6/2005
Description of Action	The project consists of the addition of corrosion control to the existing Woodland Mobile Home Park.

Permit No. 5005503, Public Water Supply.

Applicant	Pfautz Properties
Municipality	Penn Township
County	Perry
Responsible Official	Suzanne H. Hammaker, Owner 101 Pfautz Road Duncannon, PA 17020

Type of Facility	Public Water Supply
Consulting Engineer	Peter Lusardi, P. E. CET Engineering Services 1240 N. Mountain Rd. Harrisburg, PA 17112
Application Received Date	5/31/2005
Description of Action	Installation of polyphosphate feed equipment for maganese treatment.

Permit No. 2105504, Public Water Supply.

Applicant	Pennsylvania-American Water Company
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Municipality Lemoyne Borough and Lower Allen Township
 County **Cumberland**
 Responsible Official William C. Kelvington, V. P. Operations
 800 W. Hersheypark Drive
 Hershey, PA 17033
 Type of Facility Public Water Supply
 Consulting Engineer Gene C. Koontz, P. E.
 Gannett Fleming, Inc.
 P. O. Box 67100
 Harrisburg, PA 17106-7100
 Application Received Date 6/6/2005
 Description of Action Construction of the Camp Hill and Slate Hill Booster Pump Stations.

Permit No. 0605514, Public Water Supply.

Applicant **Pennsylvania-American Water Company**
 Municipality Amity Township
 County **Berks**
 Responsible Official William C Kelvington, V. P. Operations
 800 W. Hersheypark Drive
 Hershey, PA 17033
 Type of Facility Public Water Supply
 Consulting Engineer Michael J. Daschbach, P. E.
 Entech Engineering Inc.
 4 South Fourth Street
 Reading, PA 19603
 Application Received Date 6/20/2005
 Description of Action Construction of a booster pump station and 31,000 feet of 12-inch DI transmission main to interconnect PAWC's Glen Alsace and Douglasville water systems.

Permit No. 0105506, Public Water Supply.

Applicant **Greater Gettysburg Development Co., LLC**
 Municipality Straban Township
 County **Adams**
 Responsible Official Richard A. Klein
 601 Mason Dixon Road
 Gettysburg, PA 17325
 Type of Facility Public Water Supply
 Consulting Engineer Richard M. Bodner, P. E.
 Martin and Martin, Inc.
 37 S. Main St.
 Chambersburg, PA 17201
 Application Received Date 6/29/2005
 Description of Action Construction of a new community water system to be known as Gettysburg Commons with four wells and associated treatment.

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

Permit No. 4496031-A16, Public Water Supply.

Applicant **Tulpehocken Spring Water Inc.—Oak Park Bottling Plant**
 Township or Borough Point Township
 County **Northumberland**
 Responsible Official Gary L. Troutman
 Vice President
 R. R. 1, Box 114T
 Northumberland, PA 17857
 Type of Facility Public Water Supply—Construction
 Consulting Engineer Thomas G. Pullar, P. E.
 EarthRes Group, Inc.
 P. O. Box 468
 7137 Old Easton Road
 Pipersville, PA 18947
 Application Received Date July 1, 2005
 Description of Action Addition of a new raw water source (James M. Rodichok Egg Harbor Spring) to their Oak Park Bottling Plant. The source is in Porter Township, Schuylkill County.

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

Permit No. 996491, Public Water Supply.

Applicant **Nestle Waters North America, Inc.**
 Township or Borough **Hollis, ME**
 Responsible Official Rick Smith, Quality Assurance Manager
 Type of Facility Out-of-State Bottled Water System
 Application Received Date June 20, 2005
 Description of Action Applicant requesting a minor permit amendment to use the Spruce Spring source located in Pierce Pond Township, Maine. Bottled water to be sold in this Commonwealth under the brand names Poland Spring Natural Spring Water, Deer Park Natural Spring Water and Ice Mountain Natural Spring Water.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

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

Ceton Court LLC, Marple Township, **Delaware County**. Kurt J. Spiess, Environmental Mgmt. Group, Inc. on behalf of Ceton Court LLC, 140 W. Eagle Road, Havertown, PA 19083 has submitted a Notice of Intent to Remediate. Soil at the site was impacted by lead and arsenic. The site will be developed for residential use and expand the local tax base.

ADE Associates, LP Retail Center, City of Philadelphia, **Philadelphia County**. Daniel Lewis, Spotts,

Stevens & McCoy, Inc. on behalf of Benjamin Bowers, ADE Associates, LP, 4500 Perkiomen Ave., P. O. Box 4116, Reading, PA 19606 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site was impacted by No. 6 fuel oil. The future use of the property will be commercial.

Tacony Warehouse Site, City of Philadelphia, **Philadelphia County**. Jamey Stynchula, P. G., Pennoni Associates, Inc., One Drexel Plaza, 3001 Market Street, Philadelphia, PA 19104 on behalf of Scott Blow, Kaplan at Tacony, LP, 701 Margaret Court, South Plainfield, NJ 07080 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site was impacted by chlorinated solvents, PCBs, No. 2 fuel oil, pesticides and inorganics. The intended future use of the property is residential, with single-family townhomes proposed for construction.

American Film Co., Bridgeport Borough, **Montgomery County**. Jeffrey Goudsward, Penn E & R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Richard Heany, O'Neill Prop. Group, LP, 700 S. Henderson Road, King of Prussia, PA 19406 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted by unleaded gasoline, No. 2 fuel oil, PAHs and inorganics. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on June 7, 2005.

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

Bethlehem Technology Center Lot A (former Merchant Mills section of Bethlehem Steel Corporation property), City of Bethlehem, **Northampton County**. Vincent Carbone, P. G., HDP/LMS, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 submitted a Notice of Intent to Remediate (on behalf of his client, Northampton County New Jobs Corporation, c/o Janet Smith, 2158 Avenue C, Bethlehem, PA 18015) concerning the characterization of soils and groundwater found or suspected to have been impacted by chlorinated solvents or other contaminants as the result of historic industrial operations. The applicant proposes to meet the site-specific standard. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper in the near future. The future use of the site will be continuation as an office building.

Former Holtzman Petroleum Company, Borough of East Stoudsburg, **Monroe County**. Letterle & Associates, Beta Building, Suite 203, 4084 Mt. Royal Boulevard, Allison Park, PA 15101 has submitted a Notice of Intent to Remediate (on behalf of their client, Richard Burroughs, Holtzman Petroleum Company Liquidating Trust, 2940 Woods Hollow Lane, Allentown, PA 18103) concerning the remediation of soils and/or groundwater found or suspected to have been impacted by the release of No. 2 fuel oil constituents from a former aboveground storage tank on the property. The applicant proposes to meet the Site-Specific Standard. A summary of the Notice of Intent to Remediate was reportedly published in the *Pocono Record* on June 15, 2005. The future use of the site is expected to be continued as use for commercial and industrial purposes.

Former Tamaqua Area Junior High School (Lehigh Carbon Community College Schuylkill Campus), Tamaqua Borough, **Schuylkill County**. Spotts, Stevens and McCoy, Inc., has submitted a Notice of Intent to Remediate (on behalf of their client, Lehigh Carbon Community College, 4525 Educational Park

Drive, Schnecksville, PA 18078) concerning the remediation of groundwater found or suspected to have been impacted by the release of No. 2 fuel oil constituents from a former underground storage tank on the property. The applicant proposes to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper in the near future. The continued future use of the site is expected to be as a community college campus.

Grogan's Automotive, Mount Pocono Borough, **Monroe County**. Vincent Carbone, P. G., HDR/LMS, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 has submitted a Notice of Intent to Remediate (on behalf of his client, Arthur Grogan, Grogan's Automotive, 503 Pocono Boulevard, Mt. Pocono, PA 18344) concerning the remediation of soils and/or groundwater found or suspected to have been impacted by the release of gasoline constituents from former underground storage tanks on the property. The applicant proposes to meet the Site-Specific Standard. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper in the near future. The site will continue to be used for commercial and industrial purposes.

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

Former Metron Site, Harrisburg City, **Dauphin County**. BL Companies, 830 Sir Thomas Court, Harrisburg, PA 17109, on behalf of Brittany Capital, LLC, 14 Faculty Road, Duncannon, PA 17020 and BSF Properties, LLC, 114 Yellow Breeches Drive, Camp Hill, PA 17011, submitted a Notice of Intent to Remediate site soils and groundwater impacted by a release of petroleum and No.2 fuel oil. The applicants propose to remediate the site to meet the Site Specific Standard requirement. The site is to be renovated for commercial retail use.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first.

Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

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

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

PLAN APPROVALS

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

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

40-317-025: GRUMA Corp. (Mission Foods, 15 Elmwood Avenue, Mountaintop, PA 18707) for construction of a wheat and corn tortilla manufacturing process and associated air cleaning device at their facility in Wright Township, **Luzerne County**.

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

17-305-050B: Penfield Collieries, LLC (301 Market Street, Kittanning, PA 16201) for modification of a coal preparation plant by increasing production from 1 million tons of clean coal per year to 2 million tons per year in Huston Township, **Clearfield County**.

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

24-083H: Carbone of America Ind. Corp. (215 Stackpole Street, St. Marys, PA 15857) for construction of four additional mixers, two mills and a pulverizer in St. Marys City, **Elk County**. The mixers will be controlled by the existing scrubber. This 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.

23-0094A: CCL Label Inc. (1515 Garnet Mine Road, Boothwyn, PA 19061) for installation of a parts washing

system in Bethel Township, **Delaware County**. This installation of the parts washing system may result in the emissions of 0.07 ton per year of VOCs. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within applicable air quality requirements.

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

54-318-016: Pleasant Valley Modular Homes, Inc. (P. O. Box 88, Pine Grove, PA 17963) for modification for adhesive and sealant usage at their facility in Pine Grove Township, **Schuylkill County**. The VOC emissions from the facility (including Pine Grove Homes) must never exceed 49.9 TPY of VOC, based on a 12-month rolling sum. The HAPs from the facility (including Pine Grove Homes) must never exceed 9.9 TPY of any single HAP and must never exceed 24.9 TPY of aggregated HAPs, based on a 12-month rolling sum. The Operating Permit will include testing, monitoring, recordkeeping and reporting requirements designed to keep the sources operating within applicable air quality requirements. The Plan Approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date. For further details, contact Mark J. Wejkszner at (570) 826-2511 within 30 days after publication date.

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

06-03102: City of Reading (815 Washington Street, Reading, PA 19601) for operation of a waste water treatment plant controlled by a ground flare and two pack bed scrubbers in the City of Reading, **Berks County**. The plant is not subject to Title V State-only facility. The permit will include emission restriction, monitoring, testing, work practice, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

06-05063C: Boyertown Foundry Co. (P. O. Box 443, New Berlinville, PA 19545-0443) for modification of their mold making operation by constructing a third mold making machine controlled by a wetted packed bed scrubber in the Borough of Boyertown and Colebrookdale Township, **Berks County**. The facility is subject to Title V. The approval will limit the annual emissions and production to the same levels as presently permitted. The plan approval will include testing, monitoring, work practices, recordkeeping and reporting requirements designed to keep the source operating within applicable air quality requirements. The facility is presently covered by the Title V Operating Permit No. 06-05063. The plan approval will be incorporated into this permit in accordance with 25 Pa. Code § 127.450 (Administrative Amendment).

67-05004I: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362-0500) for installation of a fluidized bed scrubber on the Fluo-Solids Calciner in Spring Grove Borough, **York County**. The control device is expected to lower total reduced sulfur emissions by 90%. The plan approval will include monitoring, recordkeeping, reporting and work practice standards 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.

41-305-009E: Keystone Filler and Manufacturing Co. (214 Railroad Street, Muncy, PA 17756) for construction of a rotary coal dryer and associated process equipment in Muncy Creek Township, **Lycoming County**.

The 12 ton per hour rotary coal dryer (No. 5 dryer) will incorporate a 4 million Btu per hour natural gas-fired burner. The particulate matter emissions (including PM10) from the dryer, as well as those from an associated bulk railcar loading operation and a bulk truck loading operation, will be controlled by a fabric collector with a capacity of 19,300 cubic feet of effluent gas per minute. The particulate matter emissions (including PM10 emissions) from an associated screen, bucket elevator and reject container will be controlled by a fabric collector with a capacity of 3,000 cubic feet of effluent gas per minute. The resultant particulate matter, NOx, CO and total hydrocarbon emissions from the dryer and associated process equipment are not expected to exceed 3.47, .84, .09 and .14 tons per year, respectively.

The Department of Environmental Protection's (Department) review of the information submitted by Keystone Filler and Manufacturing Company indicates that the proposed dryer and associated process equipment should be capable of complying 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 particulate matter emission requirement of 25 Pa. Code § 123.13 and the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12, provided Keystone Filler and Manufacturing Company constructs and operates the dryer and associated process equipment and associated fabric collectors in accordance with the information contained in the application submitted for plan approval and that they subsequently provide proper maintenance. Based on this finding, the Department proposes to issue plan approval for the construction of the dryer and associated process equipment.

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 rotary dryer shall only be fired on natural gas and shall only be used to dry anthracite coal, semi-anthracite coal and bituminous coal.
2. The rotary dryer shall not be operated more than 4,192 hours in any 12-consecutive month period nor shall it process more than 50,304 tons of material in any 12-consecutive month period.
3. The NOx, CO and total hydrocarbon emissions from the rotary dryer shall not exceed .10, .01 and .016 pounds per million Btu of heat input to the burner, respectively, nor shall they exceed .84, .09 and .14 tons, respectively, in any 12-consecutive month period.
4. The particulate matter emissions from the rotary dryer, as well as the particulate matter emissions from an associated bulk railcar loading operation and a bulk truck loading operation, shall be controlled by the 19,300 cubic feet per minute fabric collector identified in the application submitted for plan approval. The particulate matter emissions from this collector shall not exceed .01 grain per dry standard cubic foot of effluent gas volume and 3.47 tons in any 12-consecutive month period.
5. The particulate matter emissions from the screen, bucket elevator and reject container associated with the dryer shall be controlled by the 3,000 cubic feet per minute fabric collector identified in the application sub-

mitted for plan approval. This fabric collector shall not be exhausted to the outdoor atmosphere without prior Department approval and, if approval is given by the Department, shall be subject to a particulate matter emission limitation of .01 grain per dry standard cubic foot of effluent gas volume.

6. The screen, bucket elevator and reject container shall be completely enclosed except for points of material entry or exit and fabric collector dust capture pickup points.

7. There shall be no visible fugitive air contaminant emissions from the feed bin and feed conveyor associated with the rotary dryer, from the bulk railcar and bulk truck loading operations associated with the rotary dryer or from the building which houses the rotary dryer.

8. The bulk railcar loading operation shall incorporate a cap or cover that completely covers the railcar hatch through which loading is occurring as well as a dust capture curtain which completely surrounds the hatch. The curtain shall extend from a solid hood to the top of the railcar on all sides and shall be kept in good repair at all times. Both the cap or cover and the curtain shall be ducted to the 19,300 cubic feet per minute fabric collector. At no time shall open-topped railcars be loaded nor shall any railcar hatch other than the one through which loading is occurring be open to the atmosphere during loading nor shall any railcar with a loading hatch larger than the cap or cover ever be loaded.

9. The bulk truck loading operation shall only be used to load tank trucks or enclosed bulk handling trucks. It shall not be used to load open-topped trucks at any time. The truck loading operation shall incorporate a cap or cover that completely covers the truck hatch through which loading is occurring. The cap or cover shall be ducted to the 19,300 cubic feet per minute fabric collector.

10. Each fabric collector shall be equipped with instrumentation to monitor the pressure differential across the collector on a continuous basis. Additionally, the 19,300 cubic feet per minute fabric collector shall be equipped with instrumentation to monitor the inlet temperature to the collector on a continuous basis as well as with an interlock system which automatically shuts down the dryer burner if the fabric collector inlet temperature exceeds 300°F.

11. The compressors supplying compressed air to the fabric collectors shall be equipped with an air dryer and oil trap.

12. Existing No. 4 rotary dryer shall not be operated more than 4,192 hours in any 12-consecutive month period nor shall it process more than 55,296 tons of material in any 12-consecutive month period.

13. Records shall be maintained of the number of hours the new (No. 5) rotary dryer is operated each month, the identity and amount of material processed through the new (No. 5) rotary dryer each month, the number of hours the existing No. 4 rotary dryer is operated each month and the amount of material processed through the existing No. 4 rotary dryer each month.

14. Keystone Filler and Manufacturing Company shall perform the stack testing as may be requested by the Department to determine compliance with any emission limitation specified in this plan approval or in any applicable rule or regulation.

15. Keystone Filler and Manufacturing Company shall at all times comply with all terms and conditions of the Consent Order and Agreement entered into between

Keystone Filler and Manufacturing Company and the Department on (a date to be provided upon execution).

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

PA-30-00099C: Allegheny Energy Supply Company, LLC (800 Cabin Hill Drive, Greensburg, PA 15601) for installation of a dust suppression system on the existing coal unloading and handling at their Hatfield Power Station in Monongahela Township, **Greene County**.

Under 25 Pa. Code § 127.44(a)(4), the Department of Environmental Protection (Department) intends to issue a Plan Approval to the Allegheny Energy Supply Company for the installation of a Benetech, Inc. Dust Suppression System at the Hatfield's Ferry Power Station as described in its application to the Department received on April 20, 2005. The dust suppression system will consist of a network of spray nozzles used to apply surfactant at four distinct areas of the material handling operations. It is expected to reduce particulate matter emissions by as much as 7 tons per year.

Copies of the application, Department's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at the Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

For the Department to assure compliance with applicable standards, the Department proposes to place the following conditions on the Plan Approval:

Special Conditions for Plan Approval PA-30-00099C

1. This Plan Approval is for the installation of a dust suppression system on the existing coal unloading and handling operations at Hatfield's Ferry Power Station (Hatfield), located in Monongahela Township, Greene County. (25 Pa. Code § 127.12b)

2. This facility is subject to the fugitive emission requirements in 25 Pa. Code §§ 123.1 and 123.2.

3. This Plan Approval authorizes temporary operation of the sources covered by this Plan Approval provided the following conditions are met:

(i) The owner/operator shall submit written Notice of the Completion of Construction and the operator's intent to commence operation at least 5 days prior to the completion of construction. The notice shall state the date when construction will be completed and the date when the operator expects to commence operation.

(ii) Operation of the sources covered by this Plan Approval is authorized only to facilitate the start-up and shakedown of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit, and to permit the evaluation of the source for compliance with all applicable regulations and requirements.

(iii) Upon receipt of the Notice of the Completion of Construction from the owner/operator the Department shall authorize a 180-day Period of Temporary Operation of the sources from the date of commencement of operation. The Notice submitted by the owner/operator, prior to the expiration of this Plan Approval, shall modify the Plan Approval expiration date. The new Plan Approval expiration date shall be 180 days from the date of commencement of operation.

(iv) Upon determination by the owner/operator that the sources covered by this Plan Approval are in compliance with conditions of the Plan Approval the owner/operator

shall contact the Department's reviewing engineer and schedule the Initial Operating Permit Inspection.

(v) Upon completion of the Initial Operating Permit Inspection and determination by the Department that the sources covered by this Plan Approval are in compliance with conditions of the Plan Approval, the owner/operator shall apply for an Administrative Amendment to the Title V Operating Permit (TVOP) at least 60 days prior to the expiration date of the Plan Approval. The administrative amendment shall incorporate the conditions of this Plan Approval into the TVOP.

(vi) The owner/operator may request an extension of the 180-day Period of Temporary Operation if compliance with applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of the Period of Temporary Operation and shall provide a description of the compliance status of the source. The extension request shall include a detailed schedule for establishing compliance and the reasons compliance has not been established. This Period of Temporary Operation may be extended for additional periods, each not to exceed 120-days, by submitting an extension request as previous described.

Persons wishing to provide the Department with additional information which they believe should be considered prior to the issuance of the Plan Approval may submit the information to the Department at the following address. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Written comments must contain the following:

- Name, address and telephone number of the person submitting the comments.
- Identification of the proposed Plan Approval (specify the Plan Approval number).
- Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a newspaper or in 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 Regional Air Quality Program Manager, Department of Environmental Protection, Southwest Region—Field Operation, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

For additional information, individuals should contact Thomas J. Joseph, P. E., Air Pollution Control Engineer III, Air Quality at the previous address.

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.

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

15-00026: American Inks and Coatings Corp. (330 Pawling Road, Valley Forge, PA 19482) this Title V Permit was revised and issued in accordance with the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25

Pa. Code § 127.450 to incorporate the requirements from plan approval PA-15-0026A into the Title V Permit and to change the name of the responsible official contact for the facility. The emission limit for VOCs from the mixing tanks in Building 6 of the facility has been increased from 21.36 tons per year to 30 tons per year through the conditions of the plan approval in Schuylkill Township, **Chester County**. The overall facility-wide emissions limit for volatile organic compounds has not been increased for this facility.

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

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

38-05013: Department of Military and Veterans Affairs at Fort Indiantown Gap (Annville, PA 17030-9414) for operation of a military support facility in Union and East Hanover Townships, **Lebanon County**. The facility has the potential to emit 92 tons per year of SOx, 67 tons per year of NOx, 22 tons per year of VOCs, 15 tons per year of CO, 14 tons per year of HAPS and 6 tons per year of particulate matter. Fuel combustion sources are the main sources for the SOx and NOx emissions. The facility will restrict operations to achieve SOx emissions of less than 100 tons per year and VOC emissions of less than 50 tons per year. The Synthetic Minor operating permit shall contain additional testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

18-00010: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) for operation of an asphalt paving material facility (Plant No. 3) in Mill Hall Borough, **Clinton County**.

The facility consists of a 150 ton per hour batch mix asphalt plant, associated aggregate handling operations, associated asphalt and No. 2 fuel oil storage tanks and an asphalt tank heater. The particulate matter emissions including PM10 from the batch mix asphalt plant are controlled by a cyclone collector and fabric collector operating in series.

The applicant has elected to restrict the sulfur content of the No. 2 fuel oil used as fuel in the batch mix asphalt plant and associated asphalt tank heater to a maximum of .5% by weight so that the facility is considered a "synthetic minor" facility with respect to the applicability of the Title V operating permit requirements.

The particulate matter, PM10, SOx, NOx, CO and VOC emissions from this facility are not expected to exceed 88.79, 71.05, 74.67, 36.31, 73.48 and 32.43 tons per year, respectively.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants. The Department also proposes to incorporate a condition prohibiting the facility from emitting 100 or more tons of SOx in any 12-consecutive month period, a condition requiring the permittee to maintain records of the delivery date, size and sulfur content of each load of fuel oil delivered to

the facility and to provide these records to the Department on an annual basis, a condition limiting the fuel oil used at this facility to virgin No. 2 fuel oil to which no reclaimed or reprocessed oil, waste oil or other waste materials have been added and a condition requiring spare filter bags for the asphalt plant's fabric collector to be kept onsite.

59-00020: Carleton Funeral Home, Inc. (11470 Route 6, Wellsboro, PA 16901) for the operation of a crematory facility in Charleston Township, **Tioga County**.

The crematory facility incorporates a crematory incinerator used to cremate human remains. This incinerator is equipped with an integral secondary combustion chamber for air pollution control purposes. The air contaminant emissions from the crematory facility are not expected to exceed 1.73 tons of NO_x, .085 ton of CO, .014 ton of VOCs and .62 tons of particulate matter (including PM₁₀) 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 applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously established in Plan Approval 59-301-021, issued for the crematory incinerator on October 19, 2004. These previously-established conditions include a condition requiring the incinerator's secondary combustion chamber to be operated at a temperature of at least 1,800°F, a condition requiring that the secondary combustion chamber temperature be continuously monitored and recorded and a condition prohibiting the incinerator from being used to incinerate anything other than human remains and associated containers.

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

37-00284: IA Construction Corp. (Rear Line Avenue, Wayne Township, PA) intends to issue a Natural Minor Operating Permit to operate their Limestone Crushing Plant in Wayne Township, **Lawrence County**.

43-00260: Mercer Area School District, High School (545 West Butler Street, Mercer, PA 16137) for operation of one coal fired boiler, two natural gas fired boilers, one hot water heater and one emergency diesel generator in Mercer Borough, **Mercer County**.

43-00276: Mercer Area School District—Elementary School (301 Lamor Road, Mercer, PA 16137) for operation of two coal and gas fired boilers, one hot water heater and one diesel fueled emergency generator in Mercer Borough, **Mercer 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 Con-

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

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

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

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

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

Coal Applications Received

Effluent Limits

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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
suspended solids	35 mg/l	70 mg/l	90 mg/l
pH ¹		greater than 6.0; less than 9.0	

alkalinity greater than acidity¹
¹The 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.

63831302 and NPDES Permit No. PA0213608, Eighty Four Mining Company, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Mine No. 84 in South Strabane Township, **Washington County** for longwall mining on 90 subsidence control plan area acres accepted for development mining. No additional discharges. Application received June 1, 2005.

30841317 and NPDES Permit No. PA0213527, Consol Pennsylvania Coal Company, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to revise the permit for the Enlow Fork Mine in Morris and Washington Townships, **Greene County** and Morris Township, **Washington County** to add acreage for development mining. Underground acres proposed 6,697, SCP acres proposed 6,697. No additional discharges. Application received June 2, 2005.

11051301. NPDES Permit No. NA, AMFIRE Mining Company, LLC, (One Energy Place, Latrobe, PA 15650), to operate the Cresson Mine in Cresson and Sankertown Boroughs and Cresson, Allegheny, Washington and Munster Townships, **Cambria County** a new mine and related NPDES permit. Surface Acres Proposed 73.9, underground acres proposed 4,733.4, SCP Acres Proposed 4339.4, Receiving streams: UNT to Little Conemaugh River, classified for the following use: CWF. Application received May 3, 2005.

63743702. NPDES Permit No. PA0214248, Eighty Four Mining Company, (P. O. Box J, 1525 Pleasant Grove Road, Claysville, PA 15323), to renew the permit for the Mine 84 Refuse Area in Somerset Township, **Washington County** and related NPDES permit. No additional discharges. Application received June 22, 2005.

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

26990102 and NPDES Permit No. 0202509. Amerikohl Mining Co., Inc. (202 Sunset Drive, Butler, PA 16001). Renewal application for reclamation only of a noncoal surface mine, located in Springfield Township, **Fayette County**, affecting 370 acres. Receiving streams: UNTs to Rasler Run and Richter Run, classified for the following use: CWF. The potable water supplies intake within 10 miles downstream from the point of discharge: North Fayette Municipal Authority and Municipal Authority of Westmoreland County. Renewal application received: June 23, 2005.

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

33030107 and NPDES Permit No. PA0242403. Falls Creek Energy Co., Inc. (R. D.6, Box 231, Kittanning, PA 16201). Revision to an existing bituminous surface strip operation in Winslow Township, **Jefferson County** affecting 20.4 acres. Receiving streams: UNT to Soldier Run to Soldier Run, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to include a postmining land use change from forestland to unmanaged natural habitat on lands of Ronald Huntington, Lawrence Billock and Gary Drayer. Application received: June 27, 2005.

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

54830107T2. Selkirk Enterprises, LLC, (10 Gilberton Road, Gilberton, PA 17934), transfer of an existing anthracite surface mine and coal refuse reprocessing operation in Branch and Reilly Townships, **Schuylkill County** affecting 2,207.0 acres, receiving stream: West Branch Schuylkill. Application received June 20, 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 ¹		greater than 6.0; less than 9.0	
pH ¹		greater than 6.0; less than 9.0	

¹The 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.

26950401 and NPDES Permit No. 0201294. Amerikohl Mining Co., Inc. (202 Sunset Drive, Butler, PA 16001). Renewal application for continued operation and reclamation of a noncoal surface mine, located in Springfield Township, **Fayette County**, affecting 570 acres. Receiving streams: UNT to Clay Run and Buck Run, classified for the following use: CWF. The potable water supplies intake within 10 miles downstream from the point of discharge: Municipal Authority of Westmoreland County. Renewal application received: June 23, 2005.

63800201 and NPDES Permit No. 0125857. Lafarge North America, Great Lakes Division (555 Frost Road, Suite 100, Streetsboro, OH 44241). NPDES renewal of an existing noncoal surface mine, located in Hanover Township, **Washington County**, affecting 85 acres. Receiving stream: Harmon 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 30, 2005.

02850301 and NPDES Permit No. 0200204. Lafarge North America, Great Lakes Division (555 Frost Road, Suite 100, Streetsboro, OH 44241). NPDES renewal of an existing noncoal surface mine, located in West Mifflin Township, **Allegheny County**, affecting 50 acres. Receiving stream: Lewis 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 30, 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 accommoda-

tion to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E46-978. Montgomery County Planning Commission. One Montgomery Plaza, Suite 201, Norristown, PA 19404-0311, Upper and Lower Providence Townships, **Montgomery County**, ACOE Philadelphia District.

To construct and maintain a 55-foot long by 10-foot wide by 2.74-foot high pony trail truss bridge across the Mine Run Creek and its 100-year floodway. This work is associated with a proposed 2.5-mile paved bicycle/pedestrian trail, which connects the Pawlings Road Trailhead of the Schuylkill River Trail with Lower Perkiomen Park Trailhead of the Perkiomen Trail, as a part of Audubon trail. The site is located approximately 1,200 feet west of the intersection of Egypt Road and Mill Run Road (Collegeville, PA, N: 1.25 inches; W: 9.5 inches).

E46-974. Glen Farms LP, 1030 West Germantown Pike, East Norriton, PA 19403, East Norriton Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the proposed Pimlico Farms Residential Subdivision:

- 1) To place fill in 0.01 acre of wetland (PEM) to accommodate access road "A" from Potshop Road.
- 2) To construct and maintain a 36-inch RCP stormwater conduit utility line across a wetland.
- 3) To construct a 0.33 acre wetland replacement area to compensate for impacts which will occur off-site at the Bell Kumpf Tract located in Worcester Township, **Montgomery County**

The site is located on northeast of the intersection of Germantown Pike and Potshop Road (Lansdale, PA USGS Quadrangle N: 5.8 inches; W: 16.0 inches).

E46-975. East Norriton Township, 2501 Stanbridge Street, East Norriton, PA 19401, East Norriton Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the widening of Potshop Road and with the proposed Pimlico Farms Residential Subdivision:

- 1) To grade and place fill within 0.18 acre of wetland.
- 2) Wetland compensation for this work is provided in application E46-974 proposed by Glenn Farms, LP and will be located offsite at the Bell Kumpf Tract in Worcester Township, **Montgomery County**.

The site is located on northeast of the intersection of Germantown Pike and Potshop Road (Lansdale, PA USGS Quadrangle N: 5.8 inches; W: 16.0 inches) in New East Norriton Township, **Montgomery County**.

E46-976. Montgomery County Commissioners, One Montgomery Plaza, Norristown, PA 19406, East Norriton Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the widening of Germantown Pike and with the proposed Pimlico Farms Residential Subdivision:

1) To modify an existing enclosure by removing a 70-foot segment of 27-inch CMP, and by placing the following string of structures: a junction box, 66 feet of 30-inch CMP, MH 351, 25 feet of 30-inch RCP, MH 349, 190 feet of 29-inch by 45-inch RCP, MH 348, 141 feet of 29-inch by 45-inch RCP, MH 347, 15 feet of 29-inch by 45-inch RCP and D-W Endwall 346. This activity will enclose and relocate the approximately 500 linear feet of stream.

2) To place fill within 0.09 acre of wetland.

3) Wetland compensation for this work is provided in application E46-974 proposed by Glenn Farms, LP and will be located offsite at the Bell Kumpf Tract in Worcester Township, Montgomery County.

The site is located on northeast of the intersection of Germantown Pike and Potshop Road (Lansdale, PA USGS Quadrangle N: 5.8 inches; W: 16.0 inches) in New East Norriton Township, Montgomery County.

E46-972. Turnpike Commission, Harrisburg, Upper Merion Township, **Montgomery County**, ACOE Philadelphia District.

A roadway widening and bridge construction of the turnpike from Valley Forge to Flint Hill Road.

To widen the turnpike starting at a point approximately 1,300 feet from the center of the Valley Forge Interchange and ending at Flint Hill Road and the turnpike intersection. The water obstruction and encroachment impacts associated with this project involve five stream crossings, two wetland fills, and incidental floodway fills of the Trout Creek (WWF), a UNT to Trout Creek (WWF), a UNT to Abrams Run (WWF) and the Frog Run (WWF).

Specific water obstruction and encroachment activities involved with this project are as follows:

1. To extend a 42-inch diameter RCP enclosure at station 140+00 by a approximately 56 cumulative feet, measured from both upstream and downstream of the structure, carrying a UNT to Trout Creek under the turnpike. Approximately 50 cubic yards of fill will be placed within the floodway to facilitate this extension. Approximately 15 cubic yards of R-5 riprap will be placed in the stream to stabilize the opening.

2. To repair a 10-foot by 6-foot concrete box culvert enclosure at station 171+00 by a total of 43 cumulative feet, measured from both upstream and downstream of the structure, carrying a UNT to Trout Creek under the turnpike. Approximately 10 cubic yards of fill will be placed within the floodway to facilitate this extension. Approximately 204 cubic yards of R-8 riprap will be placed in the stream to stabilize the opening.

3. To extend and maintain a twin cell 16-foot by 8-foot (each cell) concrete box culvert enclosure at station 203+00 by approximately 131 cumulative feet, measured from both upstream and downstream of the structure, carrying Crow Creek under the turnpike. Approximately 330 cubic yards of fill will be placed within the floodway

to facilitate this extension. Approximately 333 cubic yards of R-7 riprap will be placed in the stream to stabilize the opening.

4. To extend and maintain a 5-foot by 3-foot concrete box culvert enclosure at station 221+00 by approximately 56.2 cumulative feet, measured from both upstream and downstream of the structure, carrying a UNT to Abrams Run under the turnpike. Approximately 50 cubic yards of fill will be placed within the floodway to facilitate this extension. Approximately 5 cubic yards of R-6 riprap will be placed in the stream to stabilize the opening.

5. To extend and maintain a 16-foot by 7-foot concrete box culvert enclosure at station 328+00 by approximately 69 cumulative feet, measured from both upstream and downstream of the structure, carrying Frog Run under the turnpike. Approximately 400 cubic yards of fill will be placed within the floodway to facilitate this extension. Approximately 20 cubic yards of R-6 riprap will be placed in the stream to stabilize the opening.

6. To replace and maintain a five-span bridge, measuring 279-foot long with a 37.5-foot underclearance, with a two-span bridge, measuring 250-foot long with 34.71-foot underclearance, taking the turnpike over Frog Run at station 283+00. The total impact will be 140 linear feet of watercourse, measured from both upstream and downstream of the structure.

7. To place fill within 0.005 acre of wetland at station 171+00 and 0.022 acre of wetland between Stations 202 and 203. Wetland compensation will occur at another site location under Permit E46-952.

8. The construction of an outfall structure to accommodate the discharge from Stormwater Management Basin No. 4 into Frog Run in the vicinity of station 321+50 by means of a 6-foot bottom R-4 rock-lined ditch.

The project will permanently impact approximately 495 linear feet of watercourse and 0.027 acre of wetland. The project impact locations run along with the turnpike with impact areas located at six specific stations, starting from Valley Forge interchange going eastward and ending at Flint Hill Road and the Pennsylvania Turnpike intersection, in Lower Merion Township, Montgomery County (beginning point: Valley Forge, PA, Quadrangle N: 16.76 inches; W: 4.49 inches, End point, Norristown, PA, Quadrangle N: 17.66 inches; W: 12.78 inches).

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

E58-265. Forest Lake Township, Ridge Road, Montrose, PA 18801, in Forest Lake Township, **Susquehanna County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a roadcrossing of a tributary to Middle Branch Wyalusing Creek (CWF), consisting of an 8-foot diameter steel culvert. Work includes construction of riprap-lined channel sections extending upstream and downstream of the culvert, for a total linear impact of approximately 190 feet. The project is associated with the relocation of Stewart Road at its intersection with SR 0267, located approximately 4,500 feet southwest of the intersection of SR 0267 and SR 4014. (Friendsville, PA-NY Quadrangle N: 2.8 inches; W: 2.3 inches).

E35-386. Corky's Garden Path Greenhouses, 1312 Justus Boulevard, Clarks Summit, PA 18411, in Scott Township, **Lackawanna County**, United States Army Corps of Engineers, Baltimore District.

To fill 0.22 acre of PEM wetlands within the Leggett's Creek Watershed for the purpose of expanding Corky's Garden Path Greenhouses. The project is located on the southern corner of Layton Road and SR 0347. (Dalton, PA Quadrangle N: 0.1 inch; W: 2.0 inches).

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

E22-489: Borough of Middletown, 160 W. Emaus St., Middletown, PA 17057 in Borough of Middletown, PA 17057.

To construct and maintain a 66-inch by 43-inch corrugated metal squash pipe outfall at the right banks of Swatara Creek (WWF) to improve the drainage system located just upstream of Keystone Street bridge (Middletown, PA Quadrangle N: 11.7 inches; W: 15.1 inches) in Middletown Borough, **Dauphin County**.

E67-783: TTMT, LLC, 635 Magnolia Avenue, Red Lion, PA 17356 in Dallastown Borough, **York County**, ACOE Baltimore District.

To fill 0.026 acre of palustrine emergent wetlands associated to a UNT to Mill Creek (WWF) for the purpose of constructing townhomes in York Township, York County (York, PA Quadrangle N: 5.8 inches; W: 3.15 inches). The wetland impact is de minimis and no mitigation is required.

E22-479: Lower Paxton Township, 425 Prince Street, Suite 139, Harrisburg, PA 17109 in Lower Paxton, South Hanover and West Hanover Townships, **Dauphin County**, ACOE Baltimore District.

To construct and maintain a Wet Weather Treatment Plant, upgrade and maintain an existing pumping station, and install and maintain 33,600 feet of sewer piping, resulting in 35 stream crossings of sewer line and temporary roads and 25 wetland crossings impacting 5.62 acres temporarily and 0.76 permanently, all within the floodway, floodplain or across UNTs to Beaver Creek (WWF) and Beaver Creek (WWF), for the purpose of meeting the requirements of a Second Consent Decree to address sewage overflows, at the following locations: Plant (Hershey, PA Quadrangle N: 3.9 inches; W: 17.0 inches), Sewer Pipe Alignment (Harrisburg East, PA Quadrangle N: 15.2 inches; W: 3.0 inches) to (Hershey, PA Quadrangle N: 3.9 inches; W: 17.0 inches) within Lower Paxton, South Hanover and West Hanover Townships, Dauphin County.

E22-493: Marlene Fuhrman, 941 Stoney Creek Road, Dauphin, PA 17018 in Middle Paxton Township, **Dauphin County**, ACOE Baltimore District.

To fill in 0.22 acre of wetland of a UNT to Perkiomen Creek (CWF) and related improvements to construct Phase IV of the Park Place Subdivision located on the western part of the Borough of Bally (East Greenville, PA Quadrangle N: 4.2 inches; W: 13.2 inches) in Bally Borough, Berks County.

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

E14-477. Department of Transportation, District 2-0, 1924-30 Daisy Street, Clearfield, PA 16830, SR 0322/Sec No 2, in Harris Township, **Centre County**, ACOE Baltimore District (State College, PA Quadrangle N: 5.4 inches; W: 1.3 inches).

To construct and maintain a 10 foot wide by 125 foot long rock outfall channel to Galbraith Gap Run and to extend a 48 inch diameter by 30 foot long reinforced

concrete pipe culvert conveying drainage under SR 033 to a UNT to Spring Creek. The project is located on SR 0322 about 0.3 mile east of Boalsburg. The project will not impact wetlands while impacting about 15 feet of waterway. Galbraith Run and the UNT to Spring Creek are CWF streams.

E18-395. Pine Mountain Developing, LLC, 202 West Central Avenue, South Williamsport, PA 17702. Water Obstruction and Encroachment Joint Permit Application, in Pine Creek Township, **Clinton County**, ACOE Susquehanna River Basin District (Jersey Shore, PA Quadrangle N: 10.7 inches; W: 11.4 inches).

To construct and maintain one 88-foot, 36-inch diameter HDPE culvert, one 75-foot, 36-inch diameter HDPE culvert for a road crossing in a UNT to Susquehanna River, one nonjurisdictional dam to control stormwater runoff from a 24-acre watershed, consisting of a 10-foot high earthen dam, containing a clay core, a 36-inch diameter HPDE culvert outlet structure equipped with antiseep collars, an 40-foot wide, R-4 rock, geotextile emergency spillway in a UNT to Susquehanna River downstream of the proposed culverts, and 75-feet of 8-inch sewer line crossing the UNT to Susquehanna River, all of which is located 0.25 mile north of the intersection of Derr Hill Road (T-480) and SR 0150 along Derr Hill Road. This project proposes to permanently impact 150 linear feet of UNT to Susquehanna River, which is, designated a WWF and does not propose to impact any jurisdictional wetlands.

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

E02-1500. Gary A. Pugliano, Pugliano's Italian Grill, 1808 Golden Mile Highway, Route 286, Plum Borough, PA 15239. To construct a bridge in Plum Borough, **Allegheny County**, Pittsburgh ACOE District. (Murrysville, PA Quadrangle N: 13.22 inches; W: 12.33 inches and Latitude: 40° 26' 52"—Longitude: 79° 42' 49"). The applicant proposes to construct and maintain a bridge having a span of 80.0 feet with an underclearance of 12.5 feet across the channel of Aber's Creek (TSF) for the purpose of providing access to a proposed parking lot. The project is located approximately 1,300.0 feet south from the intersection of New Texas Road and SR 286 and will impact 32.0 linear feet of stream channel.

E02-1503. Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017. To construct a bridge on I-79 in Collier and Robinson Townships, **Allegheny County**, Pittsburgh ACOE District. (Pittsburgh West, PA Quadrangle N: 8.6 inches; W: 14.7 inches and Latitude: 40° 25' 23"—Longitude: 80° 06' 17"). The applicant proposes to construct and maintain a 16 foot span × 8.5 foot high box culvert 188.0 feet in length in a UNT to Campbells Run (WWF) for the purpose of extending the existing 16 foot span × 10.5 foot high arch culvert to construct ramps G & H located on SR 0079, Section A23, to construct and maintain a lining in the channel of a UNT to Campbells Run (WWF) through the existing 72 inch diameter culvert and 72 inch arch culvert and to construct and maintain a bridge having 5 spans for a total span of 640.0 feet with a minimum underclearance of 16.5 feet across Campbells Run (WWF) for the purpose of constructing Ramp H. The project is located on SR 0079, Section A23, SR 0079, Section A67 and SR 0022, Section A22 and will impact a total of 440.0 linear feet of stream channel and 0.64 acre of PEM/PFO wetlands.

E11-312. Cambria County Commissioners, 200 South Center Street, Ebensburg, PA 15931. To replace a

bridge in Portage Township, **Cambria County**, Pittsburgh ACOE District. (Ebensburg, PA Quadrangle N: 6.7 inches; W: 4.9 inches and Latitude: 40° 24' 44"—Longitude: 78° 39' 55"). The applicant proposes to remove the existing structure and to construct and maintain 32.5 foot wide, single span bridge having a normal span of 92.0 feet and a minimum underclearance of 7.13 feet across Little Conemaugh River (CWF). The project will temporarily impact 0.009 acre of wetlands (PEM). The project is located on Township Road 407.

E11-313. East Carroll Township Supervisors, 3350 Brick Road, Carrolltown, PA 15772. To maintain a culvert in Little Chest Creek in East Carroll Township, **Cambria County**, Pittsburgh ACOE District. (Hastings, PA Quadrangle N: 0.65 inches; W: 5.2 inches and Latitude: 40° 37' 43"—Longitude: 78° 39' 44"). The applicant proposes to remove the existing structure and to construct and maintain a 40-foot long box culvert having a span of 20

feet and an underclearance of 7.5 feet in Little Chest Creek (CWF) located on T-527.

E63-575. Martik Properties, LLP, 6116 Brownsville Road Extension, Suite 101, Finleyville, PA 15332. To construct a culvert in Union Township, **Washington County**, Pittsburgh ACOE District. (Bridgeville, PA Quadrangle N: 3.7 inches; W: 1.7 inches and Latitude: 40° 16' 13"—Longitude: 80° 01' 44"). The applicant proposes to construct and maintain a CSP arch culvert having a span of 7.0 feet with an underclearance of 5.1 feet across the channel of a UNT to Peters Creek (TSF) and in associated wetlands (PSS) for the purpose of providing access to the Maplewood Acres Plan of Lots. The project is located on Maplewood Drive, approximately 600.0 feet north from the intersection of Maplewood Drive and SR 88 and will impact 0.22 acre of PSS wetlands and 77.0 linear feet of stream channel.

ACTIONS

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

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

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

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

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

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

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

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0012211 (IW)	Boyertown Foundry Company P. O. Box 443 New Berlinville, PA 19545	Berks County Colebrookdale Township	UNT Swamp Creek/3E	Y
PA0088021 (Sewage)	Christman Lake 183 Christman Road Lenhartsville, PA 19534-9177	Berks County Windsor Township	UNT Maiden Creek/3B	Y
PA0008184 (IW)	Taylor Wharton Company 1001 Herr Street P. O. Box 2365 Harrisburg, PA 17104-2365	Dauphin County Harrisburg City	Paxton Creek/7-C	Y
PA0082741 Amendment No. 1 (IW)	Elizabethtown Area Water Authority (Conewago Creek Diversion) Five Municipal Drive Elizabethtown, PA 17022	Lancaster County Mount Joy Township	UNT of Conoy Creek/7-G	Y
PA0080845 (IW)	Reliant Energy (Williamsburg Station) 121 Champion Way Canonsburg, PA 15317	Blair County Catharine Township	Frankstown Branch/11-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0024538	Beech Creek Borough Authority Wastewater Treatment Plant P. O. Box 216 Beech Creek, PA 16822	Beech Creek Borough Clinton County	Beech Creek (SWP 9C)	Y
PA0028282	Eagles Mere Borough Authority P. O. Box 393 Eagles Mere, PA 17731	Sullivan County Eagles Mere Borough	The Outlet (10D) UNT to The Outlet (10D) Mackeys Run (10D) UNT to Double Run (10B)	Y
PA0009032 IW	GTE Operations Support Incorporated 600 Hidden Ridge Drive HQE03E75 Irving, TX 75038	Muncy Township Lycoming County	West Branch Susquehanna River 10-D	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0027618 Sewage	Bethel Park Municipal Authority Piney Fork WWTP	Allegheny County South Park Township	Piney Fork	N
PA0093785 Sewage	Williamhouse LLC 1 Wedding Lane Scottdale, PA 15683	Fayette County Upper Tyrone Township	UNT of Jacobs Creek	Y
PA0096369 Sewage	Patrick J. DiCesare 116 East Pittsburgh Street Greensburg, PA 15601	Westmoreland County East Huntingdon Township	UNT to Buffalo Run	Y
PA0096881 Sewage	G & G Mobile Home Sales 23 Oakridge Heights Drive Oakdale, PA 15071	Allegheny County North Fayette Township	Drainage Swale to UNT of North Branch Robinson Run	Y
PA0098272 Sewage	May Day, Inc. R. D. 1, Box 54 Vanderbilt, PA 15486	Fayette County German Township	North Branch Browns Run	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0098396 Sewage	Oak Estates, Inc. 600 Laurelview Drive Mt. Pleasant, PA 15666	Fayette County Bullskin Township	UNT of Jacobs Creek	Y
PA0098531 Sewage	Chesla Investment Group R. R. 1, Box 8101 Greensburg, PA 15601	Westmoreland County Hempfield Township	Swale to an UNT of Little Sewickley Creek	Y
<i>Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.</i>				
<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0033014	Department of Conservation and Natural Resources Pymatuning State Park Linesville STP 2660 Williamsfield Road Jamestown, PA 16134	Crawford County Pine Township	Pymatuning Reservoir 20-A	Y
PA0024511	Redbank Valley Municipal Authority 243 Broad Street New Bethlehem, PA 16242	Armstrong County Mahoning Township	Redbank Creek 17-C	Y
PA0102610	Villa Vista Estates 133 Terra Drive Valencia, PA 16059	Butler County Middlesex Township	UNT to Glade Run 20-C	Y

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

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

NPDES Permit No. PA0021237 Sewage, **Newport Borough Municipal Authority**, 231 Market Street, Newport, PA 17074-1590. This proposed facility is located in Newport Borough, **Perry County**.

Description of Proposed Action/Activity: Authorization to discharge to the Juniata River in Watershed 12-B.

NPDES Permit No. PA0037737, Sewage, **Elizabethville Area Authority**, 4154 North Route 225, Elizabethville, PA 17023-9704. This proposed facility is located in Washington Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to the Wiconisco Creek in Watershed 6-C.

NPDES Permit No. PA0247626, Sewage, **Bedford Oil Company, Inc. (Former Sunnyside Market)**, P. O. Box 180, Everett, PA 15537. This proposed facility is located in Hopewell Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to the Yellow Creek in Watershed 11-D.

NPDES Permit No. PA0247707, Sewage, **William Bratton**, 275 Guyer Corner Road, New Enterprise, PA 16664. This proposed facility is located in South Woodbury Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to a UNT to Beaver Creek in Watershed 11-D.

NPDES Permit No. PA0087483, Industrial Waste, **Elizabethtown Area Water Authority (Cornwall Quarry Water Transfer)**, Five Municipal Drive, Elizabethtown, PA 17022. This proposed facility is located in West Cornwall Township, **Lebanon County**.

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

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

NPDES Permit No. PA007811-A1. Sewage. **Dry Tavern Sewer Authority**, P. O. Box 159, Rices Landing, PA 15357. This proposed facility is located in Jefferson Township, **Greene County**.

Description of Proposed Action/Activity: Existing Dry Tavern Sewer Authority STP currently rated at 0.051 mgd to be expanded to treat a maximum monthly average flow of 0.12 mgd.

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

NPDES Permit No. PA0001791, Industrial Waste, **Osram Sylvania, Inc.**, P. O. Box 129, Warren, PA 16365-0129. This proposed facility is located in City of Warren, **Warren County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Allegheny River in Watershed 16-B.

NPDES Permit No. PAS238302, Industrial Waste, **Air Liquide Industrial U. S. LP**, 2700 Post Oak Boulevard, Houston, TX 77056. This proposed facility is located in City of St. Marys, **Elk County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to West Creek in Watershed 8-A.

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

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

WQM Permit No. 1504407 Sewerage, **East Brandywine Township Municipal Authority**, 1214 Horseshoe Pike, Downingtown, PA 19335. This proposed facility is located in East Brandywine Township, **Chester County**.

Description of Action/Activity: Construction and operation of a pump station.

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

WQM Permit No. 4804202, Industrial Waste, **Newstech PA, LLP**, 6 Horwith Drive, Northampton, PA 18067. This proposed facility is located in Northampton Township, **Northampton County**.

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

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

WQM Permit No. 3805401, Sewerage, **South Annville Township Authority**, 829 South Spruce Street, Annville, PA 17003. This proposed facility is located in South Annville Township, **Lebanon County**.

Description of Proposed Action/Activity: Approval for the construction/operation of sewerage facilities consisting of a new sewerage collection system including two suction/lift pump stations.

WQM Permit No. 0104402, Sewerage, **Hundredfold Farm Joint Venture**, 1668F Old Route 30, Orrtanna, PA 17353. This proposed facility is located in Franklin Township, **Adams County**.

Description of Proposed Action/Activity: Approval for the construction of experimental sewerage and effluent reuse facilities that includes individual 2 hp grinder pumps to serve 14 homes and 1 community center.

WQM Permit No. 2104401, Sewerage, **North Middleton Authority**, 240 Clearwater Drive, Carlisle, PA 17013-1100. This proposed facility is located in Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/Operation of a duplex submersible pump station with a connection for portable emergency power hook-up and 4-inch force main to serve Commons at Parker Springs.

WQM Permit No. 0505401, Sewerage, **William Bratton**, 275 Guyer Corner Road, New Enterprise, PA 16664. This proposed facility is located in South Woodbury Township, **Bedford County**.

Description of Proposed Action/Activity: Approval for the construction/operation of a 500 gpd maximum daily flow single family residential sewerage treatment facility.

WQM Permit No. 0104202, Sewerage, **Hillandale Gettysburg, LP**, 370 Spicer Road, Gettysburg, PA 17325. This proposed facility is located in Straban Township, **Adams County**.

Description of Proposed Action/Activity: Approval for the construction of sewerage facilities.

WQM Permit No. 3805405, Sewerage, **South Lebanon Township**, 1800 South Fifth Avenue, Lebanon, PA 17042. This proposed facility is located in South Lebanon Township, **Lebanon County**.

Description of Proposed Action/Activity: Approval for the construction of sewage facilities consisting of a new suction lift pump station including wet well, building that houses pumps and appurtenances along with associated new 4-inch diameter forcemain.

WQM Permit No. 3601405, Amendment No. 05-1, Sewerage, **Black Rock Retreat**, 1345 Kirkwood Pike, Quarryville, PA 17566. This proposed facility is located in Colerain Township, **Lancaster County**.

Description of Proposed Action/Activity: Permit amendment approves the construction/operation of sewerage facilities consisting of four additional subsurface disposal beds and a third 6,000-gpd recirculating sand filter.

WQM Permit No. 6770405, Amendment 05-1, Sewerage, **York Township**, 25 Oak Street, York, PA 17402. This proposed facility is located in York Township, **York County**.

Description of Proposed Action/Activity: Approval for the construction of sewerage facilities consisting of replacement of approximately 1,250 LF of 8-inch ESVC sewers between Tyler Run Road and Powder Mill Road with approximately 1,800 LF of 8-inch and 10-inch PVS sewers.

WQM Permit No. 3605201, CAFO, **Rohrer Dairy, LLC**, 124 Charlestown Road, Washington Boro, PA 17582. This proposed facility is located in Manor Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization for the construction/operation of manure storage facilities for a 1,557.9—Animal Equivalent Unit CAFO.

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

WQM Permit No. 0274469-A1, Sewerage, **Allegheny County Sanitary Authority**. This proposed facility is located in the City of Pittsburgh, **Allegheny County**.

Description of Proposed Action/Activity: Improve grit removal and screenings process.

WQM Permit No. 6372205-A1, Industrial Waste, **Orion Power Midwest, LP**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. This proposed facility is located in Union Township, **Washington County**.

Description of Proposed Action/Activity: Construction of a truck tire wash.

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

WQM Permit No. WQG018346, Sewerage, **Kenneth G. Holland**, 111 Mohawk Trail, Slippery Rock, PA 16057. This proposed facility is located in Slippery Rock Township, **Butler County**.

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

WQM Permit No. WQG018392, Sewerage, **Charles J. and Kerri Dach**, 8800 Route 59, Lewis Run, PA 16738. This proposed facility is located in Lafayette Township, **McKean County**.

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

WQM Permit No. WQG018390, Sewerage, **Thomas Sarver**, 587 Jane Street, Cranberry Township, PA 16066-6335. This proposed facility is located in Forward Township, **Butler County**.

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

WQM Permit No. 2592414, Sewerage, **Mark A. Kafferlin**, 2230 Old Wattsburg Road, Waterford, PA 16441. This proposed facility is located in Waterford Township, **Erie County**.

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

WQM Permit No. 1005401, Sewerage, **Saxonburg Area Authority**, 420 West Main Street, Saxonburg, PA 16056-9517. This proposed facility is located in Saxonburg Borough and Clinton, Jefferson, Penn and Middlesex Townships, **Butler County** and Richland Township, **Allegheny County**.

Description of Proposed Action/Activity: This project is for a new 2.05 mgd regional sewage treatment facility and conveyance system to serve six municipalities in Butler and Allegheny Counties.

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010904008	Palisades School District Palisades HS Expansion 20 School Drive Kintnersville, PA 18930	Bucks	Nockamixon Township	Rapp Creek (EV)
PAI011504050	Parker Ford Church of the Brethren New Church and Facilities P. O. Box 386 87 Bethel Church Road Parkerford, PA 19457	Chester	East Coventry Township	UNT Schuylkill River and Pigeon Creek (HQ-TSF)
PAI011504082	Jason Malany Barr Subdivision, Lot 9 561 Northbrook Road West Chester, PA 19382	Chester	West Bradford Township	Broad Run (EV)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044105001	Department of Transportation Engineering Dist. 3-0 P. O. Box 218 Montoursville, PA 17754	Lycoming	Shrewsbury Township	Fox Run HQ-CWF

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

Cambria County Conservation District: 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931, (814) 472-2120.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI051105003	Fiberblade, LLC 1 South Broad Street Philadelphia, PA 19107	Cambria	Cambria Township	Steward Run (HQ-CWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056304007	Bobby Rahal Dealership 6305 Carlisle Pike Mechanicsburg, PA 17055	Washington	North Strabane Township	Little Chartiers Creek (HQ-WWF)

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

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

List of NPDES and/or Other General Permit Types

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

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Multiple Municipalities Bucks County	PAG2000905051	Delaware Canal State Park P. O. Box 8451 Harrisburg, PA 17105-8451	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Tullytown Borough Falls Township Bucks County	PAG2000905031	Pennsbury School District Walt Disney Elementary School 134 Yardley Avenue Fallsington, PA 19058-0338	Martins Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Doylestown Borough Bucks County	PAG2000905009	Summit Realty Advisor, LLC CVS Pharmacy—Doylestown 621 Delaware Street New Castle, DE 19720	Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000904194	HJH, LLC 70 Tracy Road Huntingdon Valley, PA 19006	Delaware River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000904023	Bensalem Township Galloway Road Extension 2400 Byberry Road Bensalem, PA 19020	Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAG2000904174	McGrath Homes Laurel Oaks Preserve 1262 Wood Lane, Suite 207 Langhorne, PA 19047	Core Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

NOTICES

3981

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Bensalem Township Bucks County	PAG2000905022	The Flynn Company Schwarz, Inc. Warehouse 1621 Wood Street Philadelphia, PA 19103	Neshaminy Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000905001	Conifer Realty, LLC Cornwell Heights Sr. Housing Project 1901 Davis Street, Suite 100 Camden NJ 08104	Poquessing Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Makefield Township Bucks County	PAG2000904110	Gerald Tsarnas Boxwood Farms Development 7 Greenbriar Circle Newtown, PA 18940	Brock Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield Township Bucks County	PAG2000903185	Toll Brothers, Inc. Reeve Tract 3103 Philmont Avenue Huntingdon Valley, PA 19006	UNT Jerico Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAG2000905028	TLC Reedman, LP Reedman Toll Autoworld 2600 Philmont Avenue Huntingdon Valley, PA 19006	Mill Creek South (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warwick Township Bucks County	PAG2000905019	Christopher Walker LeMaster Tract 1489 Turkey Trot Road Warminster, PA 18974	Cooks Run/Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000905015	Northbrook Corporation Center Northbrook Development Parcel 400 Oaks Corporate Center P. O. Box 1150 Oaks, PA 19456	Neshaminy Creek (MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000904199	Edward McGill and Associates, Inc. Brown Avenue Subdivision 4432 East Bristol Road, 4B Trevose, PA 19053-4758	Poquessing/ Penny/Tacony Creeks (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bristol Township Bucks County	PAG2000904203	Mar Mar Builders, Inc. Broadway Avenue Development 5601 Beaver Dam Road Bristol, PA 19006	UNT Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warwick Township Bucks County	PAG2000905007	Warwick Building Partners Walgreens Pharmacy 2370 York Road P. O. Box 281 Jamison, PA 18929-1022	UNT Neshaminy Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Southampton Township Bucks County	PAG2000904089	Jackson Feasterville, LP Walgreens Pharmacy 765 John Barry Drive Bryn Mawr, PA 19010	Poquessing Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hilltown Township Bucks County	PAG2000905078	Harry F. Kratz Harry Kratz Minor Subdivision 827 Simmons Road Sellersville, PA 18960	Tributary East Branch Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Rockhill Township Bucks County	PAG2000905070	Prospect Acquisitions, LP Village of Rosecliffe 404 Sumneytown Pike, Suite 200 North Wales, PA 19454	Mill Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Pennsburg Township Chester County	PAG2001504117	Anthony Dambro 737 North Brook Road Kennett Square, PA 19348	Pocopson Creek (TSF, MF) and Bennett's Run (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Penn Township Chester County	PAG2001504110	Jenner's Common, LLC 1159 Meeting House Road West Chester, PA 19382	UNT West Branch White Clay Creek (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
New Garden Township Chester County	PAG2001504101	Wilkinson Builders 1020 Broad Run Road Landenberg, PA 19350	Broad Run (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Thornbury Township Delaware County	PAG2002305018	Mill Creek Thornbury, LLP 337 Barn Hill Road West Chester, PA 19382	West Branch Chester Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Concord Township Delaware County	PAG2002305029	RC Realty, LLC 99 Wilmington Pike Chadds Ford, PA 19317	Brandywine Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chadds Ford Township Delaware County	PAG2002304053	New Horizons Church 63 Baltimore Pike Chadds Ford, PA 19317	Harvey Run/Brandywine Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chadds Ford Township Delaware County	PAG2002305003	Girl Scouts of Southeastern Pennsylvania P. O. Box 27540 Philadelphia, PA and Toll PA Vi, LP 130 Concord Rd. Boothwyn, PA	Harvey Run (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Springfield Township Delaware County	PAG2002304061	Bruce Rothrock, Jr. P. O. Box 309 Springfield, PA 19065	Stony Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Towamencin Township Montgomery County	PAG2004605018	Towamencin Town Center Associates Towamencin Corporate Center 1690 Sumneytown Pike, Suite 190 Lansdale, PA 19446	Towamencin Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG2004605012	Kane Core, Inc. Landis 4 Lot Subdivision 4365 Skippack Pike P. O. Box 1301 Skippack, PA 19474	UNT to mine Run (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatboro Township Montgomery County	PAG2004605003	Cobblestone 2003, LLC Cobblestone Court 670 Knowles Avenue Southampton, PA 18966	Tributary Pennypack Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Abington Township Montgomery County	PAG2004605060	Abington Township Ardsley Sanitary Sewer Replacement 1176 Old York Road Abington, PA 19001	Sandy Run (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plymouth Township Montgomery County	PAG2004604227	Philomeno and Salamone Sherwood Reserve 545 West Germantown Pike Plymouth Meeting, PA 19462	Plymouth Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

NOTICES

3983

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Whitemarsh Township Montgomery County	PAG2004605068	Montgomery County Planning Commission Lower Wissahickon Green Ribbon Trail One Montgomery Plaza, Suite 201 Norristown, PA 19404	Wissahickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG2004605094	Township Line Realty, LP 334 Godshall Drive Harleysville, PA 19438	UNT West Branch Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG2004603193	Wawa, Inc. Proposed Wawa Development 260 West Baltimore Pike Wawa, PA 19063	West Branch Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Salford Township Montgomery County	PAG2004603251	Sunny Brook Developers, Inc. Spring Run Farm 1120 North Bethlehem Pike Springhouse, PA 19477	East Branch Perkiomen Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAR10-T541R-1	The Nolen Group Providence Corp Center, Lot K 6 East Germantown Pike Plymouth Meeting, PA 19462	Doe Run (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Trappe Borough Montgomery County	PAG2004605039	Edwina French Community Music School of Collegeville, LTD 775 West Main St. Trappe, PA 19426	Schoolhouse Run (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Gwynedd Township Montgomery County	PAG2004604219	LG Homes Associates Weber Tract 731 Skippack Pike Blue Bell, PA 19422	Wissahickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Wilkes-Barre Luzerne County	PAG2004005018	Department of Transportation District 4-0 55 Keystone Industrial Park Dunmore, PA 18512	Mill Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Pine Grove Township Schuylkill County	PAG2005404031	P. Thomas and Marilyn Fesser 1130 Schuylkill Mt. Rd. Schuylkill Haven, PA 17972	Swatara Creek CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Washington Township Dauphin County	PAG2002205017	Wal-Mart Business Trust 2001 Southeast 10th St. Bentonville, AR 72716-0550	Wiconisco Creek/WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
South Londonderry Township Lebanon County	PAG2003805011	Mark Zeiders R. R. 4, Box 4889 Duncannon, PA 17020	Spring Creek/WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
North Londonderry Township Lebanon County	PAG2003805010	David Lavipour, President Lavipour & Co. 444 Park Avenue South New York, NY 10016-7321	Quittapahilla Creek/TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Union Township Lebanon County	PAG2003805006	Ned and Jean Bomgardner 501 Jonestown Road Jonestown, PA 17038	Swatara Creek/WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
Union Township Lebanon County	PAG2003805013	Dennis Stichter Supreme Corp. 411 Jonestown Road Jonestown, PA 17038	Swatara Creek/WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908, Ext. 4
Mount Joy Borough Lancaster County	PAG2003605014	The Florin Hill Partnership 114 Foxshire Dr. Lancaster, PA 17601	Donegal Creek/CWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Conoy Township Lancaster County	PAG2003605050	MDR Construction Inc. 38 W. Lancaster Ave Shillington, PA 19607	Susquehanna River/WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Mount Joy Township Lancaster County	PAG2003605070	Robert A and Jeffrey D. Ebersole R. R. 1, Box 153a Hershey, PA 17033	UNT Donegal Creek/CWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Leacock Township Lancaster County	PAG2003605085	Christian B. Miller 2888 Miller Lane Bird In Hand, PA 17505	Muddy Creek/WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
East Hempfield Township Lancaster County	PAG2003605087	Hempfield School District 200 Church St. Landisville, PA 17538	Millers Run/CWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
East Earl Township Lancaster County	PAG2003605088	Creek LLC 214 A Willow Valley Lakes Dr. Willow Street, PA 17584	UNT Conesotga River/WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Manor Township Lancaster County	PAG2003605089	LCSWMA P. O. Box 4425 Lancaster, PA 17604	Mann's Run/WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Franklin Township	PAG2000105004	Carl Rundquist Borough of Chambersburg	Conococheague Creek/CWF	Stefani Pililis Adams County Conservation District (717) 334-5171
Cumberland Township	PAG2000104024	John Latschar Gettysburg National Military Park Gettysburg, PA 17325	Rock Creek/WWF	Stefani Pililis Adams County Conservation District (717) 334-5171

NOTICES

3985

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Conewago Township	PAG2000104020	Max Beckner 424 Main St. McSherrystown, PA 17344	Plum Creek/WWF	Stefani Pililis Adams County Conservation District (717) 334-5171
Germany Township	PAG2000105011	Casey Dell 335 Parkway Dr. Littlestown, PA 17340	Piney Creek/CWF	Stefani Pililis Adams County Conservation District (717) 334-5171
Franklin Township	PAG2000105007	Bill Hartzell 1668 F. Old Rt. 30 Orrtanna, PA 17353	Marsh Creek/CWF	Stefani Pililis Adams County Conservation District (717) 334-5171
St. Thomas Township Franklin County	PAG2002805042	Country Meadow Subdivision Attn: Barbara Bettaker 5164 Race Track Road St. Thomas, PA 17252	Back Creek WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Antrim Township Franklin County	PAG2002805044	Nowell Subdivision Attn: Vonda Nowell 14570 Hollowell Church Road Waynesboro, PA 17268	Marsh Run WWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Maidencreek Township Berks County	PAG2000605025	David Small Small Properties, LP P. O. Box 207 Leesport, PA 19533	Willow Creek to Maiden Creek/CWF	Berks County Conservation District 1238 County Welfare Road, P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Fermanagh Township Juniata County	PAG2003405007	Department of Transportation, District 2-0 1924 Daisy Street P. O. Box 342 Clearfield, PA 16380	Tuscarora Creek	Juniata County Conservation District R. R. 5, Box 35, Mifflintown, PA 17059 (717) 436-8953, Ext. 5
Manchester Township York County	PAG2006704133	Architectural Testing Inc. 130 Derry Court York, PA 17402	Codorus Creek/WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
North Codorus Township York County	PAG2006704144	Joe Silbaugh First Capital Investors P. O. Box 20202 York, PA 17402	UNT to West Branch Codorus Creek/WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
West Manchester Township York County	PAG2006705005	Delco Center MAF Ventures c/o Charter Realty Development Corp. 411 W. Putnam Ave. Greenwich, CT 06830-6233	Willis Run/WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Warrington Township York County	PAG2006703125	Rossville Car Wash Ray Hoffman 842 Dicks Dam Road New Oxford, PA 17350	North Branch Beaver Creek/WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
North Codorus Township York County	PAG2006704092	North Codorus Township Sewer Auth. 1986 Stoverstown Road Spring Grove, PA 17362	UNT to Codorus Creek/WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Manchester Township York County	PAG2006705025	Ram-T Corp. Deborah Turner 1121 Downington Pike West Chester, PA 19380	Little Conewago Creek/TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
West Manheim Township York County	PAG2006705013	The Warner Farm Randy Warner 653 Fuhrman Mill Road Hanover, PA 17331	UNT to WB Codorus Creek/WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
West Manheim Township York County	PAG2006705021	Wyndsong Pointe Stone Ridge Development 330 Dubs Church Road Hanover, PA 17331	UNT to WB Codorus Creek/WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Hampden Township Cumberland County	PAG2002105020	Turkey Hill Minit Markets William Weisser 257 Centerville Road Lancaster, PA 17603	Conodoguinet Creek/WWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Hampden Township Cumberland County	PAG2002105006	Pennsylvania-American Water Company Michael Salvo 852 Wesley Drive Mechanicsburg, PA 17055	Conodoguinet Creek/WWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Lower Allen Township Cumberland County	PAG2002105001	Tressler-Lutheran Site Select Capitol Commercial Properties John Ortenzio 4718 Gettysburg Road Mechanicsburg, PA 17055	Yellow Breeches/CIVF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Hampden Township Cumberland County	PAG2002105018	Quigley Tract Richard Yingst 4712 Smith Street Harrisburg, PA 17109	UNT to Holtz Run and Conodoguinet Creek/WWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Centre County Ferguson Township	PAG2001405003	John Reese Fenway Property Dev. LP 720 N. Atherton St. State College, PA 16801	Big Hollow CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Clearfield County City of Dubois	PAG2001705007	Stoltz Realty Partnership P. O. Box 6 Dubois PA 15801	Sandy Lick Creek CWF	Clearfield County Conservation District 650 Leonard St. Clearfield, PA 16830 (814) 765-2629
Clearfield County Pike Township	PAG2001705008	L. P. L. Land Inc. 1124 Lezzer Lane Curwensville, PA 16833	UNT Anderson Creek CWF	Clearfield County Conservation District 650 Leonard St. Clearfield, PA 16830 (814) 765-2629
Columbia County Town of Bloomsburg	PAG2001905012	Bloomsburg University Eric Milner Buckingham Maintenance Center 400 E. 2nd St. Bloomsburg, PA 17815	Susquehanna River WWF	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Columbia County Hemlock Township	PAG2001905014	Nicholas Drobny 301 East St. Bloomsburg, PA 17815	UNT Fishing Creek	Columbia County Conservation District 702 Sawmill Road Suite 204 Bloomsburg, PA 17815 (570) 784-1310
Centre County College Township	PAG2001405008	Carlton Miller SVPA Holdings Inc. 110 Radnor Rd., Suite 102 State College, PA 16801	Slab Cabin Run CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Fayette County Redstone and Menallen Townships	PAG2002605007	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Rowes Run, Four Mile Run, Colvin Run (WWF)	Fayette County CD (724) 438-4497
Fayette County North Union and Menallen Townships	PAG2002605008	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Jennings Run (WWF)	Fayette County CD (724) 438-4497
Fayette County Saltlick Township	PAG2002605014	James Stoy Stoy Excavating 166 Stoney Hollow Rd. Somerset, PA 15501	Champion Creek (CWF)	Fayette County CD (724) 438-4497
Indiana County Conemaugh Township	PAG2003205011	Charles Merlo Merlo General Contractors 234 Merlo Road Mineral Point, PA 15942	Blacklegs Creek (CWF)	Indiana County CD (724) 463-8547
Somerset County Lincoln Township	PAG2005605006	Somerset Welding & Steel, Inc. 10558 Somerset Pike Somerset, PA 15501	Quemahoning Creek (CWF)	Somerset County CD (814) 445-4652

General Permit Type—PAG-3

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lower Gwynedd Township Montgomery County	PAR230049	Johnson & Johnson Pharmaceutical R & D, LLC Welsh & McKean Rd. P. O. Box 776 Spring House, PA 19477	UNT to Park Creek-3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Darby Township Delaware County	PAR600019	Ray's Truck Parts, Inc. 1040 Beverly Lane Newtown Square, PA 19073	Darby Creek-3G Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Mifflin County Union Township	PAR113521	CNH America LLC P. O. Box 868 36 Maple Street Belleville, PA 17004-0868	Kishacoquillas Creek/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Mifflin County Decatur Township	PAR603550	Lewis Parsons Parson's Auto Salvage 3760 Old State Road McClure, PA 17841	Meadow Creek/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Huntingdon County Carbon Township	PAR603573	John D. Bollman Bollman's Auto Salvage R. D. 1, Box 246 Saxton, PA 16678	Shoup Run/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County East Cocalico Township	PAR203579	Boose Aluminum Foundry Co., Inc. P. O. Box 261 Reamstown, PA 17567-0261	Stony Run/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Lancaster County Lancaster City	PAR603527	Rubin Steel Company 1430 Fruitville Pike Lancaster, PA 17604-4365	Little Conestoga Creek/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Mount Joy Borough	PAR123532	Wenger's Feed Mill, Inc. 101 West Harrisburg Avenue Rheems, PA 17570	UNT to Donegal Creek/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Mount Joy Borough	PAR123533	Wenger's Feed Mill, Inc. 101 West Harrisburg Avenue Rheems, PA 17570	UNT to Donegal Creek/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Perry County Wheatfield Township	PAR603545	Ronald G. Myers Myers Used Auto Parts 50 Paradise Road Duncannon, PA 17020	Little Juniata Creek/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Chambersburg Borough	PAR803680	Triple Nickel Auto Parts 2956 Lincoln Way West Chambersburg, PA 17201-8694	UNT to Bear Creek/TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Reading City	PAR233508	Quadrant EPP USA, Inc. 2120 Fairmont Avenue P. O. Box 14235 Reading, PA 19612-4235	Schuylkill River/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Spring Garden Township	PAR603578	Harry J. Darrah J & K Salvage, Inc. 1099 Kings Mill Road York, PA 17403	UNT to Codorus Creek/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Adams County Oxford Township	PAR203580	New Oxford Aluminum Company, Inc. 4942 York Road New Oxford, PA 17350	South Branch Conewago Creek/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Snyder County Middlecreek Township	PAR224852	Apex Homes 247 US Highway 522 N Middleburg, PA 17842	UNT to Middle Creek (CWF)	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
South Centre Township, Columbia County	PAR124813	Del Monte Corporation One Market Street San Francisco, CA 94119-3575	Storm Drain to Susquehanna River CWF	Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701 (570) 327 3664
North Fayette Township Allegheny County	PAR506113-A1	Deep Valley Coal & Disposal, Inc. 711 Old Steubenville Pike Oakdale, PA 15071	UNT of Pinkertons Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Collier Township Allegheny County	PAR606197	Unipaper Recycling Company P. O. Box 298 West Noblestown Road Carnegie, PA 15106	Tributary to Robinson Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Richland Township Cambria County	PAR606157	S & S Auto Salvage 1999 Frankstown Road Johnstown, PA 15902	Clapboard Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Homer City Borough Indiana County	PAR116122	FMC Technologies, Inc. 57 Cooper Avenue Homer City, PA 15748-1306	Two Lick Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Etna Borough Allegheny County	PAR116108	Tippins Incorporated 400 Butler Street Pittsburgh, PA 15223	Pine Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Scottdale Borough Upper Tyrone Township Westmoreland Fayette County	PAR206146	Marwas Steel Company Fayette Division 18 Mount Pleasant Road Scottdale, PA 15683	Stauffers Run/Jacobs Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Derry Township Westmoreland County	PAR206105	TECHSPEC, INC. 718 Y Street P. O. Box 69 Derry, PA 15627-0069	McGee Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Cecil Township Washington County	PAR806239	Weavertown Transport Leasing, Inc. 199 South Johnson Road Suite 100 Houston, PA 15342	UNT to Millers Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Richland Township Allegheny County	PAR806121	PJAX Trucking , Inc. 73 McCandless Street Pittsburgh, PA 15201	Crouse Run, tributary of Pine Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-4

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Berks County Maxatawny Township	PAG043512	Robert Michael Bunner 949 Bennicoff Road Kutztown, PA 19530	Mill Creek	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Bedford County Kimmel Township	PAG043643	Pamela Walter 1899 Beaver Dam Road Claysburg, PA 16625	UNT to Beaverdam Creek/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Bedford County Napier Township	PAG043553	Larry G. Ferguson Point United Methodist Church R. D. 1, Box 109A Schellsburg, PA 15559	Adam's Run/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Westmoreland County Mount Pleasant Township	PAG046104	George Lazor R. R. 4, Box 1895 Mount Pleasant, PA 15666	Tributary of Boyer Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Franklin Township Erie County	PAG048691	Ward L. Sanders 8350 Carbury Road Edinboro, PA 16412	Little Elk Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Slippery Rock Township Butler County	PAG049138	Kenneth G. Holland 111 Mohawk Trail Slippery Rock, PA 16057	Slippery Rock Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Lafayette Township McKean County	PAG049184	Charles J. and Kerri Dach P. O. Box 111 Lewis Run, PA 16738	UNT to Kinzua Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Forward Township Butler County	PAG049182	Thomas Sarver 587 Jane Street Cranberry Township, PA 16066-6335	UNT to Breakneck Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-8

<i>Facility Location & County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
Juniata County Port Royal Borough	PAG083594	Port Royal Municipal Authority P. O. Box 236 Port Royal, PA 17082	Juniata County Port Royal Borough	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Cumberland County North Middleton Township	PAG083555	North Middleton Authority 240 Clearwater Drive Carlisle, PA 17013	Cumberland County North Middleton Township	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
York County Fairview Township	PAG083510	Lower Allen Township Authority 120 Limekiln Road New Cumberland, PA 17070	Beshore Farm Fairview Township York County	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-8 (SSN)

<i>Facility Location & County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Site Name & Location</i>	<i>Contact Office & Phone No.</i>
SR 54 Clinton Township Lycoming County	PAG084824	Montgomery Water and Sewer Authority 35 South Main Street Montgomery, PA 17752	Esther Mowery Farm Route 54 Montgomery, PA 17752	Northcentral Regional Office (570) 327-3636

General Permit Type—PAG-10

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Cumberland County Hampden Township	PAG103509	Gulf Oil Limited Partnership 90 Everett Avenue Chelsea, MA 02150-2337	Cedar Run/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Greene Township	PAG103525	PPL Gas Utilities Corporation 2 North 9th Street Allentown, PA 18037	Rowe Run/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Gilford Township	PAG103524	PPL Gas Utilities Corporation 2 North 9th Street Allentown, PA 18037	UNT to Conocheague Creek/CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

General Permit Type—PAG-13

Southcentral Region: Water Management Program Manager, 909 Elmerton Ave., Harrisburg, PA 17710.

NPDES Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use	DEP Protocol (Y/N)
PAI-131500050001	Department of Transportation 400 North Street Harrisburg, PA 17105	Statewide	Statewide	Statewide	N

PUBLIC WATER SUPPLY (PWS) PERMITS

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

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

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Permit No. 1504510, Public Water Supply.

Applicant	Pennsylvania-American Water Company 800 W. Hersheypark Drive Hershey, PA 17033
Township	East Vincent
County	Chester
Type of Facility	PWS
Consulting Engineer	Buchart-Horn, Inc. 3000 Chestnut Avenue Baltimore, MD 121212

Permit to Construct Issued June 22, 2005

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17710.

Permit No. 3805502, Public Water Supply.

Applicant	DS Waters of America, LP
Municipality	Millcreek Township
County	Lebanon
Type of Facility	Construction of a new spring house facility. The new source will be Arrowhead Spring No. 1 (Big spring). Treatment will be provided at the existing loadout facility.
Consulting Engineer	Gary J Toplak, P. E. Crouse & Company 912 Greengate Plaza North Greensburg, PA 15601

Permit to Construct Issued: 6/29/2005

Operations Permit issued to: **Lykens Borough Authority**, 7220022, Lykens Borough, **Dauphin County** on 6/29/2005 for the operation of facilities approved under Construction Permit No. 2205502 MA.

Operations Permit issued to: **Plains LPG Services, LP**, 7380426, Heidelberg Township, **Lebanon County** on 6/29/2005 for the operation of facilities approved under Construction Permit No. 3804504.

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

Operations Permit issued to: **Eldred Borough Water Authority**, 3 Bennett Street, Eldred, PA 16731, PWSID #6420016, Eldred Township, **McKean County**, on July 1, 2005, for the operation of the Authority's Bardon Brook Road Pump Station project, as approved under Construction Permit No. 4202501.

SEWAGE FACILITIES ACT PLAN APPROVAL

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

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

Plan Location:

Borough or Township	Borough or Township Address	County
Turbot Township	R. R. 3, Box 774 Milton, PA 17847	Northumberland

Plan Description: The approved plan provides for a Sewage Management Plan (SMP) for the entire township.

The SMP includes an inspection of all onlot sewage systems in the township and pumping of all systems every 3 years.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Greenwood Township	R. R. 2, Box 604 Millerstown, PA 17062	Juniata

Plan Description: The approved plan provides for the implementation of an onlot sewage disposal system management program. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Beale Township	R. R. 2, Box 826 Port Royal, PA 17082	Juniata

Plan Description: The approved plan provides for the construction of a 20,000 gpd wastewater treatment facility and sewage collection and conveyance facilities to serve the Village of Walnut. This treatment facility will discharge to Markee Creek. The Plan also provides for the adoption and implementation of an onlot sewage disposal system management program to serve the entire township. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Snyder Township	R. R. 3, Box 119 Tyrone PA 16686	Blair County

Plan Description: The approved plan provides for the construction of a municipal sewage collection system to serve 21 existing homes along Thomastown Road. The project will include installation of approximately 7,260 feet of gravity sewer that will connect to an existing interceptor owned by The Northern Blair County Regional Sewer Authority. The sewage will be treated at the Tyrone Borough Wastewater Treatment Facility. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Annville Township	1929 Thompson Avenue Jonestown PA 17038	Lebanon

Plan Description: Approval of a revision to the Official Sewage Plan of North Annville Township, Lebanon County. The proposed Mel Gehman subdivision consists of

a Small Flow Treatment Facility serving a residential lot with a 400 gpd treated discharge to an UNT of the Swatara Creek. The Department's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Tilden Township	874 Hex Highway Hamburg, PA 19526-8805	Berks

Plan Description: The approved plan provides for the construction of a new pump station along State Street to serve the existing sewage needs in the West Hamburg area as delineated in Tilden Township's Act 537 Plan that was approved on 8/21/03. The proposed pump station will be tributary to the Hamburg Borough Sewage Treatment Plant. The plan revision DEP number is A3-06965-109-3. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Oxford Township	780 Hanover St. P. O. Box 86 New Oxford, PA 17350	Adams

Plan Description: The approved plan provides for the installation of a small flow treatment facility on the Shrader property to correct a malfunctioning onlot system. The proposed development is located at 130 Brickyard Rd. in Oxford Township, Adams County. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following 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:

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

South Poplar Street Prop., West Chester Township, **Chester County**. David Side, GHR Consulting Svc., Inc., 300 Welsh Rd., Bldg. 3, Suite 110, Horsham, PA 19044 on behalf of Boyd Davis, MH Davis Estate, 614 E. Barnard St., West Chester, PA 19380 has submitted a Final Report concerning remediation of site soil contaminated with lead. The report is intended to document remediation of the site to meet the Statewide Health Standard.

North American Film Co., Bridgeport Borough, **Montgomery County**. Jeffrey Goudsward, Penn E & R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Richard Heany, O'Neill Prop. Group, LP, 700 S. Henderson Road, King of Prussia, PA 19406 has submitted a Remedial Investigation, Risk Assessment Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with unleaded gasoline, No. 2 fuel oil, PAHs and inorganics. The reports were intended to document remediation of the site to meet the Site-Specific Standard.

Thyseen Krupp Budd Co./Die Storage Yard Site, City of Philadelphia, **Philadelphia County**. Justin R. Lauterbach, RT Env. Svc., Inc. on behalf of Joe DePascale, Hunting Fox Assoc., LP, c/o PREI, 1001 E. Hector St., Suite 100, Conshohocken, PA 19428 has submitted a Risk Assessment Report and Cleanup Plan concerning remediation of site groundwater and soil contaminated with VOC's, PCB's, PAH and inorganics. The report is intended to document remediation of the site to meet the Site-Specific and Statewide Health Standards.

Park Town West, City of Philadelphia, **Philadelphia County**. Jamey A. Stynchula, P. G., Pennoni Assoc., Inc., 3001 Market St., Philadelphia, PA 19104 on behalf of Colin Jones, The Goldenberg, Group, Inc. & WPFPSI, 650 Pkwy, Suite 300, Blue Bell, PA 19422 has submitted a Workplan for a Remedial Investigation concerning remediation of site soil and groundwater contaminated with organics and PCB. The report is intended to document remediation of the site to meet the Special Industrial Area Standard.

Continental Bus. Ctr. Site, Bridgeport Borough, **Montgomery County**. Jeffrey Goudsward, Penn E & R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of

Richard Heany, O'Neill Prop. Group, LP, 700 S. Henderson Rd., Suite 225, King of Prussia, PA 19406 has submitted a Risk Assessment, Remedial Assessment and Cleanup Plan concerning remediation of site soil and groundwater contaminated with PAH's and inorganics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Ford Estates, Honey Brook Township, **Chester County**. Mindy Wagaman, Hafer Env. Svc., Inc., P. O. Box 4418, Reading, PA 19606 on behalf of Dallas Ford, Ford Estates, 2056 Horseshoe Pike, Honey Brook, PA 19344 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Goldman Paper/Welde Dyehouse Site, City of Philadelphia, **Philadelphia County**. Jeffrey E. Goudsward, Penn E & R, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Steve Wolfson, 2201 E. Allegheny Ave., LP, 1250 Germantown Pike, Plymouth Meeting, PA 19462 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents, fuel oils Nos. 2, 4 and 6, leaded and unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Boulevard Plaza, City of Philadelphia, **Philadelphia County**. James F. Mullan, P. E., Hocage Consulting, Inc., 987 Haddon Ave., Collingswood, NJ 08108 has submitted a Remedial Investigation and Risk Assessment Reports concerning remediation of site soil and groundwater contaminated with lead and chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

Brandenburg Industrial Service Co., City of Bethlehem, **Northampton County**. Elizabeth Schamberger, P. G., HDP/LMS, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 has submitted a Cleanup Plan (on behalf of her client, LVIP, Inc., 1805 East 4th Street, Bethlehem, PA 18015) concerning the remediation of soils impacted by historical plant operations on the former Bethlehem Steel Corporation property. The plan was submitted in partial fulfillment of the site-specific standard.

Bethlehem Commence Center—Former Bethlehem Steel Corporation Saucon Plant, City of Bethlehem, **Northampton County**. Elizabeth Schamberger, P. G., HDP/LMS, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 has submitted a Remedial Investigation Report (on behalf of her client, LVIP, Inc., 1805 East 4th Street, Bethlehem, PA 18015) concerning the characterization of contamination in soil and/or groundwater impacted by historical plant operations. The report was submitted in partial fulfillment of the site-specific standard.

Former Allen Hardware (1941 Hamilton Street), City of Allentown, **Lehigh County**. MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 has submitted a Final Report (on behalf of their client, St. Luke's Hospital, 801 Ostrum Street, Bethlehem, PA 18015) concerning the remediation of soils and groundwater found or suspected to have been contaminated with gasoline constituents presumably as the result of leakage from underground storage tanks related to historical site operations. The report was submitted to document attainment of the Statewide health standard.

Former Penn Fuel Gas Manufactured Gas Plant—Ashland Site, Ashland Borough, **Schuylkill County**. John Mahfood, Corporate Environmental Solutions, 260 Millers Run Road, Bridgeville, PA 15017 has submitted a Risk Assessment Report and Cleanup Plan (on behalf of its client, PPL Gas Utilities, Inc., Two North Ninth St., Allentown, PA 18101) concerning the risk assessment and remedy selection for soils and groundwater found or suspected to have been contaminated with inorganics, polycyclic aromatic hydrocarbons and other organic compounds related to historic manufactured gas plant operations. The report was submitted in partial fulfillment of a combination of both the Statewide health and the site-specific standards.

Former Penn Fuel Gas Manufactured Gas Plant—Pen Argyl Site, Plainfield Township and Pen Argyl Borough, **Northampton County**. The RETEC Group, Inc., 3040 William Pitt Way, Pittsburgh, PA 15238-1359, has submitted a Cleanup Plan (on behalf of its client, PPL Gas Utilities, Inc., Two North Ninth St., Allentown, PA 18101) concerning the remedy selection for soils and groundwater found or suspected to have been contaminated with inorganics, polycyclic aromatic hydrocarbons and other organic compounds related to historic manufactured gas plant operations. The report was submitted in partial fulfillment of a combination of both the Statewide health and the site-specific standards.

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

Brethren Village, Manheim Township, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602, on behalf of Brethren Village, P. O. Box 5093, Lancaster, PA 17606-5093, submitted a Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with No. 2 heating oil. The report is intended to document remediation of the site to the Site Specific standard.

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

William Hilgar Property, Worth Township, **Centre County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601 has submitted a Final Report concerning soil contaminated with fuel oil No. 2. This Final Report is intended to demonstrate attainment of the Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of

concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has received the following plans and reports:

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

Philadelphia Gas Works Tioga, City of Philadelphia, **Philadelphia County**. Lisa Popovics, Philadelphia Works, 800 W. Montgomery Ave., Philadelphia, PA 19122 on behalf of Michael Handwerk, Philadelphia Gas Works/City of Philadelphia has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with VOC's and metals and the groundwater contaminated with VOCs and semi-VOCs. The Final report demonstrated attainment of the Site-Specific Standard and was approved by the Department on June 17, 2005.

Triangle Lumber, Co., Richland Township, **Bucks County**. Heidi Gahnz, Resource Control Corp., 1274 N. Church St., Moorestown, NJ 08057 on behalf of Irwin Kroiz, Nelson Prop., Inc., Suite 340, 610 W. Germantown Pike, Plymouth Meeting, PA 19462 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with unleaded gasoline. The Final report demonstrated attainment of the Site-Specific Standard and was approved by the Department on June 22, 2005.

Trigg Residence, Birmingham Township, **Delaware County**. James F. Mullan, P. E., Hocage Consulting, Inc., 987 Haddon Ave., Collingswood, NJ 08108 has submitted

a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The report was submitted within 90 days of the released-demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 21, 2005.

US Steel Fairless Works, Old Central Maintenance Shop Parcel, Falls Township, **Bucks County**. Jeffrey A. Smith, P. G., Lanagan Engineering & Environmental Svc., 30 S. 17th St., Suite 1500, Philadelphia, PA 19103 on behalf of Parker Adams, US Steel Corp., 600 Grant St., Rm 2068, Pittsburgh, PA 15219 has submitted a Final Report concerning the remediation of site soil contaminated with inorganics and PCBs. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 22, 2005.

Righters Ferry Rd. Site, Lower Merion Township, **Montgomery County**. Justn R. Lauterbach, RT Env., Svc., Inc., 215 W. Church Rd., King of Prussia on behalf of Sean McCloskey, Footbridge, LP & Bridgehead, LP, c/o Penn Real Estate Group, 4427 Spruce St., Philadelphia, PA 19104 has submitted a Risk Assessment Report and Cleanup Plan concerning the remediation of site soil contaminated with PAH and inorganics. The Risk Assessment Report and Cleanup Plan were approved by the Department on June 29, 2005.

131 Rockhill Rd. Prop., Lower Merion Township, **Montgomery County**. Darryl Borelli, Manko, Gold, Katcher & Fox, LL, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004 on behalf of Richard Heany, OPG Residential Holding, LP, 700 S. Henderson Rd., Suite 225, King of Prussia, PA 19406 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with leaded gasoline, diesel fuel and unleaded gasoline. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on April 21, 2005.

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

Brandenburg Industrial Service Co., City of Bethlehem, **Northampton County**. Elizabeth Schamberger, P. G., HDP/LMS, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 submitted a Cleanup Plan (on behalf of her client, LVIP, Inc., 1805 East 4th Street, Bethlehem, PA 18015) concerning the remediation of soils impacted by historical plant operations on the former Bethlehem Steel Corporation property. The plan was submitted in partial fulfillment of the site-specific standard and was approved on June 23, 2005.

Bethlehem Commence Center—Former Bethlehem Steel Corporation Saucon Plant, City of Bethlehem, **Northampton County**. Elizabeth Schamberger, P. G., HDP/LMS, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 submitted a Remedial Investigation Report (on behalf of her client, LVIP, Inc., 1805 East 4th Street, Bethlehem, PA 18015) concerning the characterization of contamination in soil and/or groundwater impacted by historical plant operations. The report was submitted in partial fulfillment of the site-specific standard and was approved on June 22, 2005.

Faulkner Collision Center, City of Bethlehem, **Lehigh County**. Michael Bingaman, Hafer Environmental Services, Inc., P.O. Box 4418, Reading, PA 19606 submitted a Final Report (on behalf of the property owner, Dick Milham, Hecktown Road, Easton PA 18045) concerning the remediation of soils found or suspected to

have been impacted by heating oil. The report demonstrated attainment of the residential Statewide health soil standard and was approved on June 22, 2005.

Former Blue Ridge Winkler Wastewater Treatment Plant, Washington Township, **Northampton County**. Lehigh Valley Economic Development Corporation, P. O. Box 21750, Lehigh Valley, PA 18002 submitted a Final Report concerning the remediation of soils found or suspected to have been contaminated with metals and polynuclear aromatic hydrocarbons. The report documented attainment of the nonresidential Statewide health standard and was approved on June 14, 2005.

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

Cumberland Valley School District Educational Park, Silver Spring Township, **Cumberland County**. ARM Group Inc., 1129 West Governor Road, P. O. Box 797, Hershey, PA 17033, on behalf of Cumberland Valley School District, 6746 Carlisle Pike, Mechanicsburg, PA 17050-1796, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with gasoline. The final report demonstrated attainment of a combination of the Statewide Health and Site-specific standards, and the combined report was approved by the Department on June 23, 2005.

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

Catawissa Lumber Farm Property, Scott Township, **Columbia County**. Converse Consultants has submitted a Final Report for Catawissa Lumber Farm Property 1 Cemetery Street, Catawissa, PA 17820 concerning soil contaminated with lead. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 22, 2005.

William Hilgar Residence, Worth Township, **Centre County**. Mountain Research has submitted a Final Report for the William Hilgar Residence, 220 East Flat Rock Road, Port Matilda, PA 16870, concerning soil and groundwater contaminated with fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on June 29, 2005.

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

Cohen A 1 Auto Prop OLD, City of Erie, **Erie County**. Pat Pontoriero, MACTEC Eng & Consulting 700 N. Bell Ave., Pittsburgh PA 15106 on behalf of Monica Brower, Greater Erie Industrial Development Corporation, 5240 Knowledge Parkway, Erie PA 16510-4658 has submitted a Remedial Investigation/Final Report concerning the remediation of site soil contaminated with Lead. The Final Report was approved by the Department on June 20, 2005.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Determination of Applicability for General Permit Approved 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 No. WMGR028D001. Miller Quarries, Division of Miller & Son Paving, Inc., 1371 West Street Road, PA 18974. General Permit Number WMGR028D001 is for the beneficial use of baghouse fines and scrubber pond precipitates, generated at Rushland Quarry site, located in Wrightstown Township, **Bucks County**, as soil additive or soil amendment. Central Office approved the determination of applicability on June 27, 2005.

Persons interested in reviewing the general permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 101468. Republic Services Group of Pennsylvania, LLC, 4145 E Baltimore Pike, Media, PA 19063, City of Philadelphia. This permit is for the 10-year renewal of the solid waste permit for the continued operation of the Girard Point transfer facility located at 3600 South 26th Street, Philadelphia. The permit was issued by the Southeast Regional office on June 27, 2005.

Permit No. 101432. Onyx Waste Services, Inc., P. O. Box 30, Norristown PA 19404, Borough of Norristown, **Montgomery County.** This permit is for the 10-year renewal of the solid waste permit for the waste transfer station facility located at 310 Washington Street, Norristown, PA 19404. The permit was issued by the Southeast Regional Office on June 27, 2005.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

39-310-024GP3: Haines Kibblehouse, Inc. (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on June 29, 2005, for construction and operation of a portable stone crushing plant and associated air cleaning device at Huckleberry Associated, 4359 Huckleberry Road, South Whitehall Township, **Lehigh County.**

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

GP2-04-00306A: BASF Corp. (370 Frankfort Road, Monaca, PA 15061) on June 28, 2005, to operate a 75,000

gallon Methyl Methacrylate Tank at the Monaca Site in Potter Township, **Beaver County.**

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

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

09-0039B: BMCA Quakertown Inc d/b/a GAF Materials (60 Pacific Drive, Quakertown, PA 18951) on June 30, 2005, to operate a new shingle in Richland Township, **Bucks County.**

15-0090A: Atlantic Envelope Co. (303 Eagleview Boulevard, Exton, PA 19341) on June 27, 2005, to operate a flexographic and offset press in Uwchlan Township, **Chester County.**

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

39-301-082: We Are Pets, Inc. (9923 Old Route 22, Breinigsville, PA 18031) on June 28, 2005, to construct a pet crematory and associated air cleaning device at their facility in Weisenberg Township, **Lehigh County.**

40-320-017A: Bemis Co. Inc. (20 Jaycee Drive, Valmont Industrial Park, West Hazleton, PA 18202) on June 15, 2005, to install an air cleaning device (catalytic incinerator) at their facility in Hazle Township, **Luzerne County.**

45-310-014A: Haines and Kibblehouse, Inc. (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) on June 20, 2005, to install an air cleaning device on an existing stone crushing operation at their facility on Route 209, Smithfield Township, **Monroe County.**

66-318-002: The Procter and Gamble Paper Products Co. (P. O. Box 32, Mehoopany, PA 18629) on June 27, 2005, to construct a date coder system at their facility on Route 87, Washington Township, **Wyoming County.**

40-318-054: C and A Casket Co., Inc. (610 Main Street, Duryea, PA 18642) on June 30, 2005, to construct four paint spray booths and associated air cleaning devices at their facility in Duryea Borough, **Luzerne County.**

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

06-03069C: Highway Materials, Inc. (P. O. Box 1667, Blue Bell, PA 19422-0465) on June 29, 2005, to construct additional parts to a nonmetallic mineral crushing plant controlled by wet suppression and a diesel engine/generator controlled by combustion controls in Alsace Township, **Berks County.**

06-05069G: East Penn Manufacturing Co., Inc. (Deka Road, P. O. Box 147, Lyon Station, PA 19536) on June 28, 2005, to construct two lead oxide mills each controlled by a cyclone, fabric collector and HEPA filter in Richmond Township, **Berks County.**

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

65-00788N: Sony Electronics, Inc. (1001 Technology Drive, Mt. Pleasant, PA 15666) on June 28, 2005, to construct a new paint booth and drying oven for plastic

television frames at their Pittsburgh Manufacturing Plant located in East Huntingdon Township, **Westmoreland 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.

23-0082: Liberty Electric Power, LLC (1000 Industrial Highway, Route 291, Eddystone, PA 19022) on June 27, 2005, to operate a power plant—500 mW in Eddystone Borough, **Delaware County**.

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

36-05015C: Dart Container Corp. of PA (P. O. Box 546, Leola, PA 17540) on June 20, 2005, to use landfill gas as a fuel in the facility's boilers at their Leola plant in Upper Leacock Township, **Lancaster County**. This plan approval was extended.

36-05128A: Compass Quarries, Inc. (47 McIlvaine Road, Paradise, PA 17562) on May 1, 2005, for modifications that include burning of waste derived fuels in their stone dryer and the addition of three nonmetallic conveyors for their facility in Paradise Township, **Lancaster County**. This facility is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants and 40 CFR 60.110b Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced After July 23, 1984. This plan approval was extended.

67-02004: P. H. Glatfelter Co. (228 South Main Street, Spring Grove, PA 17362) on July 1, 2005, to operate three power boilers controlled by an electrostatic precipitator, a lime calciner controlled by a Venturi scrubber and a softwood fiber line and causticizing area to be controlled by a regenerative thermal oxidizer in Spring Grove Borough, **York County**. This plan approval was extended.

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

41-318-045: Keystone Letter Distributors, LLC (2925 West Fourth Street, Williamsport, PA 17701) on June 27, 2005, to authorize the construction of a 20 gallon capacity prime coat dip tank in a leather shoe sole waterproofing operation, to authorize an increase in the amount of cleanup solvent which may be used in the operation from 10 gallons in any 12-consecutive month period to 40 gallons in any 12-consecutive month period, to authorize an increase in the allowable volatile organic compound emissions from the operation from 8.7 tons in any 12-consecutive month period to 8.8 tons in any 12-consecutive month period and to authorize an increase in the allowable temperature of a 350 gallon capacity prime coat dip tank from 100°F to 140°F in the City of Williamsport, **Lycoming County**.

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

65-00767A: Westmoreland Waste, LLC (1428 Delberts Drive, Unit 2, Monongahela, PA 15063) on June 22, 2005, to conduct stack testing at their sanitary landfill facility in Rostraver Township, **Westmoreland County**. This plan approval was extended.

32-00297D: Creps United Publications (1163 Water Street, P. O. Box 746, Indiana, PA 15701) on June 28, 2005, to conduct stack testing at their Christy Park Drive facility in White Township, **Indiana County**. This plan approval was extended.

04-00033B: Nova Chemicals, Inc. (400 Frankfort Road, Monaca, PA 15061) on June 28, 2005, to conduct shakedown of the air pollution control equipment at the Beaver Valley plant in Potter Township, **Beaver County**. This plan approval was extended.

11-00507B: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201) on June 30, 2005, to complete construction of the Air Jig Facility equipment at the Twin Rocks Mine located in Blacklick Township, **Cambria County**. This plan approval was extended.

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

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

15-00033: Embreeville Complex DPW (1822 West Strausburg Road, Coatesville, PA 19320) on June 28, 2005, to operate their facility combustion unit Title V Operating Permit in West Bradford Township, **Chester County**.

46-00036: Visteon Systems LLC (2750 Morris Road, Lansdale, PA 19446) On June 28, 2005, to operate their facility engine electrical equipment Title V Operating Permit in Worcester Township, **Montgomery County**.

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

06-05050: Sunoco Pipeline LP (Ten Penn Center, 1801 Market Street, Philadelphia, PA 19103-1699) on June 29, 2005, to operate a bulk gasoline pump station and storage facility (Montello Pump Station) in Spring Township, **Berks County**. This is a renewal of the Title V Operating Permit.

28-05004: Grove US, LLC (1565 Buchanan Trail E, P. O. Box 21, Shady Grove, PA 17256) on June 29, 2005, to operate their crane manufacturing facility in Antrim Township, **Franklin County**. This is a renewal of the Title V operating permit.

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

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

03-00183: Equitable Gas Co. (225 North Shore Drive, 2nd Floor, Pittsburgh, PA 15212) on June 27, 2005, for a State only operating permit for two internal combustion engines at the Shoemaker Compressor Station in Bethel Township, **Armstrong County**.

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

43-00036: Hodge Foundry, Inc. (42 Leach Road, Greenville, PA 16125) on June 23, 2005, to operate a foundry operation in Hempfield Township, **Mercer County**. This facility was previously permitted as a major source Title V facility but is taking restrictions on emissions to obtain a Synthetic Minor Permit.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

09-00048: H and K Materials, Inc. (300 Skunk Hollow Road, Chalfont, PA 18914) on June 28, 2005, to cap their VOCs and NOx emissions to Minor Source threshold levels in Hilltown Township, **Bucks County**. The permit is for a non-Title V (State only) facility. H and K Materials has elected VOC and NOx emissions are less than 25 tons per year each. Administrative Amendment of the State only Operating Permit issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and 25 Pa. Code § 127.450. The amendment incorporates terms and conditions from plan approval PA-09-0048A, which includes the use of "on-specification" used oil fuel or waste derived liquid fuel for the dryer at the batch asphalt plant. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility 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.

49-00015: International Paper Co. (1008 Locust Gap Highway, Mount Carmel, PA 17831) on June 27, 2005, by means of the administrative amendment requirements of 25 Pa. Code § 127.450, to incorporate the conditions established in Plan Approval 49-302-057A, issued on October 26, 2004, to authorize the use of No. 2 fuel oil in the facility's boilers, in Mount Carmel Township, **Northumberland County**.

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

56-00261: Robert Bosch Tool Corp. (429 Drum Avenue, Somerset, PA 15501) on June 28, 2005, revise the Operating Permit to incorporate the new owner and Federal Tax ID for their Somerset Plant in Somerset, **Somerset County**.

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

61-00011: Merisol Antioxidants LLC (292 State Route 8, Oil City, PA 16301) on June 30, 2005, to issue an administrative amendment of the Title V Permit for their Merisol facility in Cornplanter Township, **Venango County**. This administrative amendment incorporated the applicable conditions of Plan Approval No. 6101B and RACT Permit No. OP-61-00011.

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

V95-047: Sunoco Chemicals, Frankford Plant (4701 Bermuda Street, Philadelphia, PA 19137) on June 29, 2005, to change contact information and to correct some errors in the facility inventory list (remove some duplicate processes and correct the group number for some processes). The Title V operating permit was originally issued on April 17, 2003.

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.

30950701 and NPDES Permit No. PA0215619, Consolidation Coal Company (1 Bridge Street, Monogah, WV 26554), to revise the permit the Hughes Hollow Slurry Impoundment in Wayne Township, **Greene County** to add acreage to borrow area for Hughes Hollow Slurry Impoundment reclamation. Surface Acres Proposed 14. No additional discharges. Permit issued June 27, 2005.

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

32040202 and NPDES Permit No. PA0249670. Robindale Energy Services, Inc., 224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920, commencement, operation and restoration of a refuse reprocessing mine in East Wheatfield Township, **Indiana County**, affecting 34.5 acres. Receiving stream: Conemaugh River classified for the following use: WWF. There are no potable water supply intakes within 10 miles downstream. Application received November 4, 2004. Permit issued: June 23, 2005.

11673041 and NPDES Permit No. PA0120782, Cooney Brothers Coal Company, P. O. Box 246, Creson, PA 16630, permit renewal for reclamation only of a bituminous surface mine in Summerhill Township, **Cambria County**, affecting 102.3 acres. Receiving stream: South Fork Little Conemaugh classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received February 23, 2005. Permit issued: June 28, 2005.

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

26040103 and NPDES Permit No. PA0250589. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Permit revised to include the removal of the

Sewickley sandstone at an existing bituminous surface mining site located in German Township, **Fayette County**, affecting 201.4 acres. Receiving streams: UNTs to Cat's Run. Application received: May 2, 2004. Revised permit issued: June 28, 2005.

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

16040104 and NPDES Permit No. PA0242608. Reichard Contracting, Inc. (212 Olean Trail, New Bethlehem, PA 16242). Commencement, operation and restoration of a bituminous surface strip operation in Porter Township, **Clarion County** affecting 70.5 acres. Receiving streams: Two UNTs to Leatherwood Creek, one UNT to Long Run and Long Run. Application received: December 16, 2004. Permit issued June 28, 2005.

Noncoal Permits Actions

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

25960802. Philip L. Spotts (5255 Wheelertown Road, Waterford, PA 16441). Final bond release for a small noncoal mining operation in LeBoeuf Township, **Erie County**. Restoration of 4.0 acres completed. Receiving streams: UNT to Wheeler Creek. Application received: February 24, 2005. Final bond release approved: June 9, 2005.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (43 P.S. §§ 151–161) and 25 Pa. Code § 211.124. 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.

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

63054002. Arden Landfill, Inc. (625 Cherrington Parkway, Moon Township, PA 15108). Blasting activity permit for construction at the Washington County fairgrounds community project, located in Washington and Chartiers Township, **Washington County**, with an expected duration of one year. Permit issued: June 29, 2005.

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

22054106. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Fishing Creek Estates in Middle Paxton Township, **Dauphin County** with an expiration date of June 30, 2006. Permit issued June 24, 2005.

52054001. Holbert Explosives, Inc. (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting at St. John's Housing Project in Shohola Township, **Pike County** with an expiration date of June 13, 2006. Permit issued June 28, 2005.

52054002. Holbert Explosives, Inc. (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting for a home in Greene Township, **Pike County** with an expiration date of August 13, 2005. Permit issued June 28, 2005.

52054003. Holbert Explosives, Inc. (237 Masthope Plank Road, Suite A, Lackawaxen, PA 18435), construction blasting at The Preserve at Milford Hills in Dingmans Township, **Pike County** with an expiration date of July 1, 2006. Permit issued June 28, 2005.

09054010. Joao & Bradley Construction (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC** (P. O. Box 20412, Bethlehem, PA 18002), construction blasting for Schwenk Mill Road Sewer Extension in East Rockhill Township, **Bucks County** with an expiration date of November 15, 2005. Permit issued June 28, 2005.

38054004. Abel Construction Co., Inc. (P. O. Box 476, Mountville, PA 17554), construction blasting for Springbrook Farms Phase 4-B in South Londonderry Township, **Lebanon County** with an expiration date of July 31, 2006. Permit issued June 28, 2005.

46054012. AJT Blasting, LLC (P. O. Box 20412, Bethlehem, PA 18002), construction blasting for Montgomery Avenue Sewer System in Montgomery Township, **Montgomery County** with an expiration date of October 30, 2005. Permit issued June 28, 2005.

46054013. Eastern Blasting Company, Inc. (1292 Street Road, New Hope, PA 18938), construction blasting for Lowes Cineplex Movie Theater in Montgomery Township, **Montgomery County** with an expiration date of October 20, 2005. Permit issued June 28, 2005.

46054014. Eastern Blasting Company, Inc. (1292 Street Road, New Hope, PA 18938), construction blasting for General Hancock Devon Court Housing in Montgomery Township, **Montgomery County** with an expiration date of January 10, 2006. Permit issued June 28, 2005.

46054015. Joao & Bradley Construction (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC** (P. O. Box 20412, Bethlehem, PA 18002), construction blasting for County Line Road Sanitary Sewer Extension in Horsham Township, **Montgomery County** with an expiration date of October 30, 2005. Permit issued June 28, 2005.

28054015. Charles E. Brake Co., Inc. (6450 Lincoln Way West, St. Thomas, PA 17252), construction blasting at Mill Creek Acres Development in Chambersburg Borough, **Franklin County** with an expiration date of December 31, 2005. Permit issued June 28, 2005.

67054028. Abel Construction Co., Inc. (P. O. Box 476, Mountville, PA 17554), construction blasting for Stone Hill Subdivision in York Township, **York County** with an expiration date of July 31, 2006. Permit issued June 28, 2005.

06054112. Schlouch, Inc. (P. O. Box 69, Blandon, PA 19510), construction blasting for Exeter Golf Course Estates in Exeter Township, **Berks County** with an expiration date of July 1, 2006. Permit issued June 29, 2005.

15054116. Horst Drilling & Blasting, Inc. (141 Rancks Church Road, New Holland, PA 17557), construction blasting for Dupont Property Waste Water Treatment Facility in West Bradford Township, **Chester County** with an expiration date of June 30, 2006. Permit issued June 29, 2005.

21054138. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting for a home in South Middleton Township, **Cumberland County** with an expiration date of June 30, 2006. Permit issued June 29, 2005.

21054140. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting for Southfield Crossing in Silver Spring Township, **Cumberland County** with an expiration date of June 30, 2006. Permit issued June 29, 2005.

28054132. Geological Technologies, Inc. (P. O. Box 70, Falling Waters, WV 25419), construction blasting for Leedy Way Road Extension in Guilford Township, **Franklin County** with an expiration date of December 30, 2005. Permit issued June 29, 2005.

28054133. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Mountain Brook Estates in Montgomery Township, **Franklin County** with an expiration date of June 15, 2006. Permit issued June 29, 2005.

45054123. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting for New Ventures Park in Tobyhanna Township, **Monroe County** with an expiration date of July 19, 2006. Permit issued June 29, 2005.

67054115. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013), construction blasting for Woods at Deer Creek in Fairview Township, **York County** with an expiration date of July 30, 2005. Permit issued June 29, 2005.

36054016. ABEL Construction Co., Inc. (P. O. Box 476, Mountville, PA 17554), construction blasting at Watson Run in Leacock Township, **Lancaster County** with an expiration date of July 31, 2006. Permit issued June 30, 2005.

36054017. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Clearbrook Development in East Donegal Township, **Lancaster County** with an expiration date of July 27, 2005. Permit issued June 30, 2005.

38054005. ABEL Construction Co., Inc. (P. O. Box 476, Mountville, PA 17554), construction blasting at Fox Ridge in South Lebanon Township, **Lebanon County** with an expiration date of July 1, 2006. Permit issued June 30, 2005.

38054006. Warren's Excavating & Drilling, Inc. (P. O. Box 189, Bowmansville, PA 17507-0189), construction blasting at Estates of Beckley's Corner in South Lebanon Township, **Lebanon County** with an expiration date of July 27, 2005. Permit issued June 30, 2005.

36054134. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Country Meadows in West Lampeter Township, **Lancaster County** with an expiration date of July 30, 2006. Permit issued June 30, 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

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

E67-774: Muddy Creek Chapter, Trout Unlimited, 439 Hillside Drive, Red Lion, PA 17356 in North Hopewell and Windsor Townships, **York County**, ACOE Baltimore District

To construct and maintain 4,000 linear feet of stream restoration/bank stabilization in and along the North Branch Muddy Creek (CWF) using a natural stream channel design approach including the installation of in-stream structures (rock and log vanes, J-hook rock and log vanes with and without rock or log steps and cross rock and log vanes with and without rock or log steps. The restoration work will also include bank grading and rock toe protection, floodplain restoration and riparian planting. The site is located west of Felton Borough (Stewartstown, PA Quadrangle N: 19.2 inches; W: 10.1 inches) in Windsor and North Hopewell Townships, York County. The project will permanently impact 0.08 acre of palustrine emergent wetlands. The permittee is required to create a minimum of 0.08 acre of palustrine emergent replacement wetlands onsite.

E36-786: Paradise Sportsmen's Association, 339 S. Belmont Road, Paradise, PA 17562 in Salisbury Township, **Lancaster County**, ACOE Baltimore District

To construct and maintain a stream restoration project spanning approximately 6,500 feet on Pequea Creek (HQ-CWF) located on the Honey Brook, PA Quadrangle (Latitude: 40°03'40"; W: 75°57'42") in Salisbury Township, Lancaster County.

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

E18-388. Arthur H. Gray, Gray River Lot, in Woodward Township, **Clinton County**, ACOE Baltimore District (Lock Haven, PA Quadrangle N: 5.5 inches; W: 12.9 inches).

To construct and maintain a 20-foot by 30-foot by 8-foot open sided pavilion over a 20-foot by 30-foot by 4-inch thick at-grade concrete slab located 129 feet to the left of the water's edge of the West Branch Susquehanna River and 0.05 mile downstream on Monsey Drive from its intersection with Water Valley Road (Lock Haven, PA Quadrangle N: 5.5 inches; W: 12.9 inches) in Woodward Township, Clinton County. This permit was issued under Section 105.13(e) "Small Projects."

E41-546. Department of Transportation, Engineering District 3-0, P. O. Box 218, Montoursville, PA 17754-0218. Permit Application for SR 0220 Section 081 replacement over Fox Run, in Shrewsbury Township, **Lycoming County**, ACOE Susquehanna River Basin District (Picture Rocks, PA Quadrangle N: 9.00 inches; W: 9.06 inches).

To remove a single span concrete bridge and construct and maintain a single span reinforced concrete box culvert, submerged 1 foot in the streambed, having a clear span of 20 feet, with a minimum underclearance of 5 feet on a skew of 75° within Fox Run, along SR 0220, 2.2 miles north of Picture Rocks, and to construct, maintain and remove a temporary causeway consisting of clean R-7 rock and three 36-inch diameter culvert pipes, all of which are located in Shrewsbury Township, Lycoming County. This project proposes to have a minimal impact on Fox Run, which is designated a HQ-CWF. This project does not propose to impact any jurisdictional wetlands.

E41-547. Christopher and Kelly Webster, P. O. Box 587, Halifax, PA 17032. Cabin construction in floodway in Woodward Township, **Lycoming County**, ACOE Baltimore District (Linden, PA Quadrangle N: 16.2 inches; W: 4.1 inches).

To construct and maintain a storage and shelter structure 20 feet by 30 feet with a 15-foot by 30-foot deck. The proposed building and deck will be elevated on columns 18 inches above the 100-year floodplain of the West Branch Susquehanna River on Wagner Island at the confluence of the West Branch Susquehanna River with Pine Run.

The project will not impact wetlands or waterways while impacting less than 0.1 acre of earth. The West Branch Susquehanna River is a Warm Water Fisheries River. This permit was issued under Section 105.13(e) "Small Projects."

E60-169. Kelly Meadow View Association, 183 E. Main St., 6th Floor, Rochester, NY 14604, in Kelly Township, **Union County**, Baltimore ACOE District (Lewisburg, PA Quadrangle N: 22.0 inches; W: 1.0 inch).

Permanently impact 0.05-acre of palustrine emergent wetlands to construct a gravity flow sanitary sewer line to service a 48-unit, multifamily development. The site is located on the north side of Zeigler Road in Kelly Township, Union County (Lewisburg PA Quadrangle N: 22.0 inches; W: 1.0 inch; Latitude: 40° 59 minute 46 seconds; Longitude: 76° 52 minutes 56 seconds) in Kelly Township, Union County.

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

E02-584 Hanson Aggregates PMA, Inc., 2200 Springfield Pike, Connellsville, PA 15425, in Industry Borough, **Beaver County**, Pittsburgh ACOE District (Midland, PA Quadrangle N: 4.8 inches; W: 0.3 inch and Latitude: 40° 39' 5"—Longitude: 80° 22' 38"). To amend Permit E02-584, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties, to include Ohio River Mile Points 31.0 to 31.4 right descending bank in Industry Borough, Beaver County.

E02-919 TriState River Products, Inc., Box 218, Beaver, PA 15009-0218, in Industry Borough, **Beaver County**, Pittsburgh ACOE District (Midland, PA Quadrangle N: 4.8 inches; W: 0.3 inch and Latitude: 40° 39' 5"—Longitude: 80° 22' 38"). To amend Permit E02-919, which authorizes commercial sand and gravel dredging in select areas of the Allegheny River (WWF) and Ohio River (WWF), subject to review of mussel surveys and prescribed setbacks in Allegheny, Armstrong, Beaver and Westmoreland Counties, to include Ohio River Mile Points 31.0 to 31.4 right descending bank in Industry Borough, Beaver County, Beaver County.

E11-310. McAneny Brothers, Inc., 470 Industrial Park Road, Ebensburg, PA 15931. To place fill in wetlands in Cambria Township, **Cambria County**, Pittsburgh ACOE District. (Nanty-Glo, PA Quadrangle N: 15.3 inches; W: 0.9 inch and Latitude: 40° 27' 33"—Longitude: 78° 45' 23"). To place and maintain fill in 0.38 acre of wetlands (PFO) for the purpose of expanding an existing warehouse. The project is located along Industrial Park Road within the Cambria County Industrial Park. To compensate for the wetland impacts, the applicant has made a payment into the wetland replacement fund.

E63-563. Bobby Rahal Dealerships, 6305 Carlisle Pike, Mechanicsburg, PA 17055. To construct a stream enclosure in North Strabane Township, **Washington County**, Pittsburgh ACOE District. (Canonsburg, PA Quadrangle N: 1.5 inches; W: 6.2 inches and Latitude: 40° 15' 30"—Longitude: 80° 10' 10"). To construct and maintain a 48-inch diameter, 315.0-foot long stream enclosure in a UNT to Little Chartiers Creek (HQ-WWF) and to construct and maintain two bridges, one having a span of 16.0 feet with an underclearance of 5.0 feet and one having a span of 32.0 feet with an underclearance of 8.0 feet across a UNT to Little Chartiers Creek (HQ-WWF) for the purpose of providing access to the proposed land rover dealership located on the north side of Route 19, approximately 1,500 northeast from the intersection of Route 19 and Weavertown Road. The project will impact approximately 400.0 linear feet of stream channel. No wetlands will be impacted.

E65-868. Department of Transportation, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. To construct and maintain various structures for highway widening in Derry Township, **Westmoreland County**, Pittsburgh ACOE District. (Begin: Blairsville, PA Quadrangle N: 8.4 inches; W: 13.2 inches and Latitude: 40° 25' 17"—Longitude: 79° 20' 42" and End: Blairsville, PA Quadrangle N: 9.3 inches; W: 8.7 inches and Latitude: 40° 25' 34"—Longitude: 79° 18' 45"). To construct and maintain the following structures and activities as part of 1.75 miles of highway widening and safety improvements to U. S. 22, Section B09 in Derry Township, Westmoreland County.

1. To remove the existing structure and to construct and maintain a single span bridge having a normal span of 30.0 feet and an underclearance of 14.0 feet in Spruce Run (HQ-CWF). Also, to construct and maintain a temporary stream crossing in accordance with General Permit BDWM-GP8 SR 9428, Station 24 + 72 (Blairsville, PA Quadrangle N: 8.6 inches; W: 13.3 inches and Latitude: 40° 25' 20"; Longitude: 79° 20' 44").

2. To remove the existing structure and to construct and maintain a 140-foot long, 72-inch diameter reinforced concrete pipe (invert depressed 9.0 inches) in a UNT to Spruce Run (HQ-CWF). SR 0982 Station 18 + 30 (Blairsville, PA Quadrangle N: 8.3 inches; W: 13.2 inches and Latitude: 40° 25' 15"; Longitude: 79° 20' 41").

3. To extend and maintain, with matching diameter, an existing 197.0-foot long, 30-inch diameter reinforced concrete pipe 35.0 feet at the upstream end and 30.0 feet at the downstream end. Also to realign and maintain the stream channel for a distance of 75.0 feet upstream and 36.0 feet downstream in a UNT to Spruce Run (HQ-CWF). SR 0022, Station 1089 + 00 (Blairsville, PA Quadrangle N: 8.2 inches; W: 11.4 inches and Latitude: 40° 25' 13"; Longitude: 79° 19' 55").

4. To extend and maintain, with matching span and rise, an existing 4.0-foot wide by 3.0-foot high concrete box culvert 35.0 feet at the upstream end and 40.0 feet at the downstream end in a UNT to the Conemaugh River (WWF). SR 0022, Station 1119 + 84 (Blairsville, PA Quadrangle N: 8.6 inches; W: 10.0 inches and Latitude: 40° 25' 20"; Longitude: 79° 19' 19").

5. To extend and maintain, with matching diameter, an existing 180.0-foot long, 48-inch diameter reinforced concrete pipe a distance of 40.0 feet at the upstream end and to realign and maintain the stream channel for a linear distance of 40.0 feet at the upstream end in a UNT to the Conemaugh River (WWF) SR 0022, Station 1145 + 00 (Blairsville, PA Quadrangle N: 9.2 inches; W: 8.9 inches and Latitude: 40° 25' 32"; Longitude: 79° 18' 50").

6. To relocate and maintain 81.0 linear feet of a UNT to Spruce Run (HQ-CWF). SR 0022 Station 1077 + 56 (Blairsville, PA Quadrangle N: 8.2 inches; W: 12.2 inches and Latitude: 40° 25' 13"; Longitude: 79° 20' 16").

7. To relocate and maintain 220.0 linear feet of a UNT to Spruce Run (HQ-CWF). SR 0022 Station 1084 + 20 (Blairsville, PA Quadrangle N: 8.2 inches; W: 11.9 inches and Latitude: 40° 25' 13"; Longitude: 79° 20' 8").

8. To construct and maintain the following outfalls in the Spruce Run Watershed: An 18-inch diameter pipe with 18.0 linear feet of R-4 rock lined channel at SR 9428, Station 24 + 30, 56.0 feet left. A 24-inch diameter pipe with 10.0 linear feet of R-6 rock lined channel at SR 0022, Station 1051 + 75, 89.0 feet left. An 18-inch diameter pipe with 10.0 linear feet of R-6 rock lined channel at SR 0022, Station 1051 + 54, 167.0 feet left. A 30-inch diameter reinforced concrete pipe with 20.0 linear feet of R-7 rock lined channel at SR 0022, Station 1083 + 00, 76.0 feet right.

9. To construct and maintain the following outfalls in the Conemaugh River Watershed: An 18-inch diameter pipe with 20.0 linear feet of R-7 rock lined channel at SR 0022, Station 1118 + 46, 128.0 feet right. A 24-inch diameter pipe with 12.0 linear feet of R-6 rock lined channel at SR 0022, Station 1145 + 00, 75.0 feet left. An 18-inch diameter pipe with 8.0 linear feet of R-6 rock lined channel at SR 0022, Station 1121 + 32, 18.0 feet left.

10. To construct and maintain temporary stream crossings at SR 0022, Station 1078 + 75, 105.0 feet right and Station 1086 + 40, 145.0 feet right. The temporary crossings will be constructed in accordance with General Permit BDWN-GP-8.

11. To temporarily place and maintain fill in 0.033 acre of PEM/PSS wetland and to permanently place and maintain fill in 0.20 acre of wetland (0.062 acre PEM, 0.032 acre PSS and 0.106 acre PEM/PSS).

To compensate for wetland impacts, the applicant proposes to create 0.20 acre or replacement wetlands at a 5.20-acre mitigation site located in the Loyalhanna Flood Protection Area.

E65-869. Derry Township, 5321 Route 982, Derry, PA 15627. To construct Sections of U. S. Route 22 in Derry Township, **Westmoreland County**, Pittsburgh ACOE District.

1. (Saltsburg, PA Quadrangle N: 5.1 inches; W: 5.0 inches and Latitude: 40° 24' 11"—Longitude: 79° 24' 39"). To remove the existing structure and to construct and maintain a 120.0 foot long, 54-inch diameter reinforced concrete pipe in a UNT to Loyalhanna Creek (WWF). This structure qualifies for Department waiver 105.12(a)(2). Also to construct and maintain a R-7 rock lined outfall and a gabion lined mattress in the floodway of a UNT to Loyalhanna Creek (WWF) T. R. 906, Station 12+85 to 16+30.

2. (Blairsville, PA Quadrangle N: 8.5 inches; W: 15.5 inches and Latitude: 40° 25' 19"—Longitude: 79° 21' 41"). To remove the existing structure and to construct and maintain a 115.0 foot long, 54-inch diameter reinforced concrete pipe in a UNT to Spruce Run (HQ-CWF). Also to construct and maintain an R-6 rock lined outfall and a gabion lined mattress in the floodway of the UNT to Spruce Run (HQ-CWF). T. R. 935 Station 52+00 to 57+50. The project will impact, through enclosures, 235.0 linear feet of perennial stream. No vegetated wetlands will be impacted.

ENVIRONMENTAL ASSESSMENTS

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

D67-543EA. Borough of Goldsboro, 53 North York Street, Etners, PA 17319. Goldsboro Borough **York County**, ACOE Baltimore District.

Project proposes to breach and remove Goldsboro Dam across Fishing Creek (TSF) for the purpose of eliminating a threat to public safety and providing unimpeded fish passage. The project will restore 600 linear feet of stream channel. The restoration project will also provide fish habitat for a special regulation trout fishery for youth and handicap persons. The dam is located approximately 400 feet east of the intersection of SR 262 and Pines Road (SR 1009) (Hawley, PA Quadrangle N: 19.40 inches; W: 14.75 inches).

D33-064EA. William Weaver, 129 Smith Hill Road, Punxsutawney, PA 15767. Bell Township, **Jefferson County**, ACOE Pittsburgh District.

Project proposes to breach and remove Weaver Dam located across a tributary to Mahoning Creek (CWF) for the purpose of restoring the stream to a free flowing condition and eliminating a threat to public safety. The project will restore 200 linear feet of stream channel. The dam is located adjacent to Smith Hill Road (T429) approximately 400 feet Northeast of the intersection of

SR 36 and Smith Hill Road (T429) (Punxsutawney, PA Quadrangle N: 11.55 inches; W: 6.55 inches).

DAM SAFETY

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

D30-063. Consolidation Coal Company, P. O. Box 355, Eighty-Four, PA 15330. To modify, operate and maintain Hughes Hollow Slurry Impoundment across Hughes Run (WWF), for the purpose of expanding an existing slurry impoundment dam for the Blacksville No. 2 Mine (Wadestown, WV-PA Quadrangle N: 17.5 inches; W: 5.8 inches) in Wayne and Gilmore Townships, **Greene County**.

SPECIAL NOTICES

Planning Grant Awards under Section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department) announces the following grants to counties under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556,

Section 901 and Section 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190 of 1996).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by Sections 701 and 702 of Act 101, and the availability of moneys in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Chief, Waste Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

Act 101, Section 901 Planning Grant

<i>Region</i>	<i>County</i>	<i>Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Southeast	Philadelphia	Philadelphia	Education and publicity activities for a Household Hazardous Waste Collection Program	\$139,200

Certification to Perform Radon-Related Activities in this Commonwealth

In the month of June 2005, the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
AccuStar Labs—Lebanon	929 Mt. Zion Road Lebanon, PA 17046	Laboratory
Douglas Adams	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
Allied Home Inspections, Inc.	1604 Lititz Avenue Lancaster, PA 17601	Testing
Karen Amspacker	3262 Reeve Drive Bethlehem, PA 18020	Testing
Tina Artigliere	P. O. Box 4475 Reading, PA 19606	Testing
Michael Bluestein	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
Willis Bortmas, III	301 West Holyoke Road Butler, PA 16001	Testing
Rob Bruno Boro Environmental	501 Sharp Avenue Glenolden, PA 19036	Testing
Jeffrey Calta	P. O. Box T Chicora, PA 16025	Testing
James S. Cobb Accredited Radon Technicians	804 West First Street Lorain, OH 44052	Mitigation

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Carl Distenfeld TCS Industries, Inc.	4326 Crestview Road Harrisburg, PA 17112	Testing and Laboratory
Nathan Feldwieser	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
Keith Gaskill	347 Stoney Run Road Blairsville, PA 15717	Testing and Mitigation
Vilas Godbole	6314 Hilltop Drive Brookhaven, PA 19015	Testing
Richard Haag Safe Shelter Environmental	346 North Pottstown Pike Exton, PA 19341	Testing and Mitigation
Robert Haushalter, Jr.	4786 Cypress Street Pittsburgh, PA 15224	Testing
Nancy Hernandez	2 Hayes Street Elmsford, NY 10523	Laboratory
Jeffrey Hicks	11 Longview Drive Stroudsburg, PA 18360	Testing
Charles Hill	347 Stoney Run Road Blairsville, PA 15717	Testing and Mitigation
Robert Huemme	347 Stoney Run Road Blairsville, PA 15717	Testing and Mitigation
Michael Lieb	407 Burmont Road Drexel Hill, PA 19026	Testing
Jeremy Ling	2843 North Front Street Harrisburg, PA 17110	Mitigation
Leonard Mathison	Box 125, Route 8 Valencia, PA 16059	Testing
Thomas Moore	421 Redgate Road Sewickley, PA 15143	Testing
Charles Morck, III	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
Jack Peterson	5171 Lombardi Drive Pittsburgh, PA 15236	Testing
Jerry Petrill	R. R. 9, Box 423-A Greensburg, PA 15601	Mitigation
Shawn Price Air Check, Inc.	1936 Butler Bridge Road Fletcher, NC 28732	Laboratory
Frederick Reash, Jr.	505 North Broad Street Grove City, PA 16127	Testing
Jeffrey Saulsbury Saulsbury Environmental Consultants, Inc.	307 Lucilla Street Pittsburgh, PA 15218	Testing
Martin Smith U. S. Inspect, Inc.	3650 Concordia Parkway Suite 100 Chantilly, VA 20151	Laboratory
Terry Spalti	2843 North Front Street Harrisburg, PA 17110	Testing
Eugene Spoehr	P. O. Box 438 Swarthmore, PA 19081	Testing
Lawrence Transue	706 East Street West Easton, PA 18042	Testing
Edward Verna, Sr.	1703 South Fifth Avenue Lebanon, PA 17042	Mitigation
Richard Walmer	2502 South Fifth Avenue Lebanon, PA 17042	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Joseph Wiggins	136 Maclaine Drive Carnegie, PA 15106	Mitigation
Eric Zigga	177 Main Street Eynon, PA 18403	Mitigation

Project Proposal Received

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

EGS No. 05001, Broad Top Township, P. O. Box 57, Defiance, PA 16633. A water pollution abatement project is planned to construct a passive abandoned mine drainage treatment system on the Dodson Brothers property located on the north and northeast edge of Finleyville, PA. Shreves Run is the receiving stream for this project. Project received June 20, 2005.

[Pa.B. Doc. No. 05-1344. Filed for public inspection July 15, 2005, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us (DEP Keyword: Participate). The "Current Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2005.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Final Technical Guidance—New Guidance

DEP ID: 012-0900-003. Title: Policy on Public Participation in the Permit Application Review Process. Description: Public participation is an integral part of environmental decision making, and it is the policy of the Department that applications for approval should provide for effective involvement of the public. It is the intent of the Department to respond appropriately and in a timely manner to all relevant comments received during the permit application review process, particularly when there is a formal public comment process. This policy establishes a framework for public participation in the permit application review process by providing consistent guidelines for how the Department encourages public participation in the review of a permit application and

how it reviews and responds to comments received during the public participation process. Notice of availability of technical guidance was published at 34 Pa.B. 3644 (July 10, 2004) with a 45-day comment period. A comment response document is available with the policy. Effective Date: July 16, 2005. Contact: Lou Guerra, Jr., (717) 783-8727, lguerra@state.pa.us.

Final Technical Guidance—Minor Revision

DEP ID: 400-0200-001. Title: Policy for Pennsylvania Natural Diversity Inventory (PNDI) Coordination During Permit Review and Evaluation. Description: This guidance revises the instructions for using the Department's PNDI Coordination system. This revision is necessary because of upgrades made to the website and database. Effective Date: July 16, 2005. Contact: Questions regarding this technical guidance document should be directed to Renee Bartholomew, (717) 787-5028, rebartholo@state.pa.us.

Final Technical Guidance—Correction

The notice of availability for the following document, which was published at 35 Pa.B. 3701 (July 2, 2005), contained an error. The corrected notice is as follows.

DEP ID: 383-2125-110. Title: Development of a Replacement Source for a Community Water System. Description: This guidance was developed for a community water system that is replacing an existing groundwater source with a well, spring or infiltration gallery to alleviate lost capacity or water quality problems at their current supply source. Written Comments: Interested persons may submit written comments on this draft technical guidance document by August 16, 2005. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to John Diehl, Department of Environmental Protection, Bureau of Water Standards and Facility Regulation, Rachel Carson State Office Building, 11th Floor, P. O. Box 8467, Harrisburg, PA 17105-8467, jdiehl@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*. Contact: Questions regarding the draft technical guidance document should be directed to John Diehl, (717) 787-9561, jdiehl@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-1345. Filed for public inspection July 15, 2005, 9:00 a.m.]

Oil and Gas Management Technical Advisory Board Meeting Changes

The July 20, 2005, and November 16, 2005, meetings of the Oil and Gas Management Technical Advisory Board have been rescheduled and relocated. The meetings will now take place at 10 a.m. on September 15, 2005, and November 17, 2005, at the Moshannon District Office, Phillipsburg.

Questions concerning these meetings should be directed to the Bureau of Oil and Gas Management (Bureau), (717) 772-2199, mraudabaug@state.pa.us. Information on this meeting is also available through the Public Participation Center on the Department of Environmental Protection's (Department) website at www.dep.state.pa.us (DEP Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Bureau directly at (717) 772-2199 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-1346. Filed for public inspection July 15, 2005, 9:00 a.m.]

Laboratories Approved to Determine Blood Alcohol Content Under the Clinical Laboratory Act, the Vehicle Code, the Fish and Boat Code and the Game and Wildlife Code

The following laboratories are licensed by the Department of Health (Department) under The Clinical Laboratory Act (35 P.S. §§ 2151—2165) and are currently approved by the Department under 28 Pa. Code §§ 5.50 and 5.103 (relating to approval to provide special analytical services; and blood tests for blood alcohol content) to perform alcohol analyses of blood and/or serum and plasma. This approval is based on demonstrated proficiency in periodic tests conducted by the Department's Bureau of Laboratories.

Since procedures for determining the alcohol content of serum and plasma are identical and results obtained from serum or plasma derived from a blood sample are the same, laboratories that demonstrate reliability in the analysis of serum proficiency testing specimens are approved to analyze both serum and plasma. These laboratories are also approved and designated under the provisions of the Vehicle Code, 75 Pa.C.S. §§ 1547 and 3755 (relating to chemical testing to determine amount of alcohol or controlled substance; and reports by emergency room personnel), the Fish and Boat Code, 30 Pa.C.S. § 5125 (relating to chemical testing to determine amount of alcohol or controlled substance) and the Game and Wildlife Code, 34 Pa.C.S. § 2502 (relating to chemical test to determine amount of alcohol) as qualified to perform the types of specialized services which will reflect the presence of alcohol in blood and/or serum and plasma. Laboratories located outside this Commonwealth may not provide blood and/or serum and plasma alcohol testing services in this Commonwealth unless they are specifically licensed by the Department under The Clinical Laboratory Act.

Persons seeking forensic blood and/or serum and plasma analysis services from the following designated laboratories should determine that the laboratory employs techniques and procedures acceptable for forensic purposes and that the director of the facility is agreeable to performing determinations for this purpose. The list of approved laboratories will be revised approximately semi-annually and published in the *Pennsylvania Bulletin*.

The name of a laboratory is sometimes changed but the location, personnel and testing procedures of the facility remain unchanged. When changes of this type occur, the clinical laboratory permit number does not change. If questions arise about the identity of a laboratory due to a name change, the clinical laboratory permit number should be used as the primary identifier. To assist in identifying a laboratory that performed a test if the name of the facility changed, the clinical laboratory permit numbers of the facilities are included in the lists of approved laboratories above the name of the laboratory at the time the list was prepared.

The Department's blood alcohol and serum/plasma alcohol proficiency testing programs are approved by the United States Department of Health and Human Services in accordance with the requirements contained in the Clinical Laboratory Improvement Amendments of 1988, 42 CFR 493.901 and 493.937 (relating to approval of proficiency testing programs; and toxicology), which are administered by the Centers for Medicare and Medicaid Services. Participation in these programs may therefore be used to demonstrate acceptable performance for approval purposes under both Federal and State statutes.

Questions regarding this list should be directed to Dr. M. Jeffery Shoemaker, Division of Chemistry and Toxicology, Department of Health, Bureau of Laboratories, P. O. Box 500, Exton, PA 19341-0500, (610) 280-3464.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape or Braille) should contact Dr. Shoemaker at the previously listed address or phone number. Persons who are speech or hearing impaired may use V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

The symbols S and B indicate the following:

S = approved for serum and plasma analyses

B = approved for blood analyses

SB = approved for serum, plasma and blood analyses

000212
ABINGTON MEMORIAL HOSPITAL-S
1200 OLD YORK ROAD
ABINGTON, PA 19001
215-576-2350

027180
ADVANCED TOXICOLOGY NETWORK-B
3560 AIR CENTER COVE SUITE 101
MEMPHIS, TN 38118
901-794-5770

000233
ALBERT EINSTEIN MEDICAL CENTER-S
5501 OLD YORK ROAD
PHILADELPHIA, PA 19141
215-456-6100

000040
ALIQUIPPA COMMUNITY HOSPITAL LABORATORY-B
2500 HOSPITAL DRIVE

PATHOLOGY DEPT
ALIQUIPPA, PA 15001
724-857-1240

000671
ALLEG CNTY CORONERS DIV OF LABS-SB
542 FORBES AVENUE
ROOM 10 COUNTY OFFICE BUILDING
PITTSBURGH, PA 15219
412-350-6873

000094
ALLEGHENY GEN HOSP SUBURBAN CAMPUS LAB-S
100 SOUTH JACKSON AVENUE
BELLEVUE, PA 15202
412-734-6020

028233
ALLEGHENY GENERAL HOSP DEPT OF LAB MED-B
320 E NORTH AVENUE
PITTSBURGH, PA 15212
412-359-6886

000077
ALLEGHENY GENERAL HOSPITAL-B
1307 FEDERAL STREET
PITTSBURGH, PA 15212
412-359-3521

000100
ALLEGHENY VALLEY HOSPITAL LAB-S
1300 CARLISLE ST
NATRONA HEIGHTS, PA 15065
724-224-5100

000119
ALTOONA REGIONAL HEALTH SYSTEM LAB-SB
620 HOWARD AVENUE
ALTOONA, PA 16601-4899
814-946-2340

000452
ANALYTIC BIO-CHEMISTRIES INC-SB
1680-D LORETTA AVENUE
FEASTERVILLE, PA 19053
215-322-9210

000041
ARMSTRONG COUNTY MEMORIAL HOSP-S
1 NOLTE DRIVE
KITTANNING, PA 16201
724-543-8122

000047
ASSOCIATED CLINICAL LABORATORIES-SB
1526 PEACH STREET
ERIE, PA 16501
814-461-2400

000320
BARNES KASSON COUNTY HOSPITAL-S
400 TURNPIKE STREET
SUSQUEHANNA, PA 18847
570-853-3135

000120
BON SECOURS-HOLY FAMILY REG HLTH-SB
2500 SEVENTH AVENUE
ALTOONA, PA 16602-2099
814-949-4495

000033
BRADFORD REGIONAL MEDICAL CENTER-SB
116-156 INTERSTATE PKWY
BRADFORD, PA 16701-0218
814-362-8247

000296
BRANDYWINE HOSPITAL-S
201 REECEVILLE ROAD ATTN: LABORATORY
COATESVILLE, PA 19320
610-383-8000

000102
BROWNSVILLE GENERAL HOSPITAL-S
125 SIMPSON RD
BROWNSVILLE, PA 15417
724-785-7200

000301
BUTLER MEMORIAL HOSPITAL-S
911 EAST BRADY STREET
BUTLER, PA 16001
724-284-4510

000107
CANONSBURG GENERAL HOSPITAL-SB
100 MEDICAL BOULEVARD
CANONSBURG, PA 15317
724-745-3916

000131
CARLISLE REGIONAL MEDICAL CENTER-S
246 PARKER ST
CARLISLE, PA 17013
717-249-1212

000215
CENTRAL MONTGOMERY MEDICAL CENTER-S
100 MEDICAL CAMPUS DRIVE
LANSDALE, PA 19446
215-368-2100

000132
CHAMBERSBURG HOSPITAL-S
112 NORTH SEVENTH ST
CHAMBERSBURG, PA 17201
717-267-7152

000310
CHARLES COLE MEMORIAL HOSPITAL-S
1001 EAST SECOND STREET
COUDERSPORT, PA 16915
814-274-9300

000198
CHESTER COUNTY HOSPITAL-S
701 E MARSHALL ST
WEST CHESTER, PA 19380
610-431-5182

000227
CHESTNUT HILL HOSPITAL-S
8835 GERMANTOWN AVENUE
DEPT OF PATHOLOGY
PHILADELPHIA, PA 19118
215-248-8630

000228
CHILDRENS HOSP OF PHILADELPHIA-S
ONE CHILDREN'S CENTER 34TH & CIVIC
PHILADELPHIA, PA 19104
215-590-1000

000329
CLARION HOSPITAL-SB
1 HOSPITAL DRIVE
CLARION, PA 16214
814-226-9500

000026
CLEARFIELD HOSPITAL LABORATORY-S
809 TURNPIKE AVE PO BOX 992
CLEARFIELD, PA 16830
814-768-2280

000034
COMMUNITY HOSPITAL-B
NORTH FRALEY STREET
KANE, PA 16735
814-837-4575

000005
COMMUNITY MEDICAL CENTER-S
1800 MULBERRY STREET
SCRANTON, PA 18510
570-969-8000

000125
CONEMAUGH VALLEY MEMORIAL HOSP-SB
1086 FRANKLIN STREET
JOHNSTOWN, PA 15905-4398
814-534-9000

000326
CORRY MEMORIAL HOSPITAL-S
612 WEST SMITH STREET
CORRY, PA 16407
814-664-4641

000201
CROZER CHESTER MED CENTER-S
1 MEDICAL CENTER BOULEVARD
UPLAND, PA 19013
610-447-2000

000209
CROZER-CHESTER MED CTR-SPRINGFLD-S
190 WEST SPROUL ROAD
SPRINGFIELD, PA 19064
610-447-2000

000204
DELAWARE COUNTY MEMORIAL HOSP-S
501 NORTH LANSDOWNE AVENUE
DREXEL HILL, PA 19026-1186
610-284-8100

000266
DEPT OF PATHOLOGY & LAB MED-HUP-SB
3400 SPRUCE STREET
PHILADELPHIA, PA 19104
215-662-6882

000194
DOYLESTOWN HOSPITAL-S
595 WEST STATE STREET
DOYLESTOWN, PA 18901
215-345-2250

000977
DRUGSCAN INC-SB
1119 MEARNES RD, PO BOX 2969
WARMINSTER, PA 18974
215-674-9310

000027
DUBOIS REG MED CTR—WEST UNIT-S
100 HOSPITAL AVE
DUBOIS, PA 15801
814-371-2200

000175
EASTON HOSPITAL-B
250 SOUTH 21ST ST
EASTON, PA 18042-3892
610-250-4140

000332
ELLWOOD CITY HOSPITAL-S
724 PERSHING ST
ELLWOOD CITY, PA 16117
724-752-0081

000164
EPHRATA COMMUNITY HOSPITAL-S
169 MARTIN AVE PO BOX 1002
EPHRATA, PA 17522
717-733-0311

000032
ERHC ST MARYS LABORATORY-B
763 JOHNSONBURG RD
SAINT MARYS, PA 15857
814-788-8525

000181
EVANGELICAL COMMUNITY HOSPITAL-S
1 HOSPITAL DRIVE
LEWISBURG, PA 17837
570-522-2510

000085
FORBES REGIONAL HOSPITAL-SB
2570 HAYMAKER ROAD
MONROEVILLE, PA 15146
412-858-2560

000192
FRANKFORD HOSP BUCKS CO CAMPUS-S
380 NORTH OXFORD VALLEY ROAD
LANGHORNE, PA 19047-8304
215-934-5227

000341
FRANKFORD HOSP TC LAB-S
RED LION & KNIGHTS ROADS
ATTN P FARANO MD
PHILADELPHIA, PA 19114
215-612-4000

000236
FRANKFORD HOSPITAL FRANK DIV-S
FRANKFORD AVE & WAKELING ST
PHILADELPHIA, PA 19124
215-831-2068

000115
FRICK HOSPITAL-S
508 SOUTH CHURCH STREET
MOUNT PLEASANT, PA 15666
724-547-1500

000330
FULTON COUNTY MEDICAL CENTER-S
216 SOUTH FIRST STREET
MCCONNELLSBURG, PA 17233
717-485-3155

000173
GEISINGER MEDICAL CENTER-SB
N ACADEMY RD
DANVILLE, PA 17822
570-271-6338

000019
GEISINGER WYOMING VALLEY MED CTR-S
1000 E MOUNTAIN DRIVE
WILKES BARRE, PA 18711
570-826-7830

000237
GERMANTOWN COMM HLTH WILLOW TERR-S
ONE PENN BOULEVARD
PHILADELPHIA, PA 19144
215-951-8800

000122
GETTYSBURG HOSPITAL-SB
147 GETTYS STREET
GETTYSBURG, PA 17325
717-334-2121

000152
GNADEN HUETTEN MEMORIAL HOSP-S
211 NORTH 12TH STREET
LEHIGHTON, PA 18235
610-377-7083

000299
GOOD SAMARITAN HOSPITAL-B
4TH & WALNUT STS PO BOX 1281
LEBANON, PA 17042-1218
717-270-7500

000182
GOOD SAMARITAN REGIONAL MED CTR-S
700 EAST NORWEGIAN STREET
POTTSVILLE, PA 17901
570-621-4032

000238
GRADUATE HOSPITAL-S
1800 LOMBARD STREET
PHILADELPHIA, PA 19146
215-893-2240

000196
GRAND VIEW HOSPITAL-S
700 LAWN AVE
SELLERSVILLE, PA 18960
215-453-4528

000105
GREENE COUNTY MEMORIAL HOSPITAL-S
350 BONAR AVENUE
WAYNESBURG, PA 15370
724-627-2608

000654
GUTHRIE CLINIC PATH LAB-S
GUTHRIE SQUARE
SAYRE, PA 18840
570-888-5858

000239
HAHNEMANN UNIVERSITY HOSPITAL-S
BROAD & VINE STS MS 113
PHILADELPHIA, PA 19102
215-762-1783

000046
HAMOT MEDICAL CENTER-S
201 STATE STREET
ERIE, PA 16550
814-877-3131

000139
HANOVER HOSPITAL, INC.-SB
300 HIGHLAND AVE
HANOVER, PA 17331
717-637-3711

000155
HARRISBURG HOSPITAL LABORATORY-SB
SOUTH FRONT STREET
HARRISBURG, PA 17101
570-782-2832

000010
HAZLETON GENERAL HOSPITAL-S
700 EAST BROAD
HAZLETON, PA 18201
570-501-4152

000169
HEALTH NETWORK LABORATORIES-S
1627 WEST CHEW STREET
ALLENTOWN, PA 18102
610-402-2236

000600
HEALTH NETWORK LABORATORIES-S
2545 SCHOENERSVILLE ROAD
BETHLEHEM, PA 18017-7384
484-884-2259

000549
HEALTH NETWORK LABORATORIES-S
1200 SOUTH CEDAR CREST BLVD
ALLENTOWN, PA 18103
610-402-8150

024655
HEALTH NETWORK LABORATORIES-SB
2024 LEHIGH STREET
ALLENTOWN, PA 18103-4798
610-402-8150

000166
HEART OF LANCASTER REGIONAL MEDICAL
CENTER-S
1500 HIGHLANDS DRIVE
LITITZ, PA 17543
717-625-5000

000103
HIGHLANDS HOSPITAL-S
401 EAST MURPHY AVENUE
CONNELLSVILLE, PA 15425
724-628-1500

000130
HOLY SPIRIT HOSPITAL-SB
503 N 21ST STREET
CAMP HILL, PA 17011-2288
717-763-2206

000052
INDIANA REGIONAL MEDICAL CENTER-S
HOSPITAL ROAD PO BOX 788
INDIANA, PA 15701-0788
724-357-7167

000135
J C BLAIR MEMORIAL HOSPITAL-S
1225 WARM SPRINGS AVENUE
HUNTINGDON, PA 16652
814-643-8645

000054
JAMESON MEMORIAL HOSPITAL-S
1211 WILMINGTON AVENUE
NEW CASTLE, PA 16105
724-656-4080

000240
JEANES HOSPITAL-S
7600 CENTRAL AVE
PHILADELPHIA, PA 19111
215-728-2347

000038
JEFFERSON REGIONAL MED CTR-S
565 COAL VALLEY ROAD
BIBRO BLDG 4TH FLOOR
PITTSBURGH, PA 15236
412-469-5723

000200
JENNERSVILLE REGIONAL HOSPITAL-S
1015 WEST BALTIMORE PIKE
WEST GROVE, PA 19390
610-869-1080

4010

000053
JRHS BROOKVILLE-S
100 HOSPITAL RD
BROOKVILLE, PA 15825
814-849-2312

000532
KENSINGTON HOSPITAL-S
136 WEST DIAMOND STREET
PHILADELPHIA, PA 19122
215-426-8100

005618
LAB CORP OF AMERICA HOLDINGS-SB
6370 WILCOX ROAD
DUBLIN, OH 43016-1296
800-282-7300

001088
LABCORP OF AMERICA HOLDINGS-SB
69 FIRST AVE PO BOX 500
RARITAN, NJ 08869
908-526-2400

022715
LABONE INC-SB
10101 RENNEN BOULEVARD
LENEXA, KS 66219-9752
913-888-1770

028960
LABORATORY CORPORATION OF AMERICA-SB
901 KEYSTONE INDUSTRIAL PARK
SUITE A
THROOP, PA 18512
570-346-1759

000165
LANCASTER GENERAL HOSPITAL-S
555 N DUKE ST PO BOX 3555
LANCASTER, PA 17604
717-299-5511

000167
LANCASTER REGIONAL MED CENTER-S
250 COLLEGE AVENUE
PO BOX 3434
LANCASTER, PA 17604
717-291-8022

000114
LATROBE AREA HOSPITAL-S
121 W SECOND AVENUE
LATROBE, PA 15650
724-537-1550

000138
LEWISTOWN HOSPITAL-B
400 HIGHLAND AVENUE
LEWISTOWN, PA 17044
717-248-5411

000030
LOCK HAVEN HOSPITAL-B
24 CREE DRIVE
LOCK HAVEN, PA 17745
570-893-5000

000242
MAIN LINE CLIN LABS LANKENAU CP-S
100 EAST LANCASTER AVENUE
WYNNEWOOD, PA 19096
610-645-2615

NOTICES

000199
MAIN LINE CLIN LABS PAOLI MEM CP-S
255 WEST LANCASTER AVENUE
PAOLI, PA 19301
610-648-1000

000213
MAIN LINE HOSPITAL BRYN MAWR-S
130 BRYN MAWR AVENUE
BRYN MAWR, PA 19010
610-526-3554

000004
MARIAN COMMUNITY HOSPITAL-S
100 LINCOLN AVENUE
CARBONDALE, PA 18407
717-281-1042

009003
MAYO CLINIC DEPT LAB MED & PATH-SB
200 FIRST STREET SW HILTON 530
ROCHESTER, MN 55905
507-284-3018

000049
MEADVILLE MED CTR-LIBERTY ST-S
751 LIBERTY STREET
MEADVILLE, PA 16335
814-336-3121

005574
MEDTOX LABORATORIES INC-SB
402 WEST COUNTY ROAD D
ST PAUL, MN 55112
651-636-7466

000140
MEMORIAL HOSPITAL CLINICAL LAB-SB
325 S BELMONT ST PO BOX 15118
YORK, PA 17403
717-843-8623

000023
MEMORIAL HOSPITAL LAB-SB
1 HOSPITAL DRIVE
TOWANDA, PA 18848
570-265-2191

000203
MERCY FITZGERALD HOSPITAL-S
1500 LANSDOWNE AVENUE
DARBY, PA 19023
610-237-4262

000247
MERCY HEALTH LAB/MHOP-S
54TH & CEDAR AVENUE
PHILADELPHIA, PA 19143
215-748-9181

000219
MERCY HEALTH LAB/MSH-S
2701 DEKALB PIKE
NORRISTOWN, PA 19401
610-278-2090

000336
MERCY HOSPITAL-S
746 JEFFERSON AVE
SCRANTON, PA 18510
570-348-7100

000082
MERCY HOSPITAL OF PITTSBURGH-S
PRIDE & LOCUST STREETS
PITTSBURGH, PA 15219
412-232-7831

000017
MERCY HOSPITAL WILKES-BARRE-S
25 CHURCH STREET
PO BOX 658
WILKES-BARRE, PA 18765
570-826-3100

000113
MERCY JEANNETTE HOSPITAL-S
600 JEFFERSON AVENUE
JEANNETTE, PA 15644
724-527-9330

028436
METHODIST HOSP DIV TJUH INC ER LAB-S
2301 SOUTH BROAD STREET
PHILADELPHIA, PA 19148
215-952-9055

000245
METHODIST HOSP DIVISION/TJUH INC-S
1900 S. BROAD STREET
PHILADELPHIA, PA 19145
215-952-9059

000231
MEYERSDALE COMMUNITY HOSPITAL-S
200 HOSPITAL DR
MEYERSDALE, PA 15552
814-634-5911

000269
MIDVALLEY HOSPITAL-S
1400 MAIN STREET
PECKVILLE, PA 18452
570-383-5520

000128
MINERS MEDICAL CENTER-S
290 HAIDA AVENUE
PO BOX 689
HASTINGS, PA 16646
814-948-7171

000108
MONONGAHELA VALLEY HOSPITAL INC-S
1163 COUNTRY CLUB ROAD
MONONGAHELA, PA 15063
724-258-1021

000323
MONSOUR MEDICAL CENTER-S
70 LINCOLN WAY E
JEANNETTE, PA 15644
724-527-1511

000217
MONTGOMERY HOSPITAL LAB-S
POWELL & FORNANCE STS
NORRISTOWN, PA 19401
610-270-2173

000007
MOSES TAYLOR HOSPITAL-S
700 QUINCY AVENUE
SCRANTON, PA 18510
570-340-2100

000214
MOSS REHAB EINSTEIN AT ELKINS PARK-S
60 EAST TOWNSHIP LINE ROAD
ELKINS PARK, PA 19027
215-663-6102

000025
MOUNT NITTANY MEDICAL CENTER-B
1800 PARK AVENUE
STATE COLLEGE, PA 16803
814-234-6117

000035
MUNCY VALLEY HOSPITAL-S
215 EAST WATER ST
MUNCY, PA 17756
570-546-8282

000304
NASON HOSPITAL-B
NASON DRIVE
ROARING SPRING, PA 16673
814-224-6215

000504
NATIONAL MED SERVICES INC LAB-SB
3701 WELSH ROAD
WILLOW GROVE, PA 19090
215-657-4900

000248
NAZARETH HOSPITAL-S
2601 HOLME AVE
PHILADELPHIA, PA 19152
215-335-6245

029067
NORTHWEST TOXICOLOGY, A LABONE COMPANY-SB
2282 SOUTH PRESIDENTS DRIVE
SUITE C
WEST VALLEY CITY, UT 84120
801-293-2300

000099
OHIO VALLEY GENERAL HOSPITAL-S
25 HECKEL RD
MCKEES ROCKS, PA 15136
412-777-6161

000807
OMEGA MEDICAL LABS/QUEST DIAGNOSTICS-SB
2001 STATE HILL ROAD SUITE 100
WYOMISSING, PA 19610
610-378-1900

000334
PALMERTON HOSPITAL-S
135 LAFAYETTE AVE
PALMERTON, PA 18071
610-826-3141

000316
PENN STATE MILTON S HERSHEY MED CTR-S
500 UNIVERSITY DRIVE
DEPT OF PATHOLOGY & LAB MEDICINE
HERSHEY, PA 17033
717-531-8353

022533
PENNSYLVANIA DEPT OF HEALTH-SB
110 PICKERING WAY
LIONVILLE, PA 19353
610-280-3464

000251
PENNSYLVANIA HOSP OF THE UNIV OF PA HLTH-S
800 SPRUCE STREETS
PHILADELPHIA, PA 19107
215-829-3541

022306
PHILIPSBURG AREA HOSPITAL-SB
210 LOCH LOMOND ROAD
PHILIPSBURG, PA 16866
814-343-8720

000197
PHOENIXVILLE HOSPITAL LABORATORY-S
140 NUTT RD DEPT OF PATHOLOGY
PHOENIXVILLE, PA 19460-0809
610-983-1612

000157
PINNACLEHLTH/COMM GEN OSTEO HOSP-S
4300 LONDONDERRY RD PO BOX 3000
HARRISBURG, PA 17109
717-657-7214

000520
PITTSBURGH CRIMINALISTICS LABORATORY-SB
1320 FIFTH AVENUE
PITTSBURGH, PA 15219
412-391-6118

000022
POCONO MEDICAL CENTER LAB-SB
206 EAST BROWN STREET
EAST STROUDSBURG, PA 18301
570-476-3544

000221
POTTSTOWN HOSPITAL COMPANY, LLC-S
1600 EAST HIGH STREET
POTTSTOWN, PA 19464
610-327-7000

000183
POTTSVILLE HOSP AND WARNE CLINIC-SB
420 SOUTH JACKSON STREET
POTTSVILLE, PA 17901
570-621-5262

000300
PUNXSUTAWNEY AREA HOSPITAL-S
81 HILLCREST DRIVE
PUNXSUTAWNEY, PA 15767
814-938-4500

000315
QUEST DIAGNOSTICS CLINICAL LABS INC-SB
900 BUSINESS CENTER DRIVE
HORSHAM, PA 19044
215-957-9300

027461
QUEST DIAGNOSTICS INC-SB
400 EGYPT ROAD
NORRISTOWN, PA 19403
610-631-4219

001136
QUEST DIAGNOSTICS NICHOLS INSTITUTE-SB
14225 NEWBROOK DRIVE
PO BOX 10841
CHANTILLY, VA 20153-0841
703-802-6900

000482
QUEST DIAGNOSTICS OF PA INC-SB
875 GREENTREE RD 4 PARKWAY CENTER
PITTSBURGH, PA 15220-3610
412-920-7600

025461
QUEST DIAGNOSTICS VENTURE LLC-SB
875 GREENTREE ROAD
4 PARKWAY CENTER
PITTSBURGH, PA 15220-3610
412-920-7631

000150
READING HOSPITAL & MED CTR-S
6TH AND SPRUCE STREETS
WEST READING, PA 19611
610-988-8080

000206
RIDDLE MEMORIAL HOSPITAL-S
BALTIMORE PIKE HIGHWAY 1
MEDIA, PA 19063
610-566-9400

000243
ROXBOROUGH MEMORIAL HOSPITAL-S
5800 RIDGE AVE
PHILADELPHIA, PA 19128
215-487-4394

000171
SACRED HEART HOSPITAL-S
4TH & CHEW STS
ALLENTOWN, PA 18102
610-776-4727

000087
SAINT CLAIR MEMORIAL HOSPITAL-S
1000 BOWER HILL RD
PITTSBURGH, PA 15243
412-561-4900

000174
SAINT LUKES HOSPITAL-S
801 OSTRUM ST
BETHLEHEM, PA 18015
610-954-4558

000328
SAINT MARY MEDICAL CENTER-S
LANGHORNE - NEWTOWN RD
LANGHORNE, PA 19047
215-710-2162

000048
SAINT VINCENT HEALTH CENTER-S
232 WEST 25TH STREET
ERIE, PA 16544
814-452-5383

000101
SEWICKLEY VALLEY HOSPITAL LAB-S
BLACKBURN RD & FITCH DRIVE
SEWICKLEY, PA 15143
412-741-6600

000064
SHARON REGIONAL HEALTH SYSTEM-SB
740 EAST STATE STREET
SHARON, PA 16146
724-983-3911

000039
SOLDIERS & SAILORS MEM HOSP-S
CENTRAL AVE
WELLSBORO, PA 16901
570-723-0133

000297
SOMERSET HOSPITAL CENTER FOR HEALTH-B
225 S CENTER AVE
SOMERSET, PA 15501
814-443-5000

022376
SPECIALTY LABORATORIES INC-S
27027 TOURNEY ROAD
VALENCIA, CA 91355
310-828-6543

000260
ST CHRISTOPHERS HOSP FOR CHILDREN-S
3601 A STREET
PHILADELPHIA, PA 19134
215-427-5337

000151
ST JOSEPH QUALITY MEDICAL LAB-SB
215 NORTH 12TH STREET BOX 316
READING, PA 19603
610-378-2200

000261
ST JOSEPH'S HOSPITAL-DIV NPHS-S
16TH ST & GIRARD AVE
PHILADELPHIA, PA 19130
215-787-9000

000318
ST LUKES HOSP ALLENTOWN CAMPUS-S
1736 HAMILTON STREET
ALLENTOWN, PA 18104
610-770-8300

000195
ST LUKES QUAKERTOWN HOSPITAL-S
11TH ST & PARK AVE PO BOX 9003
QUAKERTOWN, PA 18951
215-538-4681

029015
STERLING REFERENCE LABORATORIES-SB
624 MARTIN LUTHER KING JR WAY
TACOMA, WA 98405
253-552-1551

000207
TAYLOR HOSPITAL DIV OF CCMC-S
175 E CHESTER PIKE
RIDLEY PARK, PA 19078
610-595-6450

000249
TEMPLE EAST INC NE-S
2301 EAST ALLEGHENY AVENUE
PHILADELPHIA, PA 19134
215-291-3671

000193
TEMPLE LOWER BUCKS HOSPITAL LAB-S
501 BATH ROAD
BRISTOL, PA 19007
215-785-9300

000235
TEMPLE UNIV HOSPITAL EPISCOPAL CAMPUS-S
100 EAST LEHIGH AVENUE
PHILADELPHIA, PA 19125-1098
215-707-0977

000265
TEMPLE UNIVERSITY HOSPITAL-S
3401 N BROAD ST
PHILADELPHIA, PA 19140
215-707-4353

000205
THE MEDICAL CENTER BEAVER PA-SB
1000 DUTCH RIDGE ROAD
BEAVER, PA 15009-9700
724-728-7000

000104
THE UNIONTOWN HOSPITAL LABORATORY-S
500 WEST BERKELEY STREET
UNIONTOWN, PA 15401
724-430-5143

000241
THOMAS JEFFERSON UNIVERSITY HOSP-S
125 SOUTH 11TH ST 204 PAVILION
PHILADELPHIA, PA 19107
215-955-6374

000051
TITUSVILLE AREA HOSPITAL-S
406 WEST OAK STREET
TITUSVILLE, PA 16354
814-827-1851

000313
TYLER MEMORIAL HOSPITAL-S
880 SR 6 W
TUNKHANNOCK, PA 18657-6149
570-836-4705

000124
TYRONE HOSPITAL-SB
CLAY AVENUE EXTENSION
TYRONE, PA 16686
814-684-0484

000061
UNITED COMMUNITY HOSPITAL-SB
631 NORTH BROAD STREET EXT
GROVE CITY, PA 16127
724-450-7125

000258
UNIVERSITY OF PENNA MED CTR-PRESBYTERIAN-S
51 NORTH 39TH ST 5TH FLR RM 530
DEPARTMENT OF PATHOLOGY & LAB
PHILADELPHIA, PA 19104-2640
215-662-3435

000121
UPMC BEDFORD MEMORIAL-SB
10455 LINCOLN HIGHWAY
EVERETT, PA 15537
814-623-3506

000096
UPMC BRADDOCK-S
400 HOLLAND AVENUE
BRADDOCK, PA 15104
412-636-5291

000059
UPMC HORIZON GREENVILLE-SB
110 NORTH MAIN STREET
GREENVILLE, PA 16125
724-588-2100

000057
UPMC HORIZON SHENANGO-SB
2200 MEMORIAL DRIVE
FARRELL, PA 16121
724-981-3500

000126
UPMC LEE REGIONAL HOSPITAL-SB
320 MAIN STREET
JOHNSTOWN, PA 15901
814-533-0130

000098
UPMC MCKEESPORT LABORATORY-S
1500 FIFTH AVENUE
MCKEESPORT, PA 15132
412-664-2233

000058

UPMC NORTHWEST-SB
100 FAIRFIELD DRIVE
SENECA, PA 16346
814-676-7120

000084

UPMC PASSAVANT-S
9100 BABCOCK BLVD
PITTSBURGH, PA 15237
412-367-6700

005784

UPMC PASSAVANT LABORATORY CRANBERRY-S
ONE ST FRANCIS WAY
CRANBERRY TOWNSHIP, PA 16066
724-772-5370

000083

UPMC PRESBYTERIAN SHADYSIDE CP PUH-S
ROOM 5929 MAIN TOWER CHP
200 LOTHROP STREET
PITTSBURGH, PA 15213-2582
412-648-6000

000091

UPMC SAINT MARGARET HOSPITAL-S
815 FREEPORT ROAD
PITTSBURGH, PA 15215
412-784-4000

000092

UPMC SHADYSIDE-S
5230 CENTRE AVENUE
GROUND FLOOR WEST WING
PITTSBURGH, PA 15232
412-623-5950

000093

UPMC SOUTH SIDE-S
2000 MARY STREET
PITTSBURGH, PA 15203
412-488-5731

000622

WARMINSTER HOSPITAL-S
225 NEWTOWN ROAD
WARMINSTER, PA 18974
215-441-6700

000066

WARREN GENERAL HOSPITAL-SB
2 CRESCENT PARK
WARREN, PA 16365
814-723-3300

000111

WASHINGTON HOSPITAL-S
155 WILSON AVE
WASHINGTON, PA 15301
724-223-3136

000298

WAYNE MEMORIAL HOSPITAL-S
601 PARK STREET
HONESDALE, PA 18431
570-253-1300

000133

WAYNESBORO HOSPITAL-S
501 E MAIN STREET
WAYNESBORO, PA 17268
717-765-3403

000095

WESTERN PENNSYLVANIA HOSPITAL-S
4800 FRIENDSHIP AVE
PITTSBURGH, PA 15224
412-578-5779

007731

WESTERN RESERVE CARE SYSTEM-S
500 GYPSY LANE
YOUNGSTOWN, OH 44504
216-740-3794

000112

WESTMORELAND REGIONAL HOSPITAL-S
532 W PITTSBURGH ST
GREENSBURG, PA 15601
724-832-4365

000037

WILLIAMSPORT HOSP & MED CENTER-SB
777 RURAL AVENUE
WILLIAMSPORT, PA 17701-3198
570-321-2300

000106

WINDBER HOSPITAL-B
600 SOMERSET AVE
WINDBER, PA 15963
814-467-6611

000018

WVHCS HOSP DBA PENNANT LABORATORY-SB
575 NORTH RIVER STREET
WILKES BARRE, PA 18764
570-829-8111

025064

WVU HOSPITAL CLINICAL LABS-S
1 MEDICAL CENTER DR PO BOX 8009
MORGANTOWN, WV 26506-8009
304-598-4241

000141

YORK HOSPITAL-SB
1001 SOUTH GEORGE STREET
YORK, PA 17405
717-851-2345

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

[Pa.B. Doc. No. 05-1347. Filed for public inspection July 15, 2005, 9:00 a.m.]

DEPARTMENT OF HEALTH

Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under the Federal Traumatic Brain Injury Act of 1996 (42 U.S.C.A. § 300d-52), will hold a public meeting on Thursday, July 21, 2005, from 10 a.m. to 3 p.m. at the National Civil War Museum, 1 Lincoln Circle, Reservoir Park, Harrisburg, PA.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so contact Carolyn S. Cass, Director, Division of Child and Adult Health Services at (717) 783-5436, for speech and/or

hearing impaired persons, contact V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

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

[Pa.B. Doc. No. 05-1348. Filed for public inspection July 15, 2005, 9:00 a.m.]

Traumatic Brain Injury Support Group Development and/or Expansion to Promote Education and Networking at the Grass Roots Level

The Bureau of Family Health's (Bureau) Division of Child and Adult Health Services is accepting applications to promote education, greater public awareness and networking for individuals with traumatic brain injury (TBI) and their family members. Funding for up to \$680 is available to establish support groups in areas of need or expand existing support groups within the community that focus on TBI as it relates to the individual with TBI or family members. Activities should assist in facilitating a support group in underserved areas or expanding an existing support group. The goal is to promote education and networking at the grass roots level focused on TBI.

For the purpose of this funding opportunity, TBI is defined as an insult to the brain, not of a degenerative or congenital nature, caused by an external physical force that may produce a diminished or altered state of consciousness which results in impairment of cognitive abilities or physical functioning or in the disturbance of behavioral or emotional functioning. These impairments may be either temporary or permanent and cause partial or total functional disability or psychosocial maladjustment.

Purpose

The public remains largely unaware of brain injury, its consequences and means of accessing available resources and information. TBI occurs when there is an insult to the brain caused by an external physical force in motor vehicle crashes, falls, sports injuries, recreational accidents, assaults, gunshot wounds and domestic violence. These injuries may produce a diminished or altered state of consciousness and result in impairment of cognitive abilities or physical functioning and/or disturbance of behavioral or emotional functioning. A person does not need to lose consciousness to sustain a brain injury.

The Brain Injury Association of Pennsylvania reports that the three leading causes of TBI are motor vehicle crashes, violence (especially firearms) and falls (mainly among the elderly). An estimated 5.3 million Americans currently live with disabilities resulting from brain injury. In this Commonwealth, approximately 50,000 people sustain brain injuries each year. Of those, an estimated 2,000 people die due to TBI; 8,000 are hospitalized; 41,000 are treated in hospital emergency rooms for concussion and mild brain injury; and 3,000 become severely disabled by brain injury. The risk of TBI is highest among adolescents, young adults and those older than 75 years of age. After sustaining a brain injury, individuals frequently experience dramatic changes in their lives,

disruption in their families, extreme financial hardship and spiraling adverse consequences and challenges.

The brain injury support group system is a primary front line tool in supporting individuals with TBI and families after sustaining a TBI. The current network of groups is comprised of groups started by people with a brain injury, along with groups started by providers who recognize a local need for a group. Some groups are relatively small and nearing extinction, while others are robust and healthy. There are many areas in this Commonwealth where no support groups are available within a reasonable driving distance. The goal of this funding opportunity is to provide support to individuals and families dealing with brain injury through a strengthening and expansion of new and existing support groups. Available resources are listed at the end of this document.

Organizations interested in starting a TBI support group and existing TBI support groups are being targeted for this effort. Through this educational opportunity, support groups will be established or expanded to promote education and networking at the grass roots level focused on TBI.

Requirements

Eligible applicants are public and private organizations, hospitals and community-based programs and agencies in this Commonwealth as recognized by a Federal Tax ID number. Informal groups without Federal Tax ID numbers are encouraged to partner with a sponsor organization who may apply on behalf of the group. For-profit organizations may apply. However, an applicant may not take a profit from these funds. Only organizations, programs or agencies that have not received any funds from the Bureau during the current fiscal year may apply for these funds.

Applicants may include:

- Social service agencies.
- School districts.
- Community-based agencies.
- Hospitals.
- Rehabilitation centers.
- Advocacy groups.
- Mental health agencies.
- Drug and alcohol agencies.
- Vocational rehabilitation offices.

Application Deadline

To apply for funding, a complete application must be postmarked and mailed to the Department of Health (Department) by 4 p.m. on August 15, 2005. Applications may be mailed or hand delivered. Applications may not be faxed. Late applications will not be accepted regardless of the reason.

Application Process

Complete an Attachment A FY 2005-2006 application and attach a clear and concise narrative of two to five typewritten pages single spaced that includes the following information, labeled by section:

1. Justification of the interest in and need for a new support group or the expansion of an existing support group, including a description of the availability of existing community resources.

2. Description of applicant's familiarity with TBI.

3. Description of the meeting frequency, time and location (specific meeting logistics should include information on facility accessibility, parking availability, access to transportation, and the like).

4. Description of the group facilitator (staff, a volunteer or family member) and the level of experience with TBI.

5. Plan to advertise the support group meeting (include how the meetings will be marketed or advertised using tools such as posters, brochures, flyers or media announcements, or both).

6. Communication plan to collaborate with other TBI support groups to identify resources, speakers, topic areas, issues, and the like.

7. Plan to continue the support group after the project period has ended.

8. Plan to track funds and expenses during the grant period.

An authorized official of the organization who can bind the applicant to the provisions of the proposal must sign and date Attachment A. Submit an original and three complete copies of the application which includes Attachment A, a narrative addressing the eight points outlined previously and any supporting documentation. Applications should be page-numbered and unbound. Incomplete applications will not be reviewed.

Award Determination

Funding decisions are contingent upon the availability of Fiscal Year 2005-06 funds and Department approval by means of a proposal review panel. Approval will be based upon a common set of preestablished criteria, including:

1. The organization's justified need for creation or expansion of a support group.

2. The estimated number of individuals with TBI and family members who will ultimately benefit from the development or expansion of a support group.

3. The activity proposed will be of an ongoing, systemic benefit to the community.

4. The reasonableness of proposed expenditures/purchases.

Notification of Award

The Bureau expects to notify applicants of award status by August 31, 2005. It is anticipated that five awards of up to \$680 or less will be made. This is a reimbursement program. Grantees must spend their own funds first and then be reimbursed by the Department.

Eligible Costs

The maximum cumulative award to any one applicant (as identified by Federal Tax ID number) is \$680 per fiscal year. Funds must be encumbered by March 31, 2006. The budget section of the application must include a budget narrative detailing by line item how project funds will be used. Expenses eligible for reimbursement under this project include:

1. Purchase of educational/resource materials.

2. Speakers with expertise in TBI.

3. Refreshments for support group participants.

4. Travel reimbursement to and from support group meetings for individuals with TBI.

Project funds must be encumbered by March 31, 2006.

Ineligible Costs

The following costs are not eligible for reimbursement under this project:

1. Administrative/indirect costs.

2. Purchases/activities mandated by the Americans With Disabilities Act.

3. New building construction or structural renovation of an existing space.

4. Capital expenses or equipment.

Summary Report and Invoice Procedures

Approved applicants will be reimbursed with one check for approved expenses. To receive reimbursement of approved expenses, awardees must submit the Final Report/Invoice found as Attachment B to the Bureau by May 1, 2006, and include the following information:

1. A summary report of activities.

2. Dates of support group meetings and the number of attendees.

3. Plan for continuing the TBI support group.

4. Invoice with expense documentation supporting line item amounts.

Applications should be mailed to the Department of Health, Bureau of Family Health, Division of Child and Adult Health Services, 7th Floor, East Wing, Health and Welfare Building, P. O. Box 90, Harrisburg, PA 17108, Attention: Becky Kishbaugh, TBI Grant Administrator.

For questions regarding this notice, additional information or persons with a disability who require an alternative format of this notice (for example, large print, audiotape or Braille), contact Becky Kishbaugh, TBI Grant Administrator rkishbaugh@state.pa.us, (717) 783-5436 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

Potential Resources

Helping Ourselves: A Guide for Brain Injury Support Groups

Brain Injury Association of America
8201 Greensboro Drive, Suite 611
McLean, VA 22102
familyhelpline@biausa.org
Family Help line: (800) 444-6443
www.biausa.org

A Guide for Developing a Successful Brain Injury Support Group

Brain Injury Association of Florida, Inc.
201 East Sample Road
Pompano Beach, FL 33064
(954) 786-2400
Fax: (954) 786-2437
Family Help line: (800) 992-3442
www.biaf.org

John Pistorius

Pittsburgh Area Brain Injury Alliance
Persons can go to their website at www.pabia.org and subscribe to their newsletter "*PABIA News Support Lines*" or contact John Pistorius at jp@pabia.org and ask for the "*Free Support Group Development Tools*."

Brain Injury Association of Pennsylvania

(866) 635-7097, www.biapa.org
Contact the Brain Injury Association of Pennsylvania for information about resources in this Commonwealth for people with brain injuries. To find out locations in this Commonwealth of brain injury support groups contact the

Brain Injury Resource Line (BIRL). BIRL is run by trained volunteers of the Brain Injury Association of Pennsylvania, a Statewide organization that has a wealth of information that is important to people with brain injuries and their family members.

Seven Simple Steps to Success

Seven Simple Steps to Success is considered in the public domain (can be copied and used by anyone). It is funded in part by Health Resources & Services Administration Grant No. 6H83MC00033-02-01. This grant was awarded to the:

Pennsylvania Protection and Advocacy, Inc.,
1414 N. Cameron St.,
Harrisburg, PA 17103,
(800) 692-7443,
www.ppainc.org

Parent to Parent of Pennsylvania
www.parenttoparent.org

This website helps parents or family members locate a support group that meets their needs, gives suggestions on how to start a support group and provides technical assistance to local support and mentor groups.

Attachment A

**Pennsylvania Department of Health—Bureau of Family Health
FY 2005-2006 Funding Application Request
Traumatic Brain Injury Support Group Creation or Expansion**

Applicant Information:

- Name of Organization: _____
- FID Number: _____
- Complete Mailing Address: _____

- Contact Person: _____
- Telephone Number: (_____) _____ Fax Number: (_____) _____
- E-mail Address: _____

Itemized Budget:

Itemized Activity Expenses		
#1:	_____	= \$ _____
#2:	_____	= \$ _____
#3:	_____	= \$ _____
#4	_____	= \$ _____
#5	_____	= \$ _____
#6	_____	= \$ _____
#7	_____	= \$ _____
(Attach additional sheets, if necessary)		
TOTAL		= \$
*May not exceed \$680		

Provide a brief written description of what will be purchased with the money:

Attach copies of the proof of cost for every expense proposed within your itemized budget.

Authorized Applicant Signature/Title: _____

Printed Name: _____

Attachment B

**Pennsylvania Department of Health—Bureau of Family Health
September 1, 2005 to March 31, 2006
FINAL REPORT/INVOICE
Traumatic Brain Injury Support Group Creation or Expansion**

Awardee Information

Name of Organization: _____
 FID number: _____
 Complete Mailing Address: _____

 Contact Person: _____
 Telephone Number: (_____) _____ Fax Number: (_____) _____
 E-mail Address: _____

Please attach the following:

A written narrative that includes your organization's justified need for expansion of the TBI support group; the estimated number of individuals with TBI and family members who benefited from the expansion of the TBI support group; and how the proposed activity will be of an on-going, systemic benefit to the community.

Invoice

Itemized Expenses

#1:	_____	\$ _____
#2:	_____	\$ _____
#3:	_____	\$ _____
#4:	_____	\$ _____
#5:	_____	\$ _____
#6:	_____	\$ _____
#7:	_____	\$ _____

TOTAL = \$ *May not exceed \$680

Awardee authorized signature/title: _____

Awardee printed name and title: _____

DOH Use Only:

Approved for Payment:	Date:
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CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-1349. Filed for public inspection July 15, 2005, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them or their firm, or any firms, corporations or partnerships in which these contractors, or either one of them or their firm, have an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
American Pipe & Sprinkler, Inc.	37 Eldered Street Williamsport, PA 17701	June 21, 2005
and Roan J. Confer, Sr., individually (Fed. ER I.D. No. 23-2875001)	-and- 460 West Market Street Suite 409 Williamsport, PA 17701	

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 05-1350. Filed for public inspection July 15, 2005, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Designated Exceptional Durable Medical Equipment

On February 9, 2002, the Department of Public Welfare (Department) announced the adoption of amendments to 55 Pa. Code Chapter 1187 (relating to nursing facility services). The amendments were adopted under sections 201 and 443.1 of the Public Welfare Code (62 P. S. §§ 201 and 443.1) and sections 1902 and 1919 of the Social Security Act (42 U.S.C.A. §§ 1396a and 1396r). The amendments expand the Department's exceptional payment policy to authorize additional payments to nursing facilities for nursing facility services provided to certain Medical Assistance residents who require medically necessary exceptional durable medical equipment (DME). See 32 Pa.B. 734 (February 9, 2002).

The amendments require the Department to publish an annual list of exceptional DME by notice in the *Pennsylvania Bulletin* in July of each year. Interested persons may petition the Department to consider additions to the exceptional DME list by submitting a written request to the Department. Requests received on or before December 31 will be considered in developing the list for the following July.

During calendar year 2004, the Department received three written requests to add Vacuum Assisted Wound Closure (VAC) systems to the list of exceptional DME. VAC systems are used in the treatment of many types of ulcers and soft tissue wounds when those wounds sites do not respond to traditional methods of treatment. VAC systems use a computerized vacuum pump that applies

continuous or intermittent negative pressure to wound sites to aid in and accelerate the healing process.

The Department, after researching Minimum Data Set data regarding wound therapy and discussions with wound clinics and the manufacturer of VAC systems, found that VAC systems are not offered for sale and are available only on a rental basis. The average rental cost per day is \$71.79 and typical treatment time varies from 22 to 60 days. Treatment time beyond 60 days was found to be rare to nonexistent. Therefore, the Department determined that the conventional use of VAC systems would not meet the acquisition cost of \$5,000 or more necessary to qualify as an item of exceptional DME and has decided that the request for the addition of VAC systems as a separate category of exceptional DME is unwarranted at this time. Accordingly, this notice makes no changes in either the acquisition cost or the list of qualifying DME.

"Exceptional DME" is defined as DME that has an acquisition cost of \$5,000 or more and is either Specially Adapted DME or other DME that is designated as Exceptional DME by the Department annually by notice in the *Pennsylvania Bulletin*.

"Specially Adapted DME" is DME that is uniquely constructed or substantially adapted or modified in accordance with the written orders of a physician for the particular use of one resident, making its contemporaneous use by another resident unsuitable.

The list of Exceptional DME that has been designated by the Department is as follows:

(1) *Air fluidized beds*

The pressure relief provided by this therapy uses a high rate of airflow to fluidize fine particulate material (for example, beads or sand) to produce a support medium that has characteristics similar to liquid. May have a Gortex cover.

(2) *Powered air flotation bed (low air loss therapy)*

A semielectric or total electric bed with a fully integrated powered pressure-reducing mattress which is characterized by all of the following:

(a) An air pump or blower with a series of interconnected woven fabric air pillows which provides sequential inflation and deflation of the air cells or a low interface pressure throughout the mattress allowing some air to escape through the support surface to the resident. May have a Gortex cover.

(b) Inflated cell height of the air cells through which air is being circulated is 5 inches or greater.

(c) Height of the air chambers, proximity of the air chambers to one another, frequency of air cycling (for alternating pressure mattresses) and air pressure provide adequate patient lift, reducing pressure and prevent bottoming out.

(d) A surface designed to reduce friction and shear.

(e) May be placed directly on a hospital bed frame.

(f) Automatically readjusts inflation pressures with change in position of bed (for example, head elevation, and the like).

(3) *Augmentative communication devices*

Used by residents who are unable to use natural oral speech as a primary means of communication. The specific device requested must be appropriate for use by the resident and the resident must demonstrate the abilities

or potential abilities to use the device selected. Portable devices need to supplement, aid or serve as an alternative to natural speech for residents with severe expressive communication disorders. Nonportable devices may be covered only if required for visual enhancement or physical access needs that cannot be accommodated by a portable device.

(4) *Ventilators (and related supplies)*

(a) Used by residents 21 years of age and older who require full ventilator support for a minimum of 8 hours per day to sustain life.

(b) Used by residents 20 years of age and younger who require ventilator support to sustain life (no minimum time requirement).

Effective Date

This notice is effective upon publication in the *Pennsylvania Bulletin*.

Public Comment

Interested persons are invited to submit written comments regarding this notice to Gail Weidman, Chief, Program Analysis and Review Section, Department of Public Welfare, Division of Long-Term Care Client Services, P. O. Box 2675, Harrisburg, PA 17105. Comments received within 30 days will be reviewed and considered for any subsequent revision of the notice.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-434. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 05-1351. Filed for public inspection July 15, 2005, 9:00 a.m.]

Federal Poverty Income Guidelines for 2005

The Department of Public Welfare (Department) announces the implementation of the 2005 Federal Poverty Income Guidelines (FPIGs) which were issued by the Department of Health and Human Services and published at 70 FR 8373 (February 18, 2005).

The FPIGs are the basis for the income eligibility limits for several categories of Medicaid whose regulations are published in 55 Pa. Code (relating to public welfare) and administered by the Department. These categories include Healthy Beginnings for Pregnant Women and Qualified Children (55 Pa. Code Chapter 140, Subchapter A), Healthy Horizons for the Elderly and Disabled (55 Pa. Code Chapter 140, Subchapter B) and Extended Medical Coverage under Categorically Needy TANF-Related Categories (55 Pa. Code Chapter 140, Subchapter C).

The percentages for the Medicaid categories of Healthy Beginnings and Healthy Horizons are set forth as follows:

These percentages apply as follows:

Healthy Beginnings—

- a. 185% for pregnant women and infants up to 1 year of age.
- b. 133% for children 1—5 years of age.
- c. 100% for children 6 years of age and older.

Healthy Horizons—

- a. 100% for persons eligible for the categorically needy and Medicare cost-sharing benefits.
- b. 120% for persons eligible for the Specified Low-Income Medicare Beneficiaries and Medically Needy Only benefits.
- c. 135% for persons eligible for the Qualifying Individuals Beneficiaries benefits.

(There are different resource limits for each of these programs.)

<i>Persons</i>	<i>100% of FPIG</i>		<i>120% of FPIG</i>		<i>133% of FPIG</i>		<i>135% of FPIG</i>	
	<i>Month</i>	<i>Annual</i>	<i>Month</i>	<i>Annual</i>	<i>Month</i>	<i>Annual</i>	<i>Month</i>	<i>Annual</i>
1	\$798	\$9,570	\$957	\$11,484	\$1,061	\$12,729	\$1,077	\$12,920
2	\$1,070	\$12,830	\$1,283	\$15,396	\$1,422	\$17,064	\$1,444	\$17,321
3	\$1,341	\$16,090	\$1,609	\$19,308	\$1,784	\$21,400	\$1,811	\$21,722
4	\$1,613	\$19,350	\$1,935	\$23,220	\$2,145	\$25,736	\$2,177	\$26,123
5	\$1,885	\$22,610	\$2,261	\$27,132	\$2,506	\$30,072	\$2,544	\$30,524
6	\$2,156	\$25,870	\$2,587	\$31,044	\$2,868	\$34,408	\$2,911	\$34,925
7	\$2,428	\$29,130	\$2,913	\$34,956	\$3,229	\$38,743	\$3,278	\$39,326
8	\$2,700	\$32,390	\$3,239	\$38,868	\$3,590	\$43,079	\$3,644	\$43,727
Each Additional Person	\$272	\$3,260	\$326	\$3,912	\$362	\$4,336	\$367	\$4,401

Persons	185% of FPIG		200% of FPIG		235% of FPIG		250% of FPIG	
	Month	Annual	Month	Annual	Month	Annual	Month	Annual
1	\$1,476	\$17,705	\$1,595	\$19,140	\$1,875	\$22,490	\$1,994	\$23,925
2	\$1,978	\$23,736	\$2,139	\$25,660	\$2,513	\$30,151	\$2,673	\$32,075
3	\$2,481	\$29,767	\$2,682	\$32,180	\$3,151	\$37,812		
4	\$2,984	\$35,798	\$3,225	\$38,700	\$3,790	\$45,473		
5	\$3,486	\$41,829	\$3,769	\$45,220	\$4,428	\$53,134		
6	\$3,989	\$47,860	\$4,312	\$51,740	\$5,067	\$60,795		
7	\$4,491	\$53,891	\$4,855	\$58,260	\$5,705	\$68,456		
8	\$4,994	\$59,922	\$5,399	\$64,780	\$6,344	\$76,117		
Each Additional Person	\$503	\$6,031	\$544	\$6,520	\$639	\$7,661		

Additional information on the programs is available at county assistance offices.

This notice shall take effect upon publication in the *Pennsylvania Bulletin* and apply retroactively to February 18, 2005.

Public Comments

Interested persons are invited to submit written comments regarding this notice to the Department of Public Welfare, Office of Income Maintenance, Edward J. Zogby, Director, Bureau of Policy, Room 431, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081. Comments received within 30 calendar days will be reviewed and considered for any subsequent revision of the notice.

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

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-433. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart C. ELIGIBILITY REQUIREMENTS

CHAPTER 140. SPECIAL MA ELIGIBILITY PROVISIONS

Subchapter C. ELIGIBILITY PROVISIONS FOR EMC UNDER THE CATEGORICALLY NEEDY PROGRAM FOR TANF-RELATED CATEGORIES

APPENDIX A

EXTENDED MEDICAL COVERAGE (EMC) MONTHLY INCOME LIMITS

185% OF THE 2005 FEDERAL POVERTY INCOME GUIDELINES

Family Size	185% of the Federal Poverty Income Guidelines
1	\$1,476
2	\$1,978
3	\$2,481
4	\$2,984
5	\$3,486
6	\$3,989

Family Size	185% of the Federal Poverty Income Guidelines
7	\$4,491
8	\$4,994
Each Additional Person	\$503

[Pa.B. Doc. No. 05-1352. Filed for public inspection July 15, 2005, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Ace In The Hole '05 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

- 1. Name:** The name of the game is Pennsylvania Ace In The Hole '05.
- 2. Price:** The price of a Pennsylvania Ace In The Hole '05 instant lottery game ticket is \$1.
- 3. Play Symbols:** Each Pennsylvania Ace In The Hole '05 instant lottery game ticket will contain one play area consisting of "GAME 1," "GAME 2," "GAME 3" and a "HOLE CARD." Each "GAME" is played separately. Each "GAME" features a "YOUR CARD" area and a "DEALER'S CARD" area. The play symbols and their captions located in the "YOUR CARD" area are: 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), Jack (JCK), Queen (QUN) and King (KNG) card play symbols. The play symbols and their captions located in the "DEALER'S CARD" area are: 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), Jack (JCK) and Queen (QUN) card play symbols. The play symbols and their captions located in the "HOLE CARD" area are: 8 (EGT), 9 (NIN), 10 (TEN), Jack (JCK), Queen (QUN), King (KNG) and Ace (ACE) card play symbols.
- 4. Prize Symbols:** The prize symbols and their captions located in the "PRIZE" area of each "GAME" are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$3⁰⁰ (THR DOL), \$5⁰⁰

(FIV DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$30\$ (THIRTY), \$60\$ (SIXTY), \$300 (THR HUN), \$1,000 (ONE THO) and \$3,000 (THR THO).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$3, \$5, \$10, \$20, \$30, \$60, \$300, \$1,000 and \$3,000. The player can win up to 3 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 14,400,000 tickets will be printed for the Pennsylvania Ace In The Hole '05 instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$3,000 (THR THO) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$3,000.

(b) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$1,000 (ONE THO) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$300 (THR HUN) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$300.

(d) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$60\$ (SIXTY) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$60.

(e) Holders of tickets upon which the "HOLE CARD" play symbol is an Ace card symbol (ACE), and a prize symbol of \$20\$ (TWENTY) appears in each of the three "PRIZE" areas on a single ticket, shall be entitled to a prize of \$60.

(f) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$30\$ (THIRTY) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$30.

(g) Holders of tickets upon which the "HOLE CARD" play symbol is an Ace Card symbol (ACE), and a prize symbol of \$10⁰⁰ (TEN DOL) appears in each of the three "PRIZE" areas on a single ticket, shall be entitled to a prize of \$30.

(h) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$20\$ (TWENTY) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$20.

(i) Holders of tickets upon which the "HOLE CARD" play symbol is an Ace card symbol (ACE), and a prize symbol of \$5⁰⁰ (FIV DOL) appears in two of the three "PRIZE" areas, and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the remaining "PRIZE" area, on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$10⁰⁰ (TEN DOL) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$10.

(k) Holders of tickets upon which the "HOLE CARD" play symbol is an Ace card symbol (ACE), and a prize symbol of \$5⁰⁰ (FIV DOL) appears in one of the three "PRIZE" areas, and a prize symbol of \$3⁰⁰ (THE DOL) appears another "PRIZE" area, and a prize symbol of \$2⁰⁰ (TWO DOL) appears in the remaining "PRIZE" area, on a single ticket, shall be entitled to a prize of \$10.

(l) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$5⁰⁰ (FIV DOL) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$5.

(m) Holders of tickets upon which the "HOLE CARD" play symbol is an Ace card symbol (ACE), and a prize symbol of \$1⁰⁰ (ONE DOL) appears in two of the three "PRIZE" areas, and a prize symbol of \$3⁰⁰ (THR DOL) appears in the remaining "PRIZE" area, on a single ticket, shall be entitled to a prize of \$5.

(n) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$3⁰⁰ (THR DOL) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$3.

(o) Holders of tickets upon which the "HOLE CARD" play symbol is an Ace card symbol (ACE), and a prize symbol of \$1⁰⁰ (ONE DOL) appears in each of the three "PRIZE" areas on a single ticket, shall be entitled to a prize of \$3.

(p) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$2⁰⁰ (TWO DOL) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$2.

(q) Holders of tickets where the "YOUR CARD" play symbol beats the "DEALER'S CARD" play symbol in the same "GAME," and a prize symbol of \$1⁰⁰ (ONE DOL) appears in the "PRIZE" area for that "GAME," on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>When Your Card(s) Beat The Dealer's Card(s), Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 14,400,000 Tickets</i>
\$1	\$1	10	1,440,000
\$1 × 2	\$2	33.33	432,000
\$2	\$2	33.33	432,000
\$1 × 3	\$3	200	72,000
\$2 + \$1	\$3	200	72,000
ACE w/\$1 × 3	\$3	100	144,000
\$3	\$3	150	96,000

When Your Card(s) Beat
The Dealer's Card(s),
Win With Prize(s) Of:

	Win:	Approximate Odds of 1 In:	Approximate No. of Winners Per 14,400,000 Tickets
ACE w/\$1 × 2 + \$3	\$5	150	96,000
\$5	\$5	150	96,000
\$5 + \$3 + \$2	\$10	375	38,400
ACE w/\$5 + \$3 + \$2	\$10	375	38,400
\$5 × 2	\$10	375	38,400
\$10	\$10	500	28,800
\$5 × 2 + \$10	\$20	1,500	9,600
ACE w/\$5 × 2 + \$10	\$20	750	19,200
\$10 × 2	\$20	1,500	9,600
\$20	\$20	1,500	9,600
\$10 × 3	\$30	3,871	3,720
ACE w/\$10 × 3	\$30	3,871	3,720
\$5 × 2 + \$20	\$30	3,871	3,720
\$30	\$30	3,871	3,720
\$20 × 3	\$60	40,000	360
\$30 × 2	\$60	40,000	360
ACE w/\$20 × 3	\$60	40,000	360
\$60	\$60	40,000	360
\$300	\$300	48,000	300
\$1,000	\$1,000	553,846	26
\$1,000 × 3	\$3,000	3,600,000	4
\$3,000	\$3,000	3,600,000	4

ACE (HOLE CARD) = Win all 3 prizes shown.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Ace In The Hole '05 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Ace In The Hole '05, prize money from winning Pennsylvania Ace In The Hole '05 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Ace In The Hole '05 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Ace In The Hole '05 or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-1353. Filed for public inspection July 15, 2005, 9:00 a.m.]

Pennsylvania Heads Or Tails Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Heads Or Tails.

2. *Price:* The price of a Pennsylvania Heads Or Tails instant lottery game ticket is \$1.

3. *Play Symbols:* Each Pennsylvania Heads Or Tails instant lottery game ticket will contain three play areas known as "TOSS 1," "TOSS 2" and "TOSS 3." Each "TOSS" is played separately. The play symbols and their captions located in the three play areas are a Heads (HEADS) symbol and a Tails (TAILS) symbol.

4. *Prize Symbols:* The prize symbols and their captions located in the three play areas are: FREE Ticket (TICKET), \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$3⁰⁰ (THR DOL), \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$15\$ (FIFTN), \$30\$ (THIRTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$300 (THR HUN), \$1,000 (ONE THO) and \$3,000 (THR THO).

5. *Prizes:* The prizes that can be won in this game are: Free Ticket, \$1, \$2, \$3, \$5, \$10, \$15, \$30, \$50, \$100, \$300, \$1,000 and \$3,000. A player can win up to 3 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 13,200,000 tickets will be printed for the Pennsylvania Heads Or Tails instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$3,000 (THR THO) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$3,000.

(b) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$1,000 (ONE THO) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$1,000.

(c) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$300 (THR HUN) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$300.

(d) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$100 (ONE HUN) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$50\$ (FIFTY) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$50.

(f) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$30\$ (THIRTY) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$30.

(g) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$15\$ (FIFTN) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$15.

(h) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$10^{.00} (TEN DOL) appear-

ing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$10.

(i) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$5^{.00} (FIV DOL) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$5.

(j) Holders of tickets with either two "HEADS" play symbol, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$3^{.00} (THR DOL) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$3.

(k) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$2^{.00} (TWO DOL) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$2.

(l) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of \$1^{.00} (ONE DOL) appearing in the prize area to the right of that "TOSS," on a single ticket, shall be entitled to a prize of \$1.

(m) Holders of tickets with either two "HEADS" play symbols, or two "TAILS" play symbols in the same "TOSS," and a prize symbol of FREE Ticket (TICKET) appearing in the prize area for that "TOSS," on a single ticket, shall be entitled to a prize of one Pennsylvania Heads Or Tails instant game ticket or one Pennsylvania Lottery instant game ticket of equivalent sale price which is currently on sale.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

*Get 2 Heads or 2 Tails
In The Same Toss,
Win With Prizes Of:*

<i>Win:</i>	<i>Approximate Odds Of 1 In:</i>	<i>Approximate No. Of Winners Per 13,200,000 Tickets:</i>
FREE	TICKET	20
\$1	\$1	30
\$1 × 2	\$2	33.33
\$2	\$2	33.33
\$1 × 3	\$3	100
\$1 + \$2	\$3	100
\$3	\$3	100
\$1 × 2 + \$3	\$5	150
\$5	\$5	150
\$5 × 2	\$10	300
\$10	\$10	150
\$5 × 3	\$15	1,000
\$10 + \$5	\$15	1,000
\$15	\$15	750
\$10 × 3	\$30	1,437
\$15 × 2	\$30	1,437
\$30	\$30	1,428
\$5 + \$15 + \$30	\$50	9,600
\$50	\$50	9,600
\$50 × 2	\$100	40,000
\$100	\$100	40,000
\$100 × 3	\$300	80,000
\$300	\$300	80,000
\$1,000	\$1,000	330,000
\$1,000 × 3	\$3,000	2,640,000
\$3,000	\$3,000	2,640,000

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Heads Or Tails instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Heads Or Tails, prize money from winning Pennsylvania Heads Or Tails instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Heads Or Tails instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Heads Or Tails or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-1354. Filed for public inspection July 15, 2005, 9:00 a.m.]

Pennsylvania Slingo® Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Slingo®.

2. *Price:* The price of a Pennsylvania Slingo® instant lottery game ticket is \$3.

3. *Play Symbols:* Each Pennsylvania Slingo® instant lottery game ticket will feature a "YOUR SLINGO® NUMBERS" area, a "SLINGO® GRID" area and a "FAST CASH BONUS" area. The 76 play symbols that may be located in the "YOUR SLINGO® NUMBERS" area are the numbers 01 through 75 presented in a two-digit format and a Gold Coin (COIN) play symbol. The 76 play symbols that may be located in the 5 × 5 "SLINGO® GRID" are the numbers 01 through 75 presented in a two-digit format and a Joker (free space) play symbol. The prize and play symbols located in the "FAST CASH BONUS" area are: Cherub \$3⁰⁰ symbol (THREE), Cherub \$6⁰⁰ symbol (SIX), Cherub \$9⁰⁰ symbol (NINE), Cherub \$12\$ symbol (TWELVE), Cherub \$15\$ symbol (FIFTN), Cherub \$30\$ symbol (THIRTY), Cherub \$50\$ symbol (FIFTY), Cherub \$100 symbol (ONEHUN), Cherub \$500 symbol (FIVHUN), Cherub \$1,000 symbol (1THOU) and NO BONUS (TRY AGAIN) play symbol.

4. *Prizes:* The prizes that can be won in this game are \$3, \$6, \$9, \$12, \$15, \$30, \$50, \$100, \$500, \$1,000, and \$30,000.

5. *Approximate Number of Tickets Printed for the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Slingo® instant lottery game.

6. *Determination of Prize Winners:*

(a) Determination of Prize Winners for Slingo® are:

(1) Holders of tickets where the player achieves a "BLACKOUT" by completely matching all the numbers in the entire 5 × 5 "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$30,000.

(2) Holders of tickets where the player completely matches all the numbers in ten complete horizontal, vertical or diagonal lines in the "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets where the player completely matches all the numbers in nine complete horizontal, vertical or diagonal lines in the "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$500.

(4) Holders of tickets where the player completely matches all the numbers in eight complete horizontal, vertical or diagonal lines in the "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$100.

(5) Holders of tickets where the player completely matches all the numbers in seven complete horizontal, vertical or diagonal lines in the "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$50.

(6) Holders of tickets where the player completely matches all the numbers in six complete horizontal, vertical or diagonal lines in the "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$30.

(7) Holders of tickets where the player completely matches all the numbers in five complete horizontal, vertical or diagonal lines in the "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$15.

(8) Holders of tickets where the player completely matches all the numbers in four complete horizontal, vertical or diagonal lines in the "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$12.

(9) Holders of tickets where the player completely matches all the numbers in three complete horizontal, vertical or diagonal lines in the "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$9.

(10) Holders of tickets where the player completely matches all the numbers in two complete horizontal, vertical or diagonal lines in the "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$6.

(11) Holders of tickets where the player completely matches all the numbers in a complete horizontal, vertical or diagonal line in the "SLINGO® GRID," using only the number combinations found in the "YOUR SLINGO® NUMBERS" area and the Joker symbol (free space) found in the "SLINGO® GRID," on a single ticket, shall be entitled to a prize of \$3.

(12) Holders of tickets where the player finds a Gold Coin (COIN) in the "YOUR SLINGO® NUMBERS" area on a single ticket shall be entitled to a prize of \$3.

(b) Determination of Prize Winners for FAST CASH BONUS are:

(1) Holders of tickets with a Cherub \$1,000 symbol (1THOU) in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$1,000.

(2) Holders of tickets with a Cherub \$500 symbol (FIVHUN) in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$500.

(3) Holders of tickets with a Cherub \$100 symbol (ONEHUN) in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$100.

(4) Holders of tickets with a Cherub \$50\$ symbol (FIFTY) in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$50.

(5) Holders of tickets with a Cherub \$30\$ symbol (THIRTY) in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$30.

(6) Holders of tickets with a Cherub \$15\$ symbol (FIFTN) in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$15.

(7) Holders of tickets with a Cherub \$12\$ symbol (TWELVE) in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$12.

(8) Holders of tickets with a Cherub \$9⁰⁰ symbol (NINE) in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$9.

(9) Holders of tickets with a Cherub \$6⁰⁰ symbol (SIX) in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$6.

(10) Holders of tickets with a Cherub \$3⁰⁰ symbol (THREE) in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$3.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Win With:</i>	<i>Wins:</i>	<i>Approximate Odds Of 1 In:</i>	<i>Approximate No. Of Winners Per 6,000,000 Tickets</i>
1 LINE	\$3	25	240,000
1 COIN	\$3	25	240,000
CHERUB w/\$3	\$3	25	240,000
2 LINES	\$6	50	120,000
2 COINS	\$6	50	120,000
CHERUB w/\$6	\$6	50	120,000
3 LINES	\$9	200	30,000
3 COINS	\$9	200	30,000
2 LINES + 1 COIN	\$9	200	30,000
CHERUB w/\$9	\$9	200	30,000
4 LINES	\$12	500	12,000
4 COINS	\$12	1,000	6,000
3 LINES + 1 COIN	\$12	1,000	6,000
CHERUB w/\$12	\$12	1,000	6,000
5 LINES	\$15	333.33	18,000
5 COINS	\$15	333.33	18,000
4 LINES + 1 COIN	\$15	333.33	18,000
CHERUB w/\$15	\$15	1,000	6,000
6 LINES	\$30	200	30,000
2 LINES + 8 COINS	30	500	12,000
CHERUB w/\$30	\$30	333.33	18,000
7 LINES	\$50	333.33	18,000
CHERUB w/\$50	\$50	500	12,000
8 LINES	\$100	1,200	5,000
CHERUB w/\$100	\$100	1,224	4,900
9 LINES	\$500	24,000	250
CHERUB w/\$500	\$500	24,000	250
10 LINES	\$1,000	60,000	100

<i>Win With:</i>	<i>Wins:</i>	<i>Approximate Odds Of 1 In:</i>	<i>Approximate No. Of Winners Per 6,000,000 Tickets</i>
CHERUB w/\$1,000	\$1,000	60,000	100
BLACKOUT	\$30,000	600,000	10

NOTE: Only the highest prize won will be paid.

Prizes, including top prizes, are subject to availability at time of purchase.

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Slingo® instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Slingo®, prize money from winning Pennsylvania Slingo® instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Slingo® instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Slingo® or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-1355. Filed for public inspection July 15, 2005, 9:00 a.m.]

DEPARTMENT OF STATE

Proposed State Plan Amendments for 2005 Under the Help America Vote Act of 2002; Public Comment

The Secretary of the Commonwealth will accept public comments regarding to the Commonwealth's proposed State Plan Amendments for 2005 (amendments) under the Help America Vote Act of 2002 (HAVA) for 30 days. The proposed amendments outline the methods the Commonwealth plans to use to comply with the requirements of Title III of HAVA (42 U.S.C.A. §§ 15481—15485); how it will use grants from the Federal government to achieve this goal; and a description of the progress made by the Commonwealth in implementing the 2003 HAVA State Plan.

Interested individuals or groups may view and print the amendments from the Department of State's Help America Vote Act website: www.hava.state.pa.us.

Public comments should be sent to Gail Borger, Department of State, 210 North Office Building, Harrisburg, PA 17120, gborger@state.pa.us.

PEDRO A. CORTES,
Secretary of the Commonwealth

[Pa.B. Doc. No. 05-1356. Filed for public inspection July 15, 2005, 9:00 a.m.]

Proposed State Plan Amendments for 2005 Under the Help America Vote Act of 2002; Public Hearing

The Secretary of the Commonwealth (Secretary) will conduct a public hearing regarding to the proposed State Plan Amendments for 2005 (amendments) under the Help America Vote Act of 2002 (HAVA). The proposed amendments outline the methods the Commonwealth plans to use to comply with the requirements of Title III of HAVA (42 U.S.C.A. §§ 15481—15485); how it will use grants from the Federal government to achieve this goal; and a description of the progress made by the Commonwealth in implementing the 2003 HAVA State Plan and the 2004 Amendments to the State Plan.

Interested individuals or groups may view and print the proposed amendments on the Department of State's (Department) Help America Vote Act website: www.hava.state.pa.us. For copies of the proposed amendments, contact Chet Harhut at (717) 787-5280.

The public hearing will be held on Monday, August 1, 2005, in Hearing Room No. 1, Ground Floor, North Office Building, North Street, Harrisburg, PA. The hearing will be held from 1 p.m. to 4 p.m. For further information contact Chet Harhut, Department of State, 210 North Office Building, Harrisburg, PA 17120, (717) 787-5280, charhut@state.pa.us.

Persons wishing to testify should contact Chet Harhut at the previous address. The Secretary encourages persons testifying to submit a written copy of their testimony, in advance, to Chet Harhut at the previous address. Persons who testify must bring 50 printed copies of their testimony to the hearing.

Persons presenting oral testimony are strongly encouraged to summarize their testimony briefly and to be prepared to respond to questions. Individuals testifying on their own behalf will be allocated 5 minutes, and persons testifying on behalf of groups will be allocated a total of 10 minutes in which to make their presentations.

Persons with a disability who wish to attend any of the hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Chet Harhut at the previous address. Text tele-

phone users may contact the Department by means of the Pennsylvania Relay Center.

PEDRO A. CORTES,
Secretary of the Commonwealth

[Pa.B. Doc. No. 05-1357. Filed for public inspection July 15, 2005, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Implementation of Act 37 of 2005—Commercial Drivers' License Disqualification Program

The Department of Transportation, under sections 9 and 10 of the act of July 5, 2005 (P. L. _____, No. 37) (Act 37), Senate Bill 724, Printers No. 868, amending 75 Pa.C.S. (relating to the Vehicle Code) implementing the Federal Motor Carrier Safety Improvement Act of 1999, gives notice that it is prepared to implement the administrative changes required by Act 37.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 05-1358. Filed for public inspection July 15, 2005, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Borough of Conshohocken Authority v. DEP; EHB Doc. No. 2005-209-K

The Borough of Conshohocken Authority has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in Conshohocken Borough, Montgomery County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 05-1359. Filed for public inspection July 15, 2005, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
8-9	Department of General Services and Department of Agriculture General Provisions; Device Type Approval and State Metrology Laboratory 35 Pa.B. 2631 (April 30, 2005)	5/31/05	6/30/05
16A-6912	State Board of Social Workers, Marriage and Family Therapists and Professional Counselors Continuing Education 35 Pa.B. 2640 (April 30, 2005)	5/31/05	6/30/05

Department of General Services and Department of Agriculture Regulation #8-9 (IRRC #2478) General Provisions; Device Type Approval and State Metrology Laboratory June 30, 2005

We submit for your consideration the following comments that include references to the criteria in the

Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Department of General Services (DGS) and the Department of Agriculture (Department) must respond to these comments when the final-form regulation is submitted. The public comment period for this regulation closed on May 31, 2005. If the final-form regulation is not delivered within two years of the close of the public

comment period, the regulation will be deemed withdrawn.

1. Section 110.2—State Metrology Laboratory fee schedule.—Clarity.

Subsection (b)

Section 4178 of Act 155 of 1996 (Act) exempts agencies of the Commonwealth, cities and counties from paying fees associated with calibration, evaluation and other testing procedures done by the State Metrology Laboratory as outlined in this regulation. Subsection (b) of this section repeats the exemption found in Section 4178 of the Act for cities and counties, but does not include the exemption for agencies of the Commonwealth.

To be consistent with Section 4178 of the Act, the exemption for Commonwealth agencies should be added to this subsection.

Subsection (d)

This subsection requires a deposit to be submitted when a testing request is made. DGS staff has indicated that the required deposit of the estimated fee for testing services is non-refundable. Therefore, this subsection should clarify that the deposit is non-refundable.

**State Board of Social Workers, Marriage and Family Therapists and Professional Counselors
Regulation #16A-6912 (IRRC #2479)**

Continuing Education

June 30, 2005

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on May 31, 2005. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

This proposed regulation amends three chapters in establishing procedures and requirements for continuing education for four groups of licensees: social workers, clinical social workers, marriage and family therapists, and professional counselors. The format and content of the provisions in each chapter are similar. Provisions with similar content generating similar concerns and questions are grouped together in the following paragraphs.

1. Sections 47.32, 48.32 and 49.32. Requirement for biennial renewal.—Reasonableness, Implementation procedure.

These sections state that the continuing education requirement is effective for "2007 renewals and thereafter." In its comments on the proposed regulation, the House Professional Licensure Committee (House Committee) expressed concern that licensees who currently do not have a continuing education requirement may not have received adequate notice of the new requirement. The Board should explain how all licensees can reasonably meet the continuing education requirements for 2007 license renewals. Alternatively, it should extend the deadline.

2. Sections 47.33, 48.33 and 49.33. Acceptable continuing education courses and programs.—Consistency with statute; Reasonableness; Clarity.

Subsection (c) Practice building

In these sections, this subsection states: "The Board will not approve courses or programs in office management or in marketing the practice." The House Committee recommends using the statutory phrase "practice building" (63 P. S. § 1918(a)) in the regulation rather than "marketing the practice." We concur.

Subsection (d) Home study

This subsection provides that licensees may accrue credits using home study courses offered by approved providers if the home study course has specific learning objectives which the provider evaluates to assure that learning has taken place. The House Committee questions how evaluations of such courses would be implemented and asks the Board to provide examples. We agree.

3. Sections 47.36, 48.36 and 49.36. Preapproved providers of continuing education courses and programs.—Clarity.

Commentators offered several additions or corrections to the lists of preapproved providers in Subsection (a). The Board should review these lists so that they are complete and accurate in the final-form regulation.

4. Sections 47.37, 48.38 and 49.38. Reporting by licensee of hours spent in continuing education.—Reasonableness; Implementation procedure; Clarity.

Subsection (a) Certified statement

The existing provision for social workers in Section 47.37 is being amended by deleting the requirement to use "forms approved by the Board." The amended regulation would require a licensee to "provide a signed statement certifying that the continuing education requirements have been met." The same new language appears in Sections 48.38 and 49.38. The House Committee and commentators expressed concern and confusion with this change. It is our understanding that the license renewal form will include the "statement" referenced in this subsection. If this is the case, the final-form regulation should state that the certification is included in the license renewal form that licensees are required to submit.

Subsection (b) Required audit information

Paragraph (7) requires the licensee to provide "the Board approval number assigned to the course or program" if a licensee is selected for an audit of continuing education clock hours. Do all preapproved organizations have an approval number for each course or program? If not, this provision should be amended.

5. Sections 48.37 and 49.37. Other sources of continuing education.—Clarity.

Subsection (a)(3) allows consideration of clock hours for "Publications of articles, books and research relating to the practice of *social work or clinical social work*" (emphasis added). This subsection should be amended to allow clock hours for publications of articles, books and research relating to the practice regulated by Chapters 48 (relating to marriage and family therapists) or 49 (relating to professional counselors) respectively.

6. Miscellaneous Clarity Issues.

The House Committee noted an inconsistency that applies to existing language in Section 47.33(a) and

similar language proposed for Sections 48.33(a) and 49.33(a). Subsection (a) in all three sections states: "Only courses or programs offered by Board approved providers will be accepted for continuing education credit." However, Subsection (a) in Sections 47.36a, 48.37 and 49.37 states that "clock hours may be granted on a case-by-case basis" for activities not offered or sponsored by Board approved providers. As suggested by the House Committee, Sections 47.33(a), 48.33(a) and 49.33(a) should be amended to note this exception.

Subsection 48.33(d) includes this statement:

A licensee may accrue up to 20 of the required clock hours in home study courses offered by approved providers if the home study *course* has specific learning objectives which the provider evaluates to assure that learning has taken place. (Emphasis added).

Sections 47.33(d) and 49.33(d) include the same statement except for one difference. The singular word "course" is not included. Why is the word "course" included in one section but not in the other two?

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 05-1360. Filed for public inspection July 15, 2005, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of a regulation, contact the promulgating agency.

Emergency Certified

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
6-294	State Board of Education Compliance with the No Child Left Behind Act of 2001	6/30/05

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
7-385	Environmental Quality Board Bond Adjustment and Bituminous Mine Subsidence Control Standards	7/1/05

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 05-1361. Filed for public inspection July 15, 2005, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Merger

An application has been received requesting approval of the merger of ACE Insurance Company of Texas, a nonadmitted stock insurance company organized under the laws of the State of Texas, with and into ACE American Insurance Company, a stock casualty insurance company organized under the laws of the Commonwealth. The initial filing was received on June 30, 2005, and was made under the requirements set forth under the Insur-

ance Holding Companies Act (40 P.S. §§ 991.1401—991.1413), 15 Pa.C.S. §§ 1921—1932 (relating to merger, consolidation, share exchanges and sale of assets) and the GAA Amendments Act of 1990 (15 P.S. §§ 21101—21208). Persons wishing to comment on the grounds of public or private interest in this merger are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Written statements must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, cbybee@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1362. Filed for public inspection July 15, 2005, 9:00 a.m.]

Capital Blue Cross; Community-Rated Group Prescription Drug Card; Rate Filing

On July 5, 2005, Capital Blue Cross submitted the Community-Rated Group Prescription Drug Card rate filing No. 05-Z requesting a rate increase of 17.9%. The filing will affect approximately 94,300 members and generate additional revenue of \$8.77 million annually. An effective date of January 1, 2006, is requested.

A copy of the filing is available on the Insurance Department's (Department) website at 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. 05-1363. Filed for public inspection July 15, 2005, 9:00 a.m.]

Keystone Health Plan Central; Base Rates; Rate Filing

On July 5, 2005, Keystone Health Plan Central submitted base rate filing No. 05-X for the base HMO plan requesting a rate increase of 9.37%. The filing will affect approximately 85,000 members and generate additional revenue of \$20.9 million annually. An effective date of January 1, 2006, is requested.

With this filing, Keystone Health Plan Central will make several changes designed to make a seamless offering of the HMO product with other Capital Blue Cross products. The following changes are due to the systems used by Capital Blue Cross and Keystone Health Plan Central:

- Outpatient physical therapy, occupational therapy and speech therapy subject to 30 visits maximum per calendar year.

- Cardiac rehabilitation therapy covered for 12 weeks at three visits per week.

- Urinary incontinence therapy accumulating towards physical therapy.

- Pulmonary rehabilitation accumulating towards physical therapy limits.

- Respiratory therapy limited to 30 visits.

- Hospice limit increased to \$50,000.

- Wigs limited to \$300 per lifetime.

- SNF and Rehab limited to 60 days combined per year.

- Rabies vaccine charge ER copay.

- Childbirth preparation class reimbursement eliminated.

A copy of the filing is available on the Insurance Department's (Department) website at 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. 05-1364. Filed for public inspection July 15, 2005, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of Bulletin). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Executive Board

Resolution #CB-05-133, Dated May 27, 2005. Authorizes the Collective Bargaining Agreement between the Commonwealth and the Correctional Institution Vocational Education Association effective July 1, 2004, through June 30, 2007.

Governor's Office

Management Directive No. 205.37—Role Assignment, Security, and Internal Control Maintenance, Dated June 13, 2005.

MARY JANE PHELPS,
Director
Pennsylvania Bulletin

[Pa.B. Doc. No. 05-1365. Filed for public inspection July 15, 2005, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Allegheny County, Wine & Spirits Shoppe #0290, Noble Manor Shopping Center, 2350 Noblestown Road, Pittsburgh, PA 15205.

Lease Expiration Date: May 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space in a shopping center environment within a 1/2-mile radius of the intersection of Noblestown Road (SR 50) and Poplar Street (SR 121) in the City of Pittsburgh.

Proposals due: August 5, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Armstrong County, Wine & Spirits Shoppe #0302, 137 South Jefferson Street, Kittanning, PA 16201.

Lease Expiration Date: June 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space within the Central Business District of Kittanning. The site must have access for tractor-trailer deliveries.

Proposals due: August 5, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Bruce VanDyke, (412) 565-5130

Butler County, Wine & Spirits Shoppe #1002, 9 Northgate Plaza, Harmony, PA 16037.

Lease Expiration Date: June 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a shopping center environment along Route 19 near Zelenople.

Proposals due: August 5, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222

Contact: George Danis, (412) 565-5130

Cambria County, Wine & Spirits Shoppe #1119, 1735 Lyter Drive, Johnstown, PA 15905.

Lease Expiration Date: June 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space near Goucher Road in the Lower Yoder Township area of Johnstown.

Proposals due: August 5, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222

Contact: George Danis, (412) 565-5130

Centre County, Wine & Spirits Shoppe #1401, 114 N. Spring Street, Bellefonte, PA 16823.

Lease Expiration Date: May 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space serving Bellefonte and surrounding areas. The site must have access for tractor-trailer deliveries.

Proposals due: August 5, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222

Contact: Bruce VanDyke, (412) 565-5130

Lancaster County, Wine & Spirits Shoppe #3610, Muddy Creek Shoppes, 2350 N. Reading Road, Denver, PA 17517.

Lease Expiration Date: May 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,500 net useable square feet of new or existing retail commercial space within 1/2 mile of the intersection of N. Muddy Creek Road and N. Reading Road, East Cocalico Township.

Proposals due: August 5, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661

Contact: Matthew L. Sweeney, (717) 657-4228

Philadelphia County, Wine & Spirits Shoppe #5141, 4924 Baltimore Avenue, Philadelphia, PA 19143.

90-day status since February 1, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space within a 1/2-mile radius of 4924 Baltimore Avenue, Philadelphia.

Proposals due: August 5, 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

The Liquor Control Board seeks the following new site:

Allegheny County, Wine & Spirits Shoppe #0227, Parkway Center Mall.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space inside of or adjoining a grocery store with an inside entrance. The site must be located within 1 mile of the intersection of Greentree Road (SR 121) and the Parkway West (I-279).

Proposals due: August 5, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222

Contact: Bruce VanDyke, (412) 565-5130

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 05-1366. Filed for public inspection July 15, 2005, 9:00 a.m.]

MILK MARKETING BOARD

Hearing and Presubmission Schedule for All Milk Marketing Areas; Over-Order Premium

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Areas 1—6 on September 8, 2005, at 10 a.m. in Room 202, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning the calculation and distribution of the Class I over-order premium.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on August 8, 2005, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on August 8, 2005, notification of their desire to be included as a party.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. By 4 p.m. on August 10, 2005, each party shall file with the Board six copies and serve other parties one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness being offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on August 31, 2005, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties who wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on August 3, 2005.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110. Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 05-1367. Filed for public inspection July 15, 2005, 9:00 a.m.]

Hearing and Presubmission Schedule for All Milk Marketing Areas; Three Liter Plastic Containers; Eight Ounce Plastic Containers

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Areas 1—6 on September 7, 2005, at 1:30 p.m. in Room 202, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning costs and wholesale and retail pricing of 3-liter plastic containers and 8-ounce plastic containers.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on August 8, 2005, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on August 8, 2005, notification of their desire to be included as a party.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. By 4 p.m. on August 10, 2005, each party shall file with the Board six copies and serve on other parties one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which

each witness will testify. A witness being offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on August 31, 2005, each party shall file and serve as set forth in paragraph (1) information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties who wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on August 3, 2005.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110. Individuals who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 05-1368. Filed for public inspection July 15, 2005, 9:00 a.m.]

Hearing and Presubmission Schedule for Milk Marketing Area No. 5

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 5 on September 7, 2005, at 9 a.m. in Room 202, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning cost replacement in Milk Marketing Area No. 5. Evidence will be limited to the following: annualized processing, packaging and delivery costs; updated costs for containers, ingredients and Class II products; updated labor, utility and insurance costs based on comparisons between costs per point for the second quarters of calendar years 2004 and 2005; consideration of skim and butterfat contents of products regulated by the Board; adjustment for shrinkage, sales of bulk products and cream processing costs; in-store handling costs; and a reasonable rate of return to milk dealers and stores. In accordance with OGO A-927, evidence and testimony will also be considered regarding the fuel cost adjuster.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons that may be affected by the Board order fixing prices in Milk Marketing Area No. 5 may be included on the Board's list of parties by:

1. Having their counsel file with the Board, by 4 p.m. on August 8, 2005, a notice of appearance substantially in

the form prescribed by 1 Pa. Code § 31.25 (relating to form of appearance), which shall identify by name and address the party on whose behalf the appearance is made. Thereafter, documents and other written communications required to be served upon or furnished to that party shall be sent to the attorney of record.

2. If unrepresented by counsel and wishing to appear on their own behalf under 1 Pa. Code § 31.21 (relating to appearance in person), filing with the Board, by 4 p.m. on August 8, 2005, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. By 4 p.m. on August 10, 2005, each party shall file with the Board six copies and serve on all other parties one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on August 31, 2005, each party shall file and serve as set forth in paragraph (1) information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on August 3, 2005.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110. Individuals who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 05-1369. Filed for public inspection July 15, 2005, 9:00 a.m.]

Hearing and Presubmission Schedule for Milk Marketing Area No. 6

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 6 on

September 7, 2005, at 10:30 a.m. in Room 202, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning cost replacement in Milk Marketing Area No. 6. Evidence will be limited to the following: annualized processing, packaging and delivery costs; updated costs for containers, ingredients and Class II products; updated labor, utility and insurance costs based on comparisons between costs per point for the second quarters of calendar years 2004 and 2005; consideration of skim and butterfat contents of products regulated by the Board; adjustment for shrinkage, sales of bulk products and cream processing costs; in-store handling costs; and a reasonable rate of return to milk dealers and stores. In accordance with OGO A-927, evidence and testimony will also be considered regarding the fuel cost adjuster.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons that may be affected by the Board order fixing prices in Milk Marketing Area No. 6 may be included on the Board's list of parties by:

1. Having their counsel file with the Board, by 4 p.m. on August 8, 2005, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance), which shall identify by name and address the party on whose behalf the appearance is made. Thereafter documents and other written communications required to be served upon or furnished to that party shall be sent to the attorney of record.

2. If unrepresented by counsel and wishing to appear on their own behalf under 1 Pa. Code § 31.21 (relating to appearance in person), filing with the Board, by 4 p.m. on August 8, 2005, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. By 4 p.m. on August 10, 2005, each party shall file with the Board six copies and serve on all other parties one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness being offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on August 31, 2005, each party shall file and serve as set forth in paragraph (1) information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer into evidence documents on file with the Board, public documents or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at

least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on August 3, 2005.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110. Individuals who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 05-1370. Filed for public inspection July 15, 2005, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by August 8, 2005. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Application of the following for *amendment* to the certificate of public convenience approval of the right and privilege to *discontinue/abandon* operating as *common carriers* by motor vehicle and for cancellation of the certificate of public convenience as described under the application.

A-00106294, Folder 4, Am-A. Blair Cab, Inc. t/a Pelton Limousine (Box 162, Altoona, Blair County, PA 16603-0162, (814) 944-7363)—abandon/discontinue, persons, in paratransit service, between points in the County of Cambria, and from said county to points in Pennsylvania and return.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1371. Filed for public inspection July 15, 2005, 9:00 a.m.]

STATE BOARD OF OSTEOPATHIC MEDICINE

Bureau of Professional and Occupational Affairs v. Charles Neal Jeck, D. O.; Doc. No. 0637-53-2005

On May 31, 2005, the State Board of Osteopathic Medicine issued an amended notice of automatic suspension in which it automatically suspended the osteopathic medical license, No. OS-006043-L, of Charles Neal Jeck.

Individuals may obtain a copy of the amended notice and order of automatic suspension by writing to Beth Sender Michlovitz, Counsel, State Board of Osteopathic Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649.

A response may be filed to the Commonwealth's petition for automatic suspension and a hearing requested limited to the issue of whether the conviction of the offenses was as alleged in the Commonwealth's petition or whether the conviction, if committed under the laws of New Jersey, would be a felony in this Commonwealth under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144). If a response to the petition and a request for a hearing is not filed within 30 days of this publication, the license will be automatically suspended and a final order to that effect will be issued.

OLIVER C. BULLOCK,
Chairperson

[Pa.B. Doc. No. 05-1372. Filed for public inspection July 15, 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.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer

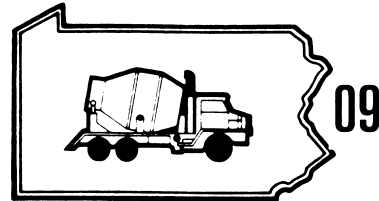
SERVICES



Child Care Services

SU-04-29 Operation of Child Care Facility at Shippensburg. Shippensburg University is seeking contractors interested in operating the on-campus child care facility located in Shippensburg, PA. Operation of the child care facility shall include bookkeeping, accounting, personnel, resources, equipment and fee structuring. Contractor shall provide staff possessing Act 33 Child Abuse Clearance. Contractors interested in obtaining a proposal package should fax request to (717) 477-4004, Deborah K. Martin, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257; (717) 477-1121 or FAX: (717) 477-4004.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA 17257
Duration: One Year Contract with option to renew for 4 additional one year periods
Contact: Deborah K. Martin, (717) 477-1121



Construction & Construction Maintenance

MI-904 Palmer Building Renovations. This project adds offices in existing space approx. 4,675 SF including associated HVAC, plumbing, electrical and fire alarm connection. A new sprinkler system will be added to the storage and shop area. Separate prime contracts include: General Construction, Mechanical, Fire Protection, and Electrical. Contract Numbers and Cost Range: MI-904-G General Const. \$50,000 - \$100,000; MI-904-F Fire Protection \$25,000 - \$60,000; MI-904-M Mechanical \$50,000 - \$100,000; MI-904-E Electrical \$25,000 - \$50,000, MBE>BE REAA Participation Levels: MI-904-G General Const. \$4,000; MI-904-F Fire Protection \$2,500; MI-904-M Mechanical \$4,000, MI-904-E Electrical \$1,800. The Pre-bid Conference will be held July 18, 2005, at 1:00 PM, Palmer Bldg. Bid documents may be reviewed at the Construction Contracting Office, Dilworth Bldg., Room 202C, Millersville University; Harrisburg Builders Exchange Inc., Harrisburg; and Industry Exchange, Inc., Reading. Bid packet requests accepted on-line: http://muweb.millersville.edu/~purchase/large_construction.html. Sealed proposals will be officially accepted until 11:30 AM, August 9, 2005, at Dilworth Bldg., Room 202C.

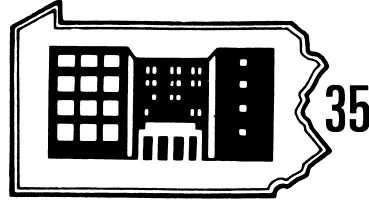
Department: State System of Higher Education
Location: Millersville University, Millersville, PA
Duration: Anticipated start date September 19, 2005, 90 calendar days to complete.
Contact: Ruth Sheetz, (717) 872-3829



Financial and Insurance Consulting

05-0001 Vendor shall provide auditing services for Thaddeus Stevens College of Technology, 750 East King Street, Lancaster, PA 17602. Accounting firm shall perform a one-year financial audit for the college. Interested firms may request a bid package by sending an email to froeschle@stevenscollege.edu.

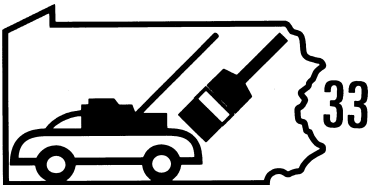
Department: State
Location: 750 East King Street, Lancaster, PA
Duration: July 1, 2005 - June 30, 2006
Contact: Nancy Froeschle, (717) 299-7787



Real Estate Services

93872 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Health with 3,128 useable square feet of office space in Butler County, PA within a four mile radius of the intersection of Mercer Road and Espy Lane. For more information on SFP #93872 which is due on August 15, 2005 visit www.dgs.state.pa.us and click on Real Estate to download a SFP document or call (717) 787-4396.

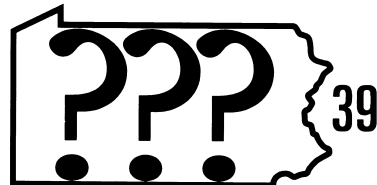
Department: Health
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: John Hocker, (717) 787-4396



Property Maintenance

12990 To furnish and install floor tile in cottages 30, 31 and 13. VCT. Approximately 9,720 square feet.

Department: Military and Veterans' Affairs
Location: Scotland School for Veterans' Children, 3583 Scotland Road, Scotland, PA 17254
Duration: August 1 to August 5, 2005.
Contact: Marion Jones, (717) 264-7187 ext. 661



Miscellaneous

6013704000-102 The project will entail conducting a detailed job task analysis of constables as they pertain to Title 42 Pa.C.S.A. § 2950; studies of constables across 66 counties; job related tasks and skills; interviews and stakeholder meetings; collating collected data by frequency and depth of each individual skill performed; recommending the level of standard to which an individual skill must be performed; listing all skills under specified, implied, and essential tasks. Also, defining each task by purpose, function and importance to a constable's performance of judicial duties as listed in Title 42 Pa.C.S.A. § 2950; detailed reporting of the impact of specified, implied and essential tasks on current and future curricula for: constables' basic training, firearms training, continuing education and optional training curricula, including all instructional support materials and examinations; the production and delivery of a basic instructor development training program; the production and delivery of annual instructor update programs; and the law enforcement waiver exam. Restriction: In order to increase the objectivity of the job task analysis, the six training contractors or any of their sub-contractors, will not be allowed to bid on the RFP.

Department: Commission on Crime and Delinquency
Location: PCCD, Bureau of Training Services, 3101 North Front Street, Harrisburg PA 17110
Duration: Contract will commence on Effective Date of contract and will end 16 months after Effective Date.
Contact: John Pfau, (717) 705-3693 X3083

#2005-3 The Legislative Budget and Finance Committee, pursuant to House Resolution 2005-61, is seeking to contract with a risk assessment specialist to conduct a study on the use of rifles versus shotguns within the Commonwealth and recommend whether special regulations areas should be expanded. This study is to be done in coordination with the Pennsylvania Game Commission. The study must include, but is not limited to: (1) ballistics; (2) projectile construction; (3) projectile type; (4) topography; (5) land use; (6) population density; and (7) structure density. The specific study objectives are: (1) To compile and analyze existing technical and scientific data on the safety of rifles versus shotguns and muzzleloading firearms for hunting. This effort should primarily focus on errant projectiles from such firearms. (2) To conduct a spatial risk assessment analysis of the use of rifles versus shotguns and muzzleloading firearms in Pennsylvania taking into consideration all relevant factors as listed above, and also including species hunted, hunter density, and forest cover. This will specifically involve a detailed examination and analysis of the errant shot database compiled by the Pennsylvania Game Commission between 1998 and 2005. (3) Based on the results of study activities in tasks (1) and (2), develop information for the Pennsylvania Game Commission and the Pennsylvania General Assembly to consider whether special regulations areas should be expanded in Pennsylvania. (4) To identify any other alternative actions (other than prohibiting rifle use and/or prohibiting hunting entirely) the Commission might consider taking to improving hunting safety in populated areas. Contractor proposals in response to this RFP must be submitted to the LB&FC by noon on August 8, 2005.

Department: Legislative Budget and Finance Committee
Location: Room 400-A Finance Building, North and Commonwealth Streets,
P.O. Box 8737, Harrisburg, PA 17105
Duration: Work must be completed by June 2006.
Contact: Philip Durgin, Executive Director, (717) 783-1600

[Pa.B. Doc. No. 05-1373. Filed for public inspection July 15, 2005, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,
Secretary

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS 401, 403, 407, 421, 423, 427, 433, 435, 451, 461, 471, 481, 491, 495, 497 AND 499]

Temporary Regulations

The Pennsylvania Gaming Control Board (Board), under authority in 4 Pa.C.S. § 1202(b)(14) (relating to general and specific powers), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Subpart A is entitled General Provisions and contains Chapter 401, Preliminary Provisions, Chapter 403, Board Operation and Organization and Chapter 407, Public Access to Board Records.

The next portion of regulations focuses primarily on the licensing and application process. Subpart B is entitled Licensing, Registering and Permitting and contains Chapter 421, General Provisions, Chapter 423, Applications, Chapter 427, Manufacturer Licenses, Chapter 433, License Renewal and Chapter 435, Employees. Subpart D is entitled Recordkeeping and contains Chapter 451, Licensee Recordkeeping Requirements. Subpart E is entitled Slot Machine Testing and Certification and contains Chapter 461, Slot Machine Testing and Certification Requirements. Subpart F is entitled Fees and contains Chapter 471, Filing fees.

The next portion of regulations focuses on the diversity requirements of licensees. Subpart G is entitled Minority and Women's Business Enterprises and contains Chapter 481, General provisions.

The final portion of the regulations pertains to practice before the Board. Subpart H is entitled Practice and Procedure and contains Chapter 491, General Rules of practice, Chapter 495, Documentary filings, Chapter 497, Time and Chapter 499, Representation Before the Board.

Purpose and Background

Under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board is required to promulgate temporary regulations to facilitate the prompt implementation of Act 71. The temporary regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment in this Commonwealth and to carry out the policy and purposes of the Board. In adopting the temporary regulations, the Board has considered public comments submitted to the Board, comments of the Department of Revenue and the regulatory practices of other Commonwealth agencies.

In order to promulgate the temporary regulations in accordance with customary rulemaking procedure, the Board published its draft regulations in the Pennsylvania Bulletin at 35 Pa.B. 2569 (April 23, 2005). A 30-day public comment period was provided.

Under 4 Pa.C.S. § 1203, the temporary regulations adopted by the Board shall expire no later than 2 years following the effective date of Act 71 or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Comment and Responses

The Board received public comment from more than 35 interested parties, including industry members, citizens and political representatives. The Board thoroughly reviewed and considered all comments submitted. All public comments received by the Board are available for review on the Board's website, www.pgcb.state.pa.us. In order to respond to the comments in the most efficient manner, the Board has selected representative comments and formulated responses to these comments. These comments and responses are published herein.

Comment

Measures should be taken to prevent losses of machines through theft or changes to them through tampering or by damage. It is therefore respectfully submitted that the Board consider developing minimum standards to address these concerns while the equipment is in transit and while at the suppliers' facilities. This could include strict requirements for documentation and inspection, for the type and quality of transportation, for the location and quality of storage facilities, for alarm systems, environmental controls, etc.

Response

The Board acknowledges the security concerns of both manufacturers and suppliers. The Board agrees to review this recommendation and believes that these issues are essential to protecting the integrity of the gaming industry in this Commonwealth.

Comment

Through amendments to the Proposed Regulations or its actual conduct, the Board needs to clarify how and when it will permit—indeed encourage—industry communication with its members and staff. Our view is that gaming operations run more smoothly and efficiently in those jurisdictions that facilitate free and open communication between (i) the gaming regulatory agency and/or its staff and (ii) members of the public including, without limitation, licensees, vendors, manufacturers, facility operators, etc.

Response

The Board agrees to review this recommendation and will consider the most appropriate and effective means of communication between the Board and the licensees.

Chapter 401. Preliminary Provisions

§ 401.4 Definitions.

Comment

Amend definition of "associated equipment" to include "other equipment as approved by the Board."

Response

The Board agrees that additional parts or equipment not presently included in the definition may need to be treated as associated equipment to ensure appropriate regulation for manufacturers and has added similar language.

Comment

Two different manufacturers of currency or bill validators presented different views on whether they should be licensed as a manufacturer.

Response

The Board is reviewing the inclusion of bill validators in the manufacturer licensing provisions. The Board believes that if the bill validator is inserted and made part of the slot machine by a slot machine manufacturer, a separate license would not be required. However, for a bill validator that is directly installed by the maker of the validator, a manufacturer license would be required. In addition, a manufacturer of associated equipment would have to use a supplier to install and repair the equipment. If the validation system is a free-standing machine, it is deemed "associated equipment" and therefore the manufacturer must be licensed by the Board and the machine must be provided through a licensed supplier.

Comment

Does a manufacturer of associated equipment located in Pennsylvania need to sell through a supplier?

Response

The act requires the use of a licensed supplier to sell and distribute any associated equipment. It also gives suppliers the responsibility of repair of all slot machines and associated equipment.

Comment

The definition of "associated equipment" should be amended to exclude seats, light bulbs and decals.

Response

The Board does not believe that the definition of "associated equipment" as written includes decals, seats or light bulbs as they are not part of the machine that constitutes "gaming."

Comment

What happens if the central computer malfunctions?

Response

The Department of Revenue will require that the vendor for the central computer have adequate back-up systems to prevent and respond to a malfunction and to have adequate personnel on hand to repair any malfunction. This will be part of the contract between the provider and the Department of Revenue. However, if a malfunction occurs that requires time to repair, play would cease until the central system is once again operational.

Comment

What is an example of "unwarranted invasion of personal privacy?"

Response

An example of the type of information that if released would constitute an unwarranted invasion of privacy would be certain medical issues. For example, a background investigation could reveal a child or other family member with a mental illness. While the regulation makes medical records confidential, an investigator would not require medical records to learn of a particular mental health issue.

Comment

How will confidential and nonconfidential folders be secured?

Response

The use of separate folders for confidential and nonconfidential information is modeled on PUC adminis-

trative procedures. Storage and access issues will be addressed when the physical offices of the Board are fully equipped and operational.

Comment

Does a company have to release its source code or other proprietary information to the Board?

Response

The Board does not anticipate collecting information regarding source codes. However, the Board is authorized to do so if necessary to enforce the act. If the need arose to collect source codes, they would be treated as proprietary information.

Comment

Request to amend the definition of controlling interest to be "a holder of a majority of the securities."

Response

The definition of "controlling interest" in Act 71 includes a person who holds security in a privately held corporation. This statutory provision cannot be altered in regulation. However, the definition allows a person to rebut the presumption of control by clear and convincing evidence.

Comment

Request to amend definition of "controlling interest" to exclude institutional investors of publicly held companies.

Response

The Board should retain the ability to qualify institutional investors. Section 1313 of Act 71 allows the Board to waive qualification requirements for institutional investors. An applicant or licensee could petition the Board for a waiver. However, the authority to qualify may be needed in certain instances, such as when there is a financial investigation of financial wrongdoing by the SEC. The Board is willing to add additional language to clarify the ability to obtain a waiver.

Comment

What is an example of personal property?

Response

Examples of personal property would be a car, appliances, jewelry or other items given to patrons.

Comment

Clarify the definition of key employee for manufacturers.

Response

The Board agrees to review the definition of "key employee" as it applies to a manufacturer to determine if it can be modified to include only those individuals who will be present on the gaming floor as part of their employment.

Comment

Request to narrow the definition of "key employee qualifier," particularly for manufacturers because of the time and expense necessary to perform a background investigation and to license each qualifier.

Response

The Board agrees to review the definition of "key employee qualifier" to determine if it can be modified to include only those individuals with direct control over gaming operations.

Comment

Definition of slot machine is too broad and would include skeeball and toy crane machines.

Response

The definition of "slot machine" comes directly from the statute. The Board believes that the definition does not include the previously mentioned games.

Comment

Add a definition of "cash equivalents."

Response

The Board will review the need for a definition of "cash equivalents."

Comment

Consider Michigan rules of construction.

Response

Pennsylvania has its own Statutory Construction Act and case law which the Board will rely upon.

Comment

Consider addition of definition of "weapons in a gaming area" as provided in Michigan law.

Response

The Board will review the Michigan provision.

*Chapter 403. Board Operations and Organization**§ 403.1 Participation at meetings and voting.**Comment*

A member should have no interest in a license in order to vote on it.

Response

Section 1202(f)(3) of the statute requires a Board member to disclose the nature of a disqualifying interest, financial or otherwise, and to abstain from voting on the issue relating to the disqualifying interest. The Board will review the provisions of section 403.1(c) relating to member abstention to ensure that it adequately reflects the requirements of section 1202.

*§ 403.2 Meetings.**Comment*

Request for inclusion of meeting locations and agenda on the Board's Internet website. A similar request has been made with regard to minutes and annual reports.

Response

The Board has been posting meeting times and locations on its Internet website and would anticipate continuation of this practice. The Board will review the potential inclusion of annual reports and minutes on the site.

*Chapter 407. Public Access to Board Records**§ 407.1 Case files.**Comment*

Request the prohibition of access to personal information of key employees and key employee qualifiers.

Response

Personal information is included in the definition of "confidential information." Therefore, release of this information is prohibited by the current regulation.

However, the Board will continue to review the provisions relating to confidential information to ensure that it protects personal and proprietary information.

Comment

Request for clarification of how the Board will determine if information is confidential and how such determinations will be appealed.

Response

The Board agrees to review further clarification of the issue. The process to appeal determinations relating to confidentiality will be similar to procedures used in other Commonwealth agencies. An applicant, licensee or other party could petition the Board to reverse a determination relating to the confidentiality of a document.

Comment

Will the full record be in the confidential file and a redacted form in the non-confidential file?

Response

It is anticipated that some documents may require redaction. This will be decided on a case by case basis.

*Chapter 421. General Provisions**§ 421.2. Licenses and permits (formerly Licensed entities).**Comment*

Consider the issuance of temporary licenses for key employees and key employee qualifiers.

Response

The Board will consider the issuance of temporary employee licenses.

*§ 421.3 Disqualification criteria.**Comment*

Requests that the disqualification of a license only for a material violation of the act.

Response

The Board declines to accept this recommendation. Section 421.3 includes various enforcement tools available to the Board, including disqualification of an individual and the denial, suspension or revocation of a license. The Board believes it should retain broad discretion to utilize these enforcement measures in a way that fairly addresses the violation in question. For example, the Board may decide to suspend a license for a brief period of time for certain nonmaterial violations if necessary to ensure compliance with the act.

*Chapter 423. Applications**§ 423.1. General requirements.**Comment*

Requests the modification of the English translation requirement for documents submitted to the Board to only require the translation of documents specifically requested by the Board.

Response

The Board will consider the inclusion of a waiver provision which would allow the applicant or licensee to request a waiver of the translation requirement from the Board. However, the Board believes the general rule

should be the requirement of English translations to ensure the enforcement of the act.

Comment

Request change in reference from "financial stability" to "financial fitness."

Response

The Board agrees and has amended the regulations to reflect this change.

Comment

Section 423.1(h) appears to provide immunity to Board contractors who provide background investigations.

Response

The Board accepts this recommendation and has amended the regulations to reflect this change.

§ 423.2 Application processing.

Comment

Request to remove the requirement [in § 423.2(b)] of submission of a handwriting exemplar as a condition of the application process.

Response

The Board declines to accept this suggestion because the Board believes that this tool enhances the existing statutory provision for the investigatory process, furthers the Board's enforcement capabilities and should be applicable to manufacturer applicants as well.

Comment

Request that "tax clearance review" in § 423.2(a)(5) be amended to "tax lien certificate," consistent with the language of the statute. Commentators expressed concern that a tax clearance requires over one year to complete.

Response

The Board accepts this recommendation in part, but not for the reason asserted. It has amended the term to be consistent with the statutory language but has chosen to retain the term "clearance." The term "clearance" is more encompassing and would include delinquencies where no lien has been filed. Non-filed tax periods would be an example. Accordingly the proposed term is replaced with "tax clearance and lien review." Further, the Department of Revenue has given its assurances to the Board that the tax clearance and lien review will be performed in an efficient and timely manner.

Comment

[Section 423.2(a)] Request the Board to require that all information collected by the Board during the application process, including the information prescribed by section 423.2(a), be placed into the evidentiary record of the application proceeding and served upon the applicant.

Response

The Board accepts this recommendation and has added language to the regulations that pertains to the evidentiary record of the applicant and that such information shall be served upon the applicant.

§ 423.3 License issuance.

Comment

[Section 423.3(a)(1)]

(1) The diversity requirements should not apply to manufacturers.

(2) The NJCC Act and regulations promulgated thereunder had requirements for diversity plans and goals. The USDC for the District of New Jersey found that the regulations of the NJCCC governing diversity goals and plans violated the Equal Protection Clause of the Fourteenth Amendment to the US Constitution and permanently enjoined the NJCCC from enforcing a licensee's Equal Employment and Business Opportunity Plan.

(3) Does this mean that applicants would have to establish a plan to bring in minority or women in an ownership position in our company, and is minority or women ownership mandated as a requirement for licensing?

Response

The Board declines to accept these interpretations of the statutory provisions regarding diversity compliance. Further, the Board disagrees with the legal conclusions made by the commentators. Pursuant to section 1325(b), the Board is authorized to ensure that "all persons are accorded equality of opportunity in employment and contracting." This language pertains to all entities licensed by the Board, including licensed manufacturers and suppliers. There is no specific exclusion of any entity licensed by the Board. The diversity plan pertains to employment and business transactions. The Board is authorized to ensure diversity by promulgating regulations that require licensees to comply with diversity provisions. The diversity component in the licensing regulations requires applicants to establish a diversity plan as a prerequisite to license issuance. This requirement is distinguishable from the New Jersey regulations as it does not make any numerical or quota-like mandates and therefore does not raise similar constitutional concerns.

The diversity requirements are within the general goal and intent of the legislature, which is to encourage diversity throughout every aspect of gaming. The regulations allow the Board to review and monitor each applicant's diversity plan on a case by case basis in order to evaluate the individual needs of each applicant. The Board has amended this provision to allow applicants to submit a diversity plan upon filing an application or certify that a diversity plan will be submitted within 30 days of filing the application.

Comment

The issue regarding the development and implementation of a Diversity Program should include a requirement that manufacturers be compliant with federal law regarding equal opportunity.

Response

The Board has not amended the regulations in response to this comment because it believes that the statute and the Board's regulations in no way interfere with the application of federal law in this area.

§ 423.5 Application withdrawal.

Comment

Requiring Board approval to withdraw an application is not respectful of the individual rights of applicants. Certain applicants may not understand the rigorous nature of the application process and may not want to

subject themselves or their families to intense public scrutiny.

Response

The Board declines to accept this recommendation. It is the standard practice of most state gaming agencies to promulgate regulations pertaining to an application withdrawal procedure. The Board has found from researching other jurisdictions that there are valid enforcement reasons for requiring Board approval of application withdrawals.

Chapter 427. Manufacturer Licenses

§ 427.1 Manufacturer license requirements.

Comment

[Section 427.1(a)] should be amended to include the terms "slot machines" and "associated equipment."

Response

The Board accepts this recommendation and has amended the language of this section.

§ 427.2 Manufacturer licensing standards and application.

Comment

The definition of key employee qualifier is too broad and will preclude small businesses in Pennsylvania from participating as manufacturers. The Board should add a waiver provision that allows the Board to waive the key employee qualifier licensing requirements for institutional investors and certain officers and directors, similar to the New Jersey Casino Control Commission regulatory provisions.

Response

The Board accepts this recommendation and has added waiver language to § 435.3(g) of the regulations, pertaining to the key employee qualifier license. Such language could narrow the potential number of key employee qualifiers that are required to be licensed by the Board.

Comment

The deposit of \$5,000 per application for each key employee qualifier is excessive and exceeds similar fees in other states.

Response

The Board declines to accept this recommendation. In determining the proper amount of the deposit accompanying each key employee qualifier application, the Board inquired into other jurisdictions as to the actual costs associated with such background investigations. This amount is based on the recommendation of jurisdictions and a projection of the average costs associated with these types of investigations. The Board may revisit this issue as the Board continues to collect data relevant to this issue on an ongoing basis.

Comment

The Board is not investigating a crime and therefore the applicant should not have to consent to "search and seizure."

Response

The Board declines to accept this recommendation. In section 1331(a)(2) of the act, the licensee is required to consent to "searches and seizures" as a duty associated with licensure. Accordingly an applicant for licensure must agree to comply with this duty as well. Further this

consent is consistent with other states' requirements of licensure and Pennsylvania law governing regulatory agency licensing powers.

Comment

[In subsection (b)] insert the words "copies of" between the words "of" and "financial" in the second line.

Response

The Board accepts this recommendation and has amended the regulations to reflect this change.

Comment

The requirement [in subsection (b)] that the manufacturer must provide books, records, documentation to attest to "the integrity of all financial backers, investors, bondholders, etc.," is too difficult and should be limited to those investors holding a controlling interest of greater than 5% interest in the manufacturer, which do not otherwise fall within the definition of an institutional investor.

Response

The Board declines to accept this recommendation as the Board believes that this requirement is necessary to further the integrity of gaming in this Commonwealth.

Comment

The regulation should clarify that the tax clearance and unemployment compensation tax review performed by the Department only applies to applicants filing returns with or having employees in the Commonwealth.

Response

The Board declines to accept this recommendation. The tax lien and clearance review performed by the Department applies to all applicants. If the applicant does not have any employees in the Commonwealth, the review will confirm this fact and demonstrate that the applicant has no outstanding taxes in this Commonwealth.

Comment

[Subsection (d)] eliminates the right to appeal contained in section 12 of the PA Gaming Act, and therefore, is beyond the powers authorized by the Act and likely unconstitutional.

Response

The Board disagrees with this legal conclusion. This section is consistent with section 1308(c) of the act. The Board has chosen to remove this section from the regulations as it believes that the statute speaks for itself.

§ 427.3 Alternative manufacturer licensing standards.

Comment

The Board has to determine that the licensing standard of another jurisdiction is similar for the alternative licensing process. As the Board during the best practices analysis reviewed the licensing requirements of a number of jurisdictions, the Board has likely determined that certain licensing standards are similar. The regulation should state that licenses issued by Nevada, New Jersey, Mississippi and licenses or approvals from the Department of Revenue in connection with services to be provided pursuant to the Act are similar, as well as other licenses as determined by the Board.

Response

The Board declines to accept this recommendation. While the Board agrees that certain states share similar regulatory requirements for licensees, the Board will not

include within this regulation a list of the acceptable jurisdictions. Regulatory requirements of various jurisdictions are subject to change and alteration year to year and thus the Board must retain the authority to review the licensing standards of various jurisdictions and to deem the licensing standards of a particular jurisdiction acceptable.

Comment

The Board should limit administrative or enforcement actions to those that are "material" as well.

Response

The Board has amended the language of this provision to allow the applicant who has a pending administrative action existing in another jurisdiction to adequately disclose and explain the action to the satisfaction of the Board.

Chapter 433. License Renewal

§ 433.1 Renewal of manufacturer and supplier license.

Comment

If the Board has a limited renewal form that only requires the licensee to update changes from the previous application, this requirement is not burdensome. As a recommendation, we ask that this be clarified in the regulation, so an entire new application is not required each year. Since updated applications can become unmanageable over time, the Board may wish to consider requiring the submission of a new, completed corporate application form every five years (but not key employee qualifiers).

Response

It is the intent of the Board to have a limited renewal application form that would not be as comprehensive as the entire application form. However, at its discretion, the Board may require periodic filing of a full application by the applicant upon the occurrence of significant events.

Comment

Would it be possible to issue an initial two-year supplier's license and then have annual renewals thereafter?

Response

The Board declines to accept this recommendation. Pursuant to section 1326(a) of the act, all permits and licenses are subject to renewal on an annual basis.

Chapter 435. Employees

§ 435.1 General provisions.

Comment

Should this section include a statement that § 435.1 pertains to employee licenses and permits?

Response

The Board accepts this recommendation and has amended the regulations to reflect this change.

Comment

In subsection (f), is the Board suggesting that manufacturers with offices and employees located and working internationally must all have U. S. work authorizations, notwithstanding such employee may not work in the U. S.? This requirement is too far reaching and should be limited to such employees regularly performing work on behalf of the manufacturer in the U. S. who are required to have work visas.

Response

The Board accepts this recommendation and has amended the regulations to limit the work authorization requirements to those employees located in this Commonwealth.

Comment

In subsection (g), the term "in consideration for" is certainly ambiguous. Is it a "reward" to transport a member of the PGCB or an employee thereof to view an applicant's manufacturing facility? Is it intended that, under such cases, the member or employee would have to require that the Board pay for such a trip and the Board would then bill the applicant for the trip?

Response

The Board has amended this section to read "in consideration or in exchange for obtaining a license . . ." This section is intended to prohibit the possibility of impropriety or the appearance of impropriety.

§ 435.2 Key employee qualifier license.

Comment

Please provide detail on the photograph requirement in subsection (b)(14). Must an applicant be physically present at a location in PA in order to meet this requirement?

Response

The Board acknowledges that applicants need not be photographed in Pennsylvania. The Board has amended the regulations to reflect this change in § 435.2(b)(20).

Comment

In subsection (b)(15), can you clarify that fingerprint cards do not need to be administered in the Commonwealth, but must be administered through either a law enforcement agency or person holding the proper certification and credentials to administer fingerprints?

Response

The Board accepts this recommendation and has amended the regulations to reflect this change in § 435.2(b)(21).

Comment

Subsection (b) should be clarified to indicate if the information in this section is for a supplemental form or is part of the multi-jurisdictional form.

Response

The Board declines to accept this recommendation as the language of the regulation sufficiently distinguishes this license application from the Multi-jurisdictional Personal History Disclosure Form.

§ 435.3 Key employee license.

Comment

Subsection (a) refers to "key employees as defined by the act." However, generally in the act, "key employee" refers to an employee of a slot machine licensee. This section of the draft regulations applies to slot machine licenses, manufacturer licenses and supplier licensees. Please clarify this point.

Response

Under section 1202 of the act, the Board has broad discretionary power to license individuals or entities associated with gaming. The Board has determined that the key employee license requirement shall apply to slot

machine licensees, manufacturer licensees and supplier licensees. The Board believes that this is an appropriate level of investigation for employees in these positions at each of the licensed entities. As way of further response, key employees are referenced in section 1317(b)(2) of the act, which pertains to suppliers and manufacturers. Accordingly the Board's inclusion of key employee licensing for manufacturers and suppliers is consistent with the intent of the act. The Board has amended this section to provide for a waiver of certain employees whose duties are not assigned to this Commonwealth.

Comment

In subsection (c), a law enforcement letter of reference is not something that is typically issued.

Response

The requirement of a "letter of reference" from a law enforcement agency is consistent with application requirements for casino licenses in other jurisdictions. As way of further response, this provision is consistent with section 1310(b) of the act which provides for an alternative means of meeting this requirement if no letter is issued from the law enforcement agency.

§ 435.4 Occupation permit.

Comment

Recommendation to add the following language to subsection (a): An individual employed by a slot machine licensee, "a manufacturer licensee," a supplier licensee, or a gaming employee as defined under section 1103 of the act and § 401.4 must apply for and receive an occupation permit from the Board.

Response

The Board declines to accept this recommendation as it is inconsistent with the definition of "gaming employee." However, because the Board has amended the regulations to permit employees of manufacturers who are exempted from the supplier requirement, the Board has also amended this section to require these employees to be permitted.

Chapter 451. Licensee Recordkeeping Requirements

§ 451.1 Recordkeeping generally.

Comment

This chapter does not address the method or form by which licensees must keep required records. The Board should specify that records may be kept by any available method or means, including paper, magnetic and electronic.

Response

The Board declines to accept this recommendation as there is nothing in the language of this regulation precluding a licensee from keeping records electronically. The Board's primary concern is that the records are secure from theft, loss or destruction.

Comment

Add "general accounting records" to the list of required records.

Response

The Board accepts this recommendation and has amended the regulations to reflect this change.

Comment

In subsection (a)(3), the requirement that all promotional material and advertising be maintained is extremely broad and could be needlessly burdensome.

Response

The Board declines to accept this recommendation as the Board believes these materials are legally relevant and should be retained.

Comment

The Board should specify the matters it wishes the employer to retain in a personnel file in subsection (a)(4).

Response

The Board declines to accept this recommendation. The Board seeks to have the licensees retain a personnel file for each employee for the purpose of monitoring employee licenses and permits. The contents of the file will not be prescribed by the Board.

Comment

The Board should define "sales representative" in subsection (a)(4).

Response

The Board has stricken the term sales representative from this subsection as it is captured by the reference to each employee of the licensee in this subsection.

Chapter 461. Slot Machine Testing and Certification Requirements

§ 461.1 Protocol requirements.

Comment

It would expedite implementation of gaming to perform the necessary protocol testing of a few control monitoring systems with the central control system to ensure the required information is being properly communicated rather than testing the protocol and reporting of each and every machine model with the central control system. Any hardware or software modification to a slot machine model would require testing with the central control computer that could result in slowing entry of new products into the Commonwealth.

Response

The Department of Revenue is in the process of developing a protocol for the central control computer system. The Board is reviewing the practices of other jurisdictions and feasibility of testing large numbers of slot machines. The Board will consider these recommendations in its consultations with the Department of Revenue.

Comment

This section should address a substantive protocol requirement as required in section 1323(a)(2) of the Act.

Response

At a future point in time, the Board intends to accept public comment from manufacturers regarding protocol regulations, as required in section 1324 of the Act. The Board is aware of the need to promulgate regulations in this area.

§ 461.2 Testing and certification generally.

Comment

Would associated equipment also be required to be tested and certified through an independent lab?

Response

The Board will consider the extent to which associated equipment will require testing and certification.

Comment

In subsection (c), add "or both" after "either" in order to give the Board greater latitude in game certification.

Response

The Board accepts this recommendation and has amended the regulations to reflect this change.

Comment

Subsections (a) and (b) should be amended to include "slot machine models, games and associated equipment designed specifically for and integral to gaming operations."

Response

The Board declines to accept this recommendation. The terms offered to modify the existing language are not defined terms. However, the Board has amended the language in subsection (a) to further clarify the intent of this section.

Comment

In subsection (c)(1), the Board should indicate that the acceptable jurisdictions include, but not be limited to, Nevada, New Jersey and Mississippi.

Response

The Board declines to accept this recommendation. The Board will not include a list of states with acceptable testing and certification standards in this regulation. As technology continually improves, the testing and certification capabilities of a particular jurisdiction are subject to change and alteration. Accordingly the Board must retain the authority to review the testing and certification standards of various jurisdictions and to deem the standards of a particular jurisdiction acceptable.

Comment

The Board should add the following language to subsections (c)(1) and (2): "pursuant to such gaming jurisdictions' current published testing and technical standards."

Response

The Board declines to accept this recommendation as it feels that this section adequately references the statutory language governing this form of certification. Further, the Board believes the statute speaks for itself.

Comment

Subsection(c)(2) should be amended to read: "Utilize the services of approved slot machine testing and certification facilities, which are recognized by major gaming jurisdictions within the United States, to conduct testing . . ."

Response

The Board declines to accept this recommendation as it is not clear by whom the facilities would be approved. Further, the Board is not bound to utilize testing facilities that are recognized by other gaming jurisdictions. The Board recognizes the need to utilize a testing facility that is reputable and will ensure the integrity of gaming in this Commonwealth.

Comment

Subsection (c)(2) should be amended to permit the Board to utilize the services of more than one slot machine testing and certification facility before it establishes a permanent facility.

Response

The Board agrees to review this recommendation.

*Chapter 471. Filing Fees**§ 471.1 Fees generally.**Comment*

The Board should include language that would tie the fees that the Board could levy and collect to the Board's annual operating budget. Such a requirement would act to constrain the Board's authority in setting fees to that which is reasonable to fund the Board's operations.

Response

The Board acknowledges the financial concerns of potential applicants with regard to the fees associated with licensing. The Board feels that this recommendation is not consistent with the Board's statutory authority and declines to accept this recommendation. Although the Board is given broad authority to levy and collect fees from the applicants, licensees and permittees pursuant to section 1208 of the act, the Board's authority to raise fees is subject to statutory limitation. In section 1208(2) of the Act, the Board is prohibited from raising the fees until two years after the passage of the Act and may only increase fees by an amount not to exceed an annual cost-of-living adjustment.

*§ 471.3 Schedule of fees (formerly Schedule of fees for manufacturer and supplier licenses).**Comment*

We request that the Board make it clear in this section that slot machine licensees will not be responsible for the costs associated with the licensing of suppliers and manufacturers.

Response

The Board declines to accept this recommendation as it believes that it is clear from the statute and the regulations that the fees will be collected directly from the manufacturer and supplier applicants and licensees, and not from any other licensee.

Comment

Subsection (a) does not address the disposition of surplus amounts should the cost of a manufacturer's or supplier's Key Employee Qualifier background investigations be less than \$5,000 per person. We recommend that any surplus be credited back to the specific manufacturer or supplier applicant.

Response

The Board declines to accept this recommendation at this time. Section 1208(1)(iii) requires the Board to collect a nonrefundable fee set by the Board for the cost of a background investigation. This amount is based on the recommendation of jurisdictions and a projection of the average costs associated with these types of investigations. The Board may revisit this issue as the Board continues to collect data relevant to this issue on an ongoing basis.

Comment

We would request that the language in subsection (c) allowing the Board the option to increase fees annually be amended so that the Board may only increase fees every 2 to 3 years, and then only when warranted.

Response

The Board acknowledges the concerns of business owners and potential licensees and will consider the financial

needs of the licensees when the Board has the authority to raise fees. The Board declines to accept this recommendation as it is inconsistent with the Board's statutory authority in section 1208(2) of the act. As way of further response, the Board's ability to increase fees commences two years after the passage of the act. At that time, the Board may only increase fees by an amount not to exceed an annual cost-of-living adjustment.

Chapter 481. General Provisions

§ 481.2 Definitions.

Comment

This section defines participation plan as a plan developed by a licensed entity, including manufacturers and suppliers, that requires the utilization of a minority or women owned business enterprise for a specific minimum percentage of the value of the contract. This may not be constitutionally permissible.

Response

In order to negate a unconstitutional interpretation of this provision, the Board has amended this definition.

§ 481.3 Diversity participation.

Comment

How is the list of minority and women's business compiled?

Response

The Bureau of Minority and Women's Business Enterprises of the Department of General Services compiles a list of certified minority and women's businesses through an application and approval process. Minority- and women-owned businesses apply for certification through the Bureau of Minority and Women's Business Enterprises and once they are approved and certified, the companies are added to the list.

§ 481.4 Establishment of diversity plan required.

Comment

Section (a) should describe the steps that Minority and Women's Business Enterprise can take with the Licensee before filing a formal complaint with the Board.

Response

The Board agrees to review this recommendation.

Comment

In sections (a) and (b), construction activities, i.e. construction of the facilities, should be identified as areas for Minority and Women's Business Enterprises participation.

Response

Prior to an entity submitting an application, the Board does not have jurisdiction to enforce diversity participation. However, the Board agrees to review this recommendation.

Chapter 495. Documentary Filings

§ 495.1 Form of documentary filings generally.

Comment

Add a new subpart (d) before the existing subpart (d) as follows: "Pleadings shall be endorsed with an address where papers may be served in connection with the pending proceedings as well as a phone number. Endorsement with a fax number shall constitute endorser's agreement to accept papers connected with the proceeding by fax. Notation of counsel's current Supreme Court

identification number issued by the Court Administrator of Pennsylvania shall constitute proof of the right to practice in the Commonwealth." This conforms to PA Rules of Civil Procedure Section 205.1 and 4401(d)(1).

Response

The Board agrees to review this recommendation.

§ 495.5 Execution of documents.

Comment

The Board should consider permitting all filings to be made by fax or electronic means.

Response

It is the Board's intent to make electronic filings possible at a future date. The Board continues to review electronic document filing and management systems and those used by other jurisdictions. While the Board seeks to create the most efficient means of filing possible, the Board likewise must ensure the integrity and security of the filing system in place.

Comment

In section (b)(2), the reference to supplemental documentation "may be required" seems like an after-the-fact requirement. Is the document deemed filed if the Board requires supplemental information? We suggest that the document should have information evidencing signor's authority rather than request the evidence after-the-fact.

Response

The Board declines to follow the recommendation that such documents be required to include such supplemental evidence upon their filing. This provision of the Board's regulations is consistent, verbatim, with 1 Pa. Code § 33.11(b)(2) (Execution) as well as 52 Pa. Code § 1.35(b)(2) (Execution), and is standard administrative practice in the Commonwealth.

Chapter 497. Time

§ 497.4 Effective dates of Board orders.

Comment

All Board orders promulgating regulations should be published on the Internet concurrently with their publication in the *Pennsylvania Bulletin*.

Response

The Board agrees with this comment and intends to proceed in this fashion by making its public meeting minutes, orders, and regulations available both on the Internet and in the *Pennsylvania Bulletin*.

Paperwork

The Board is publishing manufacturer applications and other necessary forms for the administration of licensing manufacturers. The Board is developing a docket process to monitor and track submitted applications.

The Board will publish notices in the *Pennsylvania Bulletin* identifying those manufacturers who have been awarded licenses by the Board.

Financial Impact

Act 71 and the temporary regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed in, provide gaming related services or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering Act 71 will be reimbursed by the licensed gaming entities as specified within Act 71. Individuals and entities that wish to obtain licenses as manufacturers, suppliers or gaming entities shall pay to the gaming fund significant licensing fees to obtain the authority to do business within this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing and registration of individuals and other classes of licensees will be reimbursed by the individuals and or licensees through fees established by the Board.

It is anticipated that all expenses of the Board and all associated activities will be reimbursed by the applicants and gaming entities as previously specified. The Board will have no financial impact on the State budget.

Statutory Authority

Section 1203 of 4 Pa.C.S. provides the Board authority to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203, the Board may adopt temporary regulations that are exempted from the Regulatory Review Act and sections 201—205 of the CDL. Section 1203 of 4 Pa.C.S. provides that the Board's authority to adopt regulations expires 2 years from the effective date of Act 71.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203, the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 30-day public comment period was held prior to the adoption of the temporary regulations. All comments received by the Board were reviewed and considered.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board, acting under the authority of Act 71, adopts as its final form temporary regulations the draft regulations adopted by resolution at the June 16, 2005, Board meeting. The temporary regulations concern general administrative practice and procedure before the Board and the specific licensing standards for gaming equipment manufacturers.

(b) The following temporary regulations of the Board, 58 Pa. Code, are added: §§ 401.1—401.5, 403.1—403.4, 407.1—407.3, 421.1—421.4, 423.1—423.5, 427.1—427.3, 433.1, 435.1—435.4, 451.1, 461.1, 461.2, 471.1—471.3, 481.1—481.5, 491.1, 491.2, 495.1—495.7, 497.1—497.5 and 499.1—499.7 to read as set forth in Annex A.

(c) The temporary regulations are effective June 16, 2005.

(d) The temporary regulations shall be posted in their entirety on the Board's website and in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and in order to further the intent of Act 71.

(f) The Chairperson of the Board shall certify the preceding order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-1. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subp.

- A. GENERAL PROVISIONS**
- B. LICENSING, REGISTERING AND PERMITTING**
- C. (Reserved)**
- D. RECORDKEEPING**
- E. SLOT MACHINE TESTING AND CERTIFICATION FEES**
- F. MINORITY AND WOMEN'S BUSINESS ENTERPRISES PRACTICE AND PROCEDURE**

Subpart A. GENERAL PROVISIONS

Chap.

- 401. PRELIMINARY PROVISIONS**
- 403. BOARD OPERATIONS AND ORGANIZATION**
- 407. PUBLIC ACCESS TO BOARD RECORDS**

CHAPTER 401. PRELIMINARY PROVISIONS

Sec.

- 401.1. Purpose.
- 401.2. Scope.
- 401.3. Construction.
- 401.4. Definitions.
- 401.5. Jurisdiction.

§ 401.1. Purpose.

The purpose of this part is to facilitate the implementation of the act.

§ 401.2. Scope.

(a) This subpart governs the practice and procedure before the Board.

(b) This subpart is intended to supersede the applicability of 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) to practice and procedure before the Board.

§ 401.3. Construction.

(a) This part shall be liberally construed to secure the just, speedy and efficient determination of every action or proceeding to which it is applicable. The Board at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.

(b) The Board at any stage of an action or proceeding may waive a requirement of this part when necessary or appropriate, if the waiver does not adversely affect a substantive right of a participant as determined by the Board.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.2 (relating to liberal construction).

§ 401.4. Definitions.

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

Act—The Pennsylvania Race Horse Development and Gaming Act (4 Pa.C.S. §§ 1101—1904).

Affiliate or affiliated company—A person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a specified person.

Applicant—A person, officer, director or key employee, who on his own behalf or on behalf of another, is applying for permission to engage in an act or activity which is regulated under the act. In cases in which the applicant is a corporation, foundation organization, business trust, estate, limited liability company, trust, partnership, limited partnership, association or any other form of legal business entity, the Board will determine the associated persons whose qualifications are necessary as a precondition to the licensing of the applicant.

Application—A written request, on a form or forms approved by the Board, for permission to engage in an act or activity which is regulated under the act. An application shall include supplements, reports, documentation or other information requested by the Board as part of the application process.

Application fee—The amount of money required to be paid by an applicant for processing an application submitted to the Board. Payments are nonrefundable.

Approved, approval or approve—When used in reference to an application submitted to the Commissions to conduct harness or thoroughbred race meetings or to the Board to authorize and regulate the placement and operation of slot machines, the terms refer to the date that an application to the Commissions or the Board is granted regardless of the pendency of administrative or judicial appeals or other legal action challenging the decision of either Commission or the Board.

Associated equipment—Equipment or mechanical, electromechanical or electronic contrivance, component or machine used in connection with gaming, including linking devices which connect to progressive slot machines or slot machines, replacement parts needed to conduct slot machine gaming, equipment which affects the proper reporting of gross revenue, computerized systems for controlling and monitoring slot machines, including the central control computer and devices for weighing or counting money.

Authority—An authority created by the Commonwealth which purchases State gaming receipts under section 1202 of the act (relating to general and specific powers).

Authorized personnel—A member or designated employee of the Board or a designated employee or agent of the Bureau.

Background investigation—A security, criminal, credit and suitability investigation of a person as provided for in the act. The investigation shall include the status of taxes owed to the United States and to the Commonwealth and its political subdivisions.

Backside area—

(i) Those areas of the racetrack facility that are not generally accessible to the public and which include facilities commonly referred to as barns, track kitchens, recreation halls, backside employee quarters and training tracks, and roadways providing access thereto.

(ii) The term does not include those areas of the racetrack facility which are generally accessible to the public, including the various buildings commonly referred to as the grandstand or the racing surfaces, paddock enclosures and walking rings.

Board—The Pennsylvania Gaming Control Board established under section 1201 of the act (relating to Pennsylvania Gaming Control Board established).

Bonds—Bonds, notes, instruments, refunding notes and bonds and other evidences of indebtedness or obligations, which an authority issues to fund the purchase of State gaming receipts.

Bureau—The Bureau of Investigations and Enforcement of the Board.

Central control computer—A central site computer controlled by the Department and accessible by the Board to which all slot machines communicate for the purpose of auditing capacity, real-time information retrieval of the details of a financial event that occurs in the operation of a slot machine, including coin in, coin out, ticket in, ticket out, jackpots, machine door openings and power failure, and remote machine activation and disabling of slot machines.

Cheat—

(i) To alter without authorization the elements of chance, method of selection or criteria which determine:

(A) The result of a slot machine game.

(B) The amount or frequency of payment in a slot machine game.

(C) The value of a wagering instrument.

(D) The value of a wagering credit.

(ii) The term does not include altering for required maintenance and repair.

Clerk—The Clerk to the Board.

Commission or Commissions—The State Horse Racing Commission or the State Harness Racing Commission, or both, as the context may require.

Complainants—Persons who complain to the Board or Bureau of an act or omission by an applicant, licensee, permittee or person, or alleged violation of the act, or of this part, or of an order of the Board.

Confidential information—

(i) Background investigation information, including all information provided under section 1310(a) of the act (relating to slot machine license application character requirements), submitted in connection with an application required for the issuance of any license or permit under this part, Board rules, discovery procedures or cross-examination or that is provided as a courtesy to a party in a formal proceeding received by the Board or the Department as well as records obtained or developed by the Board or the Department as part of an investigation related to an applicant, licensee or permittee containing any of the following:

(A) Personal information, including home addresses, telephone numbers, Social Security numbers, educational records, memberships, medical records, tax returns and declarations, actual or proposed compensation, financial account records, credit-worthiness, or financial condition relating to an applicant, licensee or permittee or the immediate family thereof.

(B) Documents and information relating to proprietary information, trade secrets, patents or exclusive licenses, architectural and engineering plans and information relating to competitive marketing materials and strategy which may include customer-identifying information or customer prospects for services subject to competition.

(C) Security information including risk prevention plans, detection and countermeasures, emergency management plans, security and surveillance plans, equipment and usage protocols, and theft and fraud prevention plans and countermeasures.

(D) Information with respect to which there is a reasonable possibility that public release or inspection of the information would constitute an unwarranted invasion into personal privacy as determined by the Board.

(E) Records or information that is designated confidential by statute or the Board.

(F) Records of an applicant or licensee not required to be filed with the United States Securities and Exchange Commission by issuers that either have securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C.A. § 78l) or are required to file reports under section 15D of that act (15 U.S.C.A. § 78o-6).

(G) Records considered nonpublic matters or information by the United States Securities and Exchange Commission as provided by 17 CFR 200.80 (relating to Commission records and information).

(ii) *Exceptions.* Notwithstanding anything contained in subparagraph (i) to the contrary:

(A) Records containing information received by the Board or the Department or information obtained or developed as part of an investigation related to the applicant, licensee or permittee may be disclosed to State or Federal law enforcement agencies or entities when the Attorney General or a court of competent jurisdiction determines that the information contains evidence of a possible violation of laws, rules or regulations enforced by those agencies or entities.

(B) Records from an applicant, licensee or permittee may be disclosed to the applicant, licensee or permittee upon written request. Records from an applicant, licensee or permittee may be disclosed to a person with the written consent of the applicant, licensee or permittee.

(C) Records containing information from an applicant, licensee or permittee that is already in the public domain or subsequently becomes a part of the public domain by an action by the applicant, licensee or permittee is not subject to the confidentiality requirement set forth in subparagraph (i).

Controlling interest—A person shall be deemed to have the ability to control a publicly traded entity, or to elect one or more of the members of its board of directors, if the holder owns or beneficially holds 5% or more of the securities of the publicly traded domestic or foreign corporation, partnership, limited liability company or other form of legal entity, unless the presumption of control or ability to elect is rebutted by clear and convincing evidence. A person who is a holder of securities of a privately held domestic or foreign corporation, partnership, limited liability company or other form of legal entity shall be deemed to possess a controlling interest unless the presumption of control is rebutted by clear and convincing evidence.

Conviction—

(i) A finding of guilt or a plea of guilty or nolo contendere, whether or not a judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held.

(ii) The term does not include a conviction that has been expunged or overturned or for which an individual has been pardoned or an order of Accelerated Rehabilitative Disposition.

Department—The Department of Revenue of the Commonwealth.

Final order—Includes the following:

(i) An order by the Board which approves, issues, renews, revokes, suspends, conditions, denies issuance or renewal of a license or permit.

(ii) An action by the Board which affects personal or property rights, privileges, immunities, duties, liabilities or obligations and disposes of all claims by or against parties before the Board.

(iii) An action by the Board which is designated by the Board as final.

Financial backer—An investor, mortgagee, bondholder, note holder or other source of equity or capital provided to an applicant or licensed entity.

Formal record—The pleadings in a matter or proceeding, a notice or Board order initiating the matter or proceeding, and if a hearing is held, the following shall be included in the formal record: transcript of hearing, exhibits received in evidence, exhibits offered but not received in evidence, offers of proof, motions, stipulations, subpoenas, proofs of service, determinations made by the Board thereon, and certifications to the Board.

Federal tax identification number—The Social Security number of an individual or the Employer Identification Number of a business entity, fiduciary or other person.

Fund—The State Gaming Fund established under section 1403 of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution).

Gaming employee—

(i) An employee of a slot machine licensee, including:

(A) Cashiers.

(B) Change personnel.

(C) Counting room personnel.

(D) Slot attendants.

(E) Hosts or other persons authorized to extend complimentary services.

(F) Machine mechanics or computer machine technicians.

(G) Security personnel.

(H) Surveillance personnel.

(I) Supervisors and managers.

(ii) The term includes employees of a person holding a supplier license whose duties are directly involved with the repair or distribution of slot machines and associated equipment sold or provided to a licensed facility within this Commonwealth as determined by the Board.

(iii) The term does not include bartenders, cocktail servers or other persons engaged solely in preparing or serving food or beverages, clerical or secretarial personnel, parking attendants, janitorial, stage, sound and light technicians and other nongaming personnel as determined by the Board.

Gross terminal revenue—The total of wagers received by a slot machine minus the total of:

(i) Cash or cash equivalents paid out to patrons as a result of playing a slot machine which are paid to patrons either manually or paid out by the slot machine.

(ii) Cash paid to purchase annuities to fund prizes payable to patrons over a period of time as a result of playing a slot machine.

(iii) Any personal property distributed to a patron as the result of playing a slot machine. This does not include travel expenses, food, refreshments, lodging or services.

(iv) The term does not include counterfeit money or tokens, coins or currency of other countries which are received in slot machines (except to the extent that they are readily convertible to United States currency), cash taken in fraudulent acts perpetrated against a slot machine licensee for which the licensee is not reimbursed or cash received as entry fees for contests or tournaments in which the patrons compete for prizes.

Horsemen of this Commonwealth—

(i) A thoroughbred or standardbred horse owner or trainer who enters and runs his horse at a licensed racing entity in the current or prior calendar year and meets the requirements of the horsemen's organization of which he is a member to participate in the receipt of benefits therefrom.

(ii) The term includes an employee of a trainer who meets the requirements of the horsemen's organization of which he is a member to participate in the receipt of benefits therefrom.

*Horsemen's organization—*A trade association which represents the majority of owners and trainers who own and race horses at a licensed racetrack.

*IRS—*The Internal Revenue Service of the United States.

*Institutional investor—*A retirement fund administered by a public agency for the exclusive benefit of Federal, State or local public employees, investment company registered under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64), collective investment trust organized by banks under Part Nine of the Rules of the Comptroller of the Currency, closed end investment trust, chartered or licensed life insurance company or property and casualty insurance company, banking and other chartered or licensed lending institution, investment advisor registered under the Investment Advisors Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21), and other persons as the Board may determine consistent with this part.

*Issued, issuance or issue—*When used in reference to an application submitted to the State Horse Racing Commission or the State Harness Racing Commission to conduct harness or thoroughbred race meetings or the Board to authorize the placement and operation of slot machines, the terms refer to the date when a determination by the Commissions or the Board approving an application brought before the agencies becomes final, binding and nonappealable and is not subject to a pending legal challenge.

*Key employee—*Any individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that regulate slot machine operations in this Commonwealth, including the general manager and assistant manager of the licensed facility, director of slot operations, director of cage and credit operations, director of surveillance, director of marketing, director of management information systems, director of security, comptroller and any employee who supervises the operations of these departments or to whom these department directors or department heads report and other positions which the Board will determine based on detailed analyses of job descriptions as provided

in the internal controls of the applicant or licensee as approved by the Board under section 1322(c) of the act (relating to slot machine accounting controls and audits). All other gaming employees unless otherwise designated by the Board, will be classified as nonkey employees.

*Key employee qualifier—*Officers; directors; persons who directly or indirectly hold any beneficial interest in or ownership of the securities of an applicant or licensee; a person who has the ability to control the applicant or licensee, has a controlling interest in the applicant or licensee, elects a majority of the board of directors of the applicant or licensee, or otherwise has the ability to control the applicant or licensee; a lender, other than a bank or lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; an underwriter; and an employee of a slot machine applicant or licensee, manufacturer applicant or licensee or supplier applicant or licensee required to be licensed by the Board.

*License fee—*The amount of money required to be paid for the issuance or renewal of any type of license required by the act, this part, or as directed by the Board.

*Licensed entity—*A slot machine licensee, manufacturer licensee, supplier licensee or other person licensed by the Board under this part.

*Licensed facility—*The physical land-based location and associated areas at which a licensed gaming entity is authorized to place and operate slot machines.

*Licensed gaming entity or slot machine licensee—*A person that holds a slot machine license under this part.

*Licensed racetrack or racetrack—*The term includes the physical facility and grounds where a person has obtained a license from either the State Horse Racing Commission or the State Harness Racing Commission to conduct live thoroughbred or harness race meetings respectively with pari-mutuel wagering. The term "racetrack or "its racetrack" means the physical land-based location at which live horse racing is conducted even if not owned by the person.

*Licensed racing entity—*A legal entity that has obtained a license to conduct live thoroughbred or harness horse race meetings respectively with pari-mutuel wagering from either the State Horse Racing Commission or the State Harness Racing Commission under the Race Horse Industry Reform Act.

*Manufacturer—*A person who manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs or otherwise makes modifications to slot machines or associated equipment for use or play of slot machines in this Commonwealth for gaming purposes.

*Manufacturer license—*A license issued by the Board authorizing a manufacturer to manufacture or produce slot machines or associated equipment for use in this Commonwealth for gaming purposes.

*Manufacturer licensee—*A manufacturer that obtains a manufacturer license.

*Manufacturer's serial number—*The unique number permanently assigned to a slot machine by a manufacturer for identification and control purposes, which number shall be affixed to the outside of the slot machine cabinet in a location as approved by the Board.

*Municipality—*A city, borough, incorporated town or township.

Net terminal revenue—The net amount of the gross terminal revenue less the tax and assessments imposed under sections 1402, 1403, 1405 and 1407 of the act.

Nonprimary location—A facility in which pari-mutuel wagering is conducted by a licensed racing entity other than the racetrack where live racing is conducted.

Occupation permit—A permit authorizing an individual to be employed or work as a gaming employee.

Permit fee—The amount of money required to be paid for issuance or renewal of any type of permit required by the act, this part or as directed by the Board.

Permittee—A holder of a permit issued under this part.

Person—A natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association or other form of legal business entity.

Progressive payout—A slot machine wager payout that increases in a monetary amount based on the amounts wagered in a progressive system.

Progressive system—A computerized system linking slot machines in one or more licensed facilities within this Commonwealth and offering one or more common progressive payouts based on the amounts wagered.

Qualified majority—A vote by the Board consisting of at least one member of the Board who is a gubernatorial appointee and each of the four legislative-appointees.

Race Horse Industry Reform Act—45 P. S. §§ 325.101—325.402.

Respondents—Persons subject to the jurisdiction of the Board, who are required to respond to an order or notice issued by the Board or the Bureau instituting a proceeding or investigation.

Revenue or tourism-enhanced location—Any location within this Commonwealth determined by the Board, which will maximize net revenue to the Commonwealth or enhance year-round recreational tourism within this Commonwealth, in comparison to other proposed facilities and is otherwise consistent with the act and its declared public policy purposes.

SEC—The Securities and Exchange Commission of the United States.

Securities—As defined in the Pennsylvania Securities Act of 1972 (70 P. S. §§ 1-101—1-703).

Slot machine—

(i) A mechanical or electrical contrivance, terminal, machine or other device approved by the Board which, upon insertion of a coin, bill, ticket, token or similar object therein or upon payment of any consideration, including the use of electronic payment system except a credit card or debit card, is available to play or operate, the play or operation of which, whether by reason of skill or application of the element of chance, or both, may deliver or entitle the person playing or operating the contrivance, terminal, machine or other device to receive cash, billets, tickets, tokens or electronic credits to be exchanged for cash or to receive merchandise or anything of value, whether the payoff is made automatically from the machine or manually. A slot machine:

(A) May utilize spinning reels or video displays, or both.

(B) May or may not dispense coins, tickets or tokens to winning patrons.

(C) May use an electronic credit system for receiving wagers and making payouts.

(ii) The term includes associated equipment necessary to conduct the operation of the contrivance, terminal, machine or other device.

Slot machine license—A license issued by the Board authorizing a person to place and operate slot machines under the act.

Slot machine licensee—A person that holds a slot machine license.

State gaming receipts—Revenues and receipts required by the act to be paid into the State Gaming Fund, the Pennsylvania Race Horse Development Fund and the Pennsylvania Gaming Economic Development and Tourism Fund, and all rights, existing on July 5, 2004, or coming into existence after July 5, 2004, to receive any of those revenues and receipts.

State Treasurer—The State Treasurer of the Commonwealth.

Supplier—A person that sells, leases, offers or otherwise provides, distributes or services slot machines or associated equipment for use or play of slot machines in this Commonwealth at a licensed gaming facility.

Supplier license—A license issued by the Board authorizing a supplier to provide products or services related to slot machines or associated equipment to licensed gaming entities.

Supplier licensee—A supplier that holds a supplier license.

Trade secret—A private formula, pattern, device, cost study or compilation of information which is used in a business and which, if disclosed, would provide the opportunity to obtain an advantage over competitors who do not know or use it.

§ 401.5. Jurisdiction.

The Board will have exclusive jurisdiction over all matters within the scope of its powers under the act.

CHAPTER 403. BOARD OPERATIONS AND ORGANIZATION

Sec.	
403.1.	Participation at meetings and voting.
403.2.	Meetings.
403.3.	Board office hours.
403.4.	Public communication.

§ 403.1. Participation at meetings and voting.

(a) *Qualified majority vote.* Any action by the Board, except as set forth in subsections (b) and (c), including the approval, issuance, denial or conditioning of a license or the making of an order or the ratification of a permissible act done or order made by one or more of the members of the Board shall require a qualified majority vote.

(b) *Majority vote.* Any action by the Board to suspend, revoke, not renew, void or require forfeiture of a license or permit previously issued by the Board, to impose an administrative fine or penalty or to issue cease and desist orders under section 1201 of the act (relating to Pennsylvania Gaming Control Board established), shall require a majority vote of all the Board members.

(c) *Disqualifying interest.* If a Board member has a disqualifying interest in a voting matter, the member shall disclose the nature of his disqualifying interest, disqualify himself and abstain from voting in a proceeding in which his impartiality may be reasonably questioned, including instances where he knows that he

possesses a substantial financial interest in the subject matter of the proceeding or an interest that could be substantially affected by the outcome of the proceeding. If it is a legislative appointee member that has disqualified himself, the qualified majority shall consist of the remaining three legislative appointees and at least two gubernatorial appointees.

(d) *Member abstention.* When a member has disqualified himself, his abstention from voting shall apply only to the singular voting matter that led to his disqualification and not apply to other matters under consideration by the Board for which he is otherwise qualified.

§ 403.2. Meetings.

(a) *Public sessions.* The proceedings of all public sessions will be conducted in accordance with 65 Pa.C.S. Chapter 7 (relating to the Sunshine Act).

(b) *Regularly scheduled meetings.* The Board will meet in Harrisburg once a month, and on other dates, times and locations as the Board determines.

(c) *Participation via telephone or video teleconference.* When it is possible, Board members will attend meetings in person. A Board member may participate in a meeting by means of telephone or video teleconference when it is impractical for the Board member to attend the meeting in person.

(d) *Record of proceedings.* The Board will cause to be kept a record of all proceedings held at public meetings of the Board. A verbatim transcript of those proceedings will be prepared by the Board and posted on the Board's website.

§ 403.3. Board office hours.

Board offices will be open from 9 a.m. to 5 p.m. on business days except Saturdays, Sundays and legal holidays or unless otherwise directed by the Board.

§ 403.4. Public communication.

Requests for information regarding the Board may be directed to:

Office of Communications
Pennsylvania Gaming Control Board
P. O. Box 69060
Harrisburg, Pennsylvania 17106-9060

CHAPTER 407. PUBLIC ACCESS TO BOARD RECORDS

- Sec. 407.1. Case files.
- 407.2. Minutes of public meeting and annual report.
- 407.3. Extensions of time to review folders.

§ 407.1. Case files.

(a) *Records.* Formal records in proceedings before the Board or the Bureau shall contain a file for nonconfidential records and a file for confidential records.

(b) *Contents.* Contents of folders containing records relating to a particular proceeding shall conform to the following:

(1) A nonconfidential file shall contain formal records, complaints, petitions, answers, replies, motions, briefs, orders and opinions that are nonconfidential. The file shall also include correspondence, reports and other materials that are nonconfidential.

(2) A confidential folder shall contain confidential information which may include formal records, complaints, petitions, answers, replies, motions, briefs, orders and

opinions. The file shall also include correspondence, reports and other materials that are confidential.

(c) *Access.* Access to formal records shall conform to the following:

(1) Nonconfidential formal records shall be available for inspection upon request made during normal Board business hours.

(2) Requests for confidential formal records shall be made to determine if the material may be released for inspection. The Board or the Bureau shall review the request and provide its determination and notice to the requestor within 30 days of the request.

(d) The Board or its designee may issue protective orders or establish standards governing the protection of proprietary or confidential documents for a given proceeding or a given type of proceeding. All parties to a proceeding shall submit, classify and mark documents in accordance with the directives of the Board or its designee. In the absence of any protective order or standard, parties shall clearly mark documents that are deemed to be proprietary or confidential, which documents shall be treated as marked by the Board. Any party or member of the public may dispute the designation of a document as submitted by filing a notice of dispute with the Board. The Board will determine the proper classification of documents subject to a notice of dispute as soon as administratively possible.

§ 407.2. Minutes of public meeting and annual report.

Minutes of the public meeting and annual reports shall be available for public inspection and copying upon request to the Office of the Clerk during normal Board business hours and for a certain cost for copying as the Board may determine through a schedule published in the *Pennsylvania Bulletin*.

§ 407.3. Extensions of time to review folders.

For good cause the Board may extend the time limits applicable to requests for access to documents. In the case of documents displaying no need for confidentiality, or, conversely, documents containing information which the Board considers confidential, the Board may direct the appropriate treatment thereof.

Subpart B. LICENSING, REGISTERING AND PERMITTING

- Chap. 421. GENERAL PROVISIONS
- 423. APPLICATIONS
- 427. MANUFACTURER LICENSES
- 433. LICENSE RENEWAL
- 435. EMPLOYEES

CHAPTER 421. GENERAL PROVISIONS

- Sec. 421.1. General requirements.
- 421.2. Licenses and permits.
- 421.3. Disqualification criteria.
- 421.4. Investigations; supplementary information.

§ 421.1. General requirements.

(a) A license issuance, renewal or other licensing approval issued by the Board is deemed a revocable privilege. No person holding a license, renewal, or other licensing approval is deemed to have any property rights.

(b) An application submitted under the act constitutes the seeking of a privilege, and the burden of proving qualification is on the applicant.

(c) An application for license, renewal or other licensing approval from the Board will constitute a request to

the Board for a decision on the applicant's general suitability, financial suitability, character, integrity, and ability to engage in, or be associated with, gaming activity in this Commonwealth. By filing an application with the Board, the applicant specifically consents to investigation to the extent deemed appropriate by the Board. The investigation may include a background investigation of the applicant, employees of the applicant, all persons having a controlling interest in the applicant, and other persons as determined by the Board.

(d) By applying for a license, renewal or other licensing approval from the Board, the applicant agrees to:

(1) Abide by all provisions of the act.

(2) Waive liability as to the Board, its members, its employees, the Pennsylvania State Police, the Commonwealth and its instrumentalities for damages resulting from disclosure or publication in any manner, other than a willfully unlawful disclosure or publication of material or information acquired during an investigation of the applicant.

(3) Consent to execute all releases requested by the Board.

(e) No applicant, permittee or licensee may give or provide, or offer to give or provide, compensation or reward or a percentage or share of the money or property played or received through gaming in consideration or in exchange for obtaining a license or permit issued pursuant to this part.

(f) An individual regulated by this part shall have a duty to inform the Board and the Bureau of an action which the individual believes would constitute a violation of the act. No person who so informs the Board or the Bureau will be discriminated against by an applicant, licensee or person for supplying the information.

§ 421.2. Licenses and permits.

(a) Licenses that may be issued by the Board include:

(1) Manufacturer license, which authorizes the approved licensee to manufacture, build, rebuild, fabricate, assemble, produce, program, design or otherwise make modifications to slot machines or associated equipment for use or play of slot machines in this Commonwealth in accordance with the act.

(2) Supplier license, which authorizes the approved licensee to sell, lease, offer or otherwise provide, distribute or service slot machines or associated equipment for use or play of slot machines in this Commonwealth in accordance with the act.

(3) Slot machine license, which authorizes the approved licensee to place and operate slot machines and associated equipment for use or play of slot machines in this Commonwealth in accordance with the act.

(4) Key employee qualifier license, which authorizes the approved key employee qualifier to hold a designated position or be associated with an applicant or holder of a manufacturer license, a supplier license or a slot machine license.

(5) Key employee license, which authorizes the approved key employee to be employed in a designated position by an applicant or holder of a manufacturer license, supplier license or slot machine license.

(b) Permits that may be issued by the Board include occupation permits which authorize individuals to be employed as gaming employees by slot machine licensees and supplier licensees.

§ 421.3. Disqualification criteria.

A manufacturer license, a supplier license or a slot machine license or a renewal thereof, may be denied, suspended or revoked to or from a person or applicant who has failed to provide to the satisfaction of the Board that the person or applicant or any of the persons required to be qualified, are in fact qualified in accordance with the act and with this part, who has violated the act or this part, who is disqualified under the criteria set forth in the act, who has materially departed from representation made in the application for licensure or renewal, or who has failed to comply with applicable Federal or state laws or regulations. A suspension, non-renewal or denial of a license or license application may be made for a sufficient cause consistent with the act and the public interest.

§ 421.4. Investigations; supplementary information.

The Board and the Bureau may make an inquiry or investigation concerning an applicant, licensee or any associate of the applicant or licensee as it may deem appropriate either at the time of the initial application and licensure or at any time thereafter. It shall be the continuing duty of all applicants and licensees to provide full cooperation to the Board and the Bureau in the conduct of the inquiry or investigation and to provide supplementary information requested by the Board or the Bureau.

CHAPTER 423. APPLICATIONS

Sec.	
423.1.	General requirements.
423.2.	Application processing.
423.3.	License issuance.
423.4.	Incomplete applications.
423.5.	Application withdrawal.

§ 423.1. General requirements.

(a) Every application shall be submitted on forms supplied or approved by the Board and shall contain all information and documents as required by the Board.

(b) The applicant shall file with the application all supplemental forms provided by the Board. The forms require full disclosure of all details relative to the applicant's suitability to conduct business in this Commonwealth under the act.

(c) Upon request of the Board, the applicant shall further supplement any information provided in the application. The applicant shall provide all requested documents, records, supporting data and other information within the time period specified in the request, or if no time is specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period as set forth in the request, the Board may deny the application.

(d) An applicant shall submit evidence to the Board of the applicant's financial fitness, integrity and responsibility. The Board's review will include: the applicant's bank references, business and personal income and disbursement schedules, annual financial statements and tax returns, whether the applicant has adequate financing available to pay all current obligations and whether the applicant is likely to be able to adequately cover all existing and foreseeable obligations in the future.

(e) All information provided to the Board shall be true and complete. If there is any change in the information provided to the Board, the applicant shall promptly file a written amendment in a form prescribed by the Board.

(f) The application and any amendments or supplements must be sworn to or affirmed by the applicant before a notary public.

(g) The Board will automatically deny the application of any applicant that refuses to submit to a background investigation or provide requested information as required under the act.

(h) An applicant that submits a document to the Board which is in a language other than English shall also submit an English translation of the non-English language document. The translation shall include the signature, printed name, address and telephone number of the translator and a verification by the translator of the truth and accuracy of the translation. At its discretion, the Board may accept an English summary of a document in lieu of a complete translation of the document.

§ 423.2. Application processing.

(a) Upon a determination that all prerequisites for filing have been met, the Board will:

(1) Accept the application for filing and cause it to be docketed.

(2) Notify the applicant or the applicant's attorney, if any, in writing of the fact that the application has been accepted for filing and docketed, the date of the acceptance for filing and the docket number assigned to the applicant. The Board will also notify the applicant that the acceptance for filing and docketing of the application will not constitute evidence that any requirement of the act has been satisfied.

(3) Obtain and evaluate information as may be necessary to determine the qualifications of the applicant and any matter relating to the application.

(4) Request the Bureau to promptly conduct an investigation and provide the information necessary to determine the qualifications of the applicant and any matter relating to the application.

(5) Request the Pennsylvania State Police to provide a criminal history background investigation report, determine employee eligibility consistent with § 435.1 (relating to general provisions), conduct fingerprinting, receive handwriting exemplars, photograph applicants and perform duties as directed by the Board.

(6) Request the Department to promptly conduct a tax clearance and lien review.

(7) Request the Department of Labor and Industry to perform an Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review.

(8) Request any agencies, entities or persons to conduct investigations or evaluations or to provide information on behalf of the Board or the Bureau, as deemed necessary by the Board.

(b) The Board will keep and maintain a list of all applicants for licenses under this part together with a record of all actions taken with respect to applicants.

(c) An application submitted under this part and all information obtained by the Board or the Bureau relating to the application shall be part of the evidentiary record of the licensing proceeding. All information obtained, including background investigation information and documents and information from other jurisdictions shall be served on the applicant. The Board's decision to issue or deny a license shall be based solely on the evidentiary record before the Board.

§ 423.3. License issuance.

(a) In addition to criteria provided under the act, the Board will not issue or renew a license unless the Board finds that the applicant has established it has met the following criteria:

(1) The applicant has developed and implemented or agreed to develop and implement a diversity plan, in accordance with section 1325(b) of the act (relating to license or permit issuance), to assure that all persons are accorded equality of opportunity in employment and contracting by the applicant, its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

(2) The applicant has paid all applicable fees.

(3) The applicant has fulfilled any conditions required by the Board or provided by the act.

(4) The applicant in all other respects is found suitable consistent with the laws of the Commonwealth and is otherwise qualified to be issued a license or permit.

(b) Nothing contained in the act is intended or may be construed to create an entitlement to a license by any person.

§ 423.4. Incomplete applications.

(a) The Board will not consider an application that is incomplete. An application will be deemed incomplete if it fails to include one or more of the following requirements:

(1) Applicable fees paid.

(2) Information and accompanying documentation as may be requested by the Board.

(b) If an application is deemed incomplete, the Board will notify the applicant of the deficiencies in the application and permit the applicant to revise the application and resubmit the application to the Board within a time period prescribed by the Board.

(c) Refusal to provide information as requested by the Board, its designees or agents or the Pennsylvania State Police shall result in the immediate denial of a license or permit.

§ 423.5. Application withdrawal.

(a) Except as provided in subsection (e), a written notice of withdrawal of application may be filed by an applicant at any time prior to the Board's final decision.

(b) An application will not be permitted to be withdrawn, however, unless the applicant has first established to the satisfaction of the Board that withdrawal of the application would be consistent with the public interest and the policies of the act.

(c) The Board will have the authority to direct that any applicant so permitted to withdraw his application will not be eligible to apply again for licensure, permit, or registration until a designated time as the Board determines.

(d) Unless the Board otherwise directs, no fee or other payment relating to any application will be refunded by reason of withdrawal of the application.

(e) When a hearing on an application has been requested by a party or directed by the Board, the Board will not permit withdrawal of the application after one of the following applies:

(1) The application matter has been assigned to a hearing examiner authorized by law to hear a matter.

(2) The Board has made a determination to hear the application matter directly.

CHAPTER 427. MANUFACTURER LICENSES

Sec.	
427.1.	Manufacturer license requirements.
427.2.	Manufacturer licensing standards and application.
427.3.	Alternative manufacturer licensing standards.

§ 427.1. Manufacturer license requirements.

(a) In determining whether an applicant shall be licensed as a manufacturer under this section, the Board will consider whether the applicant satisfies the criteria listed in this section and whether the applicant manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs or otherwise makes modifications to slot machines or associated equipment at a licensed facility which:

- (1) Are specifically designed for use in the operation of a slot machine.
- (2) Are needed to conduct an authorized game.
- (3) Have the capacity to affect the outcome of the play of a game.
- (4) Have the capacity to affect the calculation, storage, collection or control of gross terminal revenue.

(b) An applicant for or holder of a manufacturer license shall have a continuing duty to promptly:

(1) Notify the Board of a material change in the information, materials and documents submitted in the license application or renewal application submitted by the applicant or licensee or a change in circumstances that may render the applicant or licensee ineligible, unqualified or unsuitable to hold the license under the licensing standards and requirements of the act and of this part.

(2) Provide any information requested by the Board or the Bureau relating to licensing or regulation; cooperate with the Board or the Bureau in investigations, hearings, and enforcement and disciplinary actions; and comply with all conditions, restrictions, requirements, orders and rulings of the Board in accordance with the act.

(c) In accordance with section 1317 of the act (relating to supplier and manufacturer licenses application), neither an applicant for or the holder of a manufacturer license or slot machine license nor any of the applicant's or holder's affiliates, intermediaries, subsidiaries or holding companies, is eligible to apply for or hold a supplier license.

§ 427.2. Manufacturer licensing standards and application.

(a) The standards and requirements for qualification for a manufacturer license are set forth as follows and in section 1317 of the act (relating to supplier and manufacturer licenses application). The applicant shall submit:

- (1) A nonrefundable application processing fee.
- (2) An original and seven copies of the Manufacturer/Supplier Application and Disclosure Information Form for the applicant that has applied for the license under this part.
- (3) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481 (relating to general provisions), which shall be signed by the chief executive officer of the applicant.
- (4) An application from every key employee and key employee qualifier as specified by the Manufacturer Application and Disclosure Information Form or as determined by the Board, which shall consist of the following:

(i) An original and seven copies of the Multi Jurisdictional Personal History Disclosure Form with a nonrefundable deposit to be set by the Board and provided in a fee schedule for each key employee and key employee qualifier.

(ii) The applicant may be subject to additional fees based on the actual expenses incurred by the Board in conducting the background investigation.

(5) If applicable, copies of all filings required by the Securities and Exchange Commission during the 2 immediately preceding fiscal years, including all annual reports filed with the United States Securities Exchange Commission, under sections 13 or 15D of the Securities Exchange Act of 1934 (15 U.S.C.A. §§ 78m and 78o-6), quarterly reports filed with the United States Securities Exchange Commission, under sections 13 or 15D of the Securities Exchange Act of 1934, current reports filed with the United States Securities Exchange Commission, under sections 13 or 15D of the Securities Exchange Act of 1934, and proxy statements issued by the applicant.

(6) Properly executed forms for consents to inspections, searches and seizures; waivers of liability for disclosures of information and consents to examination of accounts and records in forms as prescribed by the Board.

(7) The applicant shall affirm that neither it nor any of its affiliates, intermediaries, subsidiaries or holding companies, holds any direct or indirect ownership interest in any applicant for or holder of a supplier license, or employs, directly or indirectly, any person who satisfies the definition of a key employee qualifier or key employee of a supplier licensee. In applying this provision to an applicant for a manufacturer license, the Board will not include interests that are held by individuals in any of the following manners:

(i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the applicant or licensee and provided that the mutual fund is not a nondiversified fund invested primarily in entities operating in, or connected with, the gaming industry.

(ii) Through defined benefit pension plans.

(iii) Through deferred compensation plans organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).

(iv) In blind trusts over which the holder may not exercise any managerial control or receive income during the time period the holder is subject to these provisions.

(v) Through tuition account plans organized and operated under section 529 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 529).

(vi) Through plans described in section 401(k) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 401(k)).

(vii) An interest held by a spouse if an action seeking a divorce and dissolution of marital status has been initiated in any jurisdiction by either party to the marriage.

(8) Other information or documentation as may be requested by the Board.

(b) Each application for a manufacturer license shall include the production of copies of financial books, records, information, documentation and assurances to satisfy the Board of the following:

(1) The financial fitness, good character, honesty, integrity and responsibility of the applicant.

(2) That all key employee qualifiers individually qualify under the standards of section 1317 of the act.

(3) The integrity of all financial backers.

(4) The suitability of the applicant and all key employee qualifiers of the applicant based on the satisfactory results of:

(i) A background investigation of all owners, officers, members of the board of directors and key employees or their equivalent in other jurisdictions.

(ii) A current tax clearance and lien review performed by the Department.

(iii) A current Unemployment Compensation Tax clearance review and a Workers Compensation Tax clearance review performed by the Department of Labor and Industry.

(c) A sworn or affirmed statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of section 1513 of the act (relating to political influence).

§ 427.3. Alternative manufacturer licensing standards.

(a) If an applicant for a manufacturer license holds a similar license in another jurisdiction in the United States, the applicant may submit a written request with its application for the Board to adopt an abbreviated licensing process under section 1319 of the act (relating to alternative manufacturer licensing standards) to review a manufacturer license application.

(b) The Board may use the abbreviated process if:

(1) The Board determines, after investigation, that the licensing standards in a jurisdiction in which the applicant is licensed are similarly comprehensive, thorough and provide equal, if not greater, safeguards as provided in the act and that granting the request is in the public interest.

(2) A completed application has been filed by the applicant.

(3) The applicant has provided current, updated information to the Board associated with the similar license in the other jurisdiction related to its financial viability and suitability.

(4) The applicant has no administrative or enforcement actions pending in another jurisdiction or the applicant has adequately disclosed and satisfactorily explained the action to the satisfaction of the Board.

(5) There are no pending or ongoing investigations of possible material violations by the applicant in another jurisdiction or the applicant has adequately disclosed and satisfactorily explained the investigation to the satisfaction of the Board.

(c) This section may not be construed to waive fees associated with obtaining a license through the application process in this Commonwealth.

CHAPTER 433. LICENSE RENEWAL

Sec. 433.1. Renewal of manufacturer and supplier license.

§ 433.1. Renewal of manufacturer and supplier license.

(a) A license issued under this part shall be valid for a term of 1 year and for all subsequent renewals. An

application for renewal shall be filed by a licensed entity no later than 60 days prior to the expiration of the license.

(b) The licensed entity shall complete and file an original and seven copies of a Manufacturer/Supplier License Renewal Application Form which shall, without limitation, disclose all changes in ownership of the licensed entity, and the new owner shall be required to submit an application for licensure and evidence that it is qualified for licensure.

(1) The licensed entity shall disclose all changes in personnel who are to be licensed by the Board.

(2) The licensed entity shall pay the license renewal fee, as established by the Board under section 1208 of the act (relating to collection of fees and fines), when the Renewal Application Form is filed.

(3) Once a Renewal Application Form has been filed and the renewal fee has been paid, the original license shall remain in effect until the Board sends written notification to the licensed entity that the Board has denied renewal of the license.

CHAPTER 435. EMPLOYEES

Sec. 435.1. General provisions.
435.2. Key employee qualifier license.
435.3. Key employee license.
435.4. Occupation permit.

§ 435.1. General provisions.

(a) The issuance or renewal of a license or permit by the Board shall be a revocable privilege. No individual holding a license or permit under this part shall be deemed to have a property interest in the license or permit.

(b) It shall be the affirmative responsibility of each individual applying for a license or permit under this part to establish his individual qualifications. All information provided to the Board must be true and complete. If there is a change in the information provided to the Board, an applicant shall promptly file a written amendment in a manner prescribed by the Board. An applicant who fails to cooperate with the review of its application under this part will not be granted a license or permit.

(c) An individual applying for a license or permit under this part will provide all information required by the act and this part and satisfy all requests for information pertaining to qualification in a form required by the Board. An individual who fails to provide information, documentation and disclosures required by this part or by the Board or who fails to reveal a fact material to qualification will not be granted a license or permit under this part. An applicant agrees to waive liability as to the Board, its members, its employees, the Pennsylvania State Police, the Commonwealth and its instrumentalities for damages resulting from disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of material or information acquired during an investigation of the applicant.

(d) An individual applying for a license or permit under this part shall have the continuing duty to provide assistance or information requested by the Board or the Bureau, and to cooperate in an inquiry, investigation or hearing conducted by the Board or the Bureau. If, upon issuance of a formal request for information, evidence or testimony, an applicant, licensee or permittee refuses to comply with requests for assistance or information, the application, license or permit shall be denied or revoked by the Board.

(e) An individual who receives a license or permit under this part shall have the continuing duty to report to the Board an arrest or conviction for an offense under 18 Pa.C.S. (relating to crimes and offenses), or an offense under 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) or of comparable offenses in other states or foreign jurisdictions.

(f) An individual may not be employed in this Commonwealth by a slot machine licensee, manufacturer licensee or supplier licensee in any capacity unless he is a citizen of the United States or can demonstrate that he holds a current and valid work authorization and is not restricted from working in the capacity for which employment is sought or held. Authorization to work in the United States may be demonstrated by submitting one of the following:

- (1) A permanent resident alien card.
- (2) A temporary employment authorization card.
- (3) A document which the Board deems to be sufficient evidence or authorization.

(g) No applicant, licensee or permittee may give or provide, or offer to give or provide, compensation or reward or a percentage or share of the money or property played or received through gaming in consideration or in exchange for obtaining a license or permit issued under this part.

(h) An individual regulated by this part shall have a duty to inform the Board and the Bureau of any action which the individual believes would constitute a violation of the act. No person who so informs the Board or the Bureau will be discriminated against by an applicant, licensee or person for supplying the information.

(i) An applicant who submits a document to the Board which is in a language other than English shall also submit an English translation of the non-English language document. The translation shall include the signature, printed name, address and telephone number of the translator and a verification by the translator of the truth and accuracy of the translation. At its discretion, the Board may accept an English summary of a document in lieu of a complete translation of the document.

(j) Sixty days prior to the expiration of a license or permit under this part, a licensee or permittee may submit a renewal application to the Board. If the renewal application meets all the requirements of this part, the license or permit shall remain in effect until the Board sends written notification to the licensee or permittee that the Board has denied renewal of the license or permit. A new background investigation is not required unless ordered by the Board. All licensees and permittees shall provide an updated photograph at least every 2 years.

(k) A reference to a slot machine licensee, manufacturer licensee or supplier licensee under this chapter includes an applicant for a slot machine license, manufacturer license or supplier license in addition to a person who is already licensed.

(l) The Board will maintain a list of all individuals who have applied for a license or permit under this part as well as a record of all actions taken with respect to each applicant, which list shall be open to public inspection.

§ 435.2. Key employee qualifier license.

(a) All key employee qualifiers shall obtain a key employee qualifier license from the Board.

(b) An application for licensure as a key employee qualifier shall be on a form prescribed by the Board and include the following:

- (1) The name and address of the individual to include the home address and history of residence and all current business addresses.
- (2) Daytime and evening telephone numbers.
- (3) Date of birth.
- (4) Physical description of the applicant.
- (5) Social Security number.
- (6) Citizenship, resident alien status or authorization to work in the United States.
- (7) Marital status.
- (8) Military history.
- (9) Employment history, including gaming-related employment and contact information for prior employers.
- (10) Education history.
- (11) Family and marital history, including any current court orders relating to alimony, spousal support or child support.
- (12) Credit history.
- (13) History of insurance claims relating to the business activities of the applicant or its affiliates, intermediaries, subsidiaries or holding companies.
- (14) Information relating to any health-related issues involving alcohol or controlled substances.
- (15) A list of at least five references, to include contact information for each.
- (16) Verification of the applicant's status as a key employee qualifier from a slot machine licensee, manufacturer licensee or a supplier licensee.
- (17) If the applicant is an employee, a description of the employment responsibilities of the individual and their relationship to the operation of the slot machine licensee, manufacturer licensee or supplier licensee and of all education, training and experience that qualifies the individual for the position.
- (18) A signed, dated and notarized release authorization necessary to obtain information from governmental agencies and other institutions about the applicant.
- (19) The individual's criminal history records information and arrests or criminal charges brought against the individual.
- (20) A photograph that meets the requirements prescribed by the Board.
- (21) A set of fingerprints taken by the Pennsylvania State Police or a criminal justice agency designated by the Pennsylvania State Police and transmitted to the Pennsylvania State Police.
- (22) A list of civil judgments consistent with section 1310(b) of the act (relating to slot machine license application character requirements).
- (23) Details relating to any similar licenses obtained in other jurisdictions.
- (24) A tax clearance and lien review from the Department.
- (25) A nonrefundable application processing fee.
- (26) Any additional information requested by the Board.

(c) In addition to the information under subsection (b), the Board may require letters of reference under section 1310(b) of the act (relating to slot machine license application character requirements).

(d) After review of the information submitted under subsections (b) and (c), including the background investigation, the Board may issue a key employee qualifier license if the individual applicant has proven by clear and convincing evidence that he is a person of good character, honesty and integrity and is qualified and suitable to be licensed as a key employee qualifier.

(e) A license issued under this section will be nontransferable.

(f) An individual who receives a license under this chapter need not obtain an additional license as a key employee.

(g) Notwithstanding the definition of key employee qualifier in § 401.4 (relating to definitions), any of the following persons may request in writing that the Board waive their obligation to be licensed as a key employee qualifier as part of a manufacturer, supplier or slot machine license issuance or renewal by making the appropriate showing:

(1) If the person required to be licensed is a key employee qualifier as an officer of an entity, the person shall be required to demonstrate that he is not significantly involved in and has no authority over the conduct of business with a licensee. The request shall include, at a minimum, the following:

(i) A description of his title, duties and responsibilities with the applicant, licensee or with any of its affiliates, intermediaries, subsidiaries or holding companies.

(ii) The terms of his compensation.

(iii) A certification by the officer stating that the officer is not significantly involved in and has no authority over the conduct of business with any slot machine licensee or applicant.

(2) If the person required to be licensed as a key employee qualifier as an outside director of an affiliate, intermediary, subsidiary or holding company of an applicant or licensee, the person shall be required to demonstrate that he is not significantly involved in the management or ownership of the applicant or licensee. The request shall include, at a minimum, the following:

(i) A description of his title, duties and responsibilities with the applicant, licensee or with any of its affiliates, intermediaries, subsidiaries or holding companies.

(ii) The terms of his compensation.

(iii) Any board committee memberships, including a description of the functions and responsibilities of any such committee.

(iv) A description of his ownership interest.

(v) A certification by the director stating that the director is not significantly involved in the management of the applicant or licensee.

(3) If the person required to be licensed is a key employee qualifier as an owner of the applicant or licensee or any of its affiliates, intermediaries, subsidiaries or holding companies, and requests a waiver as an institutional investor, the person shall be required to demonstrate the following:

(i) The institutional investor shall demonstrate that its ownership interest consists of one of the following:

(A) Under 10% of the equity securities of a licensee's holding or intermediary companies, if the securities are those of a publicly traded corporation and its holdings of the securities were purchased for investment purposes only.

(B) Debt securities of a licensee's affiliates, intermediaries, subsidiaries or holding companies or another affiliate, intermediary, subsidiary or holding company of a licensee's affiliate, intermediary, subsidiary or holding company which is related in any way to the financing of the licensee, where the securities represent a percentage of the outstanding debt of the company not exceeding 20% or a percentage of any issue of the outstanding debt of the company not exceeding 50%, if the securities are those of a publicly traded corporation and its holdings of the securities were purchased for investment purposes only.

(ii) A request for waiver by an institutional investor shall include, at a minimum, the following:

(A) The number of shares or units held by it and the percentage of ownership of the entity that the shares or units represent.

(B) A copy of the most recent notice filed by it with the Securities and Exchange Commission.

(C) A list of any direct or indirect owners of the institutional investor.

(D) An explanation as to why the investor should be considered an institutional investor under the definition in § 401.4.

(E) A certification by the investor stating that the investor has no present involvement in, and no intention of influencing the business activities of, the applicant or licensee or any of its affiliates, intermediaries, subsidiaries or holding companies and will give the Board 30 days notice if the investor intends to become involved in or to influence the activities in the future.

(h) A request for a waiver of a key employee qualifier license shall include a nonrefundable application processing fee. The Board may charge additional fees based on the actual expenses incurred in processing the waiver request.

§ 435.3. Key employee license.

(a) All key employees shall obtain a key employee license from the Board.

(b) An application for licensure as a key employee shall be on a form prescribed by the Board and include the following:

(1) The name and address of the individual, to include the home address and history of residence and all business addresses.

(2) Daytime and evening telephone numbers.

(3) Date of birth.

(4) Physical description of the applicant.

(5) Social Security number.

(6) Citizenship, resident alien status or authorization to work in the United States.

(7) Marital status.

(8) Military history.

(9) Employment history, including gaming-related employment and contact information for prior employers.

(10) Education history.

(11) Family and marital history, including any current court orders relating to alimony, spousal support or child support.

(12) Credit history.

(13) History of insurance claims relating to the business activities of the applicant or its affiliate, intermediary, subsidiary or holding company.

(14) Information relating to any health-related issues involving alcohol or controlled substances.

(15) A list of at least five references, to include contact information for each.

(16) Verification of the applicant's employment or an offer of employment from a slot machine licensee, manufacturer licensee or a supplier licensee.

(17) A description of the employment responsibilities of the individual and their relationship to the operation of the slot machine licensee, manufacturer licensee or supplier licensee and of all education, training and experience that qualifies the individual for the position.

(18) A signed, dated and notarized release authorization necessary to obtain information from governmental agencies and other institutions about the applicant.

(19) The individual's criminal history records information and arrests or criminal charges brought against the individual.

(20) A photograph that meets the requirements prescribed by the Board.

(21) A set of fingerprints taken by the Pennsylvania State Police or a criminal justice agency designated by the Pennsylvania State Police and transmitted to the Pennsylvania State Police.

(22) A list of civil judgments consistent with section 1310(b) of the act (relating to slot machine license application character requirements).

(23) Details relating to any similar licenses obtained in other jurisdictions.

(24) A tax clearance and lien review from the Department.

(25) A nonrefundable application processing fee.

(26) Any additional information requested by the Board.

(c) In addition to the information under subsection (b), the Board may require letters of reference from law enforcement agencies under section 1310(b) of the act.

(d) After review of the information submitted under subsections (b) and (c), including the background investigation, the Board may issue a key employee license if the individual applicant has proven by clear and convincing evidence that he is a person of good character, honesty and integrity and is qualified to be licensed as a key employee.

(e) A license issued under this section will be nontransferable.

(f) Notwithstanding the definition of key employee in § 401.4 (relating to definitions), any of the following persons may request in writing that the Board waive their obligation to be licensed as a key employee as part of a manufacturer, supplier or slot machine license issuance or renewal by making the appropriate showing:

(1) The person shall be required to demonstrate one of the following:

(i) He is not assigned to the licensee's gaming operations in this Commonwealth.

(ii) His duties do not have an effect on or require contact with slot machines for use or play in this Commonwealth.

(2) The request shall include, at a minimum, the following:

(i) A description of his title, duties and responsibilities with the applicant, licensee or with any of its affiliates, intermediaries, subsidiaries or holding companies.

(ii) A certification by the chief executive officer stating that the employee is not assigned to the licensee's gaming operations in this Commonwealth or that the employee's duties do not have an effect on or require contact with slot machines for use or play in this Commonwealth.

(g) A request for a waiver of a key employee license must include a nonrefundable application processing fee. The Board may charge additional fees based on the actual expenses incurred in processing the waiver request.

§ 435.4. Occupation permit.

(a) All gaming employees shall apply for and receive an occupation permit from the Board.

(b) An application for an occupation permit shall be on a form prescribed by the Board and include the following:

(1) The name and address of the individual, to include the home address and residence history and all business addresses.

(2) Daytime and evening telephone numbers.

(3) Date of birth.

(4) Physical description of the applicant.

(5) Social Security number.

(6) Citizenship, and, if applicable, resident alien status, including employment authorization.

(7) Marital status.

(8) Military history.

(9) Employment history, including gaming-related employment and contact information for prior employers.

(10) Education history.

(11) Family and marital history, including any current court orders relating to alimony, spousal support or child support.

(12) Credit history.

(13) History of insurance claims relating to the business activities of the applicant or its affiliate, intermediary, subsidiary or holding company.

(14) Information relating to any health-related issues involving alcohol or controlled substances.

(15) A list of at least five references, to include contact information for each.

(16) Verification of the applicant's employment or an offer of employment from a slot machine licensee or a supplier licensee.

(17) A description of the employment responsibilities of the individual and their relationship to the operation of the slot machine licensee or supplier licensee and of all education, training and experience that qualifies the individual for the position.

(18) A signed, dated and notarized release authorization necessary to obtain information from governmental agencies and other institutions about the applicant.

(19) A description of the individual's criminal history records information and arrests or criminal charges brought against the individual.

(20) A photograph that meets the requirements prescribed by the Board.

(21) A set of fingerprints taken by the Pennsylvania State Police or a criminal justice agency designated by the Pennsylvania State Police and transmitted to the Pennsylvania State Police.

(22) A list of civil judgments consistent with section 1310(b) of the act (relating to slot machine license application character requirements).

(23) Details relating to any similar licenses obtained in other jurisdictions.

(24) A tax clearance and lien review from the Department.

(25) A nonrefundable application processing fee.

(26) Any additional information requested by the Board.

(c) In addition to the information under subsection (b), the Board may require letters of reference from law enforcement agencies under section 1310(b) of the act (relating to slot machine license application character requirements).

(d) After review of the information submitted under subsections (b) and (c), including a background investigation, the Board may issue a permit if the individual has proven that he is a person of good character, honesty and integrity and is qualified to hold an occupation permit.

(e) An individual who wishes to receive an occupation permit under this chapter may provide the slot machine licensee or supplier with written authorization to file the application on the individual's behalf.

(f) A license issued under this section shall be non-transferable.

(g) An individual who is employed by a licensed manufacturer that is specifically excluded from the supplier requirement shall be required to obtain a permit under this section.

(h) The Board may issue, renew or deny a permit under this section, consistent with 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies). If the Board provides an individual with the opportunity to demonstrate rehabilitation, the individual shall provide certification from the Pennsylvania Board of Probation and Parole or the County Probation and Parole Office, whichever is applicable, that all obligations for restitution, fines and penalties have been met. The Board will provide notice to the district attorney of the individual's county of residence of the individual's request for a determination of rehabilitation. The district attorney shall have 15 days from receipt of the notice to provide input into the determination.

(i) Nothing in subsection (h) shall be construed to authorize the issuance of an occupation permit to an applicant who has been convicted of an offense under 18 Pa.C.S. (relating to crimes and offenses) or the criminal laws of any other jurisdiction which conviction indicates that the issuance of the occupation permit to the applicant would be inimical to the public policy of the act or this part.

Subpart C. (Reserved).

Subpart D. RECORDKEEPING

Chap. 451.

LICENSEE RECORDKEEPING REQUIREMENTS

CHAPTER 451. LICENSEE RECORDKEEPING REQUIREMENTS

Sec.

451.1. Recordkeeping generally.

§ 451.1. Recordkeeping generally.

(a) All manufacturer, supplier and slot machine licensees shall maintain in a place secure from theft, loss or destruction, adequate records of business operations which shall be made available to the Board upon request. These records include:

(1) All correspondence with the Board and other governmental agencies on the local, State and Federal level.

(2) All correspondence concerning gaming equipment with a slot machine licensee or other licensed entity.

(3) Copies of all promotional material and advertising.

(4) A personnel file on each employee of the licensee.

(5) Financial records of all transactions concerning slot machines and associated equipment with a licensed entity.

(6) Copies of all tax returns, reports and other tax documents filed with a taxing entity of the Federal government as well as a State or local taxing entity for 7 years or a longer period as prescribed by the taxing entity.

(7) Copies of all general accounting records.

(b) Except as provided in subsection (a)(6) regarding tax documents, the records listed in subsection (a) shall be held for at least 5 years.

Subpart E. SLOT MACHINE TESTING AND CERTIFICATION

Chap. 461.

SLOT MACHINE TESTING AND CERTIFICATION REQUIREMENTS

CHAPTER 461. SLOT MACHINE TESTING AND CERTIFICATION REQUIREMENTS

Sec.

461.1. Protocol requirements.

461.2. Testing and certification generally.

§ 461.1. Protocol requirements.

In accordance with section 1324 of the act (relating to protocol information), all manufacturer licensees and supplier licensees shall be required to enable all slot machine terminals to communicate with the Department's Central Control Computer for the purpose of transmitting auditing program information and activating and disabling slot machine terminals.

§ 461.2. Testing and certification generally.

(a) In accordance with section 1320 of the act (relating to slot machine testing and certification standards), the Board will determine the manner and scope in which slot machine terminals are to be tested and certified prior to operation and use in a licensed facility in this Commonwealth.

(b) All slot machines operated in this Commonwealth must be approved by the Board.

(c) The Board has the authority to require one or more of the following procedures with respect to testing and certifying a slot machine:

(1) Accept other gaming jurisdiction certification under section 1320 of the act.

(2) Utilize the services of a slot machine testing and certification facility to conduct the testing until a slot machine testing and certification facility is created by the Board.

(d) On or before July 5, 2007, the Board will establish and maintain an independent slot machine testing and certification facility. The cost of establishment and operation of the facility shall be paid by each manufacturer licensee in accordance with a schedule adopted by the Board.

(e) The Board will require payment of all costs for the testing and certification of all slot machines through procedures prescribed by the Board.

(f) The Board will require a manufacturer licensee seeking approval of a slot machine to pay all costs of transportation, inspection and testing.

Subpart F. FEES

Chap.
471. FILING FEES

CHAPTER 471. FILING FEES

Sec.	
471.1.	Fees generally.
471.2.	Obligation to pay fees; nonrefundable nature of fees.
471.3.	Schedule of fees.

§ 471.1. Fees generally.

(a) In accordance with section 1208 of the act (relating to collection of fees and fines), the Board has the power and duty to levy and collect fees from various applicants, licensees and permittees to fund the operations of the Board.

(b) A pleading or other document for which a filing fee is required to be charged will be received, but will not be deemed filed, until the filing fee, bond, letter of credit or other cost that may be required by statute or regulation has been paid.

(c) The fees collected by the Board will be deposited into the State Gaming Fund as established in section 1403 of the act (relating to establishment of State Gaming Fund and net slot machine revenue distribution).

(d) Fees shall be paid by money order or check made payable to the "Commonwealth of Pennsylvania." Cash will not be accepted by the Board.

§ 471.2. Obligation to pay fees; nonrefundable nature of fees.

(a) A fee required under the act or this part shall be due and payable notwithstanding the withdrawal or abandonment of an application or the termination of an existing license.

(b) Except as otherwise provided in section 1209 of the act (relating to slot machine license fee), amounts actually paid by the applicant, licensee or permittee in accordance with the act and this part are not refundable.

§ 471.3. Schedule of fees.

(a) In accordance with section 1208 of the act (relating to collection of fees and fines), the Board has the power and duty to levy and collect fees from applicants for manufacturer licenses and supplier licenses. The licensing fee schedule shall be published by the Board in the *Pennsylvania Bulletin* and available on the Board's website.

(b) In order to recover the cost of the investigation and consideration of license and permit applications by manufacturers and suppliers, each application for a manufacturer license or a supplier license must be accompanied by a nonrefundable fee to be set by the Board and provided in a fee schedule for each key employee and key employee qualifier to be licensed. The applicant may be subject to additional fees based on the actual expenses incurred by the Board in conducting the background investigation.

(c) On or after July 5, 2006, and annually thereafter, the Board may increase the fees listed in the fee schedule by an amount not to exceed an annual cost-of-living adjustment calculated as set forth in section 1208(2) of the act.

Subpart G. MINORITY AND WOMEN'S BUSINESS ENTERPRISES

Chap.
481. GENERAL PROVISIONS

CHAPTER 481. GENERAL PROVISIONS

Sec.	
481.1.	Statement of purpose and policy.
481.2.	Definitions.
481.3.	Diversity participation.
481.4.	Establishment of diversity plan required.
481.5.	Report of participation.

§ 481.1. Statement of purpose and policy.

(a) This part establishes and prescribes the procedures for promoting and ensuring that licensed entities and applicants for licensure foster participation and diversity in all aspects of their operations in this Commonwealth.

(b) It is the policy of the Board to promote and ensure that licensed entities and applicants for licensure conduct all aspects of their operations in a manner that assures diversity of opportunity as follows:

(1) In the ownership, participation and operation of licensed entities in this Commonwealth.

(2) Through the ownership, participation and operation of business enterprises associated with or utilized by licensed entities.

(3) Through the provision of goods and services utilized by licensed entities.

(c) It is further the policy of the Board to promote and ensure diversity in employment and contracting by each licensed entity or applicant for a license and its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

§ 481.2. Definitions.

The following words and terms, when used in this part, have the meanings given to them in this section, unless the context clearly indicates otherwise.

Diversity plan—A plan developed by a licensed entity or an applicant for a license which promotes and ensures diversity in ownership, participation and operation of licensed entities; and in employment and contracting by a licensed entity.

Minority—The ethnic/racial categories identified in employer survey reports that are required by the United States Equal Opportunity Commission and the Office of Federal Contract Compliance Programs of the United States Department of Labor under section 709 of the Civil Rights Act of 1964 (42 U.S.C.A. § 2000(e)-8) or by subsequent amendments to that Federal act.

Participation plan—An obligation imposed by a licensed entity or applicant as part of its contract with a contrac-

tor that requires the contractor to perform the contract through the utilization of minority or women owned business enterprises.

§ 481.3. Diversity participation.

(a) The Board will compile a list of the minority and women's business enterprises that are certified by the Bureau of Minority and Women's Business Enterprises of the Department of General Services under 62 Pa.C.S. Part I (relating to Commonwealth Procurement Code) and will make the list available to all licensed entities and applicants for licensure. The list developed by the Board will be reviewed annually to determine that each minority business enterprise and women's business enterprise continues to remain eligible for participation as minority and women's business enterprises.

(b) The list of minority business enterprises and women's business enterprises compiled by the Board may be relied upon by a licensed entity or applicant to establish the eligibility of the enterprise as a minority or women's business enterprise for the purpose of promoting and ensuring minority and women's business participation.

§ 481.4. Establishment of diversity plan required.

(a) Each applicant shall include a diversity plan in its application for licensure that establishes a separate goal of diversity in the ownership, participation and operation of, and employment at, the proposed licensed entity or by the applicant in this Commonwealth. The Board will determine whether the stated goals set forth in each diversity plan are reasonable and represent a good faith effort to assure that all persons are accorded equality of opportunity in contracting and employment by a licensed entity or an applicant for a license, and its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

(b) A licensed entity or applicant may achieve its diversity goals through one of the following:

- (1) Contracting or transacting directly with minority and women's business enterprises.
- (2) Contracting with a nonminority business enterprise under terms and conditions that establish a participation plan.
- (c) Onsite audits may be performed on an annual basis or at the discretion of the Board to ensure compliance with this subpart.

§ 481.5. Report of participation.

(a) As part of an application to renew a license under the act and this part, each licensed entity shall file a report with the Board concerning the performance of its diversity plan. The report shall contain all of the following:

- (1) Employment data, including information on minority and women representation in the workforce in all job classifications; salary information; and recruitment and training information, including executive and managerial level recruitment and training; and retention and outreach efforts.
- (2) The total number and value of all contracts or transactions awarded for goods and services.
- (3) The total number and value of all contracts or transactions awarded to minority and women's business enterprises.
- (4) The total number and value of all contracts awarded that contain a participation plan.

(5) The total number and value of all subcontracts to be awarded to minority and women's business enterprises under contracts containing a participation plan.

(6) An identification of each subcontract actually awarded to a minority or women's business enterprise under contracts containing a participation plan during each calendar quarter and the actual value of each subcontract.

(7) An identification of each contract or transaction awarded to a minority or women's business enterprise.

(8) A comprehensive description of all efforts made by the licensed entity or applicant to monitor and enforce the participation plan.

(9) Information on minority and women investment, equity ownership, and other ownership or management opportunities initiated or promoted by the licensed entity.

(10) Other information deemed necessary by the Board to ensure compliance with the act and this part.

(b) The Board will use the report required under subsection (a) to monitor compliance with this part. The Board may request that the Bureau of Minority and Women's Business Enterprises, of the Department of General Services, assist the Board in determining whether the licensed entity or applicant complies with the requirements of this part.

Subpart H. PRACTICE AND PROCEDURE

Chap.	
491.	GENERAL RULES OF PRACTICE
495.	DOCUMENTARY FILINGS
497.	TIME
499.	REPRESENTATION BEFORE THE BOARD

CHAPTER 491. GENERAL RULES OF PRACTICE

Sec.	
491.1.	Office of the Clerk.
491.2.	Filing generally.

§ 491.1. Office of the Clerk.

(a) The Board will have within its organization an Office of the Clerk whose duties will be as follows:

- (1) Provide information as to practice and procedure before the Board, under this subpart.
- (2) Receive and docket applications and pleadings and other documents filed with the Board. Receipt and transmission of the information may be by electronic means, only under a policy established by the Board.

(b) All filings and requests for practice and procedure information should be directed to:

Office of the Clerk
 Pennsylvania Gaming Control Board
 P. O. Box 69060
 Harrisburg, Pennsylvania 17106-9060

(c) The Clerk will maintain a docket of all proceedings, and each proceeding as initiated will be assigned an appropriate designation. The docket will be available for inspection and copying by the public during the Board's office hours.

§ 491.2. Filing generally.

(a) Pleadings and other documents filed with the Board should clearly designate the docket number or similar identifying symbols, if any, employed by the Board, and should set forth a short title. The identity of the individual making the submission, including name, mailing address, and status (for example, party, attorney for a party, and the like) shall appear on the document.

(b) Pleadings, including documents filed under this chapter, must also comply with Chapter 495 (relating to documentary filings).

(c) If the Board is of the opinion that a pleading tendered for filing does not comply with this subpart or, if it is an application or similar document, does not sufficiently set forth required material or is otherwise insufficient, the Board may decline to accept it for filing and may return it without filing, or the Board may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) The Board may order redundant, immaterial, obscene or otherwise inappropriate comments stricken from documents filed with it.

CHAPTER 495. DOCUMENTARY FILINGS

Sec.	
495.1.	Form of documentary filings generally.
495.2.	Form of documents.
495.3.	Incorporation by reference.
495.4.	Single pleading covering more than one matter.
495.5.	Execution of documents.
495.6.	Verification.
495.7.	Number of copies.

§ 495.1. Form of documentary filings generally.

(a) Applications, petitions, complaints, answers or similar documents shall be divided into numbered paragraphs.

(b) Copies of contracts, agreements, permits or other writings referred to in the application or petition may be attached as exhibits. Copies of writings or orders already of record with the Board need not be attached to the application or petition if reference by docket number is made to the proceeding in which they were filed.

(c) Pleadings or other documents filed with the Board in a proceeding shall clearly show the docket number or similar identifying symbols, if any, and title of the proceeding before the Board. They must also show, in the title of a particular pleading or other document filed the name of the person on whose behalf the filing is made. If more than one person is involved, a single name only need be included in the title.

(d) Pleadings shall be endorsed with an address and phone number where papers may be served in connection with the pending proceedings. Endorsement with a fax number shall constitute endorser's agreement to accept papers connected with the proceeding by fax. Notation of counsel's current Supreme Court identification number issued by the Court Administrator of Pennsylvania constitutes proof of the right to practice in the Commonwealth.

(e) Subsections (a)—(c) supersede 1 Pa. Code § 31.5 (relating to communications and filings generally).

§ 495.2. Form of documents.

(a) The method of receipt and transmission of information will be under a policy established by the Board.

(b) Subsection (a) supersedes 1 Pa. Code § 33.2 (relating to form).

§ 495.3. Incorporation by reference.

(a) Except as otherwise provided in subsection (b), documents on file with the Board may be incorporated by reference into a subsequently filed pleading or other document. A document may be so incorporated only by reference to the specific document and to the prior filing and docket number at which it was physically filed.

(b) No document which has been on file with the Board for more than 7 years may be incorporated by reference

in a current document unless the person filing the current document first makes inquiry to the Office of the Clerk and ascertains that the earlier document continues to be readily available in the active records of the Board.

§ 495.4. Single pleading covering more than one matter.

(a) Except as otherwise provided under this chapter (relating to formal proceedings), a single pleading may be accepted for filing with respect to a particular transaction and one or more related transactions and shall be deemed to be a single filing for purposes of the computation of fees under Chapter 471 (relating to schedule of fees payable to the Board).

(b) If, upon review, the Board determines that the transactions are not closely related or otherwise properly joined, the Board will direct that the single pleading be refiled as two or more separate pleadings each subject to a separate filing fee.

(c) Subsection (a) supersedes 1 Pa. Code § 33.4 (relating to single pleading or submittal covering more than one matter).

§ 495.5. Execution of documents.

(a) *Signature.* Except as may be otherwise ordered or requested by the Board, the original copy of a pleading, or other document shall be signed in ink by the party in interest, or by his attorney, as required by subsection (b), and show the office and post office address of the party or attorney. Other copies filed shall conform thereto.

(b) *Subscription.*

(1) A pleading or other document filed with the Board shall be subscribed by one of the following:

(i) The person filing the documents, and severally if there is more than one person so filing.

(ii) An officer if it is a corporation, trust, association or other organized group.

(iii) An officer or authorized employee thereof if it is another agency, a political subdivision or other governmental authority, agency or instrumentality.

(iv) An attorney having authority with respect thereto.

(2) A document filed by a corporation, trust, association or other organized group, may be required to be supplemented by appropriate evidence of the authority of the officer or attorney subscribing the documents.

(c) *Effect.*

(1) The signature of the person subscribing a document filed with the Board constitutes a certificate by the individual that:

(i) The person has read the document being subscribed and filed, and knows the contents thereof.

(ii) The document has been subscribed and executed in the capacity specified upon the document with full power and authority to do so, if executed in a representative capacity.

(iii) The document is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, to the best of the person's knowledge, information and belief formed after reasonable inquiry.

(iv) The document is not interposed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(2) If a document is signed in violation of this subsection, the Board, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include striking the document, dismissal of the proceeding or the imposition of civil penalties under section 1518 of the act (relating to prohibited acts; penalties).

(d) *Supersession.* Subsections (a)—(c) are identical to 1 Pa. Code § 33.11 (relating to execution).

§ 495.6. Verification.

(a) Applications, petitions, formal complaints, motions and answers thereto containing an averment of fact not appearing of record in the action or containing a denial of fact shall be personally verified by a party thereto or by an authorized officer of the party if a corporation or association. Verification means a signed, written statement of fact supported by oath or affirmation or made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities). If verification is required, notarization is not necessary.

(b) The verification form should comply substantially with the following:

VERIFICATION

I _____, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the facts. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: _____
(Signature)

(c) When an affidavit is used, the form should comply substantially with the following:

AFFIDAVIT

I, _____ (Affiant) being duly sworn (affirmed) according to law, depose and say that (I am authorized to make this affidavit on behalf of _____ corporation, being the holder of the office of _____ with that corporation,) and that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and (I or corporation) expect to be able to prove the facts.

(Signature of affiant)

Sworn and subscribed before me this _____ day of _____, 20 _____.

(Signature of official administering oath)

(d) An individual who executes a pleading or other document knowing that it contains a false statement and who causes it to be filed with the Board shall be subject to prosecution of a misdemeanor of the second degree in violation of 18 Pa.C.S. § 4904(a).

(e) Subsections (a)—(d) supersede 1 Pa. Code § 33.12 (relating to verification).

§ 495.7. Number of copies.

(a) An original and seven copies of pleadings or documents other than correspondence shall be furnished to

the Board at the time of filing, except as may be otherwise required by statute or ordered or requested by the Board.

(b) In the case of applications and petitions, one of the copies filed with the Board may be filed without exhibits.

(c) In the case of complaints or petitions, when more than one respondent is named, an additional copy of the complaint or petition shall be filed for each additional respondent.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 33.15 (relating to number of copies).

CHAPTER 497. TIME

Sec.	
497.1.	Date of filing.
497.2.	Computation of time.
497.3.	Issuance of Board orders.
497.4.	Effective dates of Board orders.
497.5.	Extensions of time and continuances.

§ 497.1. Date of filing.

(a) Whenever a pleading or other document is required or permitted to be filed under this part or by statute, it will be deemed to be filed on one of the following dates:

(1) On the date actually received in the Office of the Clerk.

(2) On the date deposited with an overnight express package delivery service as shown on the express delivery receipt attached to or included within the envelope containing the document.

(3) On the date deposited in the United States mail as shown by the United States Postal Service stamp on the envelope or on a United States Postal Service Form 3817 certificate of mailing. A mailing envelope stamped by an in-house postage meter is insufficient proof of the date of mailing.

(b) Failure to include a legible delivery receipt with the document may result in an untimely filing.

(c) Except as otherwise permitted by the Board, a document transmitted by facsimile or electronically to the Board will not be accepted for filing within the meaning of this section.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 31.11 (relating to timely filing required).

§ 497.2. Computation of time.

(a) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this title or by statute, the day of the act, event or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which event the period runs until the end of the next day which is neither a Saturday, Sunday or holiday. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation.

(b) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this title or by statute which is measured by counting a specified number of days backward from a scheduled future act, event or default, the day of the scheduled future act, event or default is not included. The day on which the prescribed or allowed action is to occur shall be included, unless it is a Saturday, Sunday or a legal holiday in this Commonwealth, in which event the day of the prescribed or allowed action runs until the next preceding day which is neither a Saturday, Sunday or holiday. A part-day

holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays are included in the computation.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.12 (relating to computation of time).

§ 497.3. Issuance of Board orders.

(a) In computing a period of time involving the date of the issuance of an order by the Board, the day of issuance of an order will be the date the Office of the Clerk enters the order. An order will not be made public prior to its entry except when, in the Board's judgment, the public interest so requires. The date of entry of an order may or may not be the day of its adoption by the Board. The Clerk will clearly indicate on each order the date of its adoption by the Board and the date of its entry.

(b) The date of entry of an order which is subject to review by the Supreme Court of Pennsylvania is governed by 2 Pa.C.S. Chapter 7, Subchapter A (relating to judicial review of Commonwealth agency action). The date of issuance of an order shall be deemed to be the date of entry for the purposes of computing the time for appeal under an applicable statute relating to judicial review of Board action.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 31.13 (relating to issuance of agency orders).

§ 497.4. Effective dates of Board orders.

(a) An order of the Board promulgating regulations will be effective upon publication in the *Pennsylvania Bulletin* unless otherwise specially provided in the order.

(b) Except as provided in subsection (a), an order of the Board will be effective as of the date of entry unless otherwise specially provided in the order.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.14 (relating to effective dates of agency orders).

§ 497.5. Extensions of time and continuances.

(a) Extensions of time shall be governed by the following:

(1) Except as otherwise provided by statute, whenever under this part or by order of the Board, or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the Board, for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended. Upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.

(2) Requests for the extension of time in which to file briefs shall be filed at least 5 days before the time fixed for filing the briefs unless the Board, for good cause shown allows a shorter time.

(b) Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specified time by this part or by order of the Board, shall be by motion in writing, timely filed with the Board, stating the facts on which the application rests, except that during the course of a proceeding, the requests may be made by oral motion in the hearing before the Board. The requests shall be submitted at least 5 days prior to the hearing date. Only for good cause shown will requests for continuance be considered.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.15 (relating to extensions of time).

CHAPTER 499. REPRESENTATION BEFORE THE BOARD

Sec.	
499.1.	Appearance in person.
499.2.	Appearance by attorney.
499.3.	Other representation prohibited at hearings.
499.4.	Notice of appearance or withdrawal.
499.5.	Form of notice of appearance.
499.6.	Contemptuous conduct.
499.7.	Suspension and disbarment.

§ 499.1. Appearance in person.

(a) Individuals may represent themselves.

(b) In adversarial proceedings, partnerships, corporations, trusts, associations, agencies, political subdivisions and government entities shall be represented only under § 499.2 (relating to appearance by attorney). For purposes of this section, without limitation, a request for licensure under sections 1302, 1304, 1305, 1315 and 1317 of the act or a license or permit determined by the Board, will be considered to be an adversarial proceeding.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.21 (relating to appearance in person).

§ 499.2. Appearance by attorney.

(a) Individuals, partnerships, associations, corporations or governmental entities may be represented in a proceeding by an attorney at law admitted to practice before the Supreme Court of Pennsylvania.

(b) An attorney licensed in a jurisdiction which does not accord like privileges to members of the bar of this Commonwealth may appear before the Board with the permission of the Board consistent with Pa.B.A.R. 301 (relating to admission pro hac vice).

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.22 (relating to appearance by attorney).

§ 499.3. Other representation prohibited at hearings.

(a) Participants, individuals, partnerships, associations, corporations or governmental entities may not be represented at a hearing before the Board except:

(1) As stated in §§ 499.1 and 499.2 (relating to appearance in person; and appearance by attorney).

(2) As otherwise permitted by the Board in a specific case.

(b) Subsection (a) supersedes 1 Pa. Code § 31.23 (relating to other representation prohibited at hearings).

§ 499.4. Notice of appearance or withdrawal.

(a) An individual appearing without representation before the Board shall file with the Office of the Clerk an address for service of a notice or other written communication. A change in address which occurs during the course of the proceeding shall be reported to the Office of the Clerk promptly.

(b) An attorney whose name and address appear in a representative capacity on an initial pleading filed with the Office of the Clerk shall be considered to have entered an appearance in that proceeding. An attorney who enters the matter at a later stage of the proceeding shall file with the Office of the Clerk a written notice of the appearance, which states his name, address and telephone number and the name and address of the person on whose behalf he appears. The notice shall be served on the participants in the proceeding. A change in address which occurs during the course of the proceeding shall be reported to the Office of the Clerk promptly.

(c) A person appearing or practicing before the Board in a representative capacity may be required to file a power of attorney with the Board showing his authority to act in that capacity.

(d) An attorney who wishes to withdraw an appearance shall file with the Office of the Clerk a written notice of withdrawal. The notice shall be served on the participants.

(e) Subsections (a) and (d) supersede 1 Pa. Code § 31.24 (relating to notice of appearance).

§ 499.5. Form of notice of appearance.

(a) The form of notice of appearance is as follows:

COMMONWEALTH OF PENNSYLVANIA
BEFORE THE PENNSYLVANIA GAMING CONTROL
BOARD

In the Matter of:

[File, Docket or other identifying No.:]

NOTICE OF APPEARANCE

Please enter my appearance in the above-designated matter on behalf of _____ .

I am authorized to accept service on behalf of said participant in this matter.

[CHECK ONE]

[] On the basis of this notice, I request a copy of each document hereafter issued by the Board in this matter.

[] I am already receiving or have access to a copy of each document issued by the Board in this matter and do not on the basis of this notice require an additional copy.

Signature

Attorney Identification Number

Name (Printed)

P. O. Address

City, State and Zip Code

Telephone Number
(including area code)

(b) Subsection (a) supersedes 1 Pa. Code § 31.25 (relating to form of notice of appearance).

§ 499.6. Contemptuous conduct.

(a) Contemptuous conduct at a hearing before the Board shall be grounds for exclusion from the hearing and for summary suspension without a hearing for the duration of the hearing.

(b) Subsection (a) is identical to 1 Pa. Code § 31.27 (relating to contemptuous conduct).

§ 499.7. Suspension and disbarment.

(a) The Board may deny, temporarily or permanently, the privilege of appearing or practicing before it to a person who is found by the Board, after notice and opportunity for hearing in the matter, to have done one or more of the following:

(1) Lacked the requisite qualifications to represent others.

(2) Engaged in unethical, contemptuous or improper conduct before the Board.

(3) Repeatedly failed to follow Board directives.

(b) For the purpose of subsection (a), practicing before the Board include:

(1) Transacting business with the Board.

(2) The preparation of a statement, opinion or other paper by an attorney, accountant, engineer or other expert, filed with the Board in a pleading or other document with the consent of the attorney, accountant, engineer or other expert.

(3) Appearances at a hearing before the Board.

(c) Subsections (a) and (b) are identical to 1 Pa. Code § 31.28 (relating to suspension and disbarment).

[Pa.B. Doc. No. 05-1374. Filed for public inspection July 15, 2005, 9:00 a.m.]

