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Volume 34 (2004)

Pennsylvania Bulletin  
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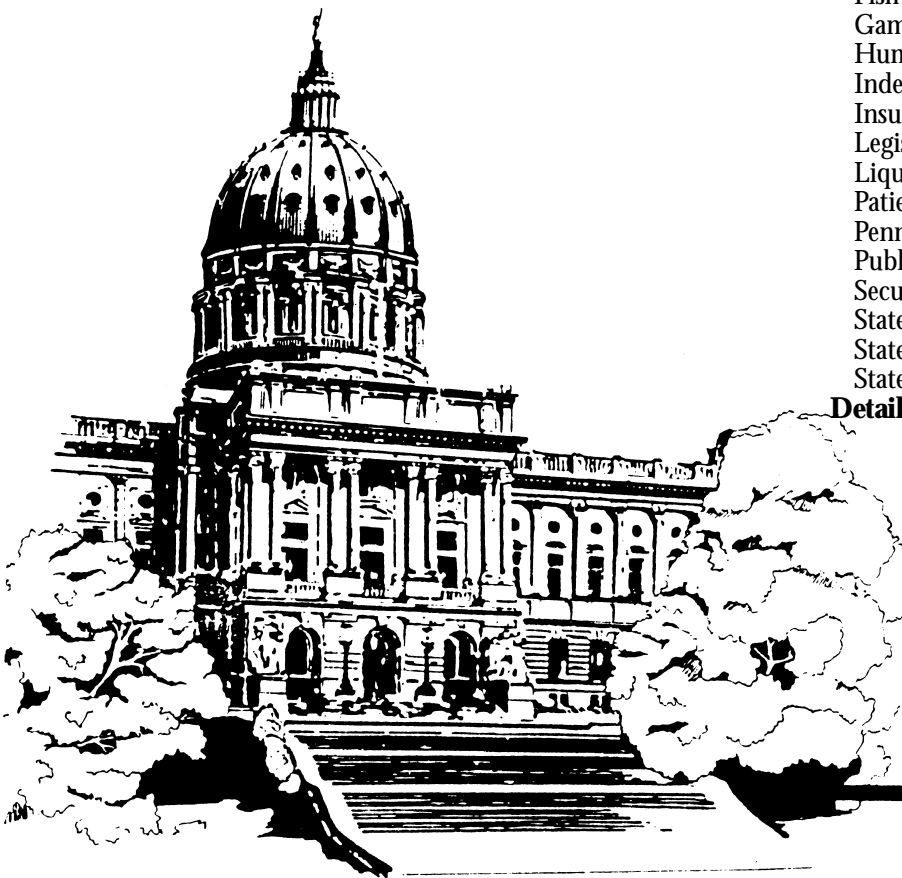
# PENNSYLVANIA BULLETIN

Volume 34  
Saturday, September 18, 2004 • Harrisburg, Pa.  
Number 38  
Pages 5117—5232

**Agencies in this issue:**

The Courts  
Department of Banking  
Department of Education  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Transportation  
Fish and Boat Commission  
Game Commission  
Human Relations Commission  
Independent Regulatory Review Commission  
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Liquor Control Board  
Patient Safety Authority  
Pennsylvania Public Utility Commission  
Public School Employees' Retirement Board  
Securities Commission  
State Board of Nursing  
State Harness Racing Commission  
State Police

**Detailed list of contents appears inside.**



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**BULLETIN**

(ISSN 0162-2137)

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published weekly by Fry Communications, Inc. for the

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Attn: *Pennsylvania Bulletin*

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Mechanicsburg, PA 17055-3198

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

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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# List of Pa. Code Chapters Affected

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

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# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 81]

#### Amendments to the Pennsylvania Rules of Professional Conduct; No. 30 Disciplinary Rules; Doc. No. 1

##### Amended Order

*Per Curiam:*

*And Now*, this 23rd day of August, 2004, it is ordered, pursuant to Article V, Section 10, of the Constitution of Pennsylvania, that:

1. The Pennsylvania Rules of Professional Conduct are amended by adding new Rules 1.0, 2.4 and 6.5, deleting Rules 2.2 and 7.6, and making the other amendments set forth at 34 Pa.B. 4818 (September 4, 2004).

2. This Order shall be processed in accordance with Pa.R.J.A. 103(b). New Rules 1.0, 2.4 and 6.5, the deletion of Rules 2.2 and 7.6, and the amendments to other rules set forth at 34 Pa.B. 4818 shall take effect on January 1, 2005 and shall govern matters thereafter commenced and, insofar as just and practicable, matters then pending.

Mr. Justice Saylor joins this Order, and also favors conformance of the revised rules with the provisions of the Model Rules of Professional Conduct which would expressly permit the rules to be used as evidence of the applicable standard of conduct in appropriate cases outside the disciplinary arena.

[Pa.B. Doc. No. 04-1703. Filed for public inspection September 17, 2004, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### CARBON COUNTY

#### Authorization to Stamp Court Orders when Judges are not Physically Present; 04-2814, 85 MI 04, 04-9303

##### Administrative Order No. 21-2004

*And Now*, this 30th day of August, 2004, it is hereby

*Ordered and Decreed* that, effective immediately, only the Judges' Secretary, Domestic Relations Director and the District Court Administrator are hereby *Authorized* to use a Judge's signature stamp on court orders and commitments, but, *Only* after obtaining the verbal or written approval of the Judge. The facsimile signature used on scheduling orders and non-dispositive orders is hereby *Authorized*.

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

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Criminal Procedural Rules Committee.

4. File one (1) certified copy with the Pennsylvania Civil Procedural Rules Committee.

5. File one (1) certified copy with the Pennsylvania Orphans' Court Procedural Rules Committee.

6. File one (1) certified copy with the Pennsylvania Juvenile Procedural Rules Committee.

7. Forward one (1) copy for publication in the *Carbon County Law Journal*.

8. Forward one (1) copy to the Carbon County Law Library.

9. Keep continuously available for public inspection copies of the Order in the Prothonotary's Office, Clerk of Court's Office, Juvenile Court Office, Children and Youth Office, Domestic Relations Office and Orphans' Court Office.

*By the Court*

RICHARD W. WEBB,  
*President Judge*

[Pa.B. Doc. No. 04-1704. Filed for public inspection September 17, 2004, 9:00 a.m.]

### MONROE COUNTY

#### Amendments of Local Rules of Civil Procedure; Administrative Order No. 9; 7344 CV 2004

##### Order

*And Now*, this 2nd day of September, 2004, the following amendments to the Monroe County Rules of Civil Procedure are hereby adopted effective thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.C.P. No. 239(d). In conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order and Local Rules shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies and diskette shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania. One (1) copy shall be forwarded to the *Monroe County Legal Reporter* for publication. Copies shall be kept continuously available for public inspection in the Office of the Monroe County Prothonotary, the Office of the Court Administrator and the Monroe County Law Library.

*By the Court*

RONALD E. VICAN,  
*President Judge*

**Rule 205.2—Filing Legal Papers with the Prothonotary**

No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary based on a requirement of a local rule of civil procedure or judicial administration, including local Rules 205.2(a) and 205.2(b). All documents filed in any office of the Court shall be endorsed with the day and exact time of filing, which endorsement, in the absence of fraud, accident or mistake shall be conclusive evidence of such date and time of filing.

(a)(1) No pleading, papers, affidavits or other documents may be filed in any office of the Court on paper other than 8 1/2" × 11" in size.

(a)(2) No paper shall be filed in any office of the Court unless it is written in ink, clearly legible, printed, or typewritten in print no smaller than typewriting with lines (except quotations) not closer than typewriting double spacing; contains the caption of the proceeding, including the name and division of the Court, identifying case number, the names of the parties, the title of the proceeding and the name of the paper. All papers filed shall be endorsed with the name, address, telephone number and I.D. number of the attorney filing it or the name, address and telephone number of the party if there is no attorney. The caption of any paper filed subsequent to a Complaint need only state the name of the first party on each side with an appropriate indication of the other parties.

(a)(3) While the use of backers is not required, it is strongly encouraged as a means to assist the Court in readily identifying and reviewing filed documents.

(a)(4) All papers and other documents shall be securely affixed at the top.

(a)(5) A proposed order shall accompany all motions or other requests for relief.

(a)(6) No original documents shall be faxed to the prothonotary's office without prior leave of court.

**Rule 205.3—Removing Papers**

(a) Except as hereinafter provided, no record or document shall be taken from the Office of the Prothonotary or staff without a written order signed by the President Judge requiring the return of such record or document within a specified time; provided, however, that under no circumstances shall a bond or recognizance be removed while the same continues in force and effect. In cases where the President Judge authorizes the removal of records or documents, the Prothonotary or staff, as the case may be, shall take a written receipt for the records or documents removed and shall cause the same to be noted in a book maintained for such purpose and filed with the record papers in the case, which receipt shall be cancelled upon return of the records or documents removed.

(b) In cases pending in this Court or in proceedings held before duly appointed officers of the Court, the Prothonotary or staff may deliver record papers or dockets to the appointed officer of the Court, accepting in return such officer's written receipt which shall be noted and filed as hereinbefore set forth.

(c) The delivery provisions of this Rule do not apply to Judges, Judge's staff, Court Administrator and members of Court Administrator's staff.

**Rule 206.1 Petition. Content. Form**

(a) As used in this chapter, "petition" means

(1) an application to open a default judgment or a judgment of non pros;

(2) a petition may also be used to bring before the court any proper matter for which no other specific procedure is authorized or in which only a petition is prescribed as the authorized procedure for bringing such matter before the court for disposition.

NOTE: A petition for relief from a judgment by confession is governed by Rule 2959. Motions are governed by Rule 208.1 et seq.

(b) A petition shall specify the relief sought and state the material facts which constitute the grounds therefor.

(c) A petition shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

(e) All petitions shall contain a certification by counsel for the moving party that concurrence in the petition has been sought from all opposing counsel and that such concurrence has been granted or denied. Where concurrence has been granted, the written concurrence of opposing counsel shall be attached to the petition.

(f) All petitions, except those made in the course of trial or hearing, shall be in writing. All written petitions shall be signed by counsel and may be filed at any time during regular business hours with the prothonotary. Counsel's signature upon a petition shall constitute a certification that counsel has read the petition and that, to the best of counsel's knowledge, information and belief, it is supported by sufficient legal or factual grounds and that it is not interposed merely for delay. The prothonotary shall deliver daily a petitions list with accompanying petitions to the court administrator to monitor and assign to a judge.

(g) All petitions and answers thereto, shall comply with these provisions.

(h) Failure to comply with any provision of this rule may constitute sufficient grounds for the court to dismiss the petition and/or deny any requested relief.

**Rule 206.2 Answer**

(a) An answer shall state the material facts which constitute the defense to the petition.

(b) An answer to a petition shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the petition.

(c) If no answer is filed on or before the return date, the moving party may file a motion to make the rule absolute. A motion to make the rule absolute shall evidence compliance with the service requirements of Pa.R.C.P. 440 setting forth the time, place and nature of service. No rule shall be made absolute without certification that the petition and rule to show cause have been served in compliance with Pa.R.C.P. 440. Counsel or the moving party shall make such certification under oath or in conformance with Pennsylvania Rules of Civil Procedure.

**Rule 206.3 Verification**

(a) A petition or an answer containing an allegation of facts which does not appear of record shall be verified.

**Rule 206.4 Rule to Show Cause. Discretionary Issuance. Stay. Form of Order**

(a) A petition shall proceed upon a rule to show cause.

(b) The rule to show cause procedures prescribed by this rule shall apply if

(1) the relief sought by the petition is the opening of a default judgment or a judgment of non pros, or

(2) the petition is of a type authorized by local rule to be determined pursuant to a rule to show cause, or

(3) the court, upon its own motion or the request of a party, has determined the issuance of a rule to show cause as to the particular petition will serve the interests of justice.

(c) The issuance of a rule to show cause shall be discretionary with the court. If the petition is within the scope of subdivision (a), is properly pleaded, and states prima facie grounds for relief, the court may enter an order issuing a rule to show cause and may grant a stay of the proceedings.

(d) A petitioner seeking the issuance of a rule to show cause shall attach to the petition a proposed order in the form prescribed by subdivision (d)(1) and give notice to all other parties of the intention to request the court to issue the rule.

(1) The form of order required by subdivision (d) shall be substantially in the following form:

COURT OF COMMON PLEAS OF MONROE COUNTY  
 FORTY-THIRD JUDICIAL DISTRICT  
 COMMONWEALTH OF PENNSYLVANIA

(Plaintiff's Name) : (NO. CIVIL)  
 :  
 Plaintiff :  
 :  
 vs. :  
 :  
 (Defendant's name) :  
 :  
 Defendant : (SUBJECT)

ORDER

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

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

(2) the respondent shall file an answer to the petition within \_\_\_\_ days of this date;

(3) the petition shall be decided under Rule 206.7;

(4) an evidentiary hearing on disputed issues of material fact shall be held on \_\_\_\_\_, \_\_\_\_ in Courtroom \_\_\_\_\_, of the Monroe County Courthouse;

(5) notice of the entry of this order shall be provided to all parties by the petitioner.

BY THE COURT:  
 \_\_\_\_\_ J.

(2) The court, upon its own initiative, may schedule an evidentiary hearing on disputed issues of material fact and may, in its discretion, provide for disposition of the matter on briefs, without the necessity of oral argument. In such instances, the court shall establish a briefing schedule in its initial order.

(3) The court, in its discretion, may permit forms of discovery other than depositions.

(4) The court may provide in the order for the filing of briefs.

(5) The party obtaining the issuance of a rule to show cause shall forthwith serve a true and correct copy of the court order entering the rule and specifying a return date, along with a copy of the underlying petition, upon each attorney of record and unrepresented party in the manner prescribed by Pa.R.C.P. 440. An affidavit of service shall be filed within five (5) days from the date of the order setting the rule with the prothonotary.

**Rule 206.7 Procedure After Issuance of Rule to Show Cause**

(a) If an answer is not filed, all averments of fact in the petition may be deemed admitted for the purposes of this subdivision and the court shall enter an appropriate order.

(b) If an answer is filed raising no disputed issues of material fact, the court on request of the petitioner shall decide the petition on the petition and answer.

(c) If an answer is filed raising disputed issues of material fact, the petitioner may take depositions on those issues, or such other discovery as the court allows, within the time set forth in the order of the court. If the petitioner does not do so, the petition shall be decided on petition and answer and all averments of fact responsive to the petition and properly pleaded in the answer shall be deemed admitted for the purposes of this subdivision.

(d) The respondent may take depositions, or such other discovery as the court allows.

**Rule 207.1 Motion to Exclude Expert Testimony which Relies Upon Novel Scientific Evidence**

(a) If a party moves the court to exclude expert testimony which relies upon novel scientific evidence, on the basis it is inadmissible under Pa.R.E. 702 or 703,

(1) the motion shall contain:  
 (i) the name and credentials of the expert witness whose testimony is sought to be excluded,

(ii) a summary of the expected testimony of the expert witness, specifying with particularity that portion of the testimony of the witness which the moving party seeks to exclude,

(iii) the basis, set forth with specificity, for excluding the evidence,

(iv) the evidence upon which the moving party relies, and

(v) copies of all relevant curriculum vitae and expert reports;

(2) any other party need not respond to the motion unless ordered by the court;

(3) the court shall initially review the motion to determine, in the interest of justice, the matter should be addressed prior to trial. The court, without further proceedings, may determine that any issue of admissibility of expert testimony be deferred until trial; and

(4) the court shall require that a response be filed if it determines that the matter should be addressed prior to trial.

**Rule 208.1 Motion. Definition. Scope**

(a) As used in this chapter, "motion" means any application to the court for an order made in any civil action or proceeding as provided in subdivision (b)(1) and (2).

(b)(1) The rules of this chapter shall not apply to the following matters:

(i) preliminary objections (Rule 1028);

(ii) motions for judgment on the pleadings (Rule 1034) and for summary judgment (Rule 1035.1 et seq.);

(iii) requests for special relief, including preliminary injunctions;

(iv) motions relating to the conduct of the trial, including motions for nonsuit pursuant to Rule 218, motions relating to jury selection, motions to exclude expert testimony pursuant to Rule 207.1, motions in limine, and motions made during the course of the trial;

(v) motions for post-trial relief (Rule 227.1);

(vi) motions for delay damages (Rule 238);

(vii) petitions (Rule 206.1); and

(viii) petitions for relief from a judgment of confession (Rule 2959).

(2) The rules of this chapter shall not apply to motions arising in the following actions or proceedings:

(i) asbestos litigation and cases otherwise designated by the court for special management (Rules 1041.1 and 1041.2);

(ii) actions in replevin (Rule 1071 et seq.);

(iii) class actions (Rule 1701 et seq.);

(iv) family law actions (Rules 1901 through 1940.9); and

(v) proceedings in Orphan's Court.

(c) The rules of this chapter shall not modify the provisions of any other general rule governing a particular motion.

**Rule 208.2 Motion. Form. Content**

(a) All motions shall

(1) be in writing and be filed in the Office of the Prothonotary;

(2) contain a caption setting forth the name of the court, the number of the action, the name of the motion, and the name of the moving party; and

(3) be divided into paragraphs numbered consecutively.

(4) set forth with particularity material facts constituting grounds on which they are based, precisely state the relief being sought, and include a proposed order;

(5) include a certificate of service which sets forth the manner of service including the name of an attorney of record for each party that is represented by counsel, the party whom the attorney represents, a "pro se" designation for each party that is unrepresented, and the address at which service was made; and

(6) be signed and endorsed, indicating the signing attorney of record has read the motion and that, to the best of his or her knowledge, information and belief, there are good grounds to support such motion and it is not interposed merely for delay.

(b) A motion need not be verified unless verification is required by general rule governing the particular motion or by order of court.

(c) All motions shall include a brief statement of the applicable statute, case, or procedural rule authorizing the grant of such relief.

(d) All motions shall contain a certification by counsel for the moving party that concurrence in the motion has been sought from all opposing counsel and that such concurrence has been granted or denied. Where concurrence has been granted, the written concurrence of oppos-

ing counsel shall be attached to the motion. Failure to comply with this provision shall constitute sufficient grounds for the court to deny the motion.

(e) All motions relating to discovery shall include a certification signed by counsel for the moving party certifying that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action.

(f)(1) For cause shown, any moving party may request expedited disposition of any motion filed with the prothonotary. If expedited disposition is requested, a praecipe shall be filed with the motion explaining the grounds for requesting such expedited disposition. Upon receipt of a praecipe for expedited disposition, the court administrator shall promptly notify the moving party of the judicial assignment. It shall be the responsibility of the moving party to arrange a teleconference among the judge and all other counsel interested in the subject of the motion within three business days of the time the motion is presented.

(2) The order required by paragraph (1) shall be substantially in the following form:

COURT OF COMMON PLEAS OF MONROE COUNTY  
FORTY-THIRD JUDICIAL DISTRICT  
COMMONWEALTH OF PENNSYLVANIA

(Plaintiff's Name) : (NO. CIVIL )

Plaintiff :

vs.

(Defendant's name) :

Defendant : (SUBJECT)

PRAECIPE

TO THE COURT ADMINISTRATOR:

Expedited Disposition of attached motion is requested for the following reasons:

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

\_\_\_\_\_  
ATTORNEY FOR (Plaintiff or Defendant)

FOR COURT ADMINISTRATOR ACTION ONLY

\_\_\_\_\_ MOTION OR PETITION ASSIGNED TO JUDGE

\_\_\_\_\_ COUNSEL FOR MOVING PARTY NOTIFIED OF JUDICIAL ASSIGNMENT

**Rule 208.3 Motion. Procedures**

(a) The court shall initially consider a motion without written responses or briefs. For a motion governed by this subdivision, the court may not enter an order that grants relief to the moving party unless the motion is presented as uncontested or the other parties to the proceeding are given an opportunity for argument.

NOTE: Rule 208.3(a) does not prevent a court from denying the moving party's request for relief without the opportunity for argument where the motion is procedurally defective, is untimely filed, or fails to set forth adequate grounds for relief.

Parties may choose to submit responses and briefs at the time of the presentation, provided copies have been served on every other party. However, parties are not required to do so.

(b) A response shall be filed by any party opposing a motion even if there are no contested issues of fact. Responses to motions shall be filed within 20 days of the filing of the motion. The twenty-day response period may only be extended or reduced by special order of court. If no response is filed, the court may treat the motion as uncontested and grant the relief sought therein.

**Rule 208.4 Initial Consideration of Motion. Court Orders. Issues of Disputed Fact**

(a) At the initial consideration of a motion, the court may enter an order that

- (1) disposes of the motion, or
- (2) sets forth the procedures the court will use for deciding the motion which may include one or more of the following:
  - (i) the filing or initial or supplemental responses,
  - (ii) the filing of initial or supplemental briefs,
  - (iii) the filing of affidavits, depositions and the like,
  - (iv) the issuance of a rule to show cause pursuant to subdivision (b) of this rule,
  - (v) the holding of an evidentiary hearing, and
  - (vi) the entry of an order providing for any other procedure for developing the record.

(b)(1) If the moving party seeks relief based on disputed facts for which a record must be developed, the court, upon its own motion or the request of any party including the moving party, may enter an order in the form set forth in paragraph (2) providing for the issuance of a rule to show cause. The procedure following issuance of the rule to show cause shall be in accordance with Rule 206.7.

(2) The order required by paragraph (1) shall be substantially in the following form:

COURT OF COMMON PLEAS OF MONROE COUNTY  
FORTY-THIRD JUDICIAL DISTRICT  
COMMONWEALTH OF PENNSYLVANIA

<i>(Plaintiff's Name)</i>	:	<i>(NO. CIVIL)</i>
	:	
Plaintiff	:	
	:	
vs.	:	
	:	
<i>(Defendant's name)</i>	:	
	:	
Defendant	:	<i>(SUBJECT)</i>

**ORDER**

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

- (1) a rule is issued upon the respondent to show cause why the moving party is not entitled to the relief requested;
- (2) the respondent shall file an answer to the motion within \_\_\_\_ days of this date;
- (3) the motion shall be decided under Rule 206.7;

(4) an evidentiary hearing on disputed issues of material fact shall be held on \_\_\_\_\_ in Courtroom \_\_\_\_ of the Monroe County Courthouse;

(5) notice of the entry of this order shall be provided to all parties by the moving party.

BY THE COURT:

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

(3) The court, upon its own initiative, may schedule an evidentiary hearing on disputed issues of material fact and may, in its discretion, provide for disposition of the matter on briefs, without the necessity of oral argument. In such instances, the court shall establish a briefing schedule in its initial order.

(4) The court, in its discretion, may permit forms of discovery other than depositions. The court may provide in the order for the filing of briefs.

(5) The party obtaining the issuance of a rule to show cause shall forthwith serve a true and correct copy of the court order entering the rule and specifying a return date, along with a copy of the underlying petition, upon each attorney of record and unrepresented party in the manner prescribed by Pa.R.C.P. 440. An affidavit of service shall be filed within five (5) days from the date of the order setting the rule with the prothonotary.

**Rule 209—Praecept for Argument**

All praecipos for argument shall be listed on the first argument date occurring more than thirty days following the filing of the motion, petition or exceptions to the recommendation of the master.

Praecipos requesting the scheduling of argument outside the parameters of this rule are prohibited.

**Rule 210—Briefs. Form. Content. Filing**

(a) *Form.* Each brief shall be typewritten, printed or otherwise duplicated, endorsed with the name of the case, the Court, the term and number, and the name, address and telephone number of the attorney or the party if not represented by an attorney.

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

(1) The statement of the facts shall, depending upon the nature of the case, consist of an abstract of the testimony or of the pleadings or both, and shall include a procedural history of the case showing how the issue is made up and how the case arises before the Court.

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

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

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

(c) *Filing.* Fifteen (15) days before the date set for argument, the moving party shall deliver a copy of his

brief to the adverse party and file a copy with the Prothonotary. The respondent shall deliver his brief to the moving party and file a copy with the Prothonotary five (5) days before the date for argument. No supplemental brief shall be filed except upon special allowance by the Court and within such time as the Court may direct.

(d) In all other proceedings scheduled for hearing before the Court, all counsel shall provide the Court with a brief or memorandum of law setting forth legal authorities relied upon. Such brief or memorandum of law shall be provided to the Court at the time of the hearing unless otherwise specified by these Rules or by Order of Court.

(e) *Penalty for Noncompliance.* Failure to substantially comply with any requirement of this rule shall constitute a default for which the cause may be continued or stricken off the list or the application of the parties in default refused, as the Court may deem just and proper.

(f) *Informal Letter Briefs.* Notwithstanding this Rule, the Court may in any case allow counsel to file an informal letter brief.

#### **Rule 1028—Preliminary Objections**

(c)(1) Preliminary objections shall be filed with the Prothonotary. At the time of filing such motions with the Prothonotary, the moving party shall also file a Praecipe, pursuant to Rule 211, to place the matter on the first Argument List occurring more than 30 days following the date of filing the motion or petition.

(2) Upon filing preliminary objections, the moving party shall file a brief, pursuant to Rule 210, in support of such motion within ten (10) days and shall serve a copy thereof upon all opposing counsel and any unrepresented party at their respective addresses of record. When filed, the brief shall be accompanied by a certificate indicating that such has been served upon the moving party.

(3) All parties who wish to contest the preliminary objections or the motion shall within thirty (30) days from the filing of such preliminary objections or motion file a reply brief and a certificate such has been served on the moving party.

(4) Disposition of preliminary objections shall be made after oral argument. The parties may agree to submit the matter on briefs only with appropriate notice to the Court Administrator of such agreement.

(5) The judge to whom the preliminary objections have been assigned for disposition may in the exercise of judicial discretion grant additional time to file briefs, require additional briefs to be filed, or make such other order as shall be appropriate for the disposition of the matter.

(6) Failure to comply with these provisions may be sufficient basis for the court to deny the motion or deem such motion uncontested.

#### **Rule 1034—Motion for Judgment on the Pleadings**

(c)(1) A Motion for Judgment on the Pleadings shall be filed with the Prothonotary. At the time of filing such motions with the Prothonotary, the moving party shall also file a Praecipe, pursuant to Rule 211, to place the matter on the first Argument List occurring more than 30 days following the date of filing the motion or petition.

(2) Upon filing a Motion for Judgment on the Pleadings, the moving party shall file a brief, pursuant to Rule 210, in support of such motion within ten (10) days and shall serve a copy thereof upon all opposing counsel and any unrepresented party at their respective addresses of

record. When filed, the brief shall be accompanied by a certificate indicating that such has been served upon the moving party.

(3) All parties who wish to contest a Motion for Judgment on the Pleadings shall within thirty (30) days from the filing of such Motion file a reply brief and a certificate such has been served on the moving party.

(4) Disposition of a Motion for Judgment on the Pleadings shall be made after oral argument. The parties may agree to submit the matter on briefs only with appropriate notice to the Court Administrator of such agreement.

(5) The judge to whom a Motion for Judgment on the Pleadings has been assigned for disposition may in the exercise of judicial discretion grant additional time to file briefs, require additional briefs to be filed, or make such other order as shall be appropriate for the disposition of the matter.

(6) Failure to comply with these provisions may be sufficient basis for the court to deny the motion or deem such motion uncontested.

#### **Rule 1035.2—Motion for Summary Judgment**

(c)(1) A Motion for Summary Judgment shall be filed with the Prothonotary. At the time of filing such motions with the Prothonotary, the moving party shall also file a Praecipe, pursuant to Rule 211, to place the matter on the first Argument List occurring more than 30 days following the date of filing the motion or petition.

(2) Upon filing a Motion for Summary Judgment, the moving party shall file a brief, pursuant to Rule 210, in support of such motion within ten (10) days and shall serve a copy thereof upon all opposing counsel and any unrepresented party at their respective addresses of record. When filed, the brief shall be accompanied by a certificate indicating that such has been served upon the moving party.

(3) All parties who wish to contest a Motion for Summary Judgment shall within thirty (30) days from the filing of such Motion file a reply brief and a certificate such has been served on the moving party.

(4) Disposition of a Motion for Summary Judgment shall be made after oral argument. The parties may agree to submit the matter on briefs only with appropriate notice to the Court Administrator of such agreement.

(5) The judge to whom a Motion for Summary Judgment has been assigned for disposition may in the exercise of judicial discretion grant additional time to file briefs, require additional briefs to be filed, or make such other order as shall be appropriate for the disposition of the matter.

(6) Failure to comply with these provisions may be sufficient basis for the court to deny the Motion or deem such Motion uncontested.

#### **Rule 4012—Protective Orders**

Motions for Protective Orders are governed by Pennsylvania Rule of Civil Procedure 4012 and Monroe County Rule of Civil Procedure 208.1 et seq.

#### **Rule 4019—Sanction**

Motions for Sanctions are governed by Pennsylvania Rule of Civil Procedure 4019 and Monroe County Rule of Civil Procedure 208.1 et seq.

[Pa.B. Doc. No. 04-1705. Filed for public inspection September 17, 2004, 9:00 a.m.]



**NORTHAMPTON COUNTY****Administrative Order 2004-3—Criminal Case Pre-Trial Conference****Administrative Order**

*And Now*, this 1st day of September, 2004, it is hereby ordered that Administrative Order # 2003-6 is amended in the following respect: When an application for A.R.D. has been filed, the defense counsel is not required to attend the arraignment/pre-trial conference. However, the defendant must attend. In all other respects, Administrative Order # 2003-6 shall remain in effect.

*By the Court*

ROBERT A. FREEDBERG,  
*President Judge*

Comment: Defense Counsel's attendance at the pre-trial conference is not required if an A.R.D. application has been completed and filed. An intention to file for A.R.D. or an agreement to file for A.R.D. is not sufficient to excuse counsel's attendance.

[Pa.B. Doc. No. 04-1706. Filed for public inspection September 17, 2004. 9:00 a.m.]

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## **DISCIPLINARY BOARD OF THE SUPREME COURT**

**Notice of Transfer of Attorneys to Inactive Status**

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated July 29, 2004, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective August 28, 2004 for Compliance Group 3 due December 31, 2004.

Notice with respect to attorneys having Pennsylvania registration addresses, who have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Michael B. Adelhock  
Little Falls, NJ

Keith D. Barrack  
Morristown, NJ

Werten F. W. Bellamy Jr.  
Washington, DC

Victor Charles Bolden  
Altadena, CA

Hung H. Bui  
Washington, DC

Wallace L. Butler  
Alexandria, VA

Tara Siobhan Crean  
New York, NY

Robert J. Dehney  
Wilmington, DE

Marvin Isaac Droz  
Cleveland, OH

Mechelle Evans  
South Orange, NJ

Ernest George Foundas  
New Orleans, LA

Christopher Henry Frick  
Roseland, NJ

Benjamin S. Friedman  
Haddonfield, NJ

Charles Joseph Harrington III  
Jersey City, NJ

R. Gregory Henniger  
New York, NY

Alex T. Hopson Jr.  
Bridgehampton, NY

Janice Lee Howard  
Washington, DC

John William Jordan  
Ft. Pierce, FL

Nicholas T. Lacovara  
Williamstown, NJ

Jay Lambert  
Portsmouth, RI

Gregory A. Lomax  
Cherry Hill, NJ

Elizabeth D. Lunsford  
Washington, DC

William J. Marconi  
Mount Laurel, NJ

LaJuene McMillan  
Memphis, TN

Mary Joan McNamara  
Annapolis, MD

Peter M. Messer  
New York, NY

Elizabeth C. Moores  
Arlington, VA

Kathleen Anne Naprstek  
Newark, NJ

Andrew S. Lothrop Park  
New York, NY

James Passantino  
Edison, NJ

William Emerson Reed II  
Steubenville, OH

William A. Riback  
Camden, NJ

Archie Leon Rich  
Washington, DC

Lawrence Patrick Rizzo  
Mahwah, NJ

Mark Alan Rowan  
Tampa, FL

Daniel David Rubino  
New York, NY

Amy Shannon  
Washington, DC

Robert B. Sickels Jr.  
Southfield, MI  
Michael Ira Silverman  
Wilmington, DE  
Peter C. Thambidurai  
Princeton, NJ  
Richard Joseph Valent  
Garden City, NY  
Greg Jason Weintraub  
Chicago, IL  
Annette Marie Wenzel  
Cortlandt Manor, NY

Lisa Corinna Wood  
Livingston, NJ  
Sharon Lee Wynn  
Princeton, NJ

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

[Pa.B. Doc. No. 04-1707. Filed for public inspection September 17, 2004, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 37—LAW

### STATE POLICE

#### [37 PA. CODE CH. 41]

#### Designation of Emergency Vehicles

The State Police amends § 41.5 (relating to eligibility) to authorize the Commissioner of the State Police to designate certain vehicles used by the Department of Corrections (Department) as emergency vehicles. Under 75 Pa.C.S. § 6106 (relating to designation of emergency vehicles by Pennsylvania State Police), the State Police may designate a vehicle or group of vehicles as emergency vehicles upon a finding that the designation is necessary to the preservation of life or property or to the execution of emergency governmental functions. This final-form rulemaking amends § 41.5 to allow the Department to apply for emergency vehicle designation of vehicles used by its Hostage Rescue Teams, Hostage Negotiation Teams, Corrections Emergency Response Teams, Corrections Rifle Specialist Teams and the Central Office Special Teams Coordinator.

#### *Statutory Authority*

The final-form rulemaking is authorized by 75 Pa.C.S. § 6106.

#### *Affect*

The final-form rulemaking will affect the Department.

#### *Fiscal Impact*

The final-form rulemaking will have a minimal fiscal impact.

#### *Paperwork Requirements*

The final-form rulemaking will not require the completion of additional forms, reports or other paperwork.

#### *Effective Date/Sunset Date*

The final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned; however, every facet of this final-form rulemaking will be continuously reviewed for effectiveness, clarity and whether it is serving the greater interests of citizens of this Commonwealth.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 8, 2003, the State Police submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 6228 (December 20, 2003), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Judiciary Committee and the Senate Committee on Law and Justice 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 July 27, 2004, the final-form rulemaking was deemed approved by the House and

Senate Committees. Under section 5(g) of the Regulatory Review Act, the amendment was deemed approved effective July 28, 2004.

#### *Contact Person*

The contact person is Syndi L. Guido, Policy Director, State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 772-0905. Individuals with a disability who require an alternative format of this final-form rulemaking (such as, large print, audio tape or Braille) should contact Syndi Guido to make the necessary arrangements.

#### *Findings*

The State Police finds that:

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

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

(3) The adoption of this final-form rulemaking in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statute.

#### *Order*

The State Police, acting under the authorizing statute, orders that:

(a) The regulations of the State Police, 37 Pa. Code Chapter 41, are amended by amending § 41.5 to read as set forth in Annex A.

(b) The State Police will submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law for approval as to form and legality.

(c) The State Police 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*.

COL. JEFFREY B. MILLER,  
*Commissioner*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 4528 (August 14, 2004).)*

**Fiscal Note:** Fiscal Note 17-66 remains valid for the final adoption of the subject regulation.

#### **Annex A**

#### **TITLE 37. LAW**

#### **PART I. STATE POLICE**

#### **CHAPTER 41. DESIGNATION OF EMERGENCY VEHICLES**

#### **§ 41.5. Eligibility.**

(a) *Considerations.* The following vehicles may qualify for an emergency vehicle designation:

(1) The Pennsylvania Emergency Management Agency and local emergency management organization vehicle.

(2) Bona fide rescue organization vehicle.

(3) Department of Corrections vehicles used by members of the Department's Hostage Rescue Teams, Hostage Negotiation Teams, Corrections Emergency Response Teams, Corrections Rifle Specialist Teams and Central Office Special Teams Coordinator.

(b) *Exclusions.* Private vehicles of the following persons will not be considered for an emergency vehicle designation:

(1) Volunteer firemen, fire commissioners, fire inspectors, fire police, fire engineers, other fire department or fire company personnel and members of rescue organizations.

(2) Police, special police, auxiliary police, part-time police, constables, security police and campus police.

(3) Pennsylvania Emergency Management Agency, local emergency management organization or disaster control personnel.

(4) Red Cross personnel.

(5) Military personnel.

(6) The Department of Corrections, its personnel, and members of its Hostage Rescue Teams, Hostage Negotiation Teams, Corrections Emergency Response Teams, Corrections Rifle Specialist Teams and Central Office Special Teams Coordinator.

(c) *Restriction.* A designation will be issued only for a vehicle owned or leased by the applicant.

[Pa.B. Doc. No. 04-1708. Filed for public inspection September 17, 2004, 9:00 a.m.]

## Title 52—PUBLIC UTILITIES

### PENNSYLVANIA PUBLIC UTILITY COMMISSION

#### [52 PA. CODE CH. 57]

[L-00030161]

#### Electric Service Reliability

The Pennsylvania Public Utility Commission (Commission), on May 7, 2004, adopted a final-form rulemaking order which amends existing regulations by establishing performance and benchmark standards designed to ensure electric distribution company performance does not deteriorate since passage of 66 Pa.C.S. Chapter 28 (relating to Electricity Generation Customer Choice and Competition Act).

#### *Executive Summary*

The Electricity Generation Customer Choice and Competition Act (Act), 1996, Dec. 3, P. L. 802, No. 138 § 4, became effective January 1, 1997. The Act amends Title 66 of the Pennsylvania Consolidated Statutes ("Public Utility Code" or "Code") by adding Chapter 28 to establish standards and procedures to create direct access by retail customers to the competitive market for the generation of electricity, while maintaining the safety and reliability of the electric system. Specifically, the Commission was given a legislative mandate to ensure that levels of reliability that were present prior to the restructuring of the electric utility industry would continue in the new competitive markets.

In response to this legislative mandate, the Commission adopted a final rulemaking order on April 23, 1998 at

Docket No. L-00970120, setting forth various reporting requirements designed to ensure the continuing safety, adequacy and reliability of the generation, transmission and distribution of electricity in the Commonwealth. See 52 Pa. Code §§ 57.191—57.197. The final rulemaking order also suggested that the Commission could reevaluate its monitoring efforts at a later time as deemed appropriate.

On June 12, 2002, the Legislative Budget and Finance Committee (LB&FC) issued a Report entitled, *Assessing the Reliability of Pennsylvania's Electric Transmission and Distribution Systems*. The LB&FC Report made several recommendations regarding the issue of reliability

Shortly thereafter, on July 18, 2002, at M-00021619, the Commission adopted its Bureau of Conservation Economics and Energy Planning's (CEEP) *Inspection and Maintenance Study of Electric Distribution Systems* dated July 3, 2002. CEEP, in part, recommended that the annual reliability reporting requirements be revised to include the causes of outages and percentages categorized by type as well as the annual reporting of each company's plans for the upcoming year's inspection and maintenance of transmission systems including: 1) vegetation management; 2) distribution and substation maintenance activity; and 3) capital improvement projects. The Commission agreed with CEEP's recommendations in this regard.

The Commission created a Staff Internal Working Group on Electric Service Reliability (Staff Internal Working Group) to conduct a reevaluation of its electric service reliability efforts. The group was comprised of members of Commission bureaus with either direct or indirect responsibility for monitoring electric service reliability. The Staff Internal Working Group prepared a report, entitled *Review of the Commission's Monitoring Process for Electric Distribution Service Reliability*, dated July 18, 2002, which reviewed the Commission's monitoring process for electric distribution service reliability and provided comments on recommendations from the LB&FC report. The Staff Internal Working Group report also offered recommendations for tightening the standards for reliability performance and establishing additional reporting requirements by electric distribution companies (EDCs).

On August 29, 2002, the Commission issued an Order at Docket No. D-02SPS021 that tentatively approved these recommendations and directed the Commission staff to undertake the preparation of orders, policy statements, and proposed rulemakings as may be necessary to implement the recommendations contained in the Staff Internal Working Group's report. The Staff Internal Working Group was assigned the responsibility to implement the recommendations. The Staff Internal Working Group, with the legal assistance of the Law Bureau, determined which implementation actions could be accomplished internally (with or without a formal Commission Order), and which actions will require changes to regulations.

The Staff Internal Working Group conducted field visits to EDCs to identify the current capabilities of each EDC for measuring and reporting reliability performance. These field visits began in October 2002 and continued intermittently through March 2003. As a result of the field visits, various forms of reliability reports and reliability data were received from the EDCs and analyzed by the Staff Internal Working Group to determine the most effective and reasonable approach for the Commission to monitor electric distribution service reliability.

This Rulemaking Order seeks to implement Staff Internal Working Group's recommendations and sets forth

amendments to existing regulations to better govern the reliability of electric service in Pennsylvania and assure that service does not deteriorate after the Act. Specifically, we propose to substitute the term "operating area" with "service territory" thus altering the definition of a "major event." Additionally, we want to require the EDCs to file quarterly reports as well as the currently required annual reports. We wish the EDCs to report additional information on their reports, i.e., worst circuit information as well as their standards and plans for inspection and maintenance of their distribution systems.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 19, 2003, the Commission submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 4921 (October 4, 2003), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate 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 July 28, 2004, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 29, 2004, and approved the final-form rulemaking.

Public Meeting held  
May 7, 2004

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzigrilli; Wendell F. Holland

*Rulemaking Re Amending Electric Service Reliability Regulations at 52 Pa. Code Chapter 57; Doc. No. L-00030161*

#### **Final Rulemaking Order**

*By the Commission:*

Today, in conjunction with our Final Order at M-00991220, we reexamine our regulations and seek to significantly improve the monitoring of reliability performance in the electric distribution industry.

#### *Procedural History*

The Electricity Generation Customer Choice and Competition Act (Act), 1996, Dec. 3, P. L. 802, No. 138 § 4, became effective January 1, 1997. The Act amends Title 66 of the Pennsylvania Consolidated Statutes ("Public Utility Code" or "Code") by adding Chapter 28 to establish standards and procedures to create direct access by retail customers to the competitive market for the generation of electricity, while maintaining the safety and reliability of the electric system. Specifically, the Commission was given a legislative mandate to ensure that levels of reliability that were present prior to the restructuring of the electric utility industry would continue in the new competitive markets. 66 Pa.C.S. §§ 2802(12), 2804(1) and 2807(d).

In response to this legislative mandate, the Commission adopted a final rulemaking order on April 23, 1998 at Docket No. L-00970120, setting forth various reporting requirements designed to ensure the continuing safety,

adequacy and reliability of the generation, transmission and distribution of electricity in the Commonwealth. See 52 Pa. Code §§ 57.191—57.197. The final rulemaking order also suggested that the Commission could reevaluate its monitoring efforts at a later time as deemed appropriate.

On June 12, 2002, the Legislative Budget and Finance Committee (LB&FC) issued a Report entitled, *Assessing the Reliability of Pennsylvania's Electric Transmission and Distribution Systems*. The LB&FC Report made several recommendations regarding the issue of reliability.

Shortly thereafter, on July 18, 2002, at M-00021619, the Commission adopted its Bureau of Conservation Economics and Energy Planning's (CEEP) *Inspection and Maintenance Study of Electric Distribution Systems* dated July 3, 2002. CEEP, in part, recommended that the annual reliability reporting requirements be revised to include the causes of outages and percentages categorized by type as well as the annual reporting of each company's plans for the upcoming year's inspection and maintenance of transmission systems including: 1) vegetation management; 2) distribution and substation maintenance activity; and 3) capital improvement projects. The Commission agreed with CEEP's recommendations in this regard.

The Commission created a Staff Internal Working Group on Electric Service Reliability (Staff Internal Working Group) to conduct a reevaluation of its electric service reliability efforts. The group was comprised of members of Commission bureaus with either direct or indirect responsibility for monitoring electric service reliability.

The Staff Internal Working Group prepared a report, entitled *Review of the Commission's Monitoring Process For Electric Distribution Service Reliability*, dated July 18, 2002, which reviewed the Commission's monitoring process for electric distribution service reliability and provided comments on recommendations from the LB&FC report. The Staff Internal Working Group report also offered recommendations for tightening the standards for reliability performance and establishing additional reporting requirements by electric distribution companies (EDCs).

On August 29, 2002, the Commission issued an Order at Docket No. D-02SPS021 that tentatively approved these recommendations and directed the Commission staff to undertake the preparation of orders, policy statements, and proposed rulemakings as may be necessary to implement the recommendations contained in the Staff Internal Working Group's report. The Staff Internal Working Group was assigned the responsibility to implement the recommendations. The Staff Internal Working Group, which included a representative from the Law Bureau, determined which implementation actions could be accomplished internally (with or without a formal Commission Order), and which actions will require changes to regulations.

The Staff Internal Working Group conducted field visits to EDCs to identify the current capabilities of each EDC for measuring and reporting reliability performance. These field visits began in October 2002 and continued through March 2003. As a result of the field visits, various forms of reliability reports and reliability data were received from the EDCs and analyzed by the Staff Internal Working Group to determine the most effective and reasonable approach for the Commission to monitor electric distribution service reliability.

On June 27, 2003, at Docket No. L-00030161, the Commission adopted the proposed regulations governing

the reliability of electric service in Pennsylvania. This Proposed Rulemaking Order was published in the *Pennsylvania Bulletin* and the Commission received comments from the following parties: the Pennsylvania AFL-CIO Utility Caucus (AFL-CIO), Citizens' Electric Company (Citizens'), Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), Pennsylvania Power Company (Penn Power), PECO Energy Company (PECO), UGI Utilities, Inc.—Electric Division (UGI), Allegheny Power Company (Allegheny Power), Energy Association of Pennsylvania (EAP), the Attorney General's Office of Consumer Advocate (OCA), Pike County Light & Power Company (Pike County), and PPL Electric Utilities Corporation (PPL). Reply comments were filed by OCA, EAP and PPL. The Commission also received comments on January 21, 2004 from the Independent Regulatory Review Commission (IRRC).

#### *Discussion*

Upon due consideration of the comments, we make the following determinations regarding each amendment to the existing regulations at 52 Pa. Code §§ 57.191—57.197.

#### **Amendments to existing regulations at 52 Pa. Code §§ 57.191—57.197**

##### *§ 57.191 Purpose*

No changes.

##### *§ 57.192. Definitions.*

##### *Circuit and Conductor Definitions*

See page 22 of this order regarding Worst Performing Circuits for discussion regarding the addition of these two definitions to the final rulemaking.

##### *Operating Area Definition*

In the Proposed Rulemaking Order we proposed deleting the definition of operating area. An "operating area" was defined by Section 57.192 as being, "A geographical area, as defined by an electric distribution company, of its franchise service territory for its transmission and distribution operations."

Some EDCs used one, system-wide operating area to compute their reliability metrics, while other EDCs subdivided their service territories and used multiple operating areas to compute their metrics. The number, size and composition of operating areas used for metric computations introduced variability into the criterion used to exclude major events from the reliability metrics reported to the Commission. An EDC that subdivided its territory into several small geographic operating areas could exclude major events from its metric calculations based on a criterion of an interruption affecting 10% of the customers in an operating area; whereas another EDC, employing only one, service territory-wide operating area had to meet a much higher criterion of an interruption affecting 10% of the total EDC customer base. We proposed that EDCs should compute and report their reliability metrics to the Commission considering the entire service territory as one operating area and the major event exclusion of an interruption that affects 10% of the entire customer base for a duration of five minutes or longer.

##### *Positions of the Parties*

PPL and the AFL-CIO filed comments in support of the Commission's proposal to substitute the term "service territory" for the term "operating area." However, OCA urged the Commission to retain the use of operating area information for reliability monitoring purposes. OCA cites its Comments submitted in reference to our Tentative

Order at Docket No. M-00991220 as support for its assertion that elimination of monitoring by operating area is not appropriate.

First Energy's Met-Ed, Penelec and Penn Power (collectively referred to as the "FE Companies") submitted joint comments. The FE Companies assert that reporting reliability indices on a "system wide" basis rather than an "operating area" basis is not appropriate for Penelec. The FE Companies state that since Penelec serves about 585,000 customers over an area in excess of 17,000 square miles, it is unlikely that even a severe event and widespread service interruption will affect 10% of Penelec's customers. This means that very few interruptions would be classified as "major events." A reduction in major events will result in Penelec's service reliability appearing to be substantially worse than other EDCs with smaller service territories. Ultimately, the FE Companies claim that it may be difficult for Penelec to achieve its reliability standards. The FE Companies request that the proposed regulations be modified to allow Penelec to have two operating areas for purposes of determining "major events" and for meeting its applicable reliability indices.

##### *Disposition*

In its comments at Docket No. M-00991220, the OCA submitted that operating area information reflects how an EDC manages its distribution system and utilizes its resources within its system and that worst performing circuit reports are not a suitable proxy for operating area information. The OCA also recognized that the Staff Report noted that some EDCs defined operating areas differently for internal purposes than for PUC reporting purposes. As a result, the OCA suggested that EDCs be required to continue reporting of operating area reliability metrics using operating areas consistent with those used for internal operations and monitoring.

However, we believe that if EDCs are required to report by the operating areas they use for internal operations, then all previous years' operating area reliability metrics would need to be recomputed each time a company reconfigures its internal operations. This would make it more difficult to find pocket areas of reliability concern since a company could continually reconfigure operating areas to cover areas of concern. The circuit analysis proposed eliminates this potential problem and allows for identifying problem areas that are in need of remedial action. Therefore, we will maintain the proposed regulation as written, where companies report reliability metrics using a system wide operating area and detailed information on the worst performing circuits.

Furthermore, we deny the FE Companies' request to modify the proposed regulation to allow Penelec two service territories. We are not persuaded by the FE Companies' argument that Penelec is disadvantaged in its ability to meet its reliability indices. The Commission's recomputation of the reliability benchmarks and standards at Docket No. M-00991220 allowed for the addition of previously excluded data into the calculation of the benchmarks and standards. For example, as referenced in the M-0099120 Order, Penelec's rolling 12-month CAIDI benchmark and standard are changed from 104 and 134 to 115 and 138 respectively, due to the inclusion of outage data that historically was excluded as a "major event." Additionally, the FE Companies' concern that Penelec's service reliability may appear to be worse than other EDCs' appears to be misplaced, since the proposed regulations only measure an EDC's performance against its own

historic (1994-1998) performance and not against the reliability metrics, benchmarks or standards of other EDCs.

#### *Major Event Definition*

In the "major event" definition, all references to "operating areas" are replaced with the term "service territory" for the reasons previously outlined.

Additionally, as noted in our companion Amended Reliability Benchmarks and Standards Order at M-00991220, we require a formal process to request the exclusion of service interruptions for reporting purposes by proving a service interruption qualifies as a major event as defined by regulations. The Commission is providing EDCs with a form for requesting exclusion of data due to a major event.

#### *Performance Benchmark and Performance Standard Definitions*

In our Proposed Rulemaking Order we proposed defining a Performance Benchmark as being "the average historical performance" and a Performance Standard as being "the minimum performance allowed."

#### *Positions of the Parties*

IRRC commented that clarity could be improved by specifying that the performance benchmarks are established by the PUC based on each EDC's historical reliability performance and the performance standards are established by the PUC and tied to each EDC's performance benchmark. OCA recommended more detailed definitions of performance benchmarks and standards to include the methodology used to determine the metrics and where the numerical values for the metrics can be found. Comments provided by PPL recommended that the Commission revise the proposed definition of performance benchmark to identify the time period that was used to establish the benchmark, specifically noting the five-year period 1994-1998.

#### *Disposition*

We agree with IRRC, OCA and PPL that the definitions of performance benchmarks and standards should be expanded for clarity. Therefore, we have revised the definitions in § 57.192 as well as incorporated language previously found in § 57.194(h)(1)(2) that pertains to the measures applying to the entire service territory and the Commission's process for establishing the measures. We have also provided language that directs the reader to the Commission's Order at Docket No. M-00991220 for the specific numerical values of the performance benchmarks and standards. In addition, we will incorporate definitions of performance benchmarks and performance standards in the Commission's Order at Docket No. M-00991220 that further define the methodology for determining the measures. We will refrain from incorporating detail on the methodology for computing the performance benchmarks and standards as they may be subject to change by Commission Order in the future.

#### *§ 57.193. Transmission system reliability.*

No changes.

#### *§ 57.194. Distribution system reliability.*

Through regulations and orders, the Commission has established reporting requirements, benchmarks and standards for EDC reliability performance. Currently, EDCs report their performance on the CAIDI, SAIFI,

SAIDI, and (as available) MAIFI<sup>1</sup> indices to the Commission on an annual basis. These are generally accepted indices of EDC reliability that measure the frequency and duration of outages at the system or customer level.

The existing regulations at Chapter 57 did not establish the benchmarks or the standards for CAIDI, SAIFI, SAIDI or MAIFI for each company. Instead, the benchmarks and standards were set by Commission Order on December 16, 1999 at Docket No. M-00991220.

Revisions to the language in 57.194(e) and (h)(2)—(4) were proposed in our Proposed Rulemaking Order to clarify the Commission's expectations for reliability performance in relation to performance benchmarks and performance standards. The Commission's expectations for EDC reliability are based on language found at § 2802(12) and § 2804(1) of the Electric Generation Customer Choice and Competition Act (the Act). Section 2802(12) notes that the purpose of the Act, in part, is:

[ T ]o create direct access by retail customers to the competitive market for the generation of electricity while maintaining the safety and reliability of the electric system for all parties. Reliable electric service is of the utmost importance to the health, safety and welfare of the citizens of the Commonwealth. Electric industry restructuring should ensure the reliability of the interconnected electric system by maintaining the efficiency of the transmission and distribution system.

Section 2804(1) of the Act sets forth standards for restructuring the electric industry. This section states, "The Commission shall ensure continuation of safe and reliable electric service to all customers in the Commonwealth . . . ."

Consistent with the Act, the Commission's policy is to ensure that EDC reliability performance after implementation of the Act be at least equal to the level achieved prior to the introduction of electric choice. In a series of orders at Docket No. M-00991220, the Commission established reliability benchmarks and standards for each EDC. The benchmarks were based on each company's historic performance from 1994-1998. The benchmarks, therefore, represented each EDC's average historical reliability performance level prior to the implementation of electric choice in 1999. The Commission also established performance standards which took into account the variability in each EDC's reliability performance during the 1994-1998 period. The performance standards were set two standard deviations higher than the benchmarks (lower metric scores equal better performance) to allow for a degree of variability that inevitably occurs in reliability performance from year to year.

We stated in our Proposed Rulemaking Order:

We do not want to send the message that long-term reliability performance that just meets the performance standard is acceptable. Long-term performance that only meets the standard could be signifi-

<sup>1</sup> CAIDI is Customer Average Interruption Duration Index. It is the average interruption duration of sustained interruptions for those customers who experience interruptions during the analysis period. CAIDI represents the average time required to restore service to the average customer per sustained interruption. It is determined by dividing the sum of all sustained customer interruption durations, in minutes, by the total number of interrupted customers. SAIFI is System Average Interruption Frequency Index. SAIFI measures the average frequency of sustained interruptions per customer occurring during the analysis period. SAIDI is System Average Interruption Duration Index. SAIDI measures the average duration of sustained customer interruptions per customer occurring during the analysis period. MAIFI (Momentary Average Interruption Frequency Index) measures the average frequency of momentary interruptions per customer occurring during the analysis period. These indices are accepted national reliability performance indices as adopted by the Institute of Electrical and Electronics Engineers, Inc. (IEEE), and are defined with formulas at 52 Pa. Code § 57.192.

cantly worse than the benchmark and thus worse than the historical performance level that existed prior to the introduction of Electric Choice. Such performance would clearly not be consistent with the intent or language of the Act and the Commission's policy objective for maintaining reliability performance after the introduction of Electric Choice at least as good as it was prior to Electric Choice. Therefore, the Commission emphasizes that long-term reliability performance should be at least equal to the benchmark performance.

*Positions of Parties:*

PECO and EAP commented that the Commission should clearly distinguish the consequences of a failure to meet the performance benchmarks from a failure to meet the performance standards. These commentators acknowledge that a failure to meet performance standards constitutes non-compliance by the EDC which may result in further investigation, fines, or penalties. The EAP agrees with the Commission that EDCs should manage their businesses to meet the performance benchmarks but that a failure to meet the benchmarks does not equate to a failure to meet the performance standards. The AFL-CIO recommends that the Commission should make it clear that the goal should be utility performance that equals or exceeds the performance benchmarks.

The Commission also received comments about potential compliance actions from several parties. IRRC recommends that the Commission further explain the actions it may take in response to problems identified in a quarterly reliability report. The FE Companies raise a question about whether the Commission will deem an EDC's reliability performance to be unacceptable if it is trending away from the benchmark but within the performance standard. The OCA comments the regulations should require, at a minimum, that whenever an EDC does not meet the performance benchmark on a three-year average basis, the EDC enter into a formal improvement plan with the Commission with enforceable commitments and timetables.

*Disposition*

In response to comments by PECO and EAP we will distinguish the consequences of a failure to meet the performance benchmarks from a failure to meet the performance standards. The Commission believes that the EDCs should strive to achieve benchmark performance as well as meet the Commission's performance standards. Therefore we will maintain the insertion of language in § 57.194(e), (h) and (h)(2) that indicates EDCs shall: (1) design and maintain procedures to achieve the reliability performance benchmarks; (2) take measures to meet the reliability benchmarks; and (3) inspect, maintain and operate its distribution system, analyze reliability results, and take corrective action to meet and achieve the reliability benchmarks. This language is consistent with the Commission's view that EDCs should set their goals to achieve or exceed benchmark performance. This viewpoint is shared in part by EAP who commented that they agree with the Commission that EDCs should manage their businesses to meet the long-term performance benchmarks and that the benchmarks provide the EDCs with an important and meaningful long-term performance target.

We will add clarifying language in § 57.194(h)(1) about the consequences of not meeting the performance standards. We state in this section that performance that does not meet the standard will be the threshold for triggering

additional scrutiny and perhaps compliance enforcement. The compliance and enforcement language only pertains to instances where an EDC fails to meet the performance standards and not to instances where the EDC fails to meet the performance benchmarks. However, the Commission will carefully monitor an EDC whose reliability performance is not meeting, and is trending away from the benchmark but still falling within the standard even though this will not be cause to initiate compliance and enforcement action.

In response to IRRC's comments requesting that we explain the actions the Commission may take in response to problems identified in a quarterly reliability report, we will add language to § 57.194(h)(1) noting the types of information we may consider for compliance enforcement actions and an array of potential compliance actions the Commission may take in response to an EDC not meeting the performance standard. We view the array of potential compliance actions as among those available to the Commission for addressing noncompliance with Commission performance standards in general, whether such noncompliance comes to the attention of the Commission in a quarterly reliability report or by some other means.

In response to OCA's comments that the regulations should require a formal improvement plan when the three-year average performance standard is not met, we have included an improvement plan among the options available to the Commission for potential compliance enforcement actions. However, we have not made it a requirement in any specific circumstance. While the Commission finds there is a role for improvement plans, we want the flexibility to select an appropriate course of action.

*§ 57.195. Reporting Requirements*

*Submission of Annual Reliability Reports—§ 57.195(a):*

Under paragraph (a), we proposed that the annual reliability report be submitted by March 31 of each year. Currently, the EDCs submit reliability performance reports by May 31 following the year being reported on. If an EDC experiences poor performance in the year being reported on, five or more months pass before the Commission has the ability to determine if the EDC has sufficient corrective measures in place. At the time of receiving the performance report in the next year, it is too late for the EDC to effectively revise its reliability program to address any concerns of the Commission. Advancing the required submittal date from May 31 to March 31 of each year will ensure a timely reporting of reliability performance and review of corrective measures being implemented by an EDC if necessary.

*Positions of the Parties*

PPL filed comments in support of the Commission's proposal to advance the date for submission of the annual reliability report. However, PPL recommended that the Commission modify its proposed date for submission of this report from March 31 to April 30 because of the need to compile, analyze and thoroughly review the service interruption data used to prepare the annual reliability report. Allegheny Power filed similar comments noting that April 30 is also the due date of the Federal Energy Regulatory Commission (FERC) Form 1. A due date of March 31 may not allow sufficient time for EDCs to collect all necessary cost and reliability data in the format requested by the Commission. Allegheny Power also suggested that the additional month should not hinder the Commission's ability to monitor reliability since the Commission will be receiving quarterly reports. IRRC



noted in its comments that given the Commission's proposal to add a quarterly reporting requirement, which will provide reliability performance information in a timely manner, the problem of the Commission being unaware of poor performance prior to receiving the annual report should be alleviated. As such, IRRC suggested that the Commission consider adopting the requests for an April 30 submission date for the more detailed annual reliability reports. The AFL-CIO strongly supports improving the timeliness of reporting reliability data.

*Disposition*

Both PPL and Allegheny Power have made valid arguments for adopting an April 30 submission date for the annual reliability reports. PPL and Allegheny Power recognize the importance of timelier reporting, but also note the importance of accurately collecting the data needed to prepare the annual reliability reports. Further, Allegheny Power and IRRC recognize the importance of the quarterly reporting requirements and the role quarterly reports have in conjunction with the annual reports.

The Commission agrees to adopt the request for an April 30 submission date for the more detailed annual reliability reports. As such, paragraph (a) has been revised to require an electric distribution company to submit an annual reliability report to the Commission on or before April 30 of each year.

*Major Event Exclusion Reporting—§ 57.195(b)(2) and § 57.195(e)(1)*

Proposed Sections 57.195(b)(2) and 57.195(e)(1) require EDCs to provide, within their annual and quarterly reports, a description of each major event occurring during the reporting year and preceding quarter that the EDCs have excluded from their reported data. The term "major event" is used to identify an abnormal event, for which outage data is to be excluded when calculating service reliability indices. 52 Pa. Code § 57.192.

*Positions of the Parties:*

PPL states that the requirement to submit a description of each "major event" in the EDC's annual and quarterly reliability reports is overly burdensome, redundant and costly. In support, PPL states that EDCs must submit a service interruption report, pursuant to 52 Pa. Code Section 67.1, describing each service interruption which affects 2,500 or 5% of their total customers (whichever is less) due to a single unscheduled interruption of six or more hours duration. PPL submits that under the proposed annual and quarterly reporting requirements, the EDCs will be required to submit the same information for a "major event" in three separate reports. As a result, PPL proposes to limit the reporting in Section 57.195 to only the dates of the "major events" and the number of customers interrupted.

Allegheny Power believes quarterly reporting of major events on a detailed level duplicates the current process of providing reports to the Commission as the events occur, and adds undue administration to the reporting process.

IRRC noted that several EDCs provided comments indicating that the quarterly and annual reporting of "major events" duplicates information filed by the EDCs in the existing service interruption reports under 52 Pa. Code Section 67.1. IRRC believes the PUC should review this proposed regulation in comparison to other existing reporting requirements, and where appropriate, eliminate redundancies. Further, IRRC suggested the

Commission further explain the actions it may take in response to problems identified in a quarterly report.

*Disposition:*

52 Pa. Code Section 67.1 requires utilities to provide notification to the Commission when 2,500 or 5% of its customers (whichever is less) are without service for 6 hours or more. 52 Pa. Code Section 57.192 defines a major event as at least 10% of the customers being without service for at least 5 minutes. Obviously, there is the potential for 2,500 customers to be out of service for more than 6 hours, thus requiring a Section 67.1 report, 52 Pa. Code § 67.1, even though that event would most likely not fulfill the requirements to be classified a major event. Conversely, there is the potential for large numbers of customers to be out of service for less than 6 hours. In this case, the major event criteria may be met, but a Section 67.1 report would not be required. Contrary to PPL's assertion that these types of events are unlikely, they can and have occurred. Thus, tying major event reporting to the Section 67.1 reports does not accomplish this Commission's attempt to ensure the application of 52 Pa. Code Sections 57.195(b)(2) and 57.195(e)(1) in a timely and consistent manner.

Further, PPL and Allegheny Power have characterized the requirement to submit major event exclusion reports as costly and time consuming. However, neither has presented any reasoning for these assertions. In fact, PPL points out the similarities between the information required for Section 67.1 and Sections 57.195(b)(2) and 57.195(e)(1). This Commission is not aware of any arguments that compliance with the currently effective Section 67.1 regulation is costly and burdensome to utility operations. We therefore find PPL's and Allegheny Power's assertions to be without merit.

Regarding what actions we will take in response to problems identified in a quarterly report, we reiterate what we stated in our companion Order regarding Benchmarks and Standards at M-00991220. The Commission will not take compliance enforcement action against any EDC that meets its performance standard. However, once a standard is violated, Commission staff will carefully review all information presented in the EDC's quarterly and annual reliability reports including the EDC's causal analysis, inspection and maintenance goal data, expenditure data, staffing levels and other supporting information and Section 67.1 reports to determine appropriate monitoring and enforcement actions. Depending upon the findings of this review, we may consider a range of compliance actions including engaging in additional remedial review, requiring additional EDC reporting, conducting an informal investigation, initiating a formal complaint, requiring a formal improvement plan with enforceable commitments and an implementation schedule, and assessing penalties and fines.

While overall system performance trends that fall within the range between the benchmark and standard will not be subject to compliance enforcement, the Commission will keep EDCs whose performance is within the standard, but trending away from the benchmark, under review as a precautionary measure.

*MAIFI Data—§ 57.195(b)(3), § 57.195(e)(2), and § 57.195(e)(3)*

With the increase in the use of more technologically advanced appliances and electrical equipment such as computers, customers are becoming more aware of momentary interruptions. The frequency in which momentary interruptions occur is measured by the Momentary

Average Interruption Frequency Index (MAIFI). The requirement to report MAIFI data is discussed in three areas under § 57.195 Reporting Requirements. Paragraph (b) lists different information to be provided in the annual reliability report for EDCs having 100,000 or more customers. Included in this list under subparagraph (3) is the reporting of actual values for MAIFI and the data used to calculate this index, if this data is available. Likewise, paragraph (e) lists different information to be provided in the quarterly reliability reports for EDCs having 100,000 or more customers. Subsections (2) and (3) include the reporting of MAIFI data, if it is available. There are EDCs that do not currently have the necessary equipment to collect this data. Other EDCs have indicated that the equipment needed to collect MAIFI data is not currently in place throughout their entire systems. In recognition of this constraint, the reporting of MAIFI data is to be provided if it is available.

#### *Positions of the Parties*

Allegheny Power agrees with the Commission's proposal for EDCs to submit MAIFI data on an "as available" basis, and notes that its field equipment does not provide meaningful data for momentary interruptions. Comments filed on behalf of the FE Companies mention that most EDCs do not maintain MAIFI statistics and, for those that do, there is no consistent or uniform protocol for gathering and reporting this information. The FE Companies assert there is a likelihood that the MAIFI numbers will be inaccurate for an individual company and highly misleading if data from two or more EDCs is compared. Therefore, they do not believe MAIFI information should be reported at all.

#### *Disposition*

The Commission's purpose in reviewing MAIFI data is not to compare MAIFI performance among the EDCs, but rather to assess how frequently momentary interruptions are affecting the customers of a particular EDC and take note of any remedial actions that the EDC believes are necessary to reduce the frequency of those interruptions. We will therefore keep the reporting requirement for MAIFI data if it is available. If MAIFI data is not currently collected and used, an EDC can simply state that fact in the reports. For EDCs that collect MAIFI data and use it in conjunction with other reliability performance measures (e.g., SAIFI, CAIDI, etc.), the MAIFI data should be included in the reports. For EDCs that collect MAIFI data only on a limited basis, the EDCs can explain how MAIFI data is collected and used along with an explanation as to why they believe the reporting of MAIFI data may not accurately reflect MAIFI performance for their systems and/or at the circuit level.

#### *Causes of Interruptions—§ 57.195(b)(4)*

Paragraph (b), subsection (4) requires EDCs to report a breakdown and analysis of outage causes during the year being reported on, including the number and percentage of service outages and customer interruption minutes categorized by outage cause such as equipment failure, animal contact, and contact with trees. Proposed solutions to the identified service problems are to be reported as well.

#### *Positions of the Parties*

The FE Companies noted that they can provide a "breakdown" of the causes of outages as required, but it is unclear to them what further "analysis" is intended or required. In order to avoid confusion or a possible issue about non-compliance, the FE Companies request that the word "analysis" be eliminated from this subsection.

PPL recognizes the Commission's need for causal information; however, because the definitions of outage causes differ among the EDCs, PPL noted that caution should be used if comparisons among EDCs are being considered for causal analysis.

#### *Disposition*

First we will address the FE Companies' uncertainty with regard to the Commission's requirement for an "analysis." EDCs compile causal data in order to identify the most common causes of service interruptions in their systems. In addition to this identification of service interruption causes, the EDCs typically perform some type of analysis to determine what the contributing factors are behind a particular type of cause. For example, an EDC may have experienced an increase in the number of equipment-related interruptions, and upon further analysis, the EDC determines that the main contributor to these equipment-related interruptions is a certain type of equipment that has malfunctioned. Another example is the differentiation between tree-related outages that occur on rights-of-way versus off right-of-ways. EDCs have more control over the prevention of tree-related interruptions on rights-of-way than off right-of-ways. An EDC's causal data may indicate that trees were the primary cause of service outages. However, upon further analysis, it may be determined that only a small number of tree-related outages occurred on rights-of-way and therefore were preventable. This type of analysis would be included with the breakdown of outage causes proposed under paragraph (b)(4), as well as the proposed solutions, if any, to the identified service problems.

Such an analysis will also address some of the concerns that PPL has made regarding comparison of outage causes among the EDCs. The purpose of obtaining this information is not to compare the causes of interruptions among EDCs, but rather to identify what the primary causes are for service interruptions experienced by an EDC and to determine which causes, if any, can be prevented in the future through proposed solutions. The Commission would like to further clarify the details to be reported under paragraph (b)(4). Included with the breakdown of outage causes during the year being reported on is to be the number and percent of service outages, the number of customers interrupted, and the customer interruption minutes categorized by outage cause such as equipment failure, animal contact, tree related, and so forth. Proposed solutions to identified service problems shall be reported. The Commission will retain the requirement for an analysis concerning the breakdown of service interruption causes proposed under paragraph (b)(4).

#### *Worst Performing Circuits—§ 57.195(b)(5) and § 57.195(e)(3—4)*

Since the Commission desires to examine electric reliability on a service territory basis, rather than on an operating area basis, we had determined that a review of the worst performing circuits would be an appropriate approach to monitoring the efforts of the EDCs to improve service performance in specific areas of the service territory. It was therefore proposed in Section 57.195(e)(3) that EDCs report the worst performing 5% of the circuits in the system on a quarterly basis. In addition, we had proposed that the EDCs include in their annual report a list of the remedial efforts that have been taken or are being planned for the circuits that have been on the list of worst performing circuits for a year or more.

*Positions of the Parties*

The AFL-CIO suggests that the definition of a circuit be added to the regulation. They suggest incorporating the definition of a circuit from the National Electrical Safety Code: "a conductor or system of conductors through which an electric current is intended to flow." (IEEE, *National Electrical Safety Code*, 1997 Edition, section 2 (definitions of special terms).) Conductor, in turn, is defined as "a material, usually in the form of a wire, cable, or bus bar, suitable for carrying an electric current." In its Reply Comments, the Energy Association concurs with the AFL-CIO concerning this proposed addition to the regulation.

PPL recommends that the proposed reporting requirement at Section 57.195(b)(5) be revised as follows: "A list of the major remedial efforts taken to date and planned for circuits that have been on the worst performing 5% of circuits list for a year or more." In support of this, PPL submits that although it tries to identify all repair work performed, there may be situations where additional work is performed because a crew identifies a specific problem while on routine patrol. That work, because of its general nature, may not be tracked. However, the work may result in a performance improvement to the circuit.

Allegheny Power states that providing a list of the 5% worst performing circuits more frequently than annually is not practical. Allegheny states that action plans are established for circuit reliability on an annual basis based upon trends and that quarterly circuit reporting is not useful.

The FE Companies aver that the worst performing circuits may not necessarily involve large numbers of customers or warrant higher priority for remediation than other circuits not on the 5% list. The FE Companies state that since much of the companies' service territory is rural in nature, it is not unusual for the worst performing circuits to be rural lines serving a couple of hundred customers. They request that the proposed regulations explicitly recognize that these types of lines could appear on the worst performing circuit list more often than non-rural lines, but the cost to achieve standard reliability performance levels for these lines could be substantial, and may not be justifiable. Further, the FE Companies maintain that the Commission should not interject itself into the day to day business judgments about how and when to address the worst performing circuits.

PECO submits that neither the proposed statutory language nor the discussions in the Tentative Order and Proposed Rulemaking provide clear insight into what the Commission expects from the EDC's worst performing circuit reports and programs. PECO states that EDCs have different worst performing circuit programs and acknowledges that it is difficult to draft statutory language that not only provides sufficient guidance on what is expected but also retains the flexibility needed to accommodate the EDCs' varied programs. PECO supports the EAP's suggestion that to effectively meet the Commission's monitoring goal and provide sufficient guidance to the EDCs while retaining the requisite flexibility, the proposed regulation should be modified to provide that the worst performing circuits report should: (1) describe the EDC's worst performing circuit program, (2) list the 5% worst circuits and (3) describe the EDC's performance relative to its worst performing circuits program.

In its comments, the EAP suggests that the proposed regulation regarding worst performing circuits is impermissibly vague, has already been ruled by the Commission

to be of little or no value, and has also been interpreted as such by other Commissions as well.

In its Reply Comments, the OCA disagrees with the EAP's request to remove the proposed worst performing circuits reporting requirement. The OCA submits that PECO best summarized the value of worst performing circuit information to the EDC by stating the following:

PECO Energy, for example, has long recognized that it can achieve the dual objectives of improving system reliability indices and reducing the likelihood of customer complaints: (1) by examining in detail the reliability history of the 5% of its circuits on which the largest share of customer service interruptions occur; and (2) concentrating its efforts on improving the reliability of those circuits. The specific circuits change from year to year, but PECO Energy and many other EDCs have found that remedial attention to 5% of its circuits each year is a cost-effective and manageable way to improve reliability. (PECO Comments, p. 11-12).

The OCA, in addressing the EAP's comment, notes that the Commission previously rejected the reporting of worst performing circuit information when it ruled that reporting of operating area information would be required. Here the Commission is proposing to replace operating area information with the worst performing circuit information.

The OCA recommends that the Commission consider the recommendations for clarification of the reporting requirement and the need for flexibility so that the reporting requirement reflects the EDC's worst performing circuit program. The reporting requirement should be structured to minimize the burden on the EDCs and to match each EDC's worst performing circuits program.

*Disposition*

We agree with the AFL-CIO and the EAP that the definition of a circuit needs to be established. Therefore, we will adopt the AFL-CIO suggestion that the National Electrical Safety Code definition of a circuit be added to the regulation. We will add the following to Section 57.192:

Circuit—a conductor or system of conductors through which an electric current is intended to flow.

Conductor—a material, usually in the form of a wire, cable, or bus bar, suitable for carrying an electric current.

Additionally, we accept PPL's reasoning in its request for a modification to the proposed reporting requirement at Section 57.195(b)(5) to include the reporting of only major remedial efforts on the worst performing circuits list. The proposed regulation at Section 57.195(b)(5) is modified to read:

(5) A list of *the major* remedial efforts taken to date and planned for circuits that have been on the worst performing 5% of circuits list for a year or more.

In response to EAP's, Allegheny Power's and the FE Companies' assertions that the submission of worst performing circuits data provides no useful information to the Commission in its review of an EDC's reliability and FE Companies' assertion that the Commission should not interject itself into the day to day business judgments about how and when to address the worst performing circuits, we reiterate that analysis of an EDC's worst performing circuits is only one aspect of reliability that is proposed to be reviewed by the Commission. Analysis of

an EDC's worst performing circuits, along with an integrated analysis of all other quarterly and annual data, will be used to perform a review of an EDC's reliability performance. Moreover, we direct the respondents to the Commission's Final Order at Docket No. M-00991220. The section of the Order that discusses the Commission's potential enforcement actions provides additional support and explanation for our position on this issue. Finally, we find the OCA's discussion in this matter compelling as well.

We acknowledge PECO's comments that the regulation should be modified to include a (1) description of the EDC's worst performing circuit program, (2) listing of the 5% worst circuits and (3) description of the EDC's performance relative to its worst performing circuits program; but we observe that Sections 57.195(e)(3—4) already require that information. Therefore, we see no need to modify the proposed regulations, since the requested modifications are already subsumed within the proposed regulations.

*Reporting of T & D Inspection and Maintenance Goals and Program Changes, and T & D Operation, Maintenance and Capital Expenditures—§ 57.195(b)(6—12), (c), and (e)(6—8)*

As noted in the Proposed Rulemaking Order, a staff study completed by the Bureau of CEEP recommended that the EDCs be required to submit documentation on transmission and distribution (T & D) inspection and maintenance activities in lieu of the Commission prescribing specific standards for those activities. Thus, in paragraphs (b)(6, 9, 12) of the regulations outlining the contents of the annual reliability report for large EDCs, we proposed that they provide a comparison of budgeted T & D inspection and maintenance goals/objectives to actual results achieved for the year being reported on, budgeted goals/objectives for the current year, and any significant changes to the inspection and maintenance programs previously submitted. Smaller EDCs are to provide similar annual information per paragraph (c). We also proposed, in paragraph (e)(6) relative to the new quarterly reliability reports, that the large EDCs submit quarterly and year-to-date information on their progress in meeting the inspection and maintenance goals/objectives that would be provided to the Commission via the annual report. It was felt that further reporting requirements in this area would assist the Commission staff in assuring that the EDCs are actively engaging in and carrying out plans that have a direct impact on reliability.

In addition to the inspection and maintenance data, proposed paragraphs (b)(7, 8, 10, 11) relative to the annual reliability report require that the large EDCs provide comparisons of budgeted to actual T & D operation and maintenance (O & M) expenditures and T & D capital expenditures for the year being reported on, as well as budgeted T & D O & M expenditures and capital expenditures for the current year. Again, paragraph (c) requires similar annual information for the smaller EDCs. For the quarterly reliability report, we proposed in paragraphs (e)(7—8) that only the large EDCs submit quarterly and year-to-date information on budgeted versus actual T & D O & M and capital expenditures. This expenditure data, along with the inspection and maintenance data, would provide Commission staff with a informed and timely perspective on the commitment of resources for system maintenance and upgrades.

*Positions of the Parties*

PECO, the FE Companies, Allegheny Power, UGI, and EAP take issue with the requirements to report on T & D inspection and maintenance goals/objectives, and T & D operations and maintenance and capital expenditures. They generally believe that such information is proprietary, that it does not provide any meaningful insight into (or does not necessarily have a direct relationship to) reliability performance, and that it should only be required upon identification of an actual reliability problem. The parties further argue that the requested information is subject to wide variations over the course of a year, inasmuch as an EDC's business plans and priorities can and do change. They are specifically concerned that tracking variances in this information could be highly misleading and could put the Commission in the inappropriate position of second guessing or micro-managing an EDC's routine business judgments. Citizens', while noting that it is important to assign a cost to efforts aimed at improving reliability, feels that the annual reporting of inspection and maintenance data and expenditure data is burdensome.

IRRC recommends that the Commission specify the procedures for identifying and protecting the confidentiality of the proprietary information provided. IRRC further questions whether we have considered allowing the reporting of the transmission and distribution operation and maintenance expenses and capital expenditures in an alternate format than the Federal Energy Regulatory Commission (FERC) account format in order to accommodate EDC operational practices. IRRC believes the PUC should either specify the acceptable alternate formats in the final-form regulation or include a cross-reference to the procedures outlined in 52 Pa. Code § 1.91 (relating to Applications for waiver of formal requirements).

Notably, with some relatively minor exceptions, PPL did not take issue with providing the inspection and maintenance data nor the expenditure data for the periods requested, and made no claim that this particular information is proprietary. Moreover, the remaining large EDC, Duquesne Light, filed no comments opposing the submission of the data. Comments filed by the AFL-CIO support all of the proposed reporting requirements, but suggest that the inspection and maintenance goals/objectives be supplemented by enforceable inspection, maintenance, repair, and replacement standards. The OCA commented that the proposed regulations vastly improve the reporting requirements, and feels that we should go even further by requiring the EDCs to submit comprehensive T & D maintenance plans to the Commission annually and provide their customers with an annual report on reliability performance. This would be in addition to the annual report that the Commission is proposing to issue under § 57.195(j).

Several parties, including the FE Companies, Allegheny Power, PPL, and EAP, indicated in their comments that many EDCs do not budget either T & D O & M expenditures or capital expenditures by FERC account. We had proposed the annual reporting of such budget information under paragraphs (b)(10—11), with obvious carryover implications for all budget to actual comparisons to follow under (b)(7—8) and (e)(7—8). PPL suggests that we modify these reporting requirements to allow for budget information by functional activity.

In joint reply comments filed by the FE Companies, they reject OCA's suggestion that the EDCs be required to submit an annual report to customers. They argue that the amount of, and confidentiality of, data to be included

in such a report via bill inserts (or the like) would render the idea undoable. The EAP, in its reply comments, argues that the budget to actual data comparisons, and OCA's proposed annual reports to customers, have little or no probative value to the Commission's ability to analyze reliability performance. It therefore has offered revisions to the proposed regulations that would eliminate the budget to actual expenditure data from the annual reliability reports of all EDCs and from the quarterly reports of the larger EDCs. The quarterly comparisons of inspection and maintenance goals/objectives to actual results achieved would also be eliminated for large EDCs.

The OCA states in its reply comments that, despite the EDC claims to the contrary, the additional information requested by the Commission is related to reliability and can be very useful to the Commission in meeting its monitoring obligations. Further, the OCA feels there is no basis for keeping this information from the public view since it is often part of a base rate case filing and thus often subject to significant public scrutiny. In the OCA's view, the ratepayers have a right to know how their dollars are being spent and whether they are receiving adequate service at a reasonable cost.

#### *Disposition*

The Commission will retain its proposal to have the EDCs report on their T & D inspection and maintenance goals/objectives as provided for in § 57.195(b)(6), (9), (c) and (e)(6).<sup>2</sup> Although we are not prescribing enforceable inspection, maintenance, repair and replacement standards for EDCs as favored by the AFL-CIO nor requiring comprehensive T & D maintenance plans as suggested by the OCA, we do believe it is vital for each company to establish and carry out individual goals/objectives for these activities. Such goals and objectives provide a "game plan" for completing inspection and maintenance efforts throughout the year, and thus are directly related to short-term and long-term reliability performance. The Commission desires to monitor the accomplishment of each large EDC's plan at various points during the year as a way of ensuring that reliability matters remain a priority. We recognize, and concur with some of the commentators, that the best-laid plans will change in a year's time due to any number of unforeseen events. However, requiring that large EDCs report their progress against the established goals and objectives on a quarterly basis will ensure that Commission staff has more timely knowledge of these unforeseen events and their potential impact on reliability performance. Waiting until there is an actual reliability problem to get the data (as favored by the some of the industry parties) is not acceptable. Moreover, it is inconsistent with one of the LB&FC's recommendations that the Commission be more proactive in its approach to monitoring reliability.

We note that similar to the O & M and capital expenditure quarterly data proposed under paragraphs (e)(7—8), the quarterly and year-to-date information for the inspection and maintenance goals/objectives required under paragraph (e)(6) of the regulations need only be submitted for the first, second, and third quarters. The necessary wording to convey our intentions in this regard had inadvertently been omitted from the Tentative Order.

The Commission will also retain its proposal to have the EDCs report their T & D O & M and capital expenditure data as provided for in § 57.195(b)(7, 8, 10, 11), (c), and (e)(7, 8). We concur with several of the commenting

parties that increases or decreases in O & M and/or capital expenditures can occur from quarter to quarter or year to year for a variety of reasons that are not directly related to reliability. However, we cannot agree with some of the parties that this data does not provide any meaningful insight into reliability performance. This would only be true if such data were being looked at in a vacuum and were only provided in summary amounts. The Commission seeks to have the EDCs report both budgeted and actual O & M and capital expenditures in the level of detail that is already reported to operations management personnel on an annual and quarterly basis. This level of expenditure data, when evaluated side by side with other data on inspection and maintenance goals and objectives, staffing levels, contractor usage, and outage causes, can be very useful for gaining a perspective on, and ascertaining trends in, reliability investment by the EDC. Our intent is not to micro-manage or second-guess management as suggested by certain parties, but to be fully informed about reliability matters in a timely manner. Again, waiting until there is an actual problem to obtain this information does not fulfill our regulatory obligation to proactively monitor reliability at the EDCs.

The parties should note that we have adopted the suggestion of PPL that we modify reporting requirements to allow for budget (and thus actual expenditure data for comparison purposes) to be provided by functional activity rather than FERC account. We acknowledge that most EDCs use a responsibility (activity-based) system for internal budgeting and expense collection purposes because it more closely conforms to operations. In these companies, use of the FERC system of accounts is generally limited to Commission annual reports. While revising the language in § 57.195(b)(10—11) to allow for reporting of budget and expenditure data by the EDCs' own functional account codes, we've taken the opportunity to clarify that the required data under paragraphs (b)(7—8) and (e)(7—8) is to be reported by those same internal account codes.

We've also taken the opportunity to add language setting a threshold for required variance explanations under paragraphs (b)(7—8). PPL stated in its comments that it believes the phrase "any variances" in the Tentative Order is overly broad and will require unnecessary explanation of insignificant deviations. The Company thus recommended explanation thresholds of \$1 million for O & M expenditure variances and \$5 million for capital expenditure variances. While we agree that thresholds would be appropriate, PPL's proposed amounts are too high. Further, the thresholds do not vary by company size. We will therefore set the thresholds at 10% or more of each budget line item. This is consistent with variance explanation policies at many companies. We should point out here that we have declined to add PPL's suggested threshold wording for requiring explanations of deviations from established inspection and maintenance goals and objectives in paragraph (b)(6). This wording "a material change in a T & D inspection and maintenance goal/objective" leaves too much to judgment. Nevertheless, Commission staff will be reasonable and consider the materiality of variances when reviewing the adequacy of explanations here. We believe the addition of the term, "by the EDC's own functional account code" satisfies IRRC's requirement that we specify an alternative acceptable format.

In addition to the issues previously discussed, the Commission will address two other general matters brought up by the parties when commenting on the

<sup>2</sup> See Attachment A to the Tentative Order entered on June 27, 2003 at Docket No. M-00991220 for a report in the form preferred by the Commission.

reporting of T & D inspection and maintenance goals/objectives, and O & M and capital expenditures. The first matter involves comments by Citizens', UGI and a few other industry parties that the requested data is burdensome. We do not find this to be a valid criticism inasmuch as all companies affected by this rulemaking prepare inspection and maintenance goals and budget O & M expenditures annually, and compare them to actual data at least quarterly. Moreover, the Commission has now defined the required items such that the EDCs can literally pull them off the shelf and submit them without a lot of modification. A good example of this is the requirement to submit budgeted and actual expenditures using accounts from their own responsibility accounting systems. As a result of the flexibility granted the EDCs to comply with the data requirements, we do not believe that an excessive burden has been placed on them.

The second general matter brought to our attention by IRR and the EDCs involves proprietary data claims. Many of the commentators from industry believe that information on goals/objectives and budgeted versus actual expenditures is confidential and thus should not be made available to the public. Further, they feel that such data could be misinterpreted by the public, or worse yet, used by competitors and other outside parties against them. Although the Commission has no intention of actively sharing this type of information with other parties outside the regulatory arena, we find the broad proprietary claims by industry to be largely without merit. First, some of this information (i.e., annual O & M and capital expenditures) is already available to the public in the annual reports filed with the Commission. Second, an EDC's transmission and distribution operations are still fully regulated and thus are not subject to competition from other EDCs. If an EDC wishes to keep specific parts of its reported data confidential, it will have to file a petition requesting proprietary treatment. Merely stamping the data proprietary will not guarantee such treatment.

The proposed regulations did not address the confidential treatment of proprietary data. We acknowledge that the EDCs will now be required to report some transmission and distribution data not heretofore reported; however, we view the reports to be of public concern, and will generally treat the entire reports as being public. We do not want a proprietary and non-proprietary version submitted initially. If the EDC anticipates that portions of its report should remain proprietary, then the burden is on the EDC to apply for a protective order under 52 Pa. Code § 5.423 in advance of its report if it wants portions of its report to remain confidential and proprietary.

*Reporting Requirements for Smaller EDCs—§ 57.195(c) and (f)*

The Commission proposed annual and quarterly reporting requirements for smaller EDCs in paragraphs (c) and (f) respectively. The smaller EDCs have been defined as those with less than 100,000 customers. In comparison to the large EDCs, the Commission has limited the annual and quarterly reporting requirements for the smaller EDCs. This is to reduce the reporting burdens of these companies given the size, configuration, and operational aspects of their systems.

*Positions of the Parties*

Comments were filed by the FE Companies pertaining to the reporting requirements and the relative size of Penn Power. It is stated that Penn Power is "substantially smaller" than all of the other larger EDCs. Penn

Power has approximately 154,000 customers while the next largest EDC has approximately 511,000 customers (Met-Ed). Penn Power asserts that its service territory and the nature of its operations and reliability data far more resemble the smaller EDCs than the larger EDCs. As such, Penn Power requests that the Commission redefine the term "smaller EDCs" to include EDCs with less than 185,000 customers. This would allow Penn Power to be classified as a smaller EDC and have the benefit of the limited reporting requirements for smaller EDCs.

In its reply comments, the OCA does not believe that it is appropriate for Penn Power to be classified as a smaller EDC. The OCA points out that the 154,000 customers served by Penn Power is much greater than the number of customers served by those EDCs designated as small EDCs in Pennsylvania. UGI is the largest of the small EDCs, but only serves approximately 61,500 customers. OCA also states that Penn Power has a service territory that is significant in size and part of a much larger electric utility system (the First Energy system). The OCA does not believe that there is any indication of an excessive burden placed on Penn Power in meeting these reporting requirements. For these reasons, OCA states that the Commission should reject the request to have the regulations modified for Penn Power.

*Disposition*

The FE Companies' request that Penn Power be classified as a smaller EDC is rejected. The reply comments of the OCA identify important facts about the relative size of Penn Power and the resources available to the EDC. Penn Power is much larger in comparison to the smaller EDCs, especially when considering the resources available to Penn Power through FirstEnergy. As part of the FirstEnergy system, Penn Power's reliability performance is monitored and managed through the same organization as the two other larger EDCs in Pennsylvania (Met-Ed and Penelec). The Commission will therefore retain the definition of smaller EDCs for quarterly reporting requirements as any EDC serving less than 100,000 customers.

*Submission of Quarterly Reliability Reports—§§ 57.195(d), (e), and (f)*

Paragraph (d) proposed the submission of quarterly reliability reports to the Commission on or before May 1, August 1, November 1 and February 1. Paragraph (e)(1—11) specified eleven quarterly reporting requirements for the larger EDCs serving 100,000 or more customers. Among those requirements are a rolling 12-month computation of the reliability indices, a rolling 12-month analysis of circuit reliability, and a description of any remedial action taken to correct the problems. Proposed paragraph (f) limited the quarterly reporting requirements for the smaller EDCs to paragraphs (e)(1), (2) and (5). As noted previously in this rulemaking, the reduced requirements are designed to reduce the reporting burdens of these companies given the size, configuration, and operational aspects of their systems.

The purpose of requiring a quarterly report is to provide more frequent information to the Commission about service reliability. This will enable the Commission to identify potential problems in a timely manner and monitor an EDC's response to problems which may arise between annual reports. The quarterly report requires a description of each major event occurring during the preceding quarter that the EDC has excluded from its reported data.

*Positions of the Parties*

The EAP, Allegheny Power, Citizens', the FE Companies, PECO, and Pike County submitted comments to the proposed quarterly reports.

The EAP does not believe that some of the quarterly reporting requirements provide meaningful insight to an EDC's reliability performance. The FE Companies state that the benefits of quarterly reporting are miniscule compared to the time, expense, burden and resources the EDCs will have to incur in order to collect, calculate, review and publish the information on a quarterly and annual basis. PECO submits that with the exception of the major outage reporting proposed in paragraph (e)(1) and the rolling indices information proposed in paragraph (e)(2), the other quarterly reporting requirements will not provide any meaningful insights into the reliability performance of the EDCs. The EAP asserts that the quarterly reporting requirements proposed in paragraph (e) are an unreliable means of measuring performance, since the primary measure of performance is an annual target. The EAP references the information required under paragraphs (e)(3) and (e)(5) as statistical information that should not be analyzed based on the performance in any given quarter, but rather an annual basis. Similar concerns have been averred by Allegheny Power, PECO, and the FE Companies noting that reliability performance is best evaluated over a long-term horizon, such as 12 months, rather than on a short-term horizon, such as 3 months.

Of the smaller EDCs, Pike County commented that subjecting smaller EDCs to the quarterly reporting requirements would significantly increase their workload with minimal countervailing benefits. Pike County requests that its quarterly reporting obligation be limited to providing updated SAIFI, CAIDI and SAIDI statistics as proposed in paragraph (e)(2). Citizens' believes that quarterly reporting is excessive and provides little meaningful information, because system reliability can vary significantly in the short term based on isolated local events such as vehicle accidents, storms, etc.

*Disposition*

We will first address the comments regarding the analysis of reliability performance on a quarterly basis versus an annual basis. The EAP, Allegheny Power, PECO, and the FE Companies have inaccurately characterized the information to be provided in the quarterly reports proposed under paragraphs (e)(2 & 3). These parties have given the impression that the quarterly reports proposed under paragraphs (e)(2 & 3) require reported performance only for the three months in a given quarter. Both paragraphs specifically state that rolling 12-month data is to be reported. This rolling 12-month data is to be reported every quarter. As such, the reliability performance will be evaluated over a period of 12 months. The EAP, Allegheny Power, PECO, and the FE Companies have all indicated that it is best to evaluate reliability performance over a longer term, which is why the Commission has proposed the quarterly reporting of rolling 12-month data in paragraphs (e)(2); (3).

The Commission recognizes an omission in paragraph (e)(5) that was pointed out by the EAP and PECO. As written, paragraph (e)(5) requires a breakdown and analysis of outage causes during the preceding quarter. To be consistent with the other reliability and outage data being reported in paragraphs (e)(2); (3), paragraph (e)(5) has been revised to clarify that a rolling 12-month

breakdown and analysis of outage causes is to be reported every quarter. Again, this does not mean that only causal data for the three months of a given quarter are reported. Each quarterly report will break down and analyze the most recent 12-month period of outage causes, including the number and percent of service outages, the number of customers interrupted, and the customer interruption minutes categorized by outage cause such as equipment failure, animal contact, tree-related, and so forth. Proposed solutions to identified service problems shall be reported. As noted earlier, Citizens' stated that its reliability performance can vary significantly over the short term due to isolated local events such as vehicle accidents. The quarterly reporting of the breakdown and analysis of outage causes will enable EDCs such as Citizens' to identify and explain the situations behind any isolated local events.

Next we will address all comments regarding the overall requirement of quarterly reporting and its appropriateness. The LB&FC Report found that the Commission was not receiving EDC reliability performance information in a timely manner. Additionally, the LB&FC found that the Commission was not requiring EDCs to report the causes of outages along with the reported reliability performance. The LB&FC recommended that the Commission require submission of summary monthly and year-to-date information on the causes of all service interruptions. The LB&FC pointed out that such information is essential to interpret the information in the annual reliability reports and to follow up with the EDCs on the performance they report. The LB&FC also emphasized that current regulations authorize the PUC to require submission of such information. The Commission has considered the merits of the LB&FC findings and recommendations, and we believe the proposed quarterly information in paragraph (e)(5) will satisfy the LB&FC's concerns regarding the timely reporting of causes of service interruptions.

Also, in IRRC's and Allegheny Power's comments related to paragraph (a) and the submittal date for the annual reliability report, it was noted that the Commission's proposal to add a quarterly reporting requirement will provide reliability performance data in a timely manner. IRRC also argued that the problem of the Commission being unaware of poor reliability performance prior to receiving the annual report should be alleviated. As such, IRRC suggested that the Commission consider adopting the requests for an April 30 submission date for the more detailed annual reliability reports. As stated earlier, the Commission agrees with IRRC and has adopted the request for an April 30 submission date for the more detailed annual reliability reports given that proposed quarterly reports will be in effect.

The FE Companies have asserted that the time, expense, and resources the EDCs will have to incur to collect, calculate, review and publish the information on a quarterly basis will be a burden to EDCs. These comments leave the impression that EDC management does not routinely measure, record, analyze, and produce internal reports to keep adequately informed of the EDC's reliability performance and compliance with reliability regulations in Pennsylvania. The Commission has not been given this impression in our dealings with the EDCs nor would the Commission view this as prudent management of activities that affect electric reliability. Pike County and Citizens' have also implied that the proposed quarterly reporting requirements will be a burden for smaller EDCs. Although the quarterly reports as proposed may require EDCs to maintain and periodically submit

the specified information in a defined format that may be slightly different than is currently maintained and reported internally, it should not be difficult to maintain this information in any off-the-shelf software commonly used by all EDCs. Once the desired format for the information is established and saved electronically, it should not be burdensome to update future reports.

The Commission is requiring the EDCs to periodically report reliability information to the Commission that it should already be maintaining and analyzing. In fact, not all of the EDCs have submitted comments claiming that it will be burdensome to provide the proposed reliability information on a quarterly basis. It has been suggested that the Commission should only need to see this type of information once poor reliability performance has been determined. The LB&FC has already scrutinized this type of approach to monitoring electric reliability and determined it to be unsatisfactory. Therefore, the Commission will retain the requirement of quarterly reporting as proposed in paragraphs (e) and (f) including the breakdown and causes of interruptions. Paragraph (e)(5) has been revised to clarify the reporting of a rolling 12-month breakdown and analysis of outage causes every quarter.

*Staffing Levels and Contractor Information—§ 57.195—(e)(9); (10)*

Paragraph (e)(9) proposed that quarterly reports filed by the larger EDCs (those serving 100,000 or more customers) include the number of dedicated staffing levels for transmission and distribution operations and maintenance at the end of the quarter, in total and by specific category such as linesmen, technicians, and electricians. Similarly, paragraph (e)(10) proposed that quarterly reports filed by larger EDCs include quarterly and year-to-date information on contractor hours and dollars for transmission and distribution operations and maintenance. The Commission expects to continually monitor staffing levels and the use of contractors to ensure that adequate resources are being devoted to the reliability of electric service.

*Positions of the Parties*

Comments were filed by the FE Companies as well as PPL. The FE Companies and PPL believe that specific information relating to staffing levels and contractor hours and dollars are proprietary. One of the concerns is that if this information were made available to the public, an EDC's ability to negotiate contracts with third-party vendors and others could be adversely affected. The FE Companies also assert that decisions about required resources to perform transmission and distribution work are dynamic and could change frequently in a typical operating year and budget cycle. Therefore, reporting of this type of information could easily lead the Commission and others to second-guess an EDC's business judgments. The FE Companies urge the Commission to eliminate these reporting requirements from the proposed rules. If the information specified is ultimately required to be filed, the FE Companies believe the regulations should allow the EDCs to limit its dissemination to the Commission and its staff, the OCA and Office of Small Business Advocate (OSBA), subject to a blanket prohibition against public disclosure, and to prohibit such information from being inserted into the Commission's public files. PPL recommends that the Commission either eliminate the proposed reporting requirements, or, in the alternative, permit EDCs to retain this information at their main office, and make it available for Commission review and inspection, as necessary.

*Disposition*

EDCs must effectively utilize internal and external resources to ensure that reliable electric service is provided to their customers. The Commission recognizes the proprietary nature of contractor information. However, the Commission must understand what resources have been employed by an EDC in order to adequately monitor its reliability activities and performance. Providing this information will prevent the Commission from second-guessing how an EDC determines the resources it needs to ensure reliable service. Second-guessing would occur if the Commission did not receive staffing level and contractor information periodically throughout the year, but then criticized an EDC at year-end when reliability performance appeared inadequate. Periodic review of the resource levels and any accompanying explanations of any changes to staffing levels or arrangements with contractors will enable the Commission to better understand the resource decisions the EDCs must face, and may therefore prevent any unnecessary scrutiny of an EDC's use of internal and external resources for reliability activities.

The Commission does not intend to publish all of the specifics of contractual arrangements made between an EDC and its various contractors used to perform transmission and distribution operation and maintenance activities. However, the information submitted in the reports will be kept in public files and is available for inspection. Additionally, concerns raised by the FE Companies and PPL over the dissemination of this information by other parties who will receive the quarterly reports must be addressed. Under paragraph (d)(1), EDCs are required to submit quarterly reliability reports to OCA and OSBA in addition to the Commission. While we believe it is a reasonable request that the Commission, the OCA and OSBA be prohibited from disclosing the specific details of any contract (i.e., hours and dollars) between an EDC and any contractor an EDC employs for transmission and distribution operations and maintenance, the burden will be upon the EDC to apply for a protective order under 52 Pa. Code § 5.423 in advance of the filing of its report if it wants portions of its report to remain confidential and proprietary.<sup>3</sup>

The Commission does not see any reason why an EDC's staffing levels for positions such as linesman, technician, and electrician should be considered proprietary. The EDCs are regulated utilities, which are not subject to competition like unregulated entities. Therefore, the disclosure of the staffing levels by an EDC will not negatively affect its ability to operate.

*Section 57.195(e)(11) (Call-Out Acceptance Rates)*

We proposed to obtain information on monthly call-out acceptance rates for transmission and distribution maintenance workers. The monthly call-out acceptance rates may provide some perspective on reliability performance.

*Positions of the Parties*

The AFL-CIO does not disagree with the reporting requirement at Section 57.195(e)(11), but suggests a time-based measure (the amount of time it takes the EDC to obtain the necessary personnel) rather than a measure based on the percentage of employees called. The AFL-CIO avers that a time-based measure would better reflect some EDCs' use of automated calling methods, which can obtain the necessary personnel more quickly, even though the percentage of those called who respond affirmatively might be lower.

<sup>3</sup> In addition, Section 219 of the Commission's Procedures Manual gives utilities the ability to file confidential documents and seek protective orders when the allegedly proprietary information is sought by the public.



The AFL-CIO asserted that a low call-out acceptance rate (or a lengthy call-out acceptance time) is an indication there may be a serious management issue within the EDC. Thus, it should prompt a more detailed investigation by the Commission to determine if the utility is properly managing its work force and its outage response efforts.

Citizens' states that in addition to call-out acceptance, many other things contribute to overall restoration time. Thus, focusing solely on the call-out acceptance rate will not necessarily lead to meaningful conclusions regarding reliability or restoration effectiveness.

The FE Companies comment that it is inappropriate to report call-out acceptance rates since there is no uniform method by which EDCs define such rates or report them. They state that by requiring the reporting of call-out acceptance rates, it appears that the Commission believes there is a direct correlation between the call-out response rate and an EDC's reliability performance. The FE Companies do not believe this to be correct and assert that the lack of a standard definition for call-out acceptance, along with the inability to account for variations among the EDC's labor agreements, could lead to unreasonable and inappropriate comparisons. Therefore, the FE Companies believe the requirement to report call-out acceptance rates should be eliminated.

In its reply comments, the EAP submits that reporting of call-out acceptance rates is an excellent example of the type of information that would be irrelevant to reliability evaluations. The EAP states that the Department of Transportation's Federal Motor Carrier Standards Administration issued its final *Hours of Service* rule in April 2003 and the application of this rule renders comparisons between historical and future call-out rates meaningless. Thus, call-out acceptance rates would provide little insight to the Commission in its review of an EDC's reliability performance. The EAP suggests the elimination of this reporting requirement. However, if the reporting of the information becomes a requirement, the Energy Association states that the information should not be made public.

#### *Disposition*

We agree with the AFL-CIO that a time-based measure (the amount of time it takes the EDC to obtain the necessary personnel) should be incorporated into the proposed regulation at Section 57.195(e)(11), in addition to the proposed measure based on the percentage of accepted calls. We will amend Section 57.195(e)(11) to state:

- (11) Monthly call-out acceptance rate for transmission and distribution maintenance workers presented in terms of both the percentage of accepted call-outs and the amount of time it takes the EDC to obtain the necessary personnel. A brief description of the EDC's call-out procedure should be included when appropriate.

In response to the comments of Citizens', the FE Companies, and EAP that the call-out acceptance rates do not provide consistent and valuable information to the Commission in its review of an EDC's reliability performance, we reiterate that the call-out acceptance rate is only one aspect of an EDC's reliability plans and reports that will be reviewed by the Commission. When analyzing an EDC's reliability performance, Commission staff will consider call-out acceptance rates together with all other quarterly and annual data. In addition, we direct the respondents to the Commission's Final Order at

M-00991220. The section of the Order that discusses the Commission's potential enforcement actions provides additional support and explanation for our position on this issue.

#### *Section 57.195(i) (Parallel Measurement)*

##### *Positions of the Parties*

In reply comments, the FE Companies respond to comments by OCA that reliability has deteriorated by noting that it is dangerous to conclude service reliability has deteriorated by a comparison of data collected in two materially different ways. The FE Companies state that because of the vast difference in data quality and quantity subsequent to the installation of the outage management systems, no meaningful trends or benchmarks can be derived from data under the old system compared to data under the new system.

##### *Disposition*

We wholeheartedly support the EDCs implementing technology improvements in the systems that gather, analyze and report on reliability performance. However, we cannot accept that with each improvement in the measurement systems the EDC and the Commission lose the ability to have accurate reliability performance trend data as the FE Companies note happened in the past. Therefore, we will add an additional provision to the regulations that requires parallel measurement and analysis whenever changes are made to the reliability measuring systems used by the EDCs. Through the use of parallel measurement and analysis, which entails holding other variables constant and measuring reliability under the old and new systems concurrently for a period of time, the EDC should be able to isolate and quantify any independent influence that the change in measurement methods has on reliability performance index scores. This will enable the EDC and the Commission to separate out the effects of changes in reliability measurement from true changes in reliability performance so that we can accurately assess true reliability performance and trends.

#### *§ 57.196. Generation reliability*

No changes.

#### *§ 57.197. Reliability investigations and enforcement*

No changes.

#### *Other Issues Raised In Comments*

##### *Inspection and Maintenance Standards*

In its June 12, 2002 report, the LB&FC noted there was insufficient information to allow the Commission to determine if EDCs are implementing their reliability programs as described by the EDCs. The LB&FC also noted that the Commission was in the process of reviewing the establishment of regulations regarding inspection, maintenance, repair and replacement standards, and that IRRC recommended the Commission evaluate what other states have done or are doing regarding inspection and maintenance standards. The LB&FC review found that other states typically do not have specific minimum performance standards for inspection and maintenance programs that companies must meet, but they do have ongoing and detailed reporting requirements concerning such programs. In this way, the states are able to assess whether companies have reasonable inspection and maintenance programs, if they are implementing their programs, and if not, why not. This information is routinely reported and is available for use by the State Commissions. As such, the LB&FC did not recommend prescriptive standards, but suggested establishment of reporting

requirements to permit the Commission to monitor the EDCs' progress in implementing their plans for inspecting and maintaining their transmission and distribution systems.

On August 29, 2002, the Commission adopted a study entitled *Inspection and Maintenance Study of Electric Distribution Systems* dated August 27, 2002. CEEP agreed with the LB&FC and recommended that the annual reliability reporting requirements be revised to include the routine submission of documentation on inspection and maintenance activities including: 1) vegetation management; 2) distribution and substation maintenance activity; and 3) capital improvement projects. The Commission agreed with CEEP's recommendations in this regard.

The recommendations cited in the *Inspection and Maintenance Study of Electric Distribution Systems Report* were incorporated into the proposed paragraphs of Section 57.195(b)(6, 8, 9, 11, 12); (c); and (e) of this rulemaking. Paragraphs (b)(6, 8, 9, 11, 12) outline annual reliability reporting requirements for the larger EDCs related to T & D inspection and maintenance goals/objectives, significant changes to the inspection and maintenance programs, and T & D capital expenditure budgets. Smaller EDCs are to provide similar annual information per paragraph (c). Paragraphs (e)(6); (8) require that the large EDCs submit quarterly and year-to-date information on their progress in achieving the inspection and maintenance goals/objectives and meeting the capital expenditure budget as provided to the Commission in the annual report. It was felt that these reporting requirements address the suggestions of the LB&FC to require routine detailed reporting to assist the Commission in assuring that the EDCs have reasonable inspection and maintenance programs and are implementing their own capital improvement plans.

#### *Positions of the Parties*

The AFL-CIO criticized the Commission for not proposing specific inspection and maintenance standards. In its reply comments, OCA agreed with the AFL-CIO's position, citing 66 Pa.C.S. § 2802(20) which provides:

Since continuing and ensuring the reliability of electric service depends on adequate generation and on conscientious inspection and maintenance of transmission and distribution systems, the independent system operator or its functional equivalent should set, and the commission shall set through regulations, inspection, maintenance, repair and replacement standards and enforce those standards.

#### *Disposition*

In the past, the Commission has evaluated the prospect of implementing prescribed inspection and maintenance standards for all EDCs in Pennsylvania and has stated on several occasions that it did not believe specific inspection and maintenance standards were necessary or appropriate. Instead, the Commission focused its efforts on regulating reliability performance—i.e., comparing data regarding the frequency and duration of outages to benchmarks from a historical period. We addressed this issue in our Final Rulemaking Order of April 24, 1998, at L-970120, 27 Pa.B. 809, which promulgated the regulations at Chapter 57, Subchapter N (relating to electric reliability standards). We declined to require specific inspection and maintenance standards because of the new methods and technologies that utilities were developing to improve the inspection and testing process. However, we directed the Commission's Bureau of CEEP to conduct a

study of this issue of developing specific inspection and maintenance standards and to submit recommendations for the Commission's consideration.

Specifically, we stated:

[T]he Commission believes that it is inappropriate, at this time, to establish specific performance standards due to the need to better understand existing performance levels and to permit flexible modification of standards as the competitive market develops.

We further stated in our Order:

While we are adopting the NESC [National Electrical Safety Code] as the basic external standard, neither existing regulations nor the NESC provides specific standards for inspection and maintenance. These standards will be adopted in subsequent orders.

Id. at pp. 3-4.

Similarly, in our *Inspection and Maintenance Study Order* of August 29, 2002, at M-00021619, the Commission stated that its effort to protect reliability was "constantly evolving" and that it would continue to assess the need for inspection and maintenance standards in the future. Id. at 11.

Shortly after we entered our Proposed Rulemaking Order on July 27, 2003, the August 14, 2003 blackout occurred across portions of Pennsylvania, New Jersey, New York, Michigan, Ohio and Canada. New information arising from the blackout provides a basis for revisiting the need for inspection and maintenance standards. One of the causes noted for the blackout was the failure of FirstEnergy Corporation to adequately manage tree growth along transmission lines located in Ohio. *Final Report on the August 14 Blackout in the U.S. and Canada*, U.S.—Canada Power System Outage Task Force, pp. 17, 57-64 (April 2004). In the wake of the blackout, the Federal Energy Regulatory Commission (FERC) commissioned a study of a utility vegetation management practices. This led to a report entitled "Utility Vegetation Management Final Report" prepared by CN Utility Consulting, LLC and released by FERC in March 2004. The report concluded, among other things, that the "[c]urrent oversight of UVM [utility vegetation management] activities by appropriate agencies or organizations is overwhelmingly inadequate" (Report p. 68). To remedy this inadequacy, the report recommended:

#### 2. DEVELOP CLEAR UVM PROGRAM EXPECTATIONS FOR UTILITY COMPANIES

Oversight organizations should work with the utility companies, the UVM industry, and other stakeholders to develop measurable and achievable program objectives. The development of these expectations will require a joint effort to identify what specifically can be done to ensure the reduced likelihood of future tree and power line conflicts. Given the myriad of site-specific UVM related variables throughout North America, we would expect that these expectations may differ based on local environmental conditions and other factors. With that caveat, we offer the following three examples of items that could be included as part of these expectations:

- Adoption of specific UVM Best Practices
- Development of, and adherence to comprehensive UVM schedules
- Achieving specific reductions in tree-related outages

(Report, pp. 68-69). While it is not binding on this Commission, this report should not be ignored as the Commission considers how to preserve reliability.

Therefore, we will direct Law Bureau to issue an advance notice of proposed rulemaking on inspection and maintenance standards. The purpose of this proceeding will be to determine whether the Commission should now adopt specific inspection and maintenance standards, and if so, what types of standards would be appropriate.

In the meantime, the Commission is putting into effect the reporting requirements on inspection and maintenance activities in Annex A. While it may be argued that these requirements do not go far enough, there is no harm in implementing them while the Commission considers the adoption of specific inspection and maintenance standards. If the Commission ultimately promulgates regulations establishing specific inspection and maintenance standards, the reporting requirements issued today can be modified in the future.

Until new regulations are promulgated, the proposed reporting requirements for inspection and maintenance goals/objectives and capital expenditure budgets established today will enable the Commission to assess whether companies have reasonable inspection and maintenance programs and capital improvement plans, if they are implementing those programs and plans, and if not, why not. Proper industry practices must be adhered to by the EDCs to ensure reliable service. We intend to continually examine the reasonableness of utility reliability plans and expect the EDCs to adhere to proper industry practices.

*Bureau of Consumer Services Letter of October 17, 2003  
Positions of the Parties*

PECO and EAP filed comments stating that the October 17, 2003 letter to EDCs from the Commission's Bureau of Consumer Services (BCS) is inappropriate, unreasonable, premature and should be withdrawn. In response, the OCA commented that EAP's comments about the BCS letter are without merit and not appropriate in the Rulemaking Docket. OCA notes that the purpose of the letter as stated is to inform the EDCs of a change BCS is making to the Commission's process for investigating informal service quality complaints filed with the Commission. OCA draws a distinction between a process for handling individual consumer complaints as contained in the letter, and this rulemaking which should be viewed as a means for the PUC to ensure that the EDCs are managing their systems on an overall basis consistent with the Act.

#### *Disposition*

We adopt the position of the OCA that the October 17, 2003 letter from BCS to EDCs about a change in the process for investigating informal quality service complaints is not germane to this rulemaking.

Overall, we believe that the regulations, as herein amended in consideration of comments received, and Annex A, are consistent with the public interest and shall be adopted at this time through final order. Annex A reflects the cumulative changes made to Annex A of this Commission's Proposed Rulemaking Order entered on June 27, 2003. Accordingly, under authority at Section 501 of the Public Utility Code, 66 Pa.C.S. § 501, and Sections 201, et seq., of the Commonwealth Documents Law, 45 P.S. §§ 1201, et seq., 66 Pa.C.S. §§ 2801 et seq. and the regulations promulgated thereunder at 52 Pa. Code §§ 57.191—57.197; and 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 at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732.204(b)); section 5 of the Regulatory Review Act (71 P.S. § 732.204(b)); and section 612 of The Administrative Code of 1929 (71 P.S. § 232) and the regulations promulgated thereunder at 4 Pa. Code §§ 7.251—7.235, we adopt the regulations set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. 52 Pa. Code, Chapter 57 is amended by amending §§ 57.192, 57.194 and 57.195 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

2. The Secretary submit this final rulemaking order and Annex A for review and approval by the designated standing committees of both houses of the General Assembly, and for review and approval of IRRC.

3. The Secretary shall submit this Order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit a copy of this order and Annex A to the Office of Attorney General for review as to legality.

5. The Secretary certify this order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

6. The amendments to Chapter 57 embodied in Annex A shall become effective upon final publication in the *Pennsylvania Bulletin*.

7. A copy of this order and Annex A be filed in the folder regarding benchmarks and standards at M-00991220.

8. The contact persons for this rulemaking are (technical) Thomas Sheets, Director of Bureau of Audits, (717) 783-5000 and (legal) Elizabeth H. Barnes, Law Bureau, (717) 772-5408.

9. A copy of this order and Annex A be served upon all electric distribution companies operating in this Commonwealth, the Office of Consumer Advocate, the Office of Small Business Advocate, the Energy Association of Pennsylvania and the Pennsylvania AFL-CIO—Utility Caucus.

10. The Law Bureau prepare an Advance Notice of Proposed Rulemaking regarding Inspection and Maintenance Standards under 66 Pa.C.S. § 2802(20).

JAMES J. MCNULTY,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 4528 (August 14, 2004).)*

**Fiscal Note:** Fiscal Note 57-228 remains valid for the final adoption of the subject regulations.

#### **Annex A**

### **TITLE 52. PUBLIC UTILITIES**

#### **PART I. PUBLIC UTILITY COMMISSION**

##### **Subpart C. FIXED SERVICE UTILITIES**

##### **CHAPTER 57. ELECTRIC SERVICE**

##### **Subchapter N. ELECTRIC RELIABILITY STANDARDS**

#### **§ 57.192. Definitions.**

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

*Adequacy*—The ability of the electric system to supply the aggregate electrical demand and energy requirements of the customers from various electric generation suppliers at all times, taking into account scheduled and reasonably expected unscheduled outages of system elements.

*Circuit*—A conductor or system of conductors through which an electric current is intended to flow.

*Conductor*—A material, usually in the form of a wire, cable, or bus bar, suitable for carrying an electric current.

*Control area*—An electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other control areas and contributing to frequency regulation of the interconnected systems.

*EDC—Electric distribution company*—An electric distribution company as defined in 66 Pa.C.S. § 2803 (relating to definitions).

*Electric generation supplier or electricity supplier*—An electric generation supplier or electricity supplier as defined in 66 Pa.C.S. § 2803.

*FERC*—Federal Energy Regulatory Commission.

*IEEE*—Institute of Electrical and Electronic Engineers.

*Interruption duration*—A period of time measured to the nearest 1-minute increment which starts when an electric distribution company is notified or becomes aware of an interruption, unless an electric distribution company can determine a more precise estimate of the actual starting time of an interruption, and ends when service is restored. Interruptions shall be categorized, based on duration, such as momentary or sustained interruptions, or by similar descriptions, as adopted by the IEEE or similar organization identified by the Commission. This subchapter requires tracking, reporting and evaluation of two categories of interruption duration that will incorporate any changes in the terms used or the definitions of those terms as adopted by the IEEE or Commission order.

*Major event*—

(i) Either of the following:

(A) An interruption of electric service resulting from conditions beyond the control of the EDC which affects at least 10% of the customers in the EDC's service territory during the course of the event for a duration of 5 minutes each or greater. The event begins when notification of the first interruption is received and ends when service to all customers affected by the event is restored.

(B) An unscheduled interruption of electric service resulting from an action taken by an EDC to maintain the adequacy and security of the electrical system, including emergency load control, emergency switching and energy conservation procedures, as described in § 57.52 (relating to emergency load control and energy conservation by electric utilities), which affects at least one customer.

(ii) The term does not include scheduled outages in the normal course of business or an electric distribution company's actions to interrupt customers served under interruptible rate tariffs.

*Momentary customer interruption*—

(i) The loss of electric service by one or more customers for the period defined as a momentary customer interruption by the IEEE as it may change from time to time.

(ii) The term does not include interruptions described in subparagraph (i) of the definition of "major event," or the authorized termination of service to an individual customer.

*NERC—North American Electric Reliability Council*—An organization of regional reliability councils established to promote the reliability of the electricity supply for North America.

*Performance benchmark*—A numerical value that characterizes an EDC's average historical reliability performance for a specific time period in the past. The benchmark is based on an EDC's performance for the entire service territory and is a reference point for comparison of future reliability performance. The Commission will, from time to time, establish benchmarks for each reliability index and each EDC. The performance benchmarks are established by Commission Order at Docket No. M-00991220.

*Performance standard*—A numerical value that establishes a minimum level of EDC reliability allowed by the Commission. The performance standard is a criterion tied to the performance benchmark that applies to reliability performance for the EDC's entire service territory. The Commission will, from time to time, establish new performance standards for each reliability index for each EDC. The performance standards are established by Commission Order at Docket No. M-00991220.

\* \* \* \* \*

**§ 57.194. Distribution system reliability.**

(a) An EDC shall furnish and maintain adequate, efficient, safe and reasonable service and facilities, and shall make repairs, changes, alterations, substitutions, extensions and improvements in or to the service and facilities necessary or proper for the accommodation, convenience and safety of its patrons, employees and the public. The service shall be reasonably continuous and without unreasonable interruptions or delay.

(b) An EDC shall install, maintain and operate its distribution system in conformity with the applicable requirements of the National Electrical Safety Code.

(c) An EDC shall make periodic inspections of its equipment and facilities in accordance with good practice and in a manner satisfactory to the Commission.

(d) An EDC shall strive to prevent interruptions of electric service and, when interruptions occur, restore service within the shortest reasonable time. If service must be interrupted for maintenance purposes, an EDC should, where reasonable and practicable, attempt to perform the work at a time which will cause minimal inconvenience to customers and provide notice to customers in advance of the interruption.

(e) An EDC shall design and maintain procedures to achieve the reliability performance benchmarks and minimum performance standards established by the Commission.

(f) An EDC shall develop and maintain a program for analyzing the service performance of its circuits during the course of each year.

(g) An EDC shall maintain a 5-year historical record of all known customer interruptions by category of interruption duration, including the time, duration and cause of each interruption. An EDC shall retain all records to support the reporting requirements under § 57.195 (relating to reporting requirements) for 5 years.

(h) An EDC shall take measures necessary to meet the reliability performance benchmarks and minimum performance standards established by the Commission.

(1) The performance standard shall be the minimum level of EDC reliability performance allowed by the

Commission for each measure for all EDCs. Performance that does not meet the standard for any reliability measure shall be the threshold for triggering additional scrutiny and potential compliance enforcement actions by the Commission's prosecutorial staff.

(i) The Commission will consider historical performance levels, performance trends, and the number and type of standards violated when determining appropriate additional monitoring and compliance enforcement actions. The Commission will consider other information and factors including an EDC's outage cause analysis, inspection and maintenance goal data, operations and maintenance and capital expenditure data, and staffing levels as presented in the quarterly and annual reports as well as in filed incident reports.

(ii) Additional monitoring and enforcement actions that may be taken are engaging in additional remedial review, requiring additional EDC reporting, conducting an informal investigation, initiating a formal complaint, requiring a formal improvement plan with enforceable commitments, requiring an implementation schedule, and assessing penalties and fines.

(2) An EDC shall inspect, maintain and operate its distribution system, analyze reliability results, and take corrective measures as necessary to achieve performance benchmarks and performance standards.

**§ 57.195. Reporting requirements.**

(a) An EDC shall submit an annual reliability report to the Commission, on or before April 30 of each year.

(1) An original and six copies of the report shall be filed with the Commission's Secretary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate.

(2) The name, title, telephone number and e-mail address of the persons who have knowledge of the matters, and can respond to inquiries, shall be included.

(b) The annual reliability report for larger EDCs (those with 100,000 or more customers) shall include, at a minimum, the following elements:

(1) An overall current assessment of the state of the system reliability in the EDC's service territory including a discussion of the EDC's current programs and procedures for providing reliable electric service.

(2) A description of each major event that occurred during the year being reported on, including the time and duration of the event, the number of customers affected, the cause of the event and any modified procedures adopted to avoid or minimize the impact of similar events in the future.

(3) A table showing the actual values of each of the reliability indices (SAIFI, CAIDI, SAIDI, and if available, MAIFI) for the EDC's service territory for each of the preceding 3 calendar years. The report shall include the data used in calculating the indices, namely the average number of customers served, the number of sustained customer minutes interruptions, the number of customers affected and the minutes of interruption. If MAIFI values are provided, the number of customer momentary interruptions shall also be reported.

(4) A breakdown and analysis of outage causes during the year being reported on, including the number and percentage of service outages, the number of customers interrupted, and customer interruption minutes categorized by outage cause such as equipment failure, animal

contact, tree related, and so forth. Proposed solutions to identified service problems shall be reported.

(5) A list of the major remedial efforts taken to date and planned for circuits that have been on the worst performing 5% of circuits list for a year or more.

(6) A comparison of established transmission and distribution inspection and maintenance goals/objectives versus actual results achieved during the year being reported on. Explanations of any variances shall be included.

(7) A comparison of budgeted versus actual transmission and distribution operation and maintenance expenses for the year being reported on in total and detailed by the EDC's own functional account code or FERC account code as available. Explanations of any variances 10% or greater shall be included.

(8) A comparison of budgeted versus actual transmission and distribution capital expenditures for the year being reported on in total and detailed by the EDC's own functional account code or FERC account code as available. Explanations of any variances 10% or greater shall be included.

(9) Quantified transmission and distribution inspection and maintenance goals/objectives for the current calendar year detailed by system area (that is, transmission, substation and distribution).

(10) Budgeted transmission and distribution operation and maintenance expenses for the current year in total and detailed by the EDC's own functional account code or FERC account code as available.

(11) Budgeted transmission and distribution capital expenditures for the current year in total and detailed by the EDC's own functional account code or FERC account code as available.

(12) Significant changes, if any, to the transmission and distribution inspection and maintenance programs previously submitted to the Commission.

(c) The annual reliability report for smaller EDCs (those with less than 100,000 customers) shall include all items in subsection (b) except for the requirement in paragraph (5).

(d) An EDC shall submit a quarterly reliability report to the Commission, on or before May 1, August 1, November 1 and February 1.

(1) An original and six copies of the report shall be filed with the Commission's Secretary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate.

(2) The name, title, telephone number and e-mail address of the persons who have knowledge of the matters, and can respond to inquiries, shall be included.

(e) The quarterly reliability report for larger companies (those with 100,000 or more customers) shall, at a minimum, include the following elements:

(1) A description of each major event that occurred during the preceding quarter, including the time and duration of the event, the number of customers affected, the cause of the event and any modified procedures adopted in order to avoid or minimize the impact of similar events in the future.

(2) Rolling 12-month reliability index values (SAIFI, CAIDI, SAIDI, and if available, MAIFI) for the EDC's service territory for the preceding quarter. The report shall include the data used in calculating the indices,

namely the average number of customers served, the number of sustained customer interruptions, the number of customers affected, and the customer minutes of interruption. If MAIFI values are provided, the report shall also include the number of customer momentary interruptions.

(3) Rolling 12-month reliability index values (SAIFI, CAIDI, SAIDI, and if available, MAIFI) and other pertinent information such as customers served, number of interruptions, customer minutes interrupted, number of lockouts, and so forth, for the worst performing 5% of the circuits in the system. An explanation of how the EDC defines its worst performing circuits shall be included.

(4) Specific remedial efforts taken and planned for the worst performing 5% of the circuits as identified in paragraph (3).

(5) A rolling 12-month breakdown and analysis of outage causes during the preceding quarter, including the number and percentage of service outages, the number of customers interrupted, and customer interruption minutes categorized by outage cause such as equipment failure, animal contact, tree related, and so forth. Proposed solutions to identified service problems shall be reported.

(6) Quarterly and year-to-date information on progress toward meeting transmission and distribution inspection and maintenance goals/objectives (for first, second and third quarter reports only).

(7) Quarterly and year-to-date information on budgeted versus actual transmission and distribution operation and maintenance expenditures in total and detailed by the EDC's own functional account code or FERC account code as available. (For first, second and third quarter reports only.)

(8) Quarterly and year-to-date information on budgeted versus actual transmission and distribution capital expenditures in total and detailed by the EDC's own functional account code or FERC account code as available. (For first, second and third quarter reports only.)

(9) Dedicated staffing levels for transmission and distribution operation and maintenance at the end of the quarter, in total and by specific category (for example, linemen, technician and electrician).

(10) Quarterly and year-to-date information on contractor hours and dollars for transmission and distribution operation and maintenance.

(11) Monthly call-out acceptance rate for transmission and distribution maintenance workers presented in terms of both the percentage of accepted call-outs and the amount of time it takes the EDC to obtain the necessary personnel. A brief description of the EDC's call-out procedure should be included when appropriate.

(f) The quarterly reliability report for smaller companies (those with less than 100,000 customers) shall, at a minimum, include paragraphs (1), (2) and (5) identified in subsection (e).

(g) When an EDC's reliability performance is found to not meet the Commission's established performance standards, as defined in § 57.194(h) (relating to distribution system reliability), the Commission may require a report to include the following:

(1) The underlying reasons for not meeting the established standards.

(2) A description of the corrective measures the EDC is taking and target dates for completion.

(h) An EDC shall, within 30 calendar days, report to the Commission any problems it is having with its data gathering system used to track and report reliability performance.

(i) When an EDC implements a change in its outage management system for gathering and analyzing reliability performance that has the potential to affect reliability index values, the EDC shall conduct parallel measurement and analysis to isolate and quantify the influence that the measurement change exerts on reliability index values. The length of the parallel measurement period shall be sufficient to isolate and quantify the independent effects of the measurement change.

(j) The Commission will prepare an annual reliability report and make it available to the public.

[Pa.B. Doc. No. 04-1709. Filed for public inspection September 17, 2004, 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 June 29, 2004, meeting, adopted an amendment to § 135.48 (relating to State game lands roads open to vehicular traffic for disabled persons).

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

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

Notice of proposed rulemaking was published at 34 Pa.B. 3137 (June 19, 2004).

#### 1. Introduction

The Commission amended § 135.48 to permit the Executive Director to designate State game lands (SGL) roads open to vehicular traffic for disabled persons.

#### 2. Purpose and Authority

At the June 1999 Commission meeting, the Commissioners voted to authorize the Executive Director and staff to decide on all future trail designations needed to administer Chapter 135 (relating to lands and buildings) pertaining to roads open for disabled hunters to travel on all-terrain vehicles. The Commission has decided to grant the same authorization for SGL roads open to licensed vehicular traffic for disabled persons.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations . . . for its use and protection as necessary to properly manage these lands or waters." The amendment to § 135.48 was adopted under this authority.

#### 3. Regulatory Requirements

The final-form rulemaking amends § 135.48 to permit the Director to designate SGL roads open to vehicular traffic for disabled persons.

#### 4. *Persons Affected*

Disabled persons wishing to hunt or trap in this Commonwealth will be affected by the final-form rulemaking.

#### 5. *Comment and Response Summary*

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

#### 6. *Cost and Paperwork Requirements*

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

#### 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 § 135.48 to read as set forth at 34 Pa.B. 3137.

(b) The Executive Director of the Commission shall certify this order and 34 Pa.B. 3137 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 48-191 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 04-1710. Filed for public inspection September 17, 2004, 9:00 a.m.]

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**GAME COMMISSION**  
**[58 PA. CODE CH. 137]**  
**Wildlife; Feeding**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 29, 2004, meeting, adopted an amendment to § 137.33 (relating to feeding of certain wildlife prohibited).

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

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

Notice of proposed rulemaking was published at 34 Pa.B. 3015 (June 12, 2004).

#### 1. *Introduction*

The Commission amends § 137.33 to allow the ban on feeding bears to remain in effect, until amended or deleted by the Commission, by removing the expiration language from the section.

#### 2. *Purpose and Authority*

In recent years, bear populations have increased in parts of this Commonwealth. These increases in bear populations have unfortunately resulted in increased instances of bear/human conflicts. The feeding of bears has consistently been an aggravating factor in many of these conflicts, because this feeding has attracted bears to developed areas. In an effort to limit bear/human conflicts, Chapter 137 (relating to wildlife) was amended to make it unlawful to feed bears. This amendment, however, contained expiration language, which directed that "This section shall expire October 31, 2004, unless a regulation is promulgated reauthorizing it." The Commission has reauthorized § 137.33 to allow it to remain in effect until it is amended or deleted by removing the expiration language.

Section 103(a) of the code (relating to ownership, jurisdiction and control of game and wildlife) states that "The ownership, jurisdiction over and control of game or wildlife is vested in the commission . . ." 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 . . . including regulations relating to the protection, preservation and management of game or wildlife and game . . . in this Commonwealth." The amendment to § 137.33 was adopted under this authority.

#### 3. *Regulatory Requirements*

The final-form rulemaking amends § 137.33 by removing the expiration language, thus allowing the ban on feeding bears to remain in effect until it is amended or deleted by the Commission.

#### 4. *Persons Affected*

Persons living within areas where black bears are located will be affected by the final-form rulemaking.

#### 5. *Comment and Response Summary*

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

#### 6. *Cost and Paperwork Requirements*

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

#### 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 137, are amended by amending § 137.33 to read as set forth at 34 Pa.B. 3015.

(b) The Executive Director of the Commission shall certify this order and 34 Pa.B. 3015 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 48-188 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 04-1711. Filed for public inspection September 17, 2004, 9:00 a.m.]

**GAME COMMISSION**  
**[58 PA. CODE CH. 137]**  
**Wildlife; Release**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 29, 2004, meeting, adopted an amendment to § 137.2 (relating to release of animals).

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

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

Notice of proposed rulemaking was published at 34 Pa.B. 3015 (June 12, 2004).

1. *Introduction*

The Commission amends § 137.2 to make unlawful the release of captive held or captive raised game or wildlife into the wild without first securing a permit.

2. *Purpose and Authority*

Formerly, there were limited, if any, legal restraints prohibiting the release of captive held or captive raised game or wildlife into the wild. Release of captive held or captive raised game or wildlife into the wild is a serious concern due to the possibility of disease spread, unnatural predation and habitat competition. The spread of disease by released animals is a concern because of the potential devastating effects that certain current diseases could have on the native wild animals of this Commonwealth. The recent problems with monkey-pox and chronic wasting disease in other areas are prime examples. Released captive held or captive raised game or wildlife can also

negatively impact native species by direct predation and by competition for habitat. The amendment to § 137.2 makes unlawful the release of captive held or captive raised game or wildlife into the wild without first securing a permit.

Section 2102(c) of the code (relating to regulations) directs that "The commission shall promulgate regulations concerning the transportation, introduction into the wild, importation, exportation, sale, offering for sale or purchase of game or wildlife or the disturbing of game or wildlife in their natural habitat." 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 amendment to § 137.2 was adopted under this authority.

3. *Regulatory Requirements*

The final-form rulemaking will make unlawful the release of captive held or captive raised game or wildlife into the wild without first securing a permit.

4. *Persons Affected*

Persons wishing to release captive held or captive raised game or wildlife into the wild in this Commonwealth will be affected by the final-form rulemaking.

5. *Comment and Response Summary*

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

6. *Cost and Paperwork Requirements*

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

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 137, are amended by amending § 137.2 to read as set forth at 34 Pa.B. 3015.

(b) The Executive Director of the Commission shall certify this order and 34 Pa.B. 3015 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 48-187 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 04-1712. Filed for public inspection September 17, 2004, 9:00 a.m.]

## GAME COMMISSION [58 PA. CODE CH. 141]

### Hunting and Trapping; Protective Material

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 29, 2004, meeting, adopted amendments to § 141.20 (relating to protective material required).

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

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

Notice of proposed rulemaking was published at 34 Pa.B. 3016 (June 12, 2004).

#### 1. Introduction

The Commission amends § 141.20 to expand and clarify the list of specific animal species that may be hunted without wearing daylight fluorescent orange-colored material.

#### 2. Purpose and Authority

In an effort to clarify the applicability of § 141.20, the Commission added furbearers and coyotes (except from the first day to the last day inclusive of the regular firearms deer season or any bear season) to the list of specific animal species that may be hunted without wearing daylight fluorescent orange-colored material. This expansion should aid in the reduction in confusion regarding the wearing of protective material for all who must abide by or enforce, or both, the regulations.

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 health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendments to § 141.20 were adopted under this authority.

#### 3. Regulatory Requirements

The final-form rulemaking adds furbearers and coyotes (except from the first day to the last day inclusive of the regular firearms deer season or any bear season) to the list of specific animal species that may be hunted without wearing daylight fluorescent orange-colored material.

Regulatory requirements will therefore be relaxed by the final-form rulemaking.

#### 4. Persons Affected

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

#### 5. Comment and Response Summary

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

#### 6. Cost and Paperwork Requirements

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

#### 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 141, are amended by amending § 141.20 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 48-186 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 A. GENERAL

#### § 141.20. Protective material required.

(a) It is unlawful to hunt or assist to hunt game or wildlife or move to or from a hunting location, from 1 hour before legal hunting hours to 1 hour after legal hunting hours outside of a motorized vehicle, at any time

without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined so that it is visible in a 360° arc. This shall include going to or from a hunting location before or after legal shooting hours. Except as provided in subsection (b)(2) and (3), camouflage orange clothing is lawful provided it contains the minimum amount of fluorescent orange-colored material.

(b) *Permitted acts.* It is lawful to:

(1) Hunt without wearing daylight fluorescent orange-colored material for:

(i) Crows.

(ii) Doves.

(iii) Waterfowl.

(iv) Small game under the authority of a valid falconry permit.

(v) Deer during the flintlock muzzleloader season with lawful firearms and ammunition for the flintlock muzzleloader season by properly licensed flintlock muzzleloader hunters.

(vi) Furbearers.

(vii) Coyotes except from the first day to the last day inclusive of the Statewide regular firearms deer season or any bear season.

(2) Hunt for woodchucks while wearing a hat made of solid daylight fluorescent orange-colored material on the head only.

(3) Move about or relocate while wearing a hat containing a minimum of 100 square inches of a solid daylight fluorescent orange-colored material on the head only and be stationary without wearing the required orange-colored material when hunting for:

(i) Turkey during the spring turkey season.

(ii) Turkey during the fall turkey season in Wildlife Management Units 1A, 1B, 2A, 2B, 5B, 5C and 5D.

(iii) Deer with a bow and arrow or crossbow and bolt during any archery season which is concurrent with the fall turkey season.

(4) Be on stand and stationary while hunting for turkey during the fall season in Wildlife Management Units 2C, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E and 5A and in lieu of the required 250 square inches place a minimum of 100 square inches of daylight fluorescent orange-colored material within 15 feet of the hunter's location so it is visible in a 360° arc.

(5) Except as provided in paragraph (3)(iii) and during any firearms season for deer that precedes the regular firearms season, hunt for deer with a bow and arrow or crossbow during any archery deer season without wearing daylight fluorescent orange-colored material. When stationary during the overlap with the firearms season for deer in lieu of the required 250 square inches place a minimum of 100 square inches of daylight fluorescent orange-colored material within 15 feet of the hunter's location so it is visible in a 360° arc.

(c) A person who violates this section shall be subject to the penalties as provided in the act.

[Pa.B. Doc. No. 04-1713. Filed for public inspection September 17, 2004, 9:00 a.m.]

**GAME COMMISSION**  
**[58 PA. CODE CH. 147]**  
**Special Permits; Taxidermy**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 29, 2004, meeting, adopted an amendment to § 147.123 (relating to taxidermy examination) to clarify requirements regarding the use of reproductions and associated parts in addition to the types of species that may be used to mount fish, both in the General and Specialty class.

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

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

Notice of proposed rulemaking was published at 34 Pa.B. 3017 (June 12, 2004).

1. *Introduction*

The Commission's taxidermy testing process and procedures have long been admired and respected throughout the country. Few other states impose professional standards on their taxidermists and it shows in the quality of completed work. In keeping with these standards, the Commission has followed the recommendations of the taxidermist board by making the following amendments relative to the mounting of fish, both in the General and Specialty class.

2. *Purpose and Authority*

The taxidermist board had concerns that the regulations did not adequately address the use of reproductions and associated artificial parts in addition to the types of species that may be used to mount fish, both in the General and Specialty class, to complete the taxidermy examination. The amendments to § 147.123 will eliminate this confusion while also maintaining the high standards and skill level required for a taxidermy permit.

Section 2901(b) of the code (relating to authority to issue permits) provides that "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 that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife . . . in this Commonwealth . . ." The amendments to § 147.123 were adopted under this authority.

Section 2926(a) of the code (relating to taxidermy permits) provides that "The commission shall set up a system of examinations to determine the fitness of all future applicants for the permits" and section 2926(b.1) of the code provides that "a taxidermist may be licensed to obtain a permit for one or more of the following areas: (i) big and small game animals, excluding wild turkey; (ii) fish; and (iii) game birds, including wild turkey."

3. *Regulatory Requirements*

The final-form rulemaking will identify what types of reproductions and associated artificial parts in addition to the types of species that may be used to mount fish, both in the General and Specialty class, to complete the taxidermy examination.

#### 4. *Persons Affected*

Persons wishing to obtain a taxidermy permit in this Commonwealth will be affected by the final-form rulemaking.

#### 5. *Comment and Response Summary*

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

#### 6. *Cost and Paperwork Requirements*

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

#### 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 147, are amended by amending § 147.123 to read as set forth at 34 Pa.B. 3017.

(b) The Executive Director of the Commission shall certify this order and 34 Pa.B. 3017 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 48-189 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 04-1714. Filed for public inspection September 17, 2004, 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 63]

### Proportional Registration of Fleet Vehicles

The Department of Transportation (Department), Bureau of Motor Vehicles (Bureau), under 75 Pa.C.S. §§ 6103 and 7501—7506, proposes to amend Chapter 63 (relating to proportional registration of fleet vehicles) to read as set forth in Annex A.

#### *Purpose of Chapter 63*

The purpose of Chapter 63 is to establish rules and procedures to implement bilateral agreements and the International Registration Plan entered into with other jurisdictions for the registration of fleets of vehicles on an apportioned basis as authorized by 75 Pa.C.S. §§ 6142 and 6145 (relating to reciprocity agreements, arrangements and declarations authorized; and proportional registration of fleet vehicles).

#### *Purpose of this Proposed Rulemaking*

The purpose of this proposed rulemaking is to extend the term of the temporary permits under Chapter 63 and to update Chapter 63 with the current fees for registration and titling in 75 Pa.C.S. Chapter 19 (relating to fees).

#### *Summary of Significant Provisions*

In § 63.51(a) (relating to Pennsylvania temporary authorization certificates), the general rule has been amended to increase the duration of temporary authorization certificates from 30 to 60 days for a Commonwealth-based vehicle while an application for a change in fleet registration is being processed by the Bureau. The amendment is also reflected in the definition in § 63.4 (relating to definitions). The 60-day temporary registration affords a more reasonable period to operate a proportioned vehicle without the inconvenience of applying for a second or third temporary authorization certificate.

In § 63.52(d) (relating to telegrams of authority), the effective time period for a telegram of authority has been amended to increase the duration of the temporary registration from 30 to 60 days for a Commonwealth-based vehicle while an application for a change in fleet registration is being processed by the Bureau. The amendment is also reflected in the definition in § 63.4. The 60-day temporary registration affords a more reasonable period to operate a proportioned vehicle without the inconvenience of applying for a second or third temporary authorization certificate.

In §§ 63.116, 63.117, 63.118 and 63.122, the fees have been amended to be consistent with fees in 75 Pa.C.S. Chapter 19.

#### *Persons and Entities Affected*

Extension of the temporary registration period from 30 to 60 days potentially may affect approximately 15,000 apportioned carriers. The additional time will have a positive effect in allowing the Bureau to complete the title and registration work in a more reasonable period. It eliminates the need for carriers to request additional temporary registration because the application has not been processed.

#### *Fiscal Impact*

The proposed rulemaking will not require additional expenditure by the Bureau or the temporary issuing agents. Apportioned carriers may realize a cost savings by not having to request additional temporary registration.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 8, 2004, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

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

#### *Sunset Date*

The Department is not establishing a sunset date for this proposed rulemaking because it is needed to administer provisions of 75 Pa.C.S. (relating to the Vehicle Code). The Department, however, will continue to closely monitor this proposed rulemaking for effectiveness.

#### *Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Kurt Myers, Director, Bureau of Motor Vehicles, 1101 S. Front St., Harrisburg, PA 17104 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

#### *Contact Person*

The contact person for this proposed rulemaking is Joseph Centurione, Manager, Customer Service Division, Bureau of Motor Vehicles, 1101 S. Front Street, Harrisburg, PA 17104, (717) 787-2304.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

**Fiscal Note:** 18-396. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 67. TRANSPORTATION**

#### **PART I. DEPARTMENT OF TRANSPORTATION**

#### **Subpart A. VEHICLE CODE PROVISIONS**

#### **ARTICLE III. REGISTRATION**

#### **CHAPTER 63. PROPORTIONAL REGISTRATION OF FLEET VEHICLES**

#### **Subchapter A. GENERAL PROVISIONS**

#### **§ 63.4. Definitions.**

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

\* \* \* \* \*

*Telegram of authority*—A temporary registration transmitted by a wire service authorizing the operation of a Commonwealth-based vehicle for [ 30 ] 60 days while application for a change in fleet registration is being processed by the Bureau.

*Temporary authorization certificate*—A temporary registration authorizing the operation of a Commonwealth-based vehicle for [ 30 ] 60 days while application for a change in fleet registration is being processed by the Bureau.

\* \* \* \* \*

**Subchapter D. TEMPORARY REGISTRATION**

**§ 63.51. Pennsylvania temporary authorization certificates.**

(a) *General rule.* Temporary authorization certificates may be obtained from the Commercial Registration Section in bulk, by registrants with five or more apportionable vehicles, for use on an additional vehicle or when it is necessary to increase a vehicle's registered weight. The registrant's fees on its original apportioned registration application shall be paid prior to approval of the request for temporary authorization certificates. Temporary authorization certificates are not transferable and may not be used by another carrier. A temporary authorization certificate is valid for [ 30 ] 60 days for the date of its first use. A temporary authorization certificate may not be used in conjunction with 75 Pa.C.S. § 1311(c) (relating to registration card to be signed and exhibited on demand) to avoid prosecution under 75 Pa.C.S. § 1301 (relating to registration and certificate of title required).

\* \* \* \* \*

**§ 63.52. Telegrams of authority.**

\* \* \* \* \*

(d) *Effect of telegram.* A telegram of authority issued by the Department is valid for [ 30 ] 60 days. An extension of a telegram of authority may be granted if, in the judgment of the Department, the supplemental application for proportional registration was submitted and fees were paid on a timely basis but there was insufficient time to process the application and forward the credentials to the carrier.

\* \* \* \* \*

**Subchapter G. FEES**

**§ 63.116. Cab cards.**

The fee for a cab card issued in connection with the filing of an application requiring no Pennsylvania registration fees [ , ] is [ \$3 ] \$4.50.

**§ 63.117. Duplicate cab cards.**

The fee for each duplicate cab card [ shall be \$1 ] is \$1.50 when ordered at the time of vehicle registration or transfer, or renewal of registration. The fee for each duplicate cab card ordered at any other time shall be [ \$3 ] \$4.50.

**§ 63.118. Transfer of registration.**

The fee for transfer of registration from a vehicle within an apportioned fleet to another vehicle within the same fleet or another apportioned fleet of the same carrier is [ \$4 ] \$6.

**§ 63.122. Nontitled fleet registration.**

The fee for establishing a registration record for an apportioned vehicle not titled in this Commonwealth is [ \$15 ] \$22.50.

[Pa.B. Doc. No. 04-1715. Filed for public inspection September 17, 2004, 9:00 a.m.]

**[67 PA. CODE CH. 86]**

**Occupational Limited License**

The Department of Transportation (Department), under 75 Pa.C.S. §§ 1553 and 6103 (relating to occupational limited license; and promulgation of rules and regulations by department), proposes to amend Chapter 86 (relating to occupational limited license—statement of policy) to read as set forth in Annex A.

*Purpose of Chapter 86*

The purpose of Chapter 86 is to provide guidance regarding when the Department will require additional information or additional evidence to verify the information contained in a petition for an occupational limited license (OLL). Chapter 86 also provides that the Department may conduct an investigation to verify the information contained in the petition and itemizes the information that is required to be on the Occupational Limited License Affidavit.

*Persons and Entities Affected*

This proposed rulemaking will affect drivers petitioning for the issuance of an OLL under 75 Pa.C.S. § 1553.

*Fiscal Impact*

The proposed rulemaking will not require the expenditure of significant additional funds by the Commonwealth. Marginal cost to the Commonwealth would result if the Department conducts further investigation regarding the information on an applicant's petition under § 86.102 (relating to investigation). Marginal cost to members of the regulated community may result if the Department requires an applicant to submit additional information to support the petition for an OLL.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 8, 2004, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

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

*Sunset Date*

The Department is not establishing a sunset date for this proposed rulemaking because it is needed to administer provisions required by 75 Pa.C.S. (relating to the

Vehicle Code). The Department, however, will continue to closely monitor this proposed rulemaking for effectiveness.

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Rebecca L. Bickley, Director, Bureau of Driver Licensing, 4th Floor, Riverfront Office Center, 1101 S. Front Street, Harrisburg, PA 17104 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

*Contact Person*

The contact person for this proposed 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.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

**Fiscal Note:** 18-397. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 67. TRANSPORTATION**

**PART I. DEPARTMENT OF TRANSPORTATION**

**Subpart A. VEHICLE CODE PROVISIONS**

**ARTICLE IV. LICENSING**

**CHAPTER 86. OCCUPATIONAL LIMITED LICENSE [—STATEMENT OF POLICY ]**

*(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete the text of §§ 86.1—86.3 (relating to occupational limited license—statement of policy), which appears at 67 Pa. Code pages 86-1—86-2, serial pages (302675) to (302676).)*

**§§ 86.1—86.3. (Reserved).**

**§ 86.101 Additional information.**

(a) The Department may require the submission of additional information or evidence if it is determined that the information provided in a petition for an occupational limited license submitted under 75 Pa.C.S. § 1553(b) (relating to occupational limited license) is ambiguous, incomplete or of questionable veracity.

(b) Additional information or evidence required may include:

(1) Written statements from appropriate individuals verifying employment, study or medical appointments or treatment.

(2) Proof of vehicle ownership.

(3) Proof of insurance.

(4) A schedule of driving time anticipated under the occupational limited license.

(5) A description or radius of the territory anticipated to be driven under the occupational limited license.

**§ 86.102 Investigation.**

The Department may conduct its own investigation to verify the information contained in the petition for an occupational limited license or additional information or evidence submitted in accordance with this chapter. Investigation may include contacting employers, school administrators, medical providers or other appropriate individuals.

**§ 86.103 Occupational Limited License Affidavit.**

The Occupational Limited License Affidavit required under 75 Pa.C.S. § 1553(f)(5) (relating to occupational limited license) to be carried by a driver who has been issued an occupational limited license shall include:

(1) The name, address, date of birth and driver license number of the petitioner.

(2) The year, make, model, license plate number and state of registration of every vehicle that will be driven by the petitioner.

(3) The insurance company name, policy number, effective date and expiration date of each insurance policy on every vehicle listed as being driven by the petitioner.

(4) The place of employment, study, or medical treatment or appointment for which the occupational limited licenses is needed.

(5) The hours of operation necessary for travel to the employment, study, or medical treatment or appointment.

(6) The name, signature and position of the employer, school administrator or medical provider attesting that the information provided on the form is true and correct.

[Pa.B. Doc. No. 04-1716. Filed for public inspection September 17, 2004, 9:00 a.m.]

**FISH AND BOAT COMMISSION**

**[58 PA. CODE CH. 51]**

**Administrative Provisions**

The Fish and Boat Commission (Commission) proposes to amend § 41.33 (relating to effective dates of licenses and trout/salmon permits). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed amendment relates to the effective dates of licenses and trout/salmon permits for 2005.

*A. Effective Date*

The proposed rulemaking, if approved on final-form, will go into effect immediately upon publication of an order in the *Pennsylvania Bulletin*.

*B. Contact Person*

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

*C. Statutory Authority*

The proposed amendment to § 51.33 is published under the statutory authority of section 506 of The Administrative Code of 1929 (71 P. S. § 186).

*D. Purpose and Background*

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

### E. Summary of Proposal

It is possible that the General Assembly will enact legislation affecting the price and mix of fishing licenses, stamps and permits late in the 2004 calendar year. These changes, if enacted, will be in effect for the 2005 year. To facilitate the orderly distribution and proper accounting for new license types and license prices, it will be necessary for Commission staff to delay the distribution of license materials until after enactment of legislation.

The current regulation specifies that annual licenses are effective for the year printed on the license certificate and the month of December of the preceding year. The proposed rulemaking will make 2005 licenses effective on January 1, 2005, or the date of sale in December 2004, whichever is earlier. Limited duration licenses, such as the 1-day, 3-day and 7-day licenses, will remain valid only for the dates specified on the license certificates. The Commission proposes to amend § 51.33 to read as set forth in Annex A.

### F. Paperwork

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

### G. Fiscal Impact

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

### H. Public Comments

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

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

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

**Fiscal Note:** 48A-161. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 58. RECREATION

#### PART II. FISH AND BOAT COMMISSION

##### Subpart A. GENERAL PROVISIONS

#### CHAPTER 51. ADMINISTRATIVE PROVISIONS

##### Subchapter D. ISSUING AGENTS

### § 51.33. Effective dates of licenses and trout/salmon permits.

(a) Fishing licenses and permits, such as trout/salmon permits are valid for the year printed on the license certificate or permit, and the month of December of the preceding year, except for tourist licenses that are valid for the dates specified on the license certificate.

### (b) Annual licenses and permits for 2005 are valid for the 2005 year and any part of December 2004 commencing on the date of sale.

[Pa.B. Doc. No. 04-1717. Filed for public inspection September 17, 2004, 9:00 a.m.]

## [58 PA. CODE CH. 65]

### Fishing; Special Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa. C.S. (relating to the Fish and Boat Code) (code). The proposed amendments relate to the elimination of the Selective Harvest and All-Tackle Selective Harvest Programs and the imposition of a catch and release/no harvest fishery for all species on waters located in the Wyoming State Forest, Columbia and Northumberland Counties.

#### A. Effective Date

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

#### B. Contact Person

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

#### C. Statutory Authority

The proposed amendments to §§ 65.1, 65.4b and 65.24 (relating to Selective Harvest Program; All-Tackle Selective Harvest Program; and miscellaneous special regulations) are published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

#### D. Purpose and Background

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

#### E. Summary of Proposal

(1) *Section 65.1.* At the July 1994 meeting, the Commission adopted regulations for the Selective Harvest Program. These regulations went into effect beginning with the 1995 season. The Select Harvest Program was designed to enhance wild trout populations while providing an opportunity for limited harvest of some larger trout. The regulations provided an alternative to trophy trout management on wild trout waters where habitat limitations may preclude the stockpiling of older and larger trout as intended under the 14-inch minimum length limit that is applied to trophy trout waters. The regulations also were designed to reflect differences in longevity and growth rates, particularly between brown and brook trout. Under the regulations, species specific minimum length limits apply with a 12-inch minimum length limit for brown trout and a 9-inch minimum for other trout species. Angling is permitted on a year-round basis with a two trout per day creel limit (combined species) during the harvest season. On the waters managed under the Select Harvest Program, gear is restricted to the use of artificial lures, flies and streamers.

Based on data collected from follow-up examinations, the trout populations did not always respond as the Commission intended on some of the waters managed under the Select Harvest Program. Therefore, to consolidate the number of special regulations used in managing trout populations, the Commission has moved three of the remaining four waters in the program to other special regulations programs, effective January 1, 2005. The Commission intends to move the last water in the Select Harvest Program prior to the end of the year. Thus, there is no need to retain the regulations for the Select Harvest Program. The Commission accordingly proposes to delete § 65.1 to read as set forth in Annex A.

(2) *Section 65.4b.* At the January 1998 meeting, the Commission adopted regulations for the All-Tackle Selective Harvest Program. These regulations went into effect beginning with the 1999 season. The regulations were designed to enhance wild trout populations and provide the opportunity for limited harvest of some larger trout. As with the Selective Harvest Program, species specific minimum length limits apply with a 12-inch minimum for brown trout and a 9-inch minimum for all other trout species. Angling is permitted on a year-round basis with a two trout per day creel limit (combined species) during the harvest season. However, in contrast to the Selective Harvest Program where angling is restricted to the use of artificial lures, flies and streamers, the All-Tackle Selective Harvest Program was designed to appeal to a broader angling base by allowing the use of natural bait, baitfish and fishbait in addition to artificial lures, flies and streamers.

Based on information from follow-up inventories, the trout populations did not always respond as the Commission intended on the waters managed under the All-Tackle Selective Harvest Program. Therefore, to consolidate the number of special regulations programs used in managing trout populations, the Commission has moved the remaining four waters in the program to other special regulations programs, effective January 1, 2005. Thus, there is no need to retain the regulations for the All Tackle Selective Harvest Program. The Commission proposes to delete § 65.4b to read as set forth in Annex A.

(3) *Section 65.24.* Early in 2004, the Bureau of Forestry requested the Commission to implement no-kill regulations on waters within a recently acquired 9,000-acre tract being incorporated into the Wyoming State Forest. The rationale for the request was to give Commission staff an opportunity to survey various fish populations and to prepare and implement fisheries management plans. Also, because these waters had not been open for public use since the 1880s, it seemed prudent to afford some degree of protection to fish populations until Commission staff could develop an appropriate course of action. By notice published at 34 Pa.B. 456 (January 17, 2004), former Deputy Executive Director Guise, acting under the authority of § 65.25 (relating to temporary changes to fishing regulations) took immediate action to temporarily modify fishing regulations to permit catch and release only of all species on waters located in the Wyoming State Forest. The temporary modifications went into effect January 17, 2004, and will remain in effect until further notice but in no event will they remain in place after January 1, 2005.

Commission surveys of these waters were completed during the spring of 2004. Results of the lake surveys found that the fish communities consisted of a very low density of gamefish and panfish that exhibited characteristics of unexploited (unfished) populations. Although lake

water quality work has not yet been completed, it is apparent from voltages required during the electrofishing phase of the surveys as well as the abundance of bladderwort (an acid loving aquatic plant) that these systems are not very productive. The stream evaluation found very few trout (brook trout) between the reservoirs and no trout upstream from the reservoirs. As was the case in the lakes, the infertile waters are likely the cause of the very sparse trout population. The portions of the stream downstream from the reservoirs would also be negatively impacted during the summer months by the warm (surface) discharges. It is evident that lake fish populations could easily be overexploited under the most conservation of harvest-orientated regulations. The Commission therefore proposes that all of the waters within the South Branch Roaring Creek tract of the Wyoming State Forest remain under catch and release regulations.

The 6 to 7-mile valley under the direct responsibility of the Department of Conservation and Natural Resources (DCNR) will offer a variety of activities for outdoor enthusiasts. For the most part, access will be walk-in or by bicycle. Boating may be restricted to the upper two reservoirs and even then without gasoline motors. Thus, no-kill regulations are quite appropriate in this rather unique setting.

The DCNR District Forester and practically every angler encountered during the lengthy survey period in the valley support the proposed rulemaking for catch and release angling on these newly acquired public waters—specifically, Bear Gap Reservoir, McWilliams Reservoir, Klines Reservoir and the South Branch of Roaring Creek from the bridge on State Route 3008 at Bear Gap upstream to the bridge on State Route 42 (Columbia and Northumberland Counties). The Commission proposes that § 65.24 be amended to read as set forth in Annex A.

#### F. Paperwork

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

#### G. Fiscal Impact

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

#### H. Public Comments

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

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

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

**Fiscal Note:** 48A-160. No fiscal impact; (8) recommendations adoption.



**Annex A**  
**TITLE 58. RECREATION**  
**PART II. FISH AND BOAT COMMISSION**  
**Subpart B. FISHING**

**CHAPTER 65. SPECIAL FISHING REGULATIONS**  
 § 65.1. [ Selective Harvest Program ] (Reserved).

[ (a) The Executive Director, with the approval of the Commission, may designate waters as Selective Harvest Areas. The designation of waters as selective harvest areas shall be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

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

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

(2) The use or possession of fishbait, natural bait or baitfish and the use of a device, natural or synthetic, capable of catching fish other than artificial lures is prohibited.

(3) The program is open to fishing the entire year; no closed season.

(4) The minimum size is 12 inches for brown trout and 9 inches for all other salmonids caught on or in possession on the waters under selective harvest regulation.

(5) The daily creel limit is two trout—combined species—except during the period from the day after Labor Day to 8 a.m. of the opening day of

regular trout season of the following year, when no trout may be killed or had in possession on the waters under regulation.

(6) Taking of baitfish or fishbait is prohibited. ]

§ 65.4b. [ All-Tackle Selective Harvest Program ] (Reserved).

[ (a) The Executive Director, with the approval of the Commission, may designate waters as all-tackle selective harvest areas. The designation of waters as all-tackle selective harvest areas will be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

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

(1) The program is open to fishing year-round; there is no closed season.

(2) The minimum size is 12 inches for brown trout and 9 inches for all other salmonids caught on, or in possession on, the waters under the all-tackle selective regulations.

(3) The daily creel limit is two trout—combined species—from 8 a.m. on the opening day of trout season in April until midnight Labor Day, except during the period from the day after Labor Day to 8 a.m. on the opening day of regular trout season of the following year, when no trout may be killed or had in possession on the waters under regulation.

(4) A current trout/salmon permit is required.

(c) This section applies to trout only. Inland regulations apply to all other species. ]

§ 65.24. Miscellaneous special regulations.

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

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
	* * * * *	
Columbia and Northumberland	Bear Gap Reservoir, McWilliams Reservoir, Klines Reservoir and the South Branch of Roaring Creek from the bridge on State Route 3008 at Bear Gap upstream to the bridge on State Route 42	This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed.
	* * * * *	

[Pa.B. Doc. No. 04-1718. Filed for public inspection September 17, 2004, 9:00 a.m.]

## GAME COMMISSION

[58 PA. CODE CH. 141]  
**Hunting and Trapping; Permitted Devices**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 29, 2004, meeting, proposed the following rule-making to amend § 141.18 (relating to permitted devices).

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

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

1. *Introduction*

The Commission is proposing to amend § 141.18 to make lawful the use of sound amplification devices that completely cover the ears.

2. *Purpose and Authority*

Current regulations specifically prohibit the use of sound amplification devices that completely cover the ears. With the advances in technology, many of the available electronic hearing protection devices now also amplify sound. Current regulations prohibit many of these devices because they could be used to give the hunters an unfair advantage. Many of the new hearing protection devices are electronic, enabling the hunter to hear normal conversation but preventing sounds over a certain decibel level from entering the ear. They amplify sound and completely cover the ears. By removing the relevant language in § 141.18, these hearing protection devices can be made lawful for use.

Section 322(c)(5) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Fix the type and number of devices which may be used to take game or wildlife." Section 2102(b)(1) of the code (relating to regulations) authorizes the Commission to "promulgate regulations relating to . . . the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices." Section 2102(d) of the code authorizes the Commission to "promulgate regulations stipulating . . . devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to . . . the ways, manner, methods and means of hunting or furtaking, 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 § 141.18 was proposed under this authority.

3. *Regulatory Requirements*

The proposed rulemaking will make lawful the use of sound amplification devices that completely cover the ears.

4. *Persons Affected*

Persons who wish to use sound amplification devices that completely cover the ears will be affected by the proposed rulemaking.

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Comments*

Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797 until September 27, 2004.

8. *Contact Person*

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

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-192. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 141. HUNTING AND TRAPPING**

**Subchapter A. GENERAL**

**§ 141.18. Permitted devices.**

The following devices may be used to hunt or take wildlife:

\* \* \* \* \*

(2) Electronic sound amplification devices that are **incorporated into hearing protection devices and completely contained in [ and ]** or on the hunter's ear. **[ This does not include any device or devices that completely cover the ear or ears. ]**

[Pa.B. Doc. No. 04-1719. Filed for public inspection September 17, 2004, 9:00 a.m.]

**[58 PA. CODE CH. 143]**

**Hunting and Furtaker Licenses**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 29, 2004, meeting, proposed to add § 143.12 (relating to fee for replacement hunter education training certificate).

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

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

1. *Introduction*

The Commission is proposing to add § 143.12 to permit the Commission to implement a fee for the replacement of hunter education training certificates to offset administrative costs.

2. *Purpose and Authority*

Each year the Commission receives over 2,000 requests from individuals needing replacement certificates to verify that they have completed hunter education training. Most of the requests come from individuals wishing to hunt in another state where proof of having completed hunter education training is required to purchase a hunting license in that state. Currently, fulfilling these requests results in substantial administrative costs. To offset a portion of these costs, the Commission is proposing to add § 143.12 to permit the Commission to implement a fee for the replacement of hunter education training certificates.

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 § 143.12 is proposed under this authority.

### 3. *Regulatory Requirements*

The proposed rulemaking will add § 143.12 to permit the Commission to implement a fee for the replacement of hunter education training certificates.

### 4. *Persons Affected*

Persons requesting replacement hunter education training certificates from the Commission will be affected by the proposed rulemaking.

### 5. *Cost and Paperwork Requirements*

The proposed rulemaking will result in a fee of \$10 to persons requesting replacement hunter education training certificates from the Commission.

### 6. *Effective Date*

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

### 7. *Comment*

Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797 until September 27, 2004.

### 8. *Contact Person*

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

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-193. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 58. RECREATION

#### PART III. GAME COMMISSION

#### CHAPTER 143. HUNTING AND FURTAKER LICENSES

#### Subchapter A. GENERAL

#### § 143.12. Fee for replacement hunter education training certificate.

A \$10 fee shall be remitted by any person requesting a replacement Hunter Education Training Certificate.

[Pa.B. Doc. No. 04-1720. Filed for public inspection September 17, 2004, 9:00 a.m.]

### [58 PA. CODE CH. 147]

#### Special Permits; Deer Control

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 29, 2004, meeting, proposed to amend § 147.663 (relating to fencing).

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

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

### 1. *Introduction*

The Commission is proposing to amend § 147.663 to permit the Executive Director to establish approved woven wire fencing designs and specifications.

### 2. *Purpose and Authority*

Section 147.661 (relating to general) provides for permits to control deer within fenced enclosures constructed for the purpose of improving forest regeneration. The fences are constructed by managers of private and public forest land, including the Commission. Currently, § 147.663 requires these fences to be constructed of woven wire and be at least 8 feet high with the bottom edge tight to the ground. The industry standard fencing commonly used in this application is built from two widths of 47 woven wire with the bottom 1 foot (approximately) folded over the ground to the outside, leaving an approximate total aboveground height of only 7 feet. The fences are in widespread use by the Department of Conservation and Natural Resources and the Commission and clearly do not meet the Commission's current regulatory requirements. Upgrading existing 7-foot fences to meet current regulatory requirements would require substantial modification and add cost to forest management practices and would not likely result in any greater effectiveness in excluding deer. In fact, the foot of fencing sealing the structure at the ground actually increases the effectiveness of the fencing more than the additional 1 foot in height. The Commission is proposing to amend § 147.663 to permit the Executive Director to establish approved woven wire fencing designs and specifications to be consistent with current industry standards.

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 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 § 147.663 is proposed under this authority.

### 3. *Regulatory Requirements*

The proposed rulemaking will permit the Executive Director to establish approved woven wire fencing designs and specifications.

### 4. *Persons Affected*

Persons wishing to apply for a deer control permit will be affected by the proposed rulemaking.

### 5. *Cost and Paperwork Requirements*

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

### 6. *Effective Date*

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

7. *Comments*

Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797 until September 27, 2004.

8. *Contact Person*

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

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-195. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 58. RECREATION**  
**PART III. GAME COMMISSION**  
**CHAPTER 147. SPECIAL PERMITS**  
**Subchapter R. DEER CONTROL**  
**FORESTRY**

**§ 147.663. Fencing.**

Fences shall be inspected and approved by a Commission officer as part of the application.

\* \* \* \* \*

(2) The fence shall be constructed of woven wire [ **at least 8 feet high with the bottom edge maintained tight to the ground, and with openings no larger than 6 inches square** ] according to the design and specifications approved by the Director, or high tensile electrified wire at least 5 feet high. Woven wire fencing may not have openings larger than 6 inches square. Individual wires on electrified fencing may not be spaced greater than 10 inches apart. Other designs of barrier-type fencing enclosures may be acceptable if the Commission is satisfied the design will exclude deer. Fences constructed after April 4, 2000, shall be woven wire as described in this paragraph to be eligible for a deer control forestry permit.

\* \* \* \* \*

[Pa.B. Doc. No. 04-1721. Filed for public inspection September 17, 2004, 9:00 a.m.]

**[58 PA. CODE CH. 147]**  
**Special Permits; Deer Management Assistance Program Permits**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its June 29, 2004, meeting, proposed to amend § § 147.674 (relating to issuance of DMAP harvest permits).

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

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

1. *Introduction*

The Commission is proposing to amend § 147.674 to permit the Commission to deny issuance of Deer Management Assistance Program (DMAP) harvest permits to

persons who fail to complete and submit report and survey information from the prior season.

2. *Purpose and Authority*

Harvest information is critical to evaluate this Commonwealth's deer population and to evaluate the effectiveness of the DMAP. To help insure that all DMAP harvest permit holders complete and submit the required harvest and survey information this proposed amendment will prohibit persons who have not submitted the information in the previous year from purchasing a DMAP harvest permit.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 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 § 147.674 was proposed under this authority.

3. *Regulatory Requirements*

The proposed rulemaking will permit the Commission to deny issuance of DMAP harvest permits to persons who fail to complete and submit report and survey information from the prior season.

4. *Persons Affected*

Persons wishing to acquire DMAP harvest permits who have failed to complete and submit report and survey information from the prior season will be affected by the proposed rulemaking.

5. *Cost and Paperwork Requirements*

The proposed rulemaking will result in very limited additional cost and paperwork related to the submission of reports and survey information from the prior season.

6. *Effective Date*

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

7. *Comments*

Comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797 until September 27, 2004.

8. *Contact Person*

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

VERNON R. ROSS,  
*Executive Director*

**Fiscal Note:** 48-194. No fiscal impact; (8) recommends adoption.

**Annex A**  
**TITLE 58. RECREATION**  
**PART III. GAME COMMISSION**  
**CHAPTER 147. SPECIAL PERMITS**  
**Subchapter R. DEER CONTROL**  
**DEER MANAGEMENT ASSISTANCE**  
**PROGRAM PERMITS**

**§ 147.674. Issuance of DMAP harvest permits.**

\* \* \* \* \*

**(e) Permits will not be issued to persons who failed to complete and submit harvest report and survey information from the prior season.**

[Pa.B. Doc. No. 04-1722. Filed for public inspection September 17, 2004, 9:00 a.m.]

## SECURITIES COMMISSION

**[64 PA. CODE CHS. 203, 303, 304 AND 404]**  
**Investment Advisors; Exchange Transactions**

The Securities Commission (Commission), under sections 203(r), 303(a) and (d) and 304(b) of the Pennsylvania Securities Act of 1972 (act) (70 P. S. §§ 1-203(r), 1-303(a) and (d) and 1-304(b)), proposes to amend regulations concerning the subject matter of the act to read as set forth in Annex A.

*Summary and Purpose of the Proposed Rulemaking*

The Commission proposes to add § 203.203 (relating to certain Rule 144A exchange transactions exempt) to provide a self-executing exemption for certain exchange transactions of debt securities in which certain accredited investors receive registered debt securities of the issuer in exchange for the issuer's debt securities that originally were issued in a private transaction under SEC Rule 144A (Rule 144A Exchange Transactions).

Since the American Institute of Certified Public Accountants no longer permits its members to issue management responsibility letters, the Commission proposes to amend § 303.012 (relating to investment advisor registration procedure) to delete use of a management responsibility letter instead of an audit report where the investment adviser applicant is a certified public accountant (CPA) or a firm consisting of CPAs. The Commission also proposes to delete the definition of "principal" which was used to define who could sign a management responsibility letter. Also, the Commission proposes to delete the ability of public accountants to render an audit report which is required by changes made to section 609(c) of the act (70 P. S. § 1-609(c)) by the act of November 24, 1998 (P. L. 829, No. 109) (Act 109).

The Commission proposes to amend § 303.032 (relating to examination requirements for investment advisors and investment advisor representatives) to require CPAs and attorneys to notify the Commission of eligibility for a waiver of the examination requirement for investment advisers and investment adviser representatives. Applications for registration as an investment adviser or investment adviser representative are processed electronically through the web-based Investment Adviser Registration Depository (IARD). The IARD only recognizes exam waivers for certain uniform designations which do not include attorneys or CPAs. Therefore, the only way the Commis-

sion knows that the applicants are eligible for a waiver of the exam requirement is to impose a notification requirement on the applicant.

The Commission proposes to amend § 303.042 (relating to investment advisor capital requirements) to make it clear that an investment adviser will not be deemed to have custody of a client's funds or securities and thereby be subject to a higher net worth requirement solely due to the investment adviser receiving a fee directly from the assets of the client, serving as a general partner of a pooled investment vehicle or serving as a trustee of a family beneficial trust if the investment adviser meets certain conditions.

Since the American Institute of Certified Public Accountants no longer permits its members to issue management responsibility letters, the Commission proposes to amend § 304.022 (relating to investment advisor required financial reports) to delete use of a management responsibility letter instead of an audit report where the investment adviser applicant is a CPA or a firm consisting of CPAs. Also, the Commission proposes to delete the ability of public accountants to render an audit report which is required by changes made to section 609(c) of the act by Act 109. The Commission further proposes to delete the definition of "principal" which was used to define who could sign a management responsibility letter. Lastly, the Commission proposes to exempt investment advisers with custody of clients' funds or securities from filing an annual audited balance sheet if they only inadvertently held clients' funds or securities and returned them to the client within 3 business days.

The Commission proposes to amend § 404.013 (relating to investment advisor custody or possession of funds or securities of clients) to permit an investment adviser to send itemized client statements to another person authorized by the client or to reasonably rely on a qualified custodian of the client's funds or securities to send an itemized statement to the client.

*Persons Affected by the Proposed Rulemaking*

Investment advisers who are required to be registered with the Commission and have custody of clients' funds or securities, which the Commission estimates to be less than ten registrants, will be affected by the proposed rulemaking. Also affected will be issuers that engage in a Rule 144A Exchange Transaction with a holder of debt securities in this Commonwealth.

*Fiscal Impact*

The new exemption for Rule 144A Exchange Transactions will eliminate a current requirement that transactions be registered under section 205 or section 206 of the act (70 P. S. §§ 1-205 and 1-206). The Commission anticipates an annual revenue loss to the General Fund of approximately \$7,500. The proposed amendments applicable to the few investment adviser registrants who have custody of clients' funds or securities will not impose significant additional recordkeeping costs beyond those which currently exist.

*Paperwork*

The next exemption for Rule 144A Exchange Transactions will eliminate the filing of Commission Form R. The Commission proposes to eliminate Form 203-I. The proposed amendments applicable to the few investment adviser registrants who have custody of clients' funds or securities will require some new recordkeeping.

*Effective Date*

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

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 1, 2004, the Commission submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Commerce and Economic Development and the Senate Committee on Banking and Insurance. A copy of this material is available to the public upon request.

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

*Availability in Alternative Formats*

This proposed rulemaking is available in alternative formats upon request. The Commission also will receive comments on this proposed rulemaking in alternative formats. TDD users should use the AT&T Relay Center, (800) 854-5984. To make arrangements for alternative formats, contact Sam Dengel, ADA Coordinator, (717) 787-6828.

*Contact Person*

Interested persons should send comments concerning the proposed rulemaking within 30 days of publication to Mary E. Peters, Deputy Chief Counsel, Securities Commission, Eastgate Building, 1010 N. Seventh Street, 2nd Floor, Harrisburg, PA 17102-1410, (717) 783-4186. Mary E. Peters also is the contact person for an explanation of the proposed rulemaking.

JEANNE S. PARSONS,  
*Secretary*

**Fiscal Note:** 50-119. (1) General Fund; (2) Implementing Year 2003-04 is \$7,500; (3) 1st Succeeding Year 2004-05 is \$7,500; 2nd Succeeding Year 2005-06 is \$7,500; 3rd Succeeding Year 2006-07 is \$7,500; 4th Succeeding Year 2007-08 is \$7,500; 5th Succeeding Year 2008-09 is \$7,500; (4) 2002-03 Program—\$7,500; 2001-02 Program—\$7,500; 2000-01 Program—\$7,500; (8) recommends adoption. This proposed rulemaking will codify the Exemptive Order issued by the Commission and published on March 4, 2004. The exemption of certain transactions from registration will cause the revenue loss previously outlined.

**Annex A**

**TITLE 64. SECURITIES**

**PART I. SECURITIES COMMISSION**

**Subpart B. REGISTRATION OF SECURITIES**

**CHAPTER 203. EXEMPT TRANSACTIONS**

**§ 203.203. Certain Rule 144A exchange transactions exempt.**

Under section 203(r) of the act (70 P. S. § 1-203), the Commission finds that it is neither necessary nor appropriate for the protection of investors to require registra-

tion under section 201 of the act (70 P. S. § 1-201) for the offer or sale of a security in a transaction if the following requirements are met:

(1) A person who owns outstanding debt securities (and any related guarantees) exchanges those securities for debt securities (and any related guarantees) of the same issuer which are the subject of an effective registration statement filed with the United States Securities and Exchange Commission (SEC) under section 5 of the Securities Act of 1933 (15 U.S.C.A. §§ 77(e)) (exchange transaction).

(2) The outstanding debt securities (and any related guarantees) are "restricted securities" as that term is defined in 17 CFR 230.144(a)(3) (relating to persons deemed not to be engaged in a distribution and therefore not underwriters).

(3) No consideration is paid by the owner of the outstanding debt securities (and any related guarantees) in connection with the exchange transaction.

(4) There are no material differences in the terms of the outstanding debt securities (and any related guarantees) and the debt securities (and any related guarantees) which are the subject of the exchange transaction.

**Subpart C. REGISTRATION OF  
BROKER-DEALERS, AGENTS, INVESTMENT  
ADVISERS AND INVESTMENT ADVISER  
REPRESENTATIVES AND NOTICE FILINGS BY  
FEDERALLY-COVERED ADVISERS**

**CHAPTER 303. REGISTRATION PROCEDURE**

**§ 303.012. Investment adviser registration procedure.**

\* \* \* \* \*

(b) Except as set forth in subsection (f), the following statements of financial condition shall accompany an application for initial registration as an investment adviser:

(1) An applicant that has custody of client funds or securities or an applicant that requires payment of advisory fees 6 months or more in advance and in excess of \$1,200 per client shall file an audited balance sheet of the applicant prepared in accordance with generally accepted accounting principles and accompanied by a standard audit report containing an unqualified opinion of an independent certified public accountant [or an independent public accountant]. The accountant shall submit, as a supplementary opinion, comments based upon the audit as to material inadequacies found to exist in the accounting system, the internal accounting controls and the procedures for safeguarding securities and funds and shall indicate corrective action taken or proposed. The balance sheet required by this paragraph shall be as of the end of the applicant's most recent fiscal year. If that balance sheet is as of a date more than 45 days prior to the date of filing the application, the applicant also shall file a subsequent balance sheet prepared in accordance with generally accepted accounting principles as of a date within 45 days of the date of filing. This balance sheet may be unaudited and may be prepared by management of the applicant. [If the applicant is a certified public accountant or a public accountant or whose principals include one or more certified public accountants or public accountants, the applicant, in lieu of filing an audit report, may file a report modeled after the management responsibility letter contained in paragraph 9600.22

of the American Institute of Certified Public Accountant's Technical Information Service and signed by a certified public accountant or public accountant who either is the applicant or one of the principals of the applicant. ]

\* \* \* \* \*

(e) For purposes of this section, the following terms [ shall ] have the following meanings:

[ **Principal**—The chairperson, president, chief executive officer, general manager, chief operating officer, chief financial officer, vice president or other officer in charge of a principal business function (including sales, administration, finance, marketing, research and credit), secretary, treasurer, controller and any other natural person who performs similar functions. ]

\* \* \* \* \*

§ 303.032. Examination requirements for investment advisers and investment adviser representatives.

\* \* \* \* \*

(c) *Waivers of exam requirements.* Compliance with subsection (a) is waived if:

\* \* \* \* \*

(2) The individual is licensed as a certified public accountant, is currently in good standing and has no disciplinary history that requires an affirmative response to Items [ 23A-E ] 14A-E or Item [ 23H ] 14H of Form U-4 or successor items thereto, and has notified the Commission that the individual is eligible for a waiver of the examination requirement imposed by subsection (a).

(3) The individual is licensed as an attorney, is currently in good standing and has no disciplinary history that requires an affirmative response to Items [ 23A-E ] 14A-E or Item [ 23H ] 14H of Form U-4 or successor items thereto, and has notified the Commission that the individual is eligible for a waiver of the examination requirement imposed by subsection (a).

\* \* \* \* \*

§ 303.042. Investment adviser capital requirements.

(a) Every investment adviser registered [ or required to be registered ] under section 301 of the act (70 P. S. § 1-301) shall maintain at all times the following net worth requirements:

(1) [ An ] The following applies when an investment adviser [ that ] has its principal place of business in a state other than this Commonwealth [ shall maintain the net worth required by the state where the investment adviser maintains its principal place of business if the investment adviser currently is licensed in that state and is in compliance with that state's net worth requirements ].

(i) If the investment adviser currently is licensed as an investment adviser in the state in which it maintains its principal place of business and is in compliance with that state's net worth requirements, the net worth required by this section shall be the same as the net worth requirement imposed by that state.

(ii) If the investment adviser currently is not licensed as an investment adviser in the state in which it maintains its principal place of business, the net worth required by this section shall be the same as if the investment adviser had its principal place of business in this Commonwealth.

\* \* \* \* \*

(3) An investment adviser that has its principal place of business in this Commonwealth and has custody of client funds or securities shall maintain at all times a minimum net worth of \$35,000[ . ] unless the investment adviser meets any of the following:

(i) The investment adviser has custody solely as a result of receiving fees directly deducted from clients' funds or securities if the investment adviser:

(A) Possesses written authorization from the client to deduct advisory fees from an account held by a qualified custodian.

(B) Sends the qualified custodian written notice of the amount of the fee to be deducted from the client's account.

(C) Sends the client a written invoice itemizing the fee, including any formulae used to calculate the fee, the time period covered by the fee and the amount of assets under management on which the fee was based.

(ii) The investment adviser has custody solely as a result of serving as a general partner, manager of a limited liability company or a person occupying a similar status or performing a similar function which gives the investment adviser or its supervised person legal ownership or access to client funds or securities if:

(A) The pooled investment vehicle is subject to audit at least annually and distributes its audited financial statements which have been prepared by an independent certified public accountant in accordance with generally accepted accounting principles to all limited partners, members or beneficial owners within 120 days of the end of its fiscal year.

(B) The investment adviser:

(I) Hires an independent party to review all fees, expenses and capital withdrawals from the accounts included in the pooled investment vehicle prior to forwarding them to the qualified custodian with the independent party's approval for payment.

(II) Sends written invoices or receipts to the independent party which describe the amount of the fees (including any formulae used to calculate the fees, the time period covered by the fees and the amount of assets under management on which the fees were based), expenses or capital withdrawals for the independent party to verify that payment of the fees, expenses or capital withdrawals is in accordance with the documents governing the operation of the pooled investment vehicle and any statutory requirements applicable thereto.

(iii) The investment adviser has custody solely as a result of acting as trustee for a beneficial trust in which the beneficial owners of the trust are a parent or step-parent; grandparent or step-grandparent; spouse, brother or step-brother, sister or step-sister; or grandchild or step-grandchild of the investment adviser.

\* \* \* \* \*

(c) For the purpose of this section, the following terms have the following meanings:

\* \* \* \* \*

**Independent party**—A person who meets all of the following requirements:

(i) Is engaged by an investment adviser with respect to payment of fees, expenses or capital withdrawals from a pooled investment vehicle in which the investment adviser has custody solely as a result of serving as a general partner, manager of a limited liability company or a person occupying a similar status or performing a similar function which gives the investment adviser or its supervised person legal ownership or access to client funds or securities.

(ii) Does not control, is not controlled by and is not under common control with the investment adviser.

(iii) Within the preceding consecutive 12 month period, did not derive 5% or more of its gross revenues from the investment adviser who hired the person to be an independent party, including the amount to be received from the investment adviser under the terms of the independent party engagement.

\* \* \* \* \*

**Pooled investment vehicle**—

(i) A limited partnership, limited liability company or an entity with a similar legal status and performing similar functions.

(ii) The term does not include an investment company that has filed a registration statement under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64).

\* \* \* \* \*

**Qualified custodian**—The following shall be considered qualified custodians for purposes of this section:

(i) A bank as that term is defined in section 102(d) of the act (70 P. S. § 1-102(d)).

(ii) A Federally covered adviser as that term is defined in section 102(f.1) of the act.

(iii) A broker dealer registered with the Commission under section 301 of the act (70 P. S. § 1-301).

**Supervised person**—A person who meets the definition in section 202(a)(25) of the Investment Advisers Act of 1940 (15 U.S.C.A. § 80b-2(a)(25)).

**CHAPTER 304. POSTREGISTRATION PROVISIONS**  
**§ 304.022. Investment adviser required financial reports.**

(a) Except as provided in [ subsection ] subsections (b) and (c), the following investment advisers registered under section 301 of the act (70 P. S. § 1-301) shall file the following reports of financial condition with the Commission within 120 days of the investment adviser's fiscal year end:

(1) An investment adviser that has custody of client funds or securities or requires prepayment of advisory fees 6 months or more in advance and in excess of \$1,200 per client shall file with the Commission an audited

balance sheet as of the end of its fiscal year. The balance sheet shall be prepared in accordance with generally accepted accounting principles and contain an unqualified opinion of an independent certified public accountant [ or independent public accountant ]. The accountant shall submit, as a supplementary opinion, comments based on the audit as to material inadequacies found to exist in the accounting system, the internal accounting controls and procedures for safeguarding securities and funds, and shall indicate corrective action taken or proposed. [ If the investment adviser is a certified public accountant or a public accountant or whose principals include one or more certified public accountants or public accountants, the investment adviser, in lieu of filing an audit report, may file a report modeled after the management responsibility letter contained in paragraph 9600.22 of the American Institute of Certified Public Accountant's Technical Information Service signed by a certified public accountant or public accountant or one of the principals of the investment adviser. ]

\* \* \* \* \*

(c) [ For purposes of this section, the following terms have the following meanings:

**Principal**—The chair, president, chief executive officer, general manager, chief operating officer, chief financial officer, vice president or other officer in charge of a principal business function (including sales, administration, finance, marketing, research and credit), secretary, treasurer, controller and any other natural person who performs similar functions.

**Principal place of business**—The meaning set forth in 17 CFR 275-203A-3(c) (relating to definitions) promulgated under the Investment Advisers Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21). ] When an investment adviser registered under section 301 of the act inadvertently held or obtained a client's securities or funds and returned them to the client within 3 business days or has forwarded third party checks within 24 hours, the investment adviser will not be deemed to have custody and subject to the requirements of subsection (a) if the investment adviser maintains records which contains the following information about the securities or funds returned to the client:

- (i) If a security:
  - (A) The name of the issuer.
  - (B) The type of security.
  - (C) The date of issuance.
  - (D) A certificate number or other identifying information.
  - (E) The denomination, interest rate and maturity date applicable to a debt security.
  - (F) The name in which the securities are registered.
- (ii) If funds:
  - (A) The name of the payee or beneficial owner.
  - (B) The check number, transmittal number, payor name and address and any other identifying information.



(iii) The date on which the funds or securities were received by the investment adviser.

(iv) The date on which the funds or securities were sent by the investment adviser to the client.

(v) The form of delivery used by the investment adviser to transmit the funds or securities to the client and a copy of written confirmation of receipt of the funds or securities by the client.

(d) For purposes of this section, the following term has the following meaning:

*Principal place of business*—The meaning set forth in 17 CFR 275-203A-3(c) (relating to definitions) promulgated under the Investment Advisers Act of 1940 (15 U.S.C.A. §§ 80b-1—80b-21).

**Subpart D. FRAUDULENT AND PROHIBITED PRACTICES**

**CHAPTER 404. PROHIBITED ACTIVITIES; INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES**

**§ 404.013. Investment adviser custody or possession of funds or securities of clients.**

\* \* \* \* \*

(b) An investment adviser registered under section 301 of the act (70 P. S. § 1-301) that has custody or possession of any funds or securities in which any client has any beneficial interest shall:

\* \* \* \* \*

(7) At least once every 3 months, send each client or the client's authorized representative as defined in this section an itemized statement showing the funds and securities in the investment adviser's custody at the end of each period and all debits, credits and transactions in the client's account during that period or have a reasonable basis for believing that a qualified custodian will send an itemized statement to each client or the client's authorized representative during the same time interval containing substantially the same information.

(8) At least once every calendar year, engage an independent certified public accountant [ or independent

public accountant ] to verify all client funds and securities by actual examination at a time chosen by the accountant without prior notice to the investment adviser. A report stating that an accountant has made an examination of the client funds and securities, and describing the nature and extent of the examination, [ shall ] must be filed with the Commission within 30 days after each examination.

(c) When an independent certified public accountant makes an examination described in subsection (b)(8) and, upon examination, finds material discrepancies, the accountant shall notify the Commission within 1 business day of the finding by means of facsimile transmission or electronic mail, followed by first class mail, directed to the Commission's Division of Licensing.

(d) For purposes of this section, a person will be deemed to have custody if the person directly or indirectly holds client funds or securities, has any authority to obtain possession of them, or has the ability to appropriate them.

(e) For the purpose of this section, the following terms have the following meanings:

*Authorized representative*—The person specified in a written authorization which the client has signed and filed with the investment adviser or qualified custodian authorizing the investment adviser or qualified custodian to deliver the client's account statements to that person.

*Qualified custodian*—The following will be considered qualified custodians for purposes of this section:

(i) A bank as that term is defined in section 102(d) of the act (70 P. S. § 1-102(d)).

(ii) A Federally covered adviser as that term is defined in section 102(f.1) of the act.

(iii) A broker dealer registered with the Commission under section 301 of the act.

[Pa.B. Doc. No. 04-1723. Filed for public inspection September 17, 2004, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending September 7, 2004.

#### BANKING INSTITUTIONS

##### New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-1-04	Penn Liberty Bank Wayne Delaware County	353 West Liberty Avenue Wayne Delaware County	Began Operations
Penn Liberty Bank will be wholly owned by Penn Liberty Financial Corp., Wayne, Delaware County, a newly formed bank holding company.			

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-1-04	Northwest Savings Bank, Warren, and First Carnegie Deposit, Carnegie Surviving Institution— Northwest Savings Bank, Warren	Warren	Approved
9-2-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County  Purchase of assets/assumption of liabilities of three branch offices of Charter One Bank, N. A., Cleveland, OH  Located at: 1006 North Elmira Street Sayre Bradford County 1702 East 38th Street Erie Erie County 1520 West 26th Street Erie Erie County	Philadelphia	Filed

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-4-04	Stonebridge Bank Exton Chester County	408 Lakeside Drive Southampton Bucks County	Opened
9-2-04	Royal Bank America Narberth Montgomery County	418 Oak Lane Road Philadelphia Philadelphia County	Approved
9-2-04	Royal Bank America Narberth Montgomery County	6331 Castor Avenue Philadelphia Philadelphia County	Approved
9-2-04	Royal Bank America Narberth Montgomery County	7001 West Chester Pike Upper Darby Delaware County	Approved

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-2-04	Royal Bank America Narberth Montgomery County	1550 Lemoine Avenue Fort Lee Bergen County, NJ	Approved
9-7-04	Community Banks Millersburg Dauphin County	1415 Ritner Highway Carlisle Cumberland County	Filed
9-7-04	Coatesville Savings Bank Coatesville Chester County	1082 Georgetown Road Georgetown Lancaster County	Approved
9-7-04	First Commonwealth Bank Indiana Indiana County	4198 Washington Road Route 19 McMurray Washington County	Approved
9-7-04	First Commonwealth Bank Indiana Indiana County	Corner of Washington Road and Trinity Pl. Washington Washington County	Approved
9-7-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Erie WalMart 2711 Elm Street Erie Erie County	Approved

#### Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-27-04	Northside Bank Pittsburgh Allegheny County	<i>Into:</i> 100 Federal Street Pittsburgh Allegheny County (Main Office)  <i>From:</i> 701 Liberty Avenue Pittsburgh Allegheny County	Effective
9-7-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>To:</i> 1065 West County Line Road Hatboro Montgomery County  <i>From:</i> 200 Blair Mill Road Horsham Montgomery County	Approved

#### Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-2-04	The Juniata Valley Bank Mifflintown Juniata County	100 East Market Street Lewistown Mifflin County	Approved

#### SAVINGS INSTITUTIONS

No activity.

#### CREDIT UNIONS

##### Branch Discontinuance

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
8-30-04	Lancaster Postal Employees Credit Union Lancaster Lancaster County	1000 West Valley Road Southeastern Chester County	Filed

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 04-1724. Filed for public inspection September 17, 2004, 9:00 a.m.]

# DEPARTMENT OF EDUCATION

## Policies and Procedures under the Individuals with Disabilities Education Act

The Department of Education (Department) Policies and Procedures, under the Individuals with Disabilities Education Act, Part B, regulatory provisions in 34 CFR 300.121—300.156, were approved by the United States Department of Education on July 1, 2004.

The document is available for public inspection at school districts, intermediate units and the offices of the Pennsylvania Training and Technical Assistance Network. The document is also available for review and printing on the Department's website: [www.pde.state.pa.us/special\\_edu/Grants](http://www.pde.state.pa.us/special_edu/Grants). Persons who require this information in an alternate format should contact Nancy Zeigler, (717) 783-6134, TDD: (717) 787-7367.

GERALD L. ZAHORCHAK, Ed.D.,  
*Acting Secretary*

[Pa.B. Doc. No. 04-1725. Filed for public inspection September 17, 2004, 9:00 a.m.]

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

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### APPLICATIONS

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

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

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

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

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

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

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

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

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

### I. NPDES Renewal Applications

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0103098	Reynolds Water Co. 301 Arlington Avenue Greenville, PA 16125-8214	Pymatuning Township Mercer County	Shenango River 20-A	Y
PA0033588	Country Estates, Inc., MHP P. O. Box 91 Brookfield, OH 44403-0091	Jefferson Township Mercer County	Unnamed tributary to Lackawannock Creek 20-A	Y
PA0100510	Greenville Metals, Inc. 99 Crestview Drive Extension Transfer, PA 16154	Pymatuning Township Mercer County	Shenango River 20-A	Y

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

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

**PA0243931**, Sewage, **James W. Williams**, 809 Township Line Road, Wycombe, PA 18980-0222. This proposed facility is in Wrightstown Township, **Bucks County**

Description of Proposed Activity: Application for a new NPDES permit to discharge treated sewage from a small flow sewage treatment plant for a duplex residence containing two private residences.

The receiving stream, tributary to Mill Creek (Stream Code 02608), is in the State Water Plan watershed 2F and classified for WWF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA, Inc. is on the Neshaminy Creek. The discharge is not expected to affect the downstream public water supply.

The proposed effluent limits for Outfall 001 are based on a design flow of 800 gpd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD <sub>5</sub>			10		20
Total Suspended Solids			10		20
Total Residual Chlorine			Monitor and Report		
pH			within limits of 6.0 to 9.0 standard units at all times		
Fecal Coliform			200 colonies/L as a geometric mean		

In addition to the effluent limits, the permit contains the following major special conditions: abandon STP when public sewer available; remedial measures; no stormwater; obtain property rights; small stream discharge; change of ownership; sludge disposal; and AMMR to the Department and the BCHD.

**PA0020532**, Sewage, SIC 4952, **Upper Montgomery Joint Authority—WWTP**, P. O. Box 6, Pennsburg, PA 18073. This proposed facility is in Upper Hanover Township, **Montgomery County**.

Description of Proposed Activity: Renewal of an NPDES Permit to discharge 2.0 mgd of treated sewage into the Green Lane Reservoir.

The receiving stream, Green Lane Reservoir, is in the State Water Plan watershed 3E-Perkiomen and classified for TSF. The nearest downstream public water supply intake for the Philadelphia Suburban Water Company is on the Perkiomen Creek, 24.1 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 2.0 MGD.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Suspended Solids	30	45	60
Ammonia (as N)	20		40
Phosphorus (as P)	0.5		1.0
Total Residual Chlorine	0.5		1.2

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard unit at all times		
Copper	Monitor and Report		
Phenols	Monitor and Report		

The proposed effluent limits for stormwater Outfalls 002—006 are as follows:

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			Monitor and Report
COD			Monitor and Report
Oil and Grease			Monitor and Report
pH			Monitor and Report
Total Suspended Solids			Monitor and Report
Total Kjeldahl Nitrogen			Monitor and Report
Total Phosphorus			Monitor and Report
Iron (Dissolved)			Monitor and Report

In addition to the effluent limits, the permit contains the following major special conditions: minimize I/I and bypasses at the plant.

**PA0054712**, Stormwater, **City of Philadelphia Water Department**, ARAMARK Tower, 1101 Market Street, Philadelphia, PA 19107-2994. This application is for renewal of an NPDES permit to discharge stormwater from the City of Philadelphia's MS4 to Wissahickon, Pennypack, Poquessing, Tacony/Frankford, Cobbs and Monoshone Creeks and Delaware and Schuylkill Rivers.

The receiving water bodies are classified for TSF (Wissahickon Creek), WWF, aquatic life, water supply and recreation.

The permit consists of the following main parts: effluent limitations (in the form of best management practices), total maximum daily load requirements for sediment, stormwater management program and standard permit conditions.

**PA0026786**, Sewage, SIC 4952, **Pottstown Borough Authority**, 100 East High Street, Pottstown, PA 19464. This facility is in Pottstown, **Montgomery County**.

Description of Activity: Renewal of an NPDES permit to discharge treated sewage from the Pottstown Borough Sewage Treatment Plant. The following permit limits have been changed since the initial notice published at 34 Pa.B. 864 (February 14, 2004) and the second notice published at 34 Pa.B. 4036 (July 31, 2004).

The receiving stream, Schuylkill River, is in the State Water Plan watershed 3E and classified for WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Suburban Water Company is on the Schuylkill River, approximately 6 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 12.85 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>	<i>Maximum Daily</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	20	30	40	
(11-1 to 4-30)	25	40	50	
Total Suspended Solids	30	45	60	
Ammonia (as NH <sub>4</sub> )				
(5-1 to 10-31)	8	12	16	
(11-1 to 4-30)	20	30	40	
Total Residual Chlorine	0.5		1.0	
Fecal Coliform	200 colonies/100 ml as a geometric average			
Dissolved Oxygen	minimum of 5.0 mg/l at all times			
pH	within range of 6.0—9.0 standard units at all times			
Cadmium, Total	Monitor and Report			
Copper, Total	0.040			0.074
Lead, Total	Monitor and Report			
Silver, Total	Monitor and Report			
Zinc, Total	Monitor and Report			
Vinyl Chloride	Monitor and Report			
Chromium, Hexavalent	Monitor and Report			
Dieldrin	Monitor and Report			
Cyanide, Free	Monitor and Report			
Bis (2 Ethylhexyle) Phthalate	Monitor and Report			

In addition to the effluent limits, the permit contains the following special conditions:

1. The permittee shall operate an industrial pretreatment program in accordance with the Federal Clean Water Act, The Clean Stream Law and 40 CFR Part 403.

2. The permittee shall monitor background/ambient water quality upstream of the facility's outfall. This information may be used in future permitting and river modeling studies.

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

**PA0034185**, Sewage, **Dean Hurlbut, High Meadows MHP**, 4751 Kendor Drive, Lower Burrell, PA 15068. This application is for renewal of an NPDES permit to discharge treated sewage from the High Meadows MHP STP in Allegheny Township, **Westmoreland County**.

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

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

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000 as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 1.4 mg/l			
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: The following effluent limitations will apply if/when the treatment plant is expanded to a flow of 0.026 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000 as a geometric mean			
Dissolved Oxygen	not less than 3.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0035670**, Sewage, **Department of Transportation, Bureau of Design**, P. O. Box 3060, Harrisburg, PA 17105-3060. This application is for renewal of an NPDES permit to discharge treated sewage from the satellite maintenance facility sewage treatment plant in Kiskiminetas Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Rattling Run, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Buffalo Township Municipal Authority—Freeport.

*Outfall 001: existing discharge, design flow of 0.0005 mgd.*

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	Monitor and Report			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0096938**, Sewage, **Paul M. Golobic**, R. D. 1, Box 640, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from the Silver Dolphin Mobile Home Park STP in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Little Sewickley Creek, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority—McKeesport.

*Outfall 001: existing discharge, design flow of 0.01065 mgd.*

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.4			4.8
(11-1 to 4-30)	5.0			10.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.25			0.58
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0097705**, Sewage, **Glendale Yearound Sewer Company**, P. O. Box 89, 110 Troxell Spring Road, Flinton, PA 16640. This application is for renewal of an NPDES permit to discharge treated sewage from the Glendale Yearound Sewage Treatment Plant in White Township, **Cambria County**.

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

*Outfall 001: existing discharge, design flow of .0375 mgd.*

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	3.5			7.0
(11-1 to 4-30)	10.5			21
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,500/100 ml as a geometric mean			
Total Residual Chlorine	0.3			0.7
Dissolved Oxygen	not less than 6 mg/l			
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: The following effluent limitations will apply when the treatment plant is expanded to a flow of 0.1275 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	2.5	3.8		5.0
(11-1 to 4-30)	5.5	8.3		11.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.12			0.38
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0252719**, Sewage, **Jenner Township**, 2058 Lincoln Highway, Boswell, PA 15531. This application is for issuance of an NPDES permit to discharge treated sewage from the Ligonier Highlands Sewage Treatment Plant in Jenner Township, **Somerset County**.

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



Outfall 001: existing discharge, design flow of 0.04 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.0			6.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.02			0.05
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0252735**, Sewage, **Huston Farms, LLC**, 626 Cross Road, Rockwood, PA 15557. This application is for issuance of an NPDES permit to discharge treated sewage from the Huston's Hickory Hollow Campground STP in Milford Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of South Glade Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Ohiopyle Municipal Waterworks on the Youghiogheny River.

Outfall 001: existing discharge, design flow of 0.014 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.5			5.0
(11-1 to 4-30)	7.5			15.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,500/100 ml as a geometric mean			
Total Residual Chlorine	0.2			0.6
Dissolved Oxygen	not less than 4.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

**PA0023167**, Sewage, **Borough of Kane—Pine Street WWTP**, 112 Bayard Street, Kane, PA 16735. This proposed facility is in Wetmore Township, **McKean County**.

Description of Proposed Activity: Renewal of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Emlenton Water Company on the Allegheny River, approximately 105 miles below point of discharge.

The receiving stream, the West Run, is in watershed 16-F and classified for HQ-CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.5 MGD.

Parameters	Loadings		Concentrations		
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX	XX			
CBOD <sub>5</sub>	125	190	10	15	20
Total Suspended Solids	375	560	25	40	50
NH <sub>3</sub> -N					
(5-1 to 10-31)	18.8		1.5		3
(11-1 to 4-30)	56.3		4.5		9
Fecal Coliform					

Parameters	Loadings		Concentrations		Instantaneous Maximum (mg/l)
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	
(5-1 to 9-30)		200/100 ml as a geometric average			
(10-1 to 4-30)		2,100/100 ml as a geometric average			
Total Residual Chlorine			0.16		0.54
Phosphorus as "P"			2		4
(4-1 to 10-31)			10		20
Nitrite-Nitrate					
Dissolved Oxygen				minimum of 7 mg/l at all times	
pH				6.0 to 9.0 standard units at all times	

XX—Monitor and Report

The EPA waiver is not in effect.

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

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

**WQM Permit No. 2182405 04-1**, Sewerage, **Newburg-Hopewell Joint Authority**, P. O. Box 128, Newburg, PA 17240. This proposed facility is in Hopewell Township and Newburg Borough, **Cumberland County**.

Description of Proposed Action/Activity: Authorization for upgrades and renovations for the wastewater treatment facility.

**WQM Permit No. 2104412**, Sewerage, **Noah Lee Stoltzfus**, 307 Newville Road, Newburg, PA 17240. This proposed facility is in Upper Mifflin Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization for the construction of the small flow treatment facility.

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

**WQM Permit No. 0204410**, Sewerage, **Sonoma Ridge LP**, 772 Pine Valley Drive, Pittsburgh, PA 15239. This proposed facility is in Moon Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer extension to serve the Sonoma Ridge Development.

**WQM Permit No. 0404405**, Sewerage, **Pennko Properties LLC**, 2701 20th Street, Beaver Falls, PA 15010. This proposed facility is in Chippewa Township, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer extension to serve the Chippewa Heights Plan of Lots.

**WQM Permit No. 6304407**, Sewerage, **Township of Union**, 3904 Finley-Elrama Road, Finleyville, PA 15332. This proposed facility is in Union Township, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of the Elrama Sanitary Sewer Project and Pump Stations.

The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, has been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

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

**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.*

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI010904013	Milford Acquisitions, Inc. Tollgate Crossing Subdivision 1590 Canary Road Quakertown, PA 18951	Bucks	Richland Township	Morgan Creek TSF Barrel Run HQ-CWF

NPDES Permit  
No.

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI011504062	Chesterpoint Development Oak Lane Subdivision 13 Quail Hill Lane Downingtown, PA 19335	Chester	West Caln Township	Birch Run HQ-TSF-MF

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

Elk County Conservation District, (814) 776-5373.

NPDES Permit  
No.

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI062404002	U. S. Army Corps of Engineers, Baltimore District 10 South Howard Street Baltimore, MD 21202 (Dents Run Acid Mine Drainage Remediation Site 3898 Wilmer, PA)	Elk	Benezette Township	Dents Run HQ-CWF
PAI062404003	U. S. Army Corps of Engineers, Baltimore District 10 South Howard Street Baltimore, MD 21202 (Dents Run Acid Mine Drainage Remediation Site 3898 Wilmer, PA)	Elk	Benezette Township	Dents Run HQ-CWF

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

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

**PUBLIC WATER SUPPLY (PWS)  
PERMIT**

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

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

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

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

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office

listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**SAFE DRINKING WATER****Applications Received under the Pennsylvania Safe Drinking Water Act**

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

**Permit No. 5404503, Public Water Supply.**

Applicant	<b>Borough of Schuylkill Haven</b>
Township or Borough	North Manheim Township
County	<b>Schuylkill</b>
Responsible Official	Jack B. Travis, Administrator Borough of Schuylkill Haven 12 West Main Street Schuylkill Haven, PA 17972-1900 (570) 385-2841
Type of Facility	Community Water System
Consulting Engineer	Michael J. Dashbach, P. E. Entech Engineering, Inc. 4 South Fourth Street P. O. Box 32 Reading, PA 19603 (610) 373-6667
Application Received Date	September 1, 2004

Description of Action Application for reconstruction with design modification of the existing PWS water treatment plant at Tumbling Run, to be rated at a capacity of 2 mgd.

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

**Permit No. 4104501**, Public Water Supply.

Applicant **Williamsport Municipal Water Authority**  
 Township or Borough City of Williamsport  
 County **Lycoming**  
 Responsible Official Uwe E. Weindel, P. E.  
 Type of Facility PWS—Construction.  
 Consulting Engineer LaRue S. VanZile  
 Application Received Date August 30, 2004

Description of Action The demolition of the abandoned brick pumping station, modifications to the existing air stripper system, modifications to the yard piping, construction of a 35,000-gallon precast prestressed concrete storage tank with baffling system, vertical turbine pumping system, chlorination building, chemical feed systems and associated piping, valving, electrical, instrumentation and HVAC improvements at the Lycoming Wellfield and Third Street pump station/groundwater treatment facility.

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

**Permit No. 0479501-A1**, Public Water Supply.

Applicant **Borough of Ambridge Water Authority**  
 600 11th Street  
 Ambridge, PA 15003  
 Township or Borough Ambridge Borough and Independence Township  
 Responsible Official James Huwar, Chairperson,  
 Board of Directors  
 Borough of Ambridge Water Authority  
 600 11th Street  
 Ambridge, PA 15003  
 Type of Facility Water Treatment Plant  
 Consulting Engineer NIRA Consulting Engineers, Inc.  
 950 Fifth Avenue  
 Coraopolis, PA 15108  
 Application Received Date August 17, 2004

Description of Action Replacement of the filter surface wash system at the water treatment plant and addition of calcium hypochlorite feed system at the Service Creek Raw Water Pumping Station.

**Permit No. 1104503**, Public Water Supply.

Applicant **Greater Johnstown Water Authority**  
 P. O. Box 1287  
 Johnstown, PA 15907  
 Township or Borough Stoneycreek Township  
 Responsible Official Louis Soulcheck, Administrative Assistant  
 Greater Johnstown Water Authority  
 P. O. Box 1287  
 Johnstown, PA 15907  
 Type of Facility Tank and Pump Station  
 Consulting Engineer Gibson-Thomas Engineering Co., Inc.  
 1004 Ligonier Street  
 Latrobe, PA 15650  
 Application Received Date September 1, 2004  
 Description of Action Replacement of the existing Belmont Heights Water Storage Tank and repairs to the existing Belmont Heights Pump Station.

#### MINOR AMENDMENT

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

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

**Application No. 4604505**, Minor Amendment.

Applicant **Collegeville Park Water Association**  
 Borough Collegeville  
 Responsible Official Randy S. Eddinger  
 1697 Swamp Pike  
 Gilbertsville, PA 19525  
 Type of Facility PWS  
 Consulting Engineer Ruby Engineering  
 201 N. Chestnut Street, Apt. 305  
 Palmyra, PA 17078  
 Application Received Date August 26, 2004  
 Description of Action Replacement of storage tank and pump station.

**Application No. 0904506**, Minor Amendment.

Applicant **Pennsylvania American Water—Yardley**  
 Lower Makefield Township and Yardley Borough  
 Responsible Official William C. Kelvington  
 4 Wellington Boulevard  
 Wyomissing, PA 19610  
 Type of Facility PWS

Consulting Engineer	Entech Engineering, Inc. 4 South Fourth Street Reading, PA 19603
Application Received Date	August 30, 2004
Description of Action	Installation of an ammonia feed equipment and appurtenances within the Mill Road Water Treatment Plant and installation of a new prefabricated chloramination stations at the West College Avenue and Highland Drive Well facilities.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 1

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

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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.*

**Norma R. Lewis Property**, City of Philadelphia, **Philadelphia County**. Andrew C. Thomas, P. G., MACTEC Engineering and Consulting, Inc., 5205 Militia Hill Rd., Plymouth Meeting, PA 19462 on behalf of Norma R. Lewis, 1609 Chattin Rd., Glenside, PA 19038 has submitted a Notice of Intent to Remediate. Soils at the site have been impacted with inorganic compound lead. The future use of the property will be automobile refurbishing.

**L. B. Smith Property**, Plymouth Township, **Montgomery County**. Jamey A. Stynchula, P. G., Pennoni Associates, Inc., 3001 Market St., Philadelphia, PA 19104, on behalf of William Peter R. Cross, Blue Bell Associates, 650 Parkway, Suite 1, Plymouth, PA 19462 has submitted a Notice of Intent to Remediate. Soils at the site have been impacted with immobilization of asbestos-containing materials. The soils is contaminated with airborne asbestos fibers. Blue Bell Assoc. is considering changing the intended development of the site to include residential usage.

**South Philadelphia High School Track and Field**, City of Philadelphia, **Philadelphia County**. Eileen Lloyd, Powell-Harpstead, Inc., 800 E. Washington St., West Chester, PA 19380 on behalf of Marijane Hooven, School District of Philadelphia, 734 Schuylkill Ave., Philadelphia, PA 19146 has submitted a Notice of Intent to Remediate. Soils at the site have been impacted with lead, PAH and inorganics arsenic. The future use of the property is a high school track and field. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Weekly* on August 18, 2004.

**Hodge-Highland Prop. II**, Highland Township, **Chester County**. Jason Free, RT Environmental Svc., 510 Heron Dr., Bridgeport, NJ 08014 on behalf of John Panizza, GenTerra, 101 Marchwood Rd., Exton, PA 19341, has submitted a Notice of Intent to Remediate. Soils at the site have been impacted with inorganics arsenic.

**Carl Seitz and Marion Crompton**, Lower Southampton Township, **Bucks County**. Marlin Hunsberger, Mid-Atlantic Assoc., Inc., 2951 Advance Ln., Colmar, PA 18915 on behalf of Carl Seitz, Carl Seitz and Marion Crompton, 49 Townhomes at Dambridge, Egg Harbor, NJ 08234 has submitted a Notice of Intent to Remediate. Soils at the site have been impacted with diesel fuel, kerosene, unleaded gasoline and leaded gasoline. Groundwater at the site has been impacted with MTBE.

**Sun-Icedale Terminal DINS No. 9000-0080**, West Brandywine Township, **Chester County**. Jennifer L. Huha, P. G., GES Svc, Inc. has submitted a Notice of

Intent to Remediate. Soils and groundwater at the site has been impacted with no. 2 fuel oil. The future use of the property is nonresidential.

**Capozzoli Residence/Villecco Residence**, City of Philadelphia, **Philadelphia County**. Val F. Britton, P. G., V. G. Britton, P. G., 326 Conestoga Rd., Wayne, PA 19087 on behalf of Louis and Patricia Capozzoli/Pietro G. Villecco, 908/906 Winton St., Philadelphia, PA 19148 has submitted a Notice of Intent to Remediate. Soils at the site have been impacted with naphthalene the key fuel oil constituent of concern. The past, current and future use of the property is as a residential home. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Inquirer* on August 16, 2004.

**Former Wyncote Manufactured Gas Plant (MGP) Site**, Cheltenham Township, **Montgomery County**. David Kistner, URS Corp., 335 Commerce Dr., Suite 300, Ft. Washington, PA 19034-2623 on behalf of David Kraynick, Cheltenham Township Manager, 8230 Old York Rd., Elkins Park, PA 19027-1589 has submitted a Notice of Intent to Remediate. Soils and groundwater at the site has been impacted with aromatic PAHs. The soils and groundwater were contaminated with benzene, toluene, ethylbenzene and xylenes. The future uses of the property are for residential use, should the Township decide to sell this property in the future. A summary of the Notice of Intent to Remediate was reported to have been published in the *Time Chronicle* and *Glenside News* on November 19, 2003.

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

**Bellefonte Former MPG Site**, Spring Township, **Centre County**. RETEC Group, Inc., on behalf of PPL Gas Utilities Corp., Two North Ninth Street (GENTW-17), Allentown, PA 18101-1179 has submitted a Notice of Intent to Remediate soils contaminated with inorganics, organics, lead, PAHs and groundwater contaminated with inorganics, organics, PAHs. This site is being remediated to meet the Site-Specific Requirements.

#### **HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES**

**Applications received, under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.**

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

**Permit ID No. PA0890090004. United States Department of Energy, Bettis Atomic Power Laboratory**, 814 Pittsburgh-McKeesport Blvd., P. O. Box 109, West Mifflin, PA 15122. Operation of a hazardous waste container storage facility in West Mifflin Borough, **Allegheny County**. Application to renew a hazardous waste storage permit received in the regional office on August 20, 2004.

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

**Applications Received under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit Application No. 101468. Republic Service of PA**, 4145 E. Baltimore Pike, Media, PA 19063, Philadelphia City, **Philadelphia County**. This application was received for a 10-year permit renewal for the Girard Point Transfer Station. The application was received by the Southeast Regional Office on September 1, 2004.

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

**Permit ID No. 100620. BFI Waste Systems of North America, Inc.**, 11 Boggs Road, P. O. Box 47, Imperial, PA 15126. **Imperial Landfill**, 11 Boggs Road, P. O. Box 47, Imperial, PA 15126. A major permit modification for operation plan revisions and temporary daily tonnage increase to a municipal waste landfill in Findlay Township, **Allegheny County** was received in the regional office on August 27, 2004.

**Permit ID No. 100281. Greenridge Reclamation, LLC**, R. D. 1, Box 717, East Huntingdon Landfill Road, Scottsdale, PA 15683. **Greenridge Reclamation**, R. D. 1, East Huntingdon Landfill Road, Scottsdale, PA 15683. A major permit modification for highwall removal at a municipal waste landfill in East Huntingdon Township, **Westmoreland County** was received in the regional office on September 2, 2004.

**Permit ID No. 101532. Weavertown Transport Leasing, Inc.**, 201 South Johnson Road, Houston, PA 15342. **Weavertown Transport Leasing, Inc.**, SR 50, Box 411, Cecil, PA 15321. A major permit modification for processing residual waste at a municipal waste transfer facility in Cecil Township, **Washington County** was received in the regional office on September 3, 2004.

### **AIR QUALITY**

#### **PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS**

##### **NEW SOURCES AND MODIFICATIONS**

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

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

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

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be

held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

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

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

### PLAN APPROVALS

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

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

**54-399-036: GHM, Inc.** (17 Pinedale Industrial Road, Orwigsburg, PA 17961) for construction of a styrene foam manufacturing operation at their facility in the Deer Lake Industrial Park, West Brunswick Township, **Schuylkill County**.

**40-312-044: Scranton-Altoona Terminals Corp.** (P. O. Box 2621, Harrisburg, PA 17105) for construction of a truck loading rack and associated air cleaning device at their Dupont East Terminal, 801 Suscon Road, Pittston Township, **Luzerne County**.

**40-318-053: Certainteed Corp.** (1220 Oak Hill Road, Mountaintop, PA 18707) for modification of two printing operations at their facility in the Crestwood Industrial Park, Wright Township, **Luzerne County**.

**40-399-054: Fairchild Semiconductor Corp.** (125 Crestwood Road, Mountaintop, PA 18707) for modification of the FAB 8 line and installation of an air cleaning device at their facility in the Crestwood Industrial Park, Wright Township, **Luzerne County**.

**48-309-118B: Essroc Cement Corp.** (3251 Bath Pike, Nazareth, PA 18064) for amendment of existing Plan Approval 48-309-118 to reflect a smaller expansion project and associated atmospheric emissions than were originally approved for their facility in Lower Nazareth Township, **Northampton County**.

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

**36-05136: Granger Energy of Honey Brook, LLC** (481 South Churchtown Road, Narvon, PA 17555) for construction of a landfill gas treatment plant at their Chester County Solid Waste Management Authority's Lanchester Landfill in Caernarvon Township, **Lancaster County**. This application is subject to 40 CFR Part 60,

Subpart WWW—Standards of Performance for Municipal Solid Waste Landfills and 40 CFR Part 63, Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills.

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

**17-309-024A: Mount Savage Specialty Refractories Co.** (P. O. Box 60, Curwensville, PA 16833) for construction of a crusher and mixer and reactivation of various other pieces of equipment in a refractories plant in Pike Township, **Clearfield County**.

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

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

**15-0078D: Centocor, Inc.** (200 Great Valley Parkway, Malvern, PA 19355) for modification of a 2,000 kW electric generator at their Centocor Pharmaceutical Research and development/manufacturing/biotechnological facility at 90 Great Valley Parkway, East Whiteland Township, **Chester County**. The modification of the electric generator will result in the emissions of: 5.26 tons per year of NOx; 0.49 ton per year of CO; 0.2 ton per year of VOCs; 0.76 ton per year of SOx; 0.08 ton per year of PM; and 0.004 ton per year of HAPs. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

**48-328-006A: Conectiv Bethlehem LLC** (P. O. Box 6066, Newark, DE 19714) for rewording of the diffusion mode of operation requirement and definitions related to start-up and shut-down for the six combustion turbines as described in Plan Approval 48-328-06 at their facility in the City of Bethlehem and Lower Saucon Township, **Northampton County**. There is no new equipment being constructed under this plan approval, nor is there any increase of any pollutants related to the amended language. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the source operating within all applicable air quality requirements. The facility has submitted an application to the Department to obtain a Title V Operating Permit. This plan approval will subsequently be incorporated into the Title V Operating Permit or the Title V Operating Permit will be administratively amended in accordance with 25 Pa. Code § 127.450.

**39-318-112: Mack Trucks, Inc.** (7000 Alburtis Road, Macungie, PA 18062) for an amendment of their facility's current Title V Operating Permit 39-00004 to increase the allowable emission limits for their facility in Lower Macungie Township, **Lehigh County**. The amendment of the Title V operating permit will: (1) increase the allowable VOC emissions by 199.5 pounds per day (24.9 tons per year) for the cab color spray booth; and (2) implement a facility-wide limit for HAPs (10 tons per year for a single HAP or 25 tons per year of combined HAPs). The

Plan Approval and Operating Permit will include emission restrictions and monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

**48-399-054: Spray-Tek LLC** (3010 Avenue B, Bethlehem, PA 18017) for construction of a spray dryer and associated air cleaning devices (venturi scrubber and fabric collector) at their facility in the City of Bethlehem, **Northampton County**. The facility is a non-Title V (State-only) facility. Particulate emissions from the venturi scrubber and the fabric collector will not exceed the Best Available Technology standard of 0.02 grain/dscf. The plan approval and operating permit will include emission restrictions, work practice standards and monitoring, reporting and recordkeeping requirements designed to keep the source operating within all applicable air quality requirements.

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

**06-05099A: Rolling Hills Landfill Gas, LLC** (1300 North 17th Street, Arlington, VA 22209) for construction of a landfill gas combustion turbine to generate electricity at their Rolling Hills Landfill in Earl Township, **Berks County**. The turbine will be subject to 40 CFR Part 60, Subparts GG—Standards of Performance for Stationary Gas Turbines and WWW—Standards of Performance for Municipal Solid Waste Landfills, Standards of Performance of New Stationary Sources. The turbine will have the potential to emit 50.4 tons per year of NO<sub>x</sub>, 73.1 tons per year of CO and 10.3 tons per year of SO<sub>x</sub>. The approval will limit the emissions of HAPs to less than 10/25 tons per year. The approval will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the source operating within all applicable air quality requirements. The facility is a new facility that will be required to obtain a Title V Operating Permit.

**ER-36-05033: Goodville Industrial Center—formerly Rutt Custom Cabinetry, LLC** (1564 Main Street, Goodville, PA 17528) for an air quality Emission Reduction Credit approval of 84.9 tons of VOCs resulting from the shutdown of their wood custom kitchen cabinet manufacturing operation in East Earl Township, **Lancaster County**. The ERCs generated are based on the September 1, 2003, permanent shutdown of the Lancaster facility.

**36-05018A: LASCO Bathware** (8101 East Kaiser Boulevard, Anaheim, CA 92808) for installation of a new concentrator and a replacement thermal oxidizer at their existing facility in Elizabethtown, West Donegal Township, **Lancaster County**. The facility's particulate emissions will be controlled through the use of baghouses. This facility's actual emissions are projected to decrease by about 0.8 tpy of VOCs and HAPs as a result of this plan approval. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**38-03045A: Valspar Corp.** (4406 Industrial Park Road, Camp Hill, PA 17011) for construction of their latex paint manufacturing plant in North Lebanon Township, **Lebanon County**. This manufacturing facility is a non-Title V

(State-only) facility. This construction will result in approximately 20 tons per year of PM and less than 1 ton each of VOC and HAP. Conditions for monitoring, recordkeeping and work practice standards are included to keep the facility operating within the applicable requirements.

**38-05032: Lebanon Valley Aluminum, Inc.** (33 Keystone Drive, Lebanon, PA 17042) for installation of their secondary aluminum smelting facility in South Lebanon Township, **Lebanon County**. This facility has a potential to emit more than 100 tons per year of SO<sub>x</sub>. The plan approval will limit emissions to levels below the Title V permit thresholds. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Richard Maxwell, New Source Review Chief, (570) 327-3637.*

**41-00013B: Coastal Aluminum Rolling Mills, Inc.** (2475 Trenton Avenue, Williamsport, PA 17701) for construction of a coil coating line in the City of Williamsport, **Lycoming County**. Coastal Aluminum Rolling Mills, Inc. is a major facility for which Title V Operating Permit 41-00013 has been issued.

The coil coating line will incorporate three coating stations, each with an associated curing oven, which will be used to surface coat foil gauge metal substrate, typically aluminum, with various VOC and volatile HAP (VHAP)-containing coatings. Each of the coating stations will be equipped with an enclosure to capture VOCs/VHAPs. The captured VOC/VHAP emissions from these enclosures will be controlled by a regenerative thermal oxidizer, at a destruction efficiency of 98%, as will the VOC/VHAP emissions emitted from the three curing ovens. The resultant VOC emissions will be no more than 3.0 tons per year, all of which could also be VHAPs. There could additionally be up to .05 ton per year of VOC emissions, all of which could also be VHAPs, from associated cleanup operations. In addition to the VOC and VHAP emissions resulting from the application of coatings and the use of solvents for cleanup purposes, the coil coating line is expected to emit up to 1.75 tons of NO<sub>x</sub>, 1.18 tons of CO and .09 ton of VOCs per year from combustion occurring in the ovens and regenerative thermal oxidizer.

The Department's review of the information submitted by Coastal Aluminum Rolling Mills, Inc. indicates that the proposed coil coating line will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the requirements of 25 Pa. Code § 129.52 and the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department intends to issue plan approval for the construction of the proposed coil coating line. Additionally, if the coil coating line is subsequently determined to be operating in compliance with all applicable plan approval conditions and regulatory requirements after it is constructed, the conditions of the plan approval will be incorporated into Title V Operating Permit 41-00013 through administrative amendment in accordance with 25 Pa. Code § 127.450.

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

1. Each coating station shall be equipped with a permanent total enclosure, as defined by the EPA. Each



permanent total enclosure shall extend up to the entry point of the oven associated with the respective coating station.

2. 100% of the VOCs and VHAPs emitted from the application and curing of coatings, as well as 100% of those emitted as a result of associated cleanup activities, shall be captured and sent to the regenerative thermal oxidizer.

3. The regenerative thermal oxidizer shall destroy the VOC emissions ducted to it at an efficiency of no less than 98% (by weight) unless the concentration of VOCs in the inlet of the regenerative thermal oxidizer is less than 300 parts per million, expressed as propane, in which case, the destruction efficiency may be less than 98% as long as the VOC concentration in the exhaust of the regenerative thermal oxidizer is no greater than 6 parts per million, expressed as propane. The destruction efficiency of VHAPs in the regenerative thermal oxidizer shall be assumed to be identical to the demonstrated destruction efficiency of VOCs.

4. The regenerative thermal oxidizer shall maintain a combustion chamber temperature of at least 1,500°F whenever the regenerative thermal oxidizer is in use.

5. The regenerative thermal oxidizer shall be equipped with instrumentation to monitor and record the combustion chamber temperature on a continuous basis as well as with an interlock which prevents the coil coating line from operating if the regenerative thermal oxidizer combustion chamber temperature is below 1,500°F.

6. The coil coating line shall not be operated if the regenerative thermal oxidizer is inoperable.

7. All cleanup operations involving the use of a VOC-containing material or a VHAP-containing material shall be performed inside of a permanent total enclosure with the regenerative thermal oxidizer in operation.

8. The coil coating line shall not be operated more than 7,000 hours in any 12 consecutive month period.

9. The VOC emissions resulting from the application and curing of coatings on the coil coating line shall not exceed 3.0 tons in any 12 consecutive month period (excluding any VOC emissions from cleanup operations). The VHAP emissions resulting from the application and curing of coatings on the coil coating line shall not exceed 3.0 tons in any 12 consecutive month period (excluding any VHAP emissions from cleanup operations).

10. The VOC emissions resulting from the use of VOC-containing solvents or materials for cleanup purposes on the coil coating line shall not exceed .05 ton in any 12 consecutive month period. The VHAP emissions resulting from the use of VHAP-containing solvents or materials for cleanup purposes on the coil coating line shall not exceed .05 ton in any 12 consecutive month period.

11. No coating, coating additive or cleanup solvent or materials containing a volatile chlorinated, fluorinated or sulfonated compound may be used on the coil coating line.

12. The total combined NO<sub>x</sub>, total combined CO and total combined VOC emissions resulting from combustion in the three coil coating line ovens and the regenerative thermal oxidizer shall not exceed 1.75, 1.47 and .09 tons in any 12 consecutive month period, respectively.

13. The total combined emissions of any single HAP from the entire facility shall not equal or exceed 10 tons in any 12 consecutive month period following the construction of the coil coating line and the total combined

emissions of all HAPs from the entire facility shall not equal or exceed 25 tons in any 12 consecutive month period following the construction of the coil coating line.

14. Within 120 days of startup of the coil coating line, stack testing shall be performed to determine the VOC destruction efficiency occurring in the regenerative thermal oxidizer while operating at a temperature as close to 1,500°F as can reasonably be achieved (but not less than 1,500°F) as well as the VOC emission rate occurring from the regenerative thermal oxidizer at the same time. Additionally, a demonstration shall be made that each emission capture enclosure incorporated in the coil coating line qualifies as a permanent total enclosure, as that term is defined by the EPA.

15. Records shall be maintained of the following:

- The identity and amount used each month of each coating and coating additive used on the coil coating line as well as the VOC content of each coating and coating additive and the content of each individual VHAP in each coating and coating additive.
- The identity and amount used each month of each VOC-containing and VHAP-containing cleaning solvent or material used on the coil coating line within a permanent total enclosure ducted to an operating regenerative thermal oxidizer as well as the VOC content of each solvent or material and the content of each individual VHAP in each solvent or material.
- The identity and amount used each month, if any, of each VOC-containing and VHAP-containing cleaning solvent or material used on the coil coating line outside of a permanent total enclosure ducted to an operating regenerative thermal oxidizer or inside of a permanent total enclosure ducted to a non-operating regenerative thermal oxidizer as well as the VOC content of each solvent or material and the content of each individual VHAP in each solvent or material.
- Records as are necessary to demonstrate compliance with the facility-wide HAP emission limitations of less than 10 tons for any 12 consecutive month period for any single HAP and less than 25 tons for any 12 consecutive month period for all HAPs combined.
- The number of hours the coil coating line operates each month.

**08-313-027E: OSRAM SYLVANIA Products, Inc.** (Hawes Street, Towanda, PA 18848) for construction of a tungsten carbide jet mill at their facility in Towanda Borough and North Towanda Township, **Bradford County**.

The jet mill will be used to mill tungsten carbide. The PM emissions from the mill will be controlled by a new fabric collector and absolute filter operating in series. The PM emissions from loading and unloading the jet mill will be controlled by an existing cartridge collector. The resultant PM emissions to atmosphere should not exceed .074 ton per year.

The Department's review of the information submitted by OSRAM indicates that the proposed jet mill will comply with all applicable air quality 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 PM emission requirement of 25 Pa. Code § 123.13 and the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval for the construction of the jet mill.

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

1. The jet mill shall not process anything other than tungsten carbide without prior Department approval.
2. The concentration of particulate matter in the exhaust of the absolute filter shall not exceed .01 grain per dry standard cubic foot of exhaust.
3. The fabric collector and absolute filter shall each be equipped with instrumentation to monitor the differential pressure across the respective control device on a continuous basis.
4. The air compressor supplying compressed air to the fabric collector shall be equipped with an air dryer and oil trap.
5. Spare bags and filters shall be kept on hand for the fabric collector and absolute filter.

**59-301-021: Carleton Funeral Home, Inc.** (11470 Route 6, Wellsboro, PA 16901) for construction of a human remains crematory incinerator in Charleston Township, **Tioga County**.

The crematory incinerator will be used to incinerate human remains and associated containers. The air contaminant emissions from the crematory incinerator will be controlled by an integral secondary combustion chamber. The incinerator is expected to emit no more than .35 ton of PM, .27 ton of SO<sub>x</sub>, .03 ton of CO, .95 ton of NO<sub>x</sub> and .007 ton of VOCs per year.

The Department's review of the information submitted by Carleton Funeral Home, Inc. indicates that the proposed crematory incinerator will comply with all air quality requirements pertaining to air contamination sources and the emission of air contaminants including the PM emission requirement of 25 Pa. Code § 123.12, the visible air contaminant emission requirements of 25 Pa. Code § 123.41 and the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval for the construction of the crematory incinerator.

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

1. The incinerator shall only be used to incinerate human remains and associated containers used to hold the remains.
2. The PM emissions from the incinerator shall not exceed .08 grain per dry standard cubic foot of exhaust and the visible air contaminant emissions shall not equal or exceed 10% opacity for a period or periods aggregating more than 3 minutes in any 1 hour or equal or exceed 30% at any time.
3. The secondary combustion chamber shall be maintained at a temperature of at least 1,800°F at any time cremation is occurring. Additionally, the incinerator shall be equipped with interlocks to prevent the primary chamber burner from firing unless the secondary chamber temperature is at least 1,800°F.
4. The incinerator shall be equipped with instrumentation to monitor and record the secondary combustion chamber temperature on a continuous basis. Records generated by this instrumentation shall be retained for at least 5 years and shall be made available to the Department upon request.

## OPERATING PERMITS

### Intent to Issue Title V Operating Permits under the Air Pollution Control Act 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.*

**46-00045: PECO Energy-West Conshohocken Gas Plant** (300 Front Street, Building 3, West Conshohocken, PA 19428) in West Conshohocken Borough, **Montgomery County**. The facility is primarily used for compression and storage of natural gas. The facility's major air emission points include: vaporizers, preheaters, emergency generators and a combustion turbine, which emit major levels of NO<sub>x</sub> and PM (PM<sub>10</sub>). The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64.

**23-00017: Exelon Generation Co. LLC—Eddystone Generating Station** (No. 1 Industrial Highway, Eddystone, PA 19022) for installation of a Selective Catalytic Reduction System to two boilers at this facility which is a Title V facility in Eddystone Borough, **Delaware County**. The Title V Operating Permit has been revised to incorporate conditions from Plan Approval PA-23-0017A. Additional changes to this Title V Permit include updating the responsible official contact and the NO<sub>x</sub> budget contact personnel, updating the facility-wide monitoring for odors, visible emissions and fugitive PM with a condition currently applied to facilities, changing a condition for the scrubbers on one boiler to reflect the operation at this facility and the removal of references to 25 Pa. Code Chapter 139 that do not apply to two boilers since the CEMS measure sulfur dioxide emissions only for the Acid Rain Program. All revisions to the Title V Operating Permit were made under 25 Pa. Code § 127.450. The changes made to the permit do not result in an increase of emissions.

**46-00062: Jefferson Smurfit Corp.—US** (500 Church Road, North Wales, PA 19454) for an administrative amendment to Title V Operating Permit TVOP-46-0004 in Upper Gwynedd, **Montgomery County**. The facility's major emission points include rotogravure printing presses, which emit major levels of VOCs. The Administrative Amendment incorporates requirements from Plan Approval PA-46-0062 for the replacement of the thermal afterburner with the new thermal oxidizer on Rotogravure Printing Press No. 502. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act and 25 Pa. Code § 127.450. The amended Title V operating permit contains additional monitoring, recordkeeping, reporting and work practice standards to keep the facility operating within all applicable air quality requirements.

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

**21-05007: Department of the Navy** (5450 Carlisle Pike, Mechanicsburg, PA 17055) for operation of a Naval Support Activity in Hampden Township, **Cumberland County**. The facility is a major source that primarily emits NO<sub>x</sub>, SO<sub>2</sub>, CO and PM. The Title V operating permit will contain appropriate monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**36-05013: Lancaster County Solid Waste Management Authority** (1299 Harrisburg Pike, Lancaster, PA

17604) for operation of three municipal waste combustors in Conoy Township, **Lancaster County**. The facility is a major source that primarily emits NO<sub>x</sub> and acidic fumes. The Title V operating permit will contain appropriate monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of their Title V operating permit.

**67-05005: PPL Generation, LLC** (Two North Ninth Street, Allentown, PA 18101) for operation of their Brunner Island Steam Electric Station in East Manchester Township, **York County**. The facility's major sources of emissions include three electric generating units which are primary emitters of NO<sub>x</sub>, SO<sub>x</sub>, PM and CO. The Title V operating permit will contain appropriate monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of their Title V operating permit.

**67-05006: York County Solid Waste and Refuse Authority** (2700 Blackbridge Road, York, PA 17402) for operation of three municipal waste combustors in Manchester Township, **York County**. The facility is a major source that primarily emits NO<sub>x</sub> and acidic fumes. The Title V operating permit will contain appropriate monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of their Title V operating permit.

**67-05033: Gichner Shelter Systems** (490 East Locust Street, Dallastown, PA 17313) for operation of their portable metal building manufacturing facility in York Township, **York County**. The facility has the following annual potential emissions: 63 tons VOC, 17 tons trichloroethylene, 12 tons methyl ethyl ketone, 12 tons toluene, 7 tons xylene and 3 tons methyl isobutyl ketone. The Title V operating permit will include emission restrictions, work practice standards and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. The facility is subject to 40 CFR Part 63, Subpart T—National Emission Standards for Halogenated Solvent Cleaning.

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

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

**46-00069: Highway Materials, Inc.—Plymouth Meeting Quarry** (5000 Joshua Road, Plymouth Meeting, PA 19462) for operation of a rock crushing plant with two diesel generators at their Plymouth Meeting Quarry in Whitmarsh Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The facility has elected to cap NO<sub>x</sub> emissions to less than 25 tons per year; therefore the facility is a Synthetic Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

**07-05015: Altoona Hospital** (620 Howard Avenue, Altoona, PA 16602) for operation of four natural gas/no. 2 oil fired boilers and four diesel operated emergency

generators in Altoona City, **Blair County**. The Synthetic Minor operating permit will include monitoring, recordkeeping, reporting requirements, emission and fuel restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**28-03023: Valley Quarry, Inc.** (169 Quarry Road, Chambersburg, PA 17201) for operation of their Mt. Cydonia Sand Plant No. 2 in Greene Township, **Franklin County**. The facility has the potential to emit approximately 10 tons of PM<sub>10</sub> per year. Sources at the facility are subject to 40 CFR Part 60, Subpart OOO for Nonmetallic Mineral Processing Plants. Standard monitoring, recordkeeping and work practice standards are also included to keep the facility operating within all applicable requirements.

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

**S04-003: Mercy Hospital of Philadelphia** (501 South 54th Street, Philadelphia, PA 19143) for operation in the City of Philadelphia, **Philadelphia County**. The facilities air emission sources include one 20 mmBtu/hr boiler, two 15 mmBtu/hr boilers and two standby electric generators.

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

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

## **COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

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

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particu-

lar proposed mining activity, the submittal of the permit application will serve as the request for certification.

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

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code

Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

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

#### *Coal Applications Received*

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

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

\* The parameter is applicable at all times.

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

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

**03990109 and NPDES Permit No. PA0202673. Mears Enterprises, Inc.** (P. O. Box 157, Clymer, PA 15728). Renewal application to an existing bituminous surface mine for reclamation only in Wayne Township, **Armstrong County**, affecting 58 acres. Receiving streams: unnamed tributaries to the South Fork Pine Creek and South Fork Pine Creek (CWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received August 31, 2004.

**03970110 and NPDES Permit No. PA0202134. GLR Mining, Inc.** (P. O. Box 105, Clymer, PA 15728). Renewal application to an existing bituminous surface mine for reclamation only in Valley Township, **Armstrong County**, affecting 27.4 acres. Receiving stream: unnamed tributary to Cowanshannock Creek (TSF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received August 31, 2004.

**26950102 and NPDES Permit No. PA0201197. Bridgeview Coal Company** (Route 40, Box 257,

Farmington, PA 15437). Renewal application to an existing bituminous surface mine for reclamation only in Wharton Township, **Fayette County**, affecting 221 acres. Receiving streams: unnamed tributaries to Stony Fork and unnamed tributary to Little Sandy Creek (CWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received August 31, 2004.

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

**56960105 and NPDES Permit No. PA234168. L. K. Mining, Inc.**, 323 Coalyard Road, Rockwood, PA 15557, surface mining permit revision to add 0.9 coal acres in Milford Township, **Somerset County**, affecting 20.2 acres. Receiving streams: unnamed tributary to South Glade Creek (WWF). There are no potable water supply intakes within 10 miles downstream. Application received August 17, 2004.

**56950111 and NPDES Permit No. PA0213225. Sherpa Mining Contractors, Inc.**, 337 Benny Road, Hooversville, PA 15936, surface mining permit revision to add coal acres that are currently approved for mining under adjacent Cooney Brothers SMP No. 56930102 to this Sherpa SMP No. 56950111 in Shade Township, **Somerset County**, affecting 248.5 acres. Receiving streams: unnamed tributary to Shade Creek and Shade Creek (CWF). The first downstream potable water supply intake from the point of discharge is the Cambria Somerset Authority Stoneycreek surface water intake. Application received August 18, 2004.

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

**61990103 and NPDES Permit No. PA0241466. Ancient Sun, Inc.** (P. O. Box 129, Shippenville, PA 16254). Renewal of an existing bituminous surface strip operation in Clinton Township, **Venango County** affecting 18.5 acres. Receiving streams: unnamed tributary to Bullion Run (CWF). There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received September 2, 2004.

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

**40793009R4. Kaminski Brother, Inc.** (c/o Great Valley Construction Services, LLC, 100 Baltimore Drive, East Mountain Corporate Center, 4th Floor, Wilkes-Barre, PA 18702), renewal of an existing anthracite surface mine and coal preparation plant operation in Jenkins Township, **Luzerne County** affecting 43.6 acres, receiving stream: none. Application received August 27, 2004.

### FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

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

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E35-378. Stephen Takach**, 218 Hand Street, Jessup, PA 18434 in Fell Township, **Lackawanna County**, U. S. Army Corps of Engineers, Baltimore District.

To remove the remains of the existing structure and to construct and maintain a bridge having a span of 14 feet across a tributary to Fall Brook (CWF). The project is on the south side of Sandy Bank Road (SR 1017) approximately 0.4 mile southwest of SR 0106 (Carbondale, PA Quadrangle N: 17.1 inches; W: 6.5 inches).

**E54-317. Hegins-Hubley Authority**, 915 West Maple Street, Valley View, PA 17983 in Hubley Township, **Schuylkill County**, U. S. Army Corps of Engineers, Baltimore District.

To place fill in approximately 0.31 acre of PEM wetlands for the purpose of constructing an approximately 900-foot road to provide access to a proposed well and wellhouse. The project is east of Kushwa Road, approximately 0.25 mile south of SR 0025 (Valley View, PA Quadrangle N: 0.1 inch; W: 16.6 inches).

**E40-639. Andrew Stone**, 1405 Meeting House Road, North Wales, PA 19454-3693 in Slocum Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To construct and maintain a private floating dock, extending approximately 150 feet from the shoreline in Mud Pond. The total area of the dock is approximately 500 square feet. The project is along the southern shoreline of Mud Pond at 1372 Slocum Road (Nanticoke, PA Quadrangle N: 5.7 inches; W: 1.2 inches).

**E48-354. Department of Transportation, Engineering District 5-0**, 1713 Lehigh Street, Allentown, PA 18103 in Palmer Township and Stockertown Borough, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To install approximately 375 LF of impervious lining under the stream bed of Bushkill Creek (HQ-CWF) in an effort to remedy severe sinkhole formations and reestablish a natural channel within the SR 0033 right-of-way. The project is approximately 0.5 mile south of SR 0191 (Nazareth, PA Quadrangle N: 22.5 inches; W: 2.1 inches).

**E48-326A. Hercules Cement Co., L. P.**, P. O. Box 69, Stockertown, PA 18083-0069 in Stockertown Borough and Palmer Township, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To amend Permit No. E48-326 to include the installation of an additional 400 LF of a geomembrane liner system and the reestablishment of a natural channel in Bushkill Creek (HQ-CWF). This work will take place at the downstream end of the previously authorized project and will extend to the SR 0033 right-of-way. The project is at the Hercules Cement property, southwest of the intersection of SR 0033 and SR 0191 (Wind Gap, PA Quadrangle N: 0.5 inch; W: 3.3 inches).

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

**E32-460. P. C. Exploration, Inc.**, 502 Keystone Drive, Warrendale, PA 15086. Culvert in Salsgiver Run, Canoe Township, **Indiana County**, Pittsburgh ACOE District (Rochester Mills, PA Quadrangle N: 15.0 inches; W: 5.4 inches—Latitude: 40° 49' 50" and Longitude: 79° 55' 00"). The applicant proposes to construct and maintain seven 6-inch depressed, 24-inch pipe culverts having a length of 20.0 feet in Salsgiver Run (HQ-CWF) for the purpose of providing access to a gas well. The project is off of SR 1038 approximately 3.4 miles from its intersection with SR 1045.

**E65-807. Department of Transportation, Engineering District 10-0**, P. O. Box 429, Indiana, PA 15701. Bridge over Conemaugh River in West Wheatfield Township, **Indiana County**, Pittsburgh ACOE District (Bolivar, PA Quadrangle N: 4.25 inches; W: 2.2 inches—Latitude: 40° 23' 54" and Longitude: 79° 08' 27"). The applicant proposes to remove the existing structure and to construct and maintain a four-span bridge having four normal spans of 31.69 meters and a minimum underclearance of 9.83 meters across the Conemaugh River (WWF) on a new alignment 300 meters upstream from the existing bridge for the purpose of improving transportation safety. The proposed work includes the placement and maintenance of fill in 0.082 acre of palustrine emergent/forested wetland. To compensate for wetland loss, the applicant will make a monetary contribution to the Pennsylvania Wetland Replacement Project. The project is on SR 0259, Section 450.

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

**E10-386, Future Development Group, L. P.**, 191 Crowe Avenue, Mars, PA 16046. Heritage Creek Phase II in Adams Township, **Butler County**, ACOE Pittsburgh District.

To construct and maintain: (1) a reinforced concrete arch having a rise of 7 feet, a span of 28 feet and an instream length of 66 feet along Heritage Creek drive within Kaufman Run (WWF) (Mars, PA Quadrangle N: 13.45 inches; W: 5.44 inches); (2) a reinforced concrete box culvert having a maximum rise of 3 feet, a span of 8 feet and an instream length of 20 feet along the driveway of lot 301 within Kaufman Run (WWF) (Mars, PA Quadrangle N: 13.1 inches; W: 5.83 inches); (3) a 36-inch diameter SLCPP having an instream length of approximately 370 feet at the intersection of Crider and Braddock Court Roads within an unnamed tributary to Kaufman Run (WWF) (Mars, PA Quadrangle N: 13.05 inches; W: 4.66 inches); (4) approximately 30 CY and 140 CY of fill to the floodway of Kaufman Run south of lots 222/223 and west of lot 127 (WWF) (Mars, PA Quadrangle N: 13.5 inches; W: 5.2 inches) (Mars, PA Quadrangle N: 13.5 inches; W: 5.2 inches), respectively; (5) approximately 700 CY of fill material to an unnamed tributary to Kaufman Run at lots 215/216 (WW) (Mars, PA Quadrangle N: 13.9 inches; W: 4.68 inches); and (6) to fill 0.0689 acre of floodplain wetlands associated with upper perennial stream at the proposed office/day care center (Mars, PA Quadrangle N: 12.98 inches; W: 5.27 inches) all within the Heritage Creek Subdivision 3.1 miles east of SR 0079 at the intersection of SR 0228 and Crider Road.

**E24-236, Francis X. Straub**, 123 Terrace Road, St. Marys, PA 15857. Storage complex wetland fill in the City

of St. Marys, **Elk County**, ACOE Pittsburgh District (St. Marys, PA Quadrangle N: 8.6 inches; W: 13.2 inches).

To place and maintain fill within two palustrine emergent and palustrine scrub/shrub wetlands having a de minimis surface area of 0.042 acre for the purpose of constructing a storage facility approximately 2.1 miles west of the City of St. Marys along the north side of SR 120.

**E42-304, Foster Township**, 1185 East Main Street, Bradford, PA 16701. Tuna Crossroads Park Improvements in Foster Township, **McKean County**, ACOE Pittsburgh District (Derrick City, PA Quadrangle N: 21.7 inches; W: 16.7 inches).

To construct and maintain a baseball field, pavilion, associated parking area, access roadway and pedestrian walkways within the floodway of the Tunungwant Creek (WWF) at a point within the Tuna Crossroads Park approximately 1,400 feet west of the intersection of East Main Street (T-601) and Tuna Crossroads (T-369).

**E43-311, David B. Aldridge**, 137 Briar Hill Road, Zelenople, PA 16063-9661. Aldridge Property Dam on Indian Run Road in Springfield Township, **Mercer County**, ACOE Pittsburgh District (Greenfield, PA Quadrangle N: 1.3 inches; W: 0.7 inch).

To maintain approximately 0.48 acre of fill material placed within a palustrine emergent/palustrine scrub-shrub wetland area during the construction of a dam along the east side of Indian Run Road, 3,100 feet southeast of the intersection of Indian Run Road and Leesburg Station Road. The permittee is required to provide 1.0 acre of replacement wetlands.

**E61-267, William Wetzel**, P. O. Box 53, Ridgway, PA 15853-0053. Porcupine Creek water obstructions in President Township, **Venango County**, ACOE Pittsburgh District (President, PA Quadrangle N: 10.2 inches; W: 6.4 inches).

The applicant proposes to replace an existing retaining wall with a streambank restoration and stabilization consisting of native stone rip-rap and pole and brush bundle plantings and to replace and maintain a bridge abutment on the right bank of Porcupine Creek (EV, perennial) and to maintain the streambank restoration and stabilization and to maintain a deck, fill and house within the floodway and to maintain an existing pedestrian bridge having a clear span of approximately 52 feet and an underclearance of 11.4 feet in President Township, Venango County approximately 1.2 miles southeast of the intersection of U. S. Route 62 and SR 2023. This project proposes to directly affect approximately 70 linear feet of stream.

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## ACTIONS

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### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

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

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

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

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

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0028088 SEW	Chester Selfridge Brown Township Municipal Authority 7748 SR 655 Reedsville, PA 17084-9148	Mifflin County Brown Township	Kishacoquillas Creek 12-A	Y
PAR10I220R	Paxtonia Associates 7500 Derry Street Harrisburg, PA 17111	Dauphin County Lower Paxton Township	Beaver Creek 7-D	Y
PA0247405 SEW	David Stup 5394 Big Creek Road Clearville, PA 15535	Bedford County Monroe Township	UNT West Branch Sidling Hill Creek 13-B	Y
PA0021601 SEW	Keith Brobst Hamburg Municipal Authority 61 North Third Street Hamburg, PA 19526	Berks County Hamburg Borough	Schuylkill River 3-D	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0090948	ONYX Chestnut Valley Landfill, Inc. Box 266 McClellandtown, PA 15458	Fayette County German Township	Unnamed tributary of Dunlap Creek	Y

This notice reflects changes from the notice published at 34 Pa.B. 3027 (June 12, 2004).

Parameter	Average Monthly	Maximum Daily	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
NH <sub>3</sub> -N						
(5-1 to 10-31)	1.1	2.1	3.5		7.0	8.8
(11-1 to 4-30)	1.5	3.0	4.9		10.0	12.3

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

NPDES Permit No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N ?
PA0102181	The Venango Park and Natural Resources Authority Two Mile Run Park 471 Beach Road Franklin, PA 16323	Sugarcreek Borough Venango County	Two Mile Run 16-E	Y
PA0222763	Charter Plastics, Inc. 221 South Perry Street P. O. Box 770 Titusville, PA 16354	City of Titusville Crawford County	Oil Creek 16-E	Y

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

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

**NPDES Permit No. PA0056081**, Sewage, **Victorian Wycombe Inn**, P. O. Box 104, Wycombe, PA 18980. This proposed facility is in Wrightstown Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into an unnamed tributary to Mill Creek in Watershed 2F.

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

**NPDES Permit No. PA0026549, Amendment No. 1**, Sewage, **City of Reading, Deborah Hoag**, 815 Washington Street, Reading, PA 19601-3690. This proposed facility is in Reading City, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to the Schuylkill River in Watershed 3-C.

**NPDES Permit No. PA0247502**, Sewage, **Mr. and Mrs. David Ketner**, 308 Steelstown Road, Newville, PA 17241. This proposed facility is in North Newton Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Conodoguinet Creek in Watershed 7-B.

**NPDES Permit No. PA0084611**, Sewage, **John Huenke, CMV Sewage Company, Inc.**, 200 Bailey Drive, Suite 204, Stewartstown, PA 17363. This proposed facility is in North Codorus Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT of Codorus Creek in Watershed 7-H.

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

**NPDES Permit No. PA0239453**, Industrial Waste, **Intech P/M Stainless, Inc.**, P. O. Box 506, Ridgway, PA 15853. This proposed facility is in Ridgway Township, **Elk County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Elk Creek in Watershed 17-A.

**NPDES Permit No. PA0090182**, Sewage Amendment No. 1, **Concordia Lutheran Ministries**, 134 Marwood Road, Cabot, PA 16023. This proposed facility is in Jefferson Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Little Buffalo Creek in Watershed 18-F.

**NPDES Permit No. PA0239488**, Sewage, **Eldred Township**, R. D. 2, Box 123A, Pittsfield, PA 16340. This proposed facility is in Eldred Township, **Warren County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Caldwell Creek in Watershed 16-E.

**NPDES Permit No. PA0239518**, Sewage, **Meadow Ridge Subdivision**, 533 Locust Place, Sewickley, PA 15143-1547. This proposed facility is in Forward Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary to Connoquenessing Creek.

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

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

**WQM Permit No. 2104407**, Sewerage, **Mr. and Mrs. David Ketner**, 308 Steelstown Road, Newville, PA 17241. This proposed facility is in North Newton Township, **Cumberland County**.



Description of Proposed Action/Activity: Construction of a small flow sewage treatment plant to serve their single family residence between 308 and 314 Steelstown Road.

**WQM Permit No. 2104411**, Sewerage, **Silver Spring Township Authority**, 6415-Rear Carlisle Pike, Mechanicsburg, PA 17050. This proposed facility is in Silver Spring Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/operation of sewerage facilities consisting of relocation of the Holly Lane pump station to the Foxwood Subdivision and construction of a 12-inch diameter gravity sewer from Holly Lane to new station and construction of a 10-inch diameter force main to the existing force main in Holly Lane.

**WQM Permit No. 6704408**, Sewerage, **Windsor Township**, 1480 Windsor Road, P. O. Box 458, Red Lion, PA 17356. This proposed facility is in Windsor Township, **York County**.

Description of Proposed Action/Activity: Construction/operation of sewerage facilities consisting of one suction lift sewage pump station that will receive an estimated average flow of 29,750 gpd from approximately 4,400 LF of 8-inch gravity sewers serving the Taylor Estates Section IV (Stanczyk Tract) development.

**WQM Permit No. 2104410**, Sewerage, **Middlesex Township Municipal Authority**, 259 West Middlesex Drive, Carlisle, PA 17013. This proposed facility is in Carlisle Borough, **Cumberland County**.

Description of Proposed Action/Activity: Construction/operation of sewerage facilities consisting of collection system and pump station serving a portion of the Pennterra subdivision.

**WQM Permit No. 6791415, Amendment 04-1**, Sewerage, **John Huenke, CMV Sewage Company, Inc.**, 200 Bailey Drive, Suite 204, Stewartstown, PA 17363. This proposed facility is in North Codorus Township, **York County**.

Description of Proposed Action/Activity: Construction/modifications of sewerage facilities for the Colonial Crossings Sewage Treatment Facility and Sewage Collection System.

**WQM Permit No. 2104409**, Sewerage, **E. Lee Koch, North Middleton Township Authority**, 240 Clearwater Drive, Carlisle, PA 17013-1100. This proposed facility is in North Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/operation of a pump station and force main serving the Keystone Arms subdivision. The force main connects to MH-S18 and the Carlisle Borough interceptor.

**WQM Permit No. 2804403**, Sewerage, **Benjamin Statler, Greene Township Municipal Authority**, 4182 Sunset Pike, Chambersburg, PA 17201. This proposed facility is in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Construction/operation of sewage collection system, pump station no. 9 and force main to serve the Scotland Run residential subdivision.

**WQM Permit No. 2104408**, Sewerage, **Rory Morrison, Manager, Middlesex Township Municipal Authority**, 350 North Middlesex Road, Carlisle, PA 17013. This proposed facility is in Middlesex Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/operation of sewerage facilities consisting of a pump station serving the Keystone Arms subdivision in Middlesex Township. The force main connects to existing gravity sewer in Route 11.

**WQM Permit No. 0103403, Amendment (04-1)**, Sewerage, **Bernard Shanebrook, Manager, Borough of Bonneauville**, 46 East Hanover Street, Gettysburg, PA 17325. This proposed facility is in Bonneauville Borough, **Adams County**.

Description of Proposed Action/Activity: Modifications to the construction/operation of suction lift pump station and 6-inch force main to serve the Cedarfield Condominiums. This amendment relocates the pump station, increases the size of the force main and increases the size of the wet well.

**WQM Permit No. 2201402, Amendment 04-1**, Sewerage, **Terri L. Hepschmidt**, 1055 Manada Gap Road, Grantville, PA 17028-9051. This proposed facility is in East Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Transfer/name change of permit.

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

**WQM Permit No. 6204404**, Sewerage, **Eldred Township**, R. D. 2, Box 123A, Pittsfield, PA 16340. This proposed facility is in Eldred Township, **Warren County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a new sewage treatment facility to serve the Village of Grand Valley.

**WQM Permit No. 2504406**, Sewerage, **Williams Road Sub-Division Homeowners Association**, 1718 Franklin Avenue, Erie, PA 16510. This proposed facility is in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a small flow treatment facility to serve four four-bedroom homes.

**WQM Permit No. WQG018303**, Sewerage, **Girl Scouts of Beaver and Lawrence Counties, Camp Elliott**, 443 Third Street, Beaver, PA 15009. This proposed facility is in Wilmington Township, **Lawrence County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a small flow treatment facility to serve a seasonal Girl Scout Camp.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011504028	Liberty Property Limited Partnership 45-67 Great Valley Parkway Dev. 65 Valley Stream Parkway Malvern, PA 19355	Chester	East Whiteland Township	Valley Creek EV

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044104003	Thomas and Linda Dunlap 914 Pine Creek Ave. Jersey Shore, PA 17740	Lycoming	Porter Township	Nichols Run HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI066204001	Eldred Township Wastewater Treatment Plant Grand Valley and SR 0027 R. R. 2 Box 123A Pittsfield, PA 16340	Warren	Eldred Township	Caldwell and Dunderdale Creeks HQ-CWF

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

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

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

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

*General Permit Type—PAG-2*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
West Rockhill Township Bucks County	PAG2010904129	Robert Fiorello 171 Nectar Run Telford, PA 18969	West Branch Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Sellersville Borough Bucks County	PAG2010904125	The Viking Group, LLC Viking Group Subdivision 65 Fern Drive Southampton, PA 18966	East Branch Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Nockamixon Township Bucks County	PAG2010904003	Judith L. Kauffman Harrington Subdivision 34 Meginnes Road Kintnersville, PA 18930	Haycock Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Rockhill Township Bucks County	PAR10D625-1	TEVA Pharmaceuticals, USA 650 Cathill Road Sellersville, PA 18960	East Branch Perkiomen Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Radnor Township Delaware County	PAG2002304003	Frank McPherson 754 Applegate Lane Rosemont, PA 19010	Darby Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Aston Township Delaware County	PAG2002304012	J & V Developers 104 Spring Valley Way Aston, PA 19014	West Branch Chester Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Marcus Hook Borough Lower Chichester Township Delaware County	PAG2002304019	Department of Transportation 7000 Geerdees Boulevard King of Prussia, PA 19406	Delaware Estuary WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Concord Township Delaware County	PAG2002304020	Chris Panacello 299 Brinton Lake Road Thornton, PA 19373	Webb Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Marple Township Delaware County	PAG2002304027	JDC Holdings, LLC 200 Cherry Hill Lane Broomall, PA 19008	Darby Creek TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chester Heights Borough Delaware County	PAG2002304032	Charles King 260 Baltimore Pike Media, PA 19063	East Branch Chester Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Delaware County	PAG2002304037	Media Little League P. O. Box 1752 Media, PA 19063	Crum Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Merion Township Montgomery County	PAG2004604113	Turnpike Commission Bridge Replacement Eisenhower Boulevard and Route 283 Highspire, PA 17034	Unnamed tributary Schuylkill River WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG2004604141	Bus Land, LP 114 East Broad Street P. O. Box 580 Trumbauersville, PA 18084	Hartenstine Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Upper Merion Township Montgomery County	PAG2004604152	LMC Properties, Inc. Building D 100 South Charles Street Baltimore, MD 21201	Trout Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015104010	University of Sciences in Philadelphia Science and Technology Center 600 South 43rd Street Philadelphia, PA 19104	Schuylkill River CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015104014	City of Philadelphia Schuylkill River Park Trail—III 1401 JFK Boulevard, Suite 1430 Philadelphia, PA 19102	Schuylkill River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plains Township Luzerne County	PAG2004004015	DMJ Properties 202 Main St. Laflin, PA 18702	Mill Creek CWF	Luzerne County Conservation District (570) 674-7991
Lower Nazareth Township Northampton County	PAG2004804015	Newman Development Group of Nazareth, LLC 3101 Shippers Rd. P. O. Box 678 Vestal, NY 13851-0678	Shoeneck Creek WWF	Northampton County Conservation District (610) 746-1971
East Union Township Schuylkill County	PAG2005404020	Michael Landes 821 Clemens Rd. Telford, PA 18969	Catawissa Creek CWF	Schuylkill County Conservation District (570) 622-3742
Greenwich Township Berks County	PAG2000604083	Fred Vertucci Land Development Plant 130 Rhoades Road Kutztown, PA 19530	Mill Creek into Saony Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Berks County Muhlenberg Township	PAG2000604081	Rodolfo Folino Laurel Creek Run Subdivision 68 South Hampton Drive Wyomissing Hills, PA 19610	Laurel Run CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Dauphin County Lower Paxton Township	PAG202204006	Eastern Development & Planning 7300 Derry Street Harrisburg, PA 17111	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Cumberland County Hampden Township	PAG2002104034	RJB Mechanicsburg Shopping Center RJB Mechanicsburg, LLC 810 7th Avenue New York, NY 10019	UNT to Trindle Spring Run CWF	Cumberland County Conservation District 143 Brookwood Ave. Carlisle, PA 17013 (717) 240-7812
Centre County College Township	PAG2001404012	Keith Cooper CB Real Estate 44 East College Ave. State College, PA 16801	UNT Spring Creek CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Lycoming County Muncy Creek Township	PAG2004104006	Leakas Quality Food Inc. Chris Evangelou 629 N. Derr Ave. Lewisburg, PA 17837	Glade Run WWF	Lycoming County Conservation District 542 County Farm Road Suite 202 Montoursville, PA 17754 (570) 433-3003
Montour County Valley Township	PAG004704003	Manny Patel JIBA Hospitality Inc. 234 Rt. 15 Hwy. Williamsport, PA 17701	UNT Amuses Creek CWF	Montour County Conservation District 112 Woodbine Lane Suite 2 Danville, PA 17821 (570) 271-1140
Fayette County Perryopolis Borough	PAG2002604026	Albert Palmer P. O. Box 622 Perryopolis, PA 15473	Unnamed tributary to the Youghiogheny River WWF	Fayette County Conservation District (724) 438-4497
Fayette County Bullskin Township	PAG2002604027	Shellenberger Development, LLC 2620-A Memorial Blvd. Connellsville, PA 15425	Whites Run WWF	Fayette County Conservation District (724) 438-4497
Washington County California Borough	PAG2006304027	Rose Plastics USA, LLP 525 Technology Drive California, PA 15419	Pike Run WWF	Washington County Conservation District (724) 228-6774
Clarion County Piney and Toby Townships Sligo Borough	PAG2061604001	Department of Transportation SR 0068 2550 Oakland Avenue Indiana, PA 15701-0429	Tributary Licking Creek CWF	Northwest Regional Office (814) 332-6942
Crawford County Union Township	PAG2002004003	Brian Lloyd 1355 S. Main Street Meadville, PA 16335 (Ameri Storage 9586 Kennedy Hill Road)	Tributary French Creek WWF	Crawford Conservation District (814) 724-1793
Lawrence County Shenango Township	PAR1037744R	Berner International Corp. Mark McNulty 111 Progress Avenue New Castle, PA 16101 (Berner Air Doors Shenango Industrial Park Progress Avenue)	Tributary Big Run WWF	Lawrence Conservation District (724) 652-4512
Lawrence County Neshannock Township	PAG2003704006	Department of Transportation Earl Neiderhiser 45 Thoms Run Road Bridgeville, PA 15017 (SR 1105 Section L03)	Neshannock Creek TSF	Lawrence Conservation District (724) 652-4512
Mercer County City of Hermitage	PAG2004304008	Mercer County Housing Authority 80 Jefferson Avenue Sharon, PA 16146 (Senior Housing Complex)	Tributary Pine Hollow Run WWF	Mercer Conservation District (724) 662-2242
Mercer County City of Hermitage	PAG2004304010	Orion Development 4125 Freedom Way Weirton, WV 26062 (Eckerd Store 8702R SR 0018/SR 3020)	Tributary Pine Hollow Run WWF	Mercer Conservation District (724) 662-2242
Mercer County City of Hermitage	PAG2004304012	Garden View Estates of Hermitage LLC P. O. Box 477 Beaver, PA 15009 (Garden View Estates Maple Drive)	Bobby Run WWF	Mercer Conservation District (724) 662-2242

## NOTICES

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<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Mercer County Sandy Creek Township	PAG2004304015	Hickory Hollow, LP 315 Quailue Road Greenville, PA 16125 (Bucks Fabricating 3547 Perry Highway Hadley, PA 16130)	Sandy Creek WWF	Mercer Conservation District (724) 662-2242
<i>General Permit Type—PAG-3</i>				
<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Hanover Township Lehigh County	PAR802246	Lehigh Valley International Airport 311 Airport Road Allentown, PA 18103-1046	Lehigh River TSF	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Dorrance Township Luzerne County	PAR322206	Edward Lukashewski Lukashewski Peat Moss R. R. 2, Box 177 Wapwallopen, PA 18660	Wapwallopen Creek CWF	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Lebanon County Lebanon City	PAR233520	PolyOne Engineered Films, Inc. 1507 Willow Street Lebanon, PA 17046-4578	Brandywine Creek TSF	SCR 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Blair County Altoona City	PAR803662	Rolling Frito-Lay Sales, LP 7781 Service Center Drive West Chester, OH 45069	Sandy Run Creek	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Exeter Township	PAR803663	Rolling Frito-Lay Sales, LP 7781 Service Center Drive West Chester, OH 45069	Heister's Creek to Schuylkill River WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Adams County Cumberland Township	PAR803664	Rolling Frito-Lay Sales, LP 7781 Service Center Drive West Chester, OH 45069	Marsh Creek CWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Chambersburg Borough	PAR803665	Rolling Frito-Lay Sales, LP 7781 Service Center Drive West Chester, OH 45069	Conococheague Creek WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Dauphin County Harrisburg City	PAR803666	Rolling Frito-Lay Sales, LP 7781 Service Center Drive West Chester, OH 45069	Spring Creek WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Lancaster City	PAR803667	Rolling Frito-Lay Sales, LP 7781 Service Center Drive West Chester, OH 45069	Mill Creek CWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Greene Township	PAR803553	IESI PA Blue Ridge Landfill Corp. P. O. Box 399 Scotland, PA 17254	Tributary to Phillaman Run WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Dauphin County Lower Swatara Township	PAR803569	Mack Trucks, Inc. 2800 Commerce Drive Middletown, PA 17057-1338	Burd Run WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Bedford County Bedford Township	PAR203505	Kennametal, Inc. 442 Chalybeate Road Bedford, PA 15522-8637	Cove Creek CWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Bedford County Bedford Township	PAR203504	Kennametal, Inc. 442 Chalybeate Road Bedford, PA 15522-8637	UNT to Dunning Creek WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Westmoreland County Youngwood Borough	PAR116118	DME Company 70 East Hillis Street Youngwood, PA 15697	Jacks Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Allegheny County City of Pittsburgh	PAR156103	The Valspar Corporation 2000 Westhall Street Pittsburgh, PA 15233	Ohio River	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Somerset County Somerset Borough	PAR236115	Gilmour Manufacturing Co. P. O. Box 838 492 Drum Avenue Somerset, PA 15501	UNT of East Branch of Coxes Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Somerset County Somerset Borough	PAR806106	Fleetwood Folding Trailers Inc. P. O. Box 111 Somerset, PA 15501	Coxes 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 and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Hayfield Township Crawford County	PAG049007	James A. Schultz SFTF 1850 South Alma School Road Mesa, AZ 85210d	Unnamed tributary to French Creek Watershed 16-A	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Wilmington Township Lawrence County	PAG048993	Camp Elliott—Girl Scouts of Beaver and Lawrence Counties 443 Third Street Beaver, PA 15000	Unnamed tributary to Neshannock Creek Watershed 20-A	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Harborcreek Township Erie County	PAG048953	Williams Road Sub-Division Homeowners Association 1718 Franklin Avenue Erie, PA 16510	Sevenmile Creek Watershed 15	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Bensalem Township Bucks County	PAG050057	Fred's Texaco 3585 Bristol Road Bensalem, PA 19020	Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401

**PUBLIC WATER SUPPLY (PWS) PERMITS**

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

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

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

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

**SAFE DRINKING WATER**

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

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

**Operations Permit** issued to **Hillside Mobile Home Park**, 2044 Milford Road, East Stroudsburg, PA 18301, PWS ID 2450076, Hamilton Township, **Monroe County** on August 17, 2004, for the operation of facilities approved under Construction Permit No. 4595506

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

**Permit No. 2804503 MA, Minor Amendment**, Public Water Supply.

Applicant	<b>Guilford Water Authority</b>
Municipality	Greene Township
County	<b>Franklin</b>

Type of Facility	This permit approves the construction of a new 64,000-gallon water storage tank at Knob Hill.
Consulting Engineer	Diana Young, P. E. Buchart-Horn, Inc. P. O. Box 15040 York, PA 17405-7040
Permit to Construct Issued	August 10, 2004

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

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

Applicant	<b>Wellsboro Municipal Authority</b>
Township or Borough	Wellsboro Borough
County	<b>Tioga</b>
Responsible Official	Thomas Rudy, Chairperson Wellsboro Municipal Authority 28 Crafton Street Wellsboro, PA 16901
Type of Facility	PWS—Construction.
Consulting Engineer	William S. Bray, P. E. P. O. Box 535 Wellsboro, PA 16901
Permit Issued Date	August 31, 2004
Description of Action	Replacement of the support gravel and sand in slow sand filter no. 2.

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

Applicant	<b>Community Banks</b>
Township or Borough	Delaware Township
County	<b>Northumberland</b>
Responsible Official	Raymond Granger Vice President, Special Assets Community Banks 6700 Derry Street Harrisburg, PA 17111
Type of Facility	PWS—Construction.
Consulting Engineer	Charles Kehew, II, P. E. James R. Holley & Associates, Inc. 18 South George Street York, PA 17401
Permit Issued Date	September 1, 2004
Description of Action	Replacement of the finished water storage tank at Spring Lake Village.



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

Applicant **Pennsylvania American Water Company**

Township or Borough Milton Borough

County **Northumberland**

Responsible Official William C. Kelvington  
Vice President, Operations  
Pennsylvania American Water Company  
800 Hersheypark Drive  
Hershey, PA 17033

Type of Facility PWS—Construction.

Consulting Engineer Scott M. Thomas, P. E.  
Pennsylvania American Water Company  
800 Hersheypark Drive  
Hershey, PA 17033

Permit Issued Date September 2, 2004

Description of Action Replacement of the media in Milton Filter No. 2.

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

**Permit No. 1103502, Public Water Supply.**

Applicant **Municipal Authority of the Borough of Ebensburg**  
300 West High Street  
Ebensburg, PA 15931

Borough or Township Ebensburg Borough

County **Cambria**

Type of Facility Interconnection with the Greater Johnstown Water Authority, pump stations, booster chlorination, water storage tank and modifications to existing piping.

Consulting Engineer Hegemann and Wray  
429 Park Avenue  
Cresson, PA 16630

Permit to Construct August 20, 2004  
Issued

**Operations Permit issued to Glendale Yearound Water Company, P. O. Box 89, Flinton, PA 16640, PWS ID 4110060, White Township, Cambria County on September 2, 2004, for the operation of facilities approved under Construction Permit No. 1191503-A2.**

**WATER ALLOCATIONS****Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.**

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

**WA11-1002, Water Allocations, Municipal Authority of the Borough of Ebensburg, 300 West High Street, Ebensburg, PA 15931, Cambria County.** The right to purchase 350,000 gpd, on a peak month 30-day average, from the Greater Johnstown Water Authority in Cambria County; the right to withdraw 1.1 mgd, on an average

day basis, with a 1-day maximum withdrawal not to exceed 1.5 mgd from the old impounding reservoir and the new impounding reservoir on Howells Run in Cambria Township, Cambria County. The permittee is authorized to withdraw water under the terms of this permit in accordance with the amended service area map included as part of the application filed with the Department on June 12, 2003.

**STORMWATER MANAGEMENT****Action on plans submitted under the Storm Water Management Act (32 P. S. §§ 680.1—680.17)**

*Bureau of Watershed Management, P. O. Box 8555, Harrisburg, PA 17105-8555.*

**Plan No. SWM 100:09, East Branch Perkiomen Creek Stormwater Management Plan,** as submitted by **Montgomery County,** was approved on August 31, 2004

**HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988****Proposed Cost Recovery Settlement Newtown Mercury Site, Newtown Township, Bucks County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305), has entered into a proposed Consent Order and Agreement with Mr. and Mrs. James D. Stroupe (Settlers) regarding the property at 301 Sycamore Street, Newtown Township, Bucks County (Site).

In the fall and winter of 2003-2004, the Department conducted response actions at the Site regarding mercury contamination associated with a shed which had been used for a number of years by Mr. Stroupe to collect mercury from thermometers and other equipment for various purposes. The Department completed its response actions on or about February 17, 2004, and restored the Site to residential use.

Under the HSCA, the Department may recover the costs of response actions from certain potentially responsible persons. In an effort to resolve this matter, the Department and the Settlers have agreed to enter into the proposed cost recovery settlement under which the Department will be reimbursed \$19,000 towards the costs of its response actions at the Site.

This notice is provided under section 1113 of the HSCA (35 P. S. § 6020.1113). The proposed Consent Order and Agreement may be examined from 8 a.m. to 4 p.m. at the Department's regional offices at 2 East Main Street, Norristown, PA 19401 by contacting April Flipse at (484) 250-5721 or Anderson Lee Hartzell at (484) 250-5866. A public comment period on the proposed Consent Order and Agreement will extend for a period of 60 days from the date of publication of this notice. Interested persons may submit written comments regarding the proposed Consent Order and Agreement to the Department by submitting them April Flipse at the previous address.

**LAND RECYCLING AND ENVIRONMENTAL REMEDIATION UNDER ACT 2, 1995 PREAMBLE 2**

**The following plans and reports were submitted under the Land Recycling and Environmental**

**Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

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

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

The Department has received the following plans and reports:

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

**Former Wyncote Manufactured Gas Plant (MGP) Site**, Cheltenham Township, **Montgomery County**. David Kistner, URS Corp., 335 Commerce Dr., Suite 300, Ft. Washington, PA 19034-2623 on behalf of David Kraynick, Cheltenham Township Manager, 8230 Old York Rd., Elkins Park, PA 19027-1589 has submitted a Remedial Investigation Report concerning remediation of site soils and groundwater contaminated with aromatic PAHs. The report is intended to document remediation of the site to meet the Site-Specific Standards.

**Capozzoli Residence/Villecco Residence**, City of Philadelphia, **Philadelphia County**. Val F. Britton, P. G., V. G. Britton, P. G., 326 Conestoga Rd., Wayne, PA 19087 on behalf of Louis and Patricia Capozzoli/Pietro G. Villecco, 908/906 Winton St., Philadelphia, PA 19148 has submitted a Final Report concerning remediation of site soils contaminated with naphthalene. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Fairway Shopping Center**, Upper Dublin Township, **Montgomery County**. Gilbert J. Marshall, P. G., Marshall Geoscience, Inc., 219 W. Main St., Trappe, PA 19426 on behalf of Don S. Ginsburg, Ginsburg Prop.

Group, P. O. Box 605, Plymouth Meeting, PA 19462 has submitted a Final Report concerning remediation of site soils contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Wright Prop.**, East Marlborough Township, **Chester County**. James H. Mulry, P. G. and Martin Lieberhardt, Mulry and Cresswell Env., Inc., 1691 Horseshoe Pike, Manor Prof. Bldg., Suite 3, Glenmoore, PA 19343 has submitted a Final Report concerning remediation of site soils contaminated with no. 2 fuel oil. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

**Delaware County Emergency Svc. Training Center**, Darby Township, **Delaware County**. Robert M. Byre, Jr., IT Corp., 1160 McDermott Dr., Suite 102, West Chester, PA 19380-4022 has submitted a Final Report concerning remediation of site soils, groundwater, surface water and sediment contaminated with undetermined contaminants. The report is intended to document remediation of the site to meet Site-Specific Standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Williams Quick Mart**, Tioga Borough, **Tioga County**. Converse Consultants, on behalf of Williams Quick Mart, Main and Wellsboro Streets, Tioga, PA 16946 has submitted a Final Report concerning soil contaminated with lead. This Final Report is intended to demonstrate attainment of the Site-Specific Standard.

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

**Farmers Valley Wax Plant Main**, Keating Township, **MCKean County**. Dayne M. Crowley, MACTEC, Carnegie Office Park, Bldg. 4, 700 N. Bell Ave., Suite 200, Pittsburgh, PA 15106, on behalf of Farmers Valley Wax Plant Former Fly Ash Area, has submitted a Remedial Investigation/Risk Assessment Report/Cleanup Plant Reports concerning remediation of site soil and groundwater contaminated with lead, heavy metals, BTEX, PHCs, PAHs and solvents. The report is intended to document remediation of the site to meet the Statewide Health and Site Specific Standards.

## 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.*

**GE Elmwood Avenue Facility**, City of Philadelphia, **Philadelphia County**. Kristen Rolison, P. E., MWH Americas, Inc., 335 Phoenixville Pike, Malvern, PA 19355, on behalf of General Electric Co., Hal Heckman, 6901 Elmwood Ave., Philadelphia, PA 19142 has submitted a Remedial Investigation Plan concerning the remediation of site soils contaminated with no fuel oil, no. 6 fuel oil, inorganics, lead and PCB; and groundwater contaminated with chlorinated solvents diesel fuel, no. 2 fuel oil, no. 6 fuel oil, inorganics lead and unleaded gasoline. The Remedial Investigation Report was approved by the Department on August 18, 2004.

**Pemberton Site**, Malvern Borough, **Chester County**. Michael J. Edelman, P. G., URS Corp., 2325 Maryland Rd., 2nd Floor, Willow Grove, PA 19090 on behalf of Shirley Pemberton, C104 Westridge Ct., Phoenixville, PA 19460 has submitted a Final Report concerning the remediation of site soils contaminated with PCB. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on August 19, 2004.

**229 Alderfer Road**, Lower Salford Township, **Montgomery County**. George Buchanan, P. G., George W. Buchanan, PC, P. O. Box 405, Telford, PA 18969 on behalf of Katherine Hoffman, 229 Alderfer Rd., Harleysville, PA 19438 has submitted a Low Risk Site Report concerning

the remediation of site soils and groundwater contaminated with no. 2 fuel oil and gasoline. The Low Risk Site Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 24, 2004.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Jackson MHP-Lot No. 65 Cleanup**, Wysox Township, **Bradford County**. Teeter Environmental Services, Inc. on behalf of Jackson Realty & Mobile Homes, Inc., R. R. 2 (U. S. Route 6), Wysox, PA 18854, has submitted a Final Report concerning soil contaminated with heating oil. This Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 27, 2004.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permit revoked 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.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 603422. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Detwiler (Tice and Cowden) Farm, Bethel Township, **Lebanon County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 602636. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Zimmerman Farm, Little Britain Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 602317. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Wood I Farm, Little Britain Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 602886. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Sweetaire Farm, Little Britain Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 603436. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Stauffer and Gibson Farms, Drumore Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 603435. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Sinclair Farm,

Drumore Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 603392. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Rineer Farm, Drumore Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 603432. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Jermyn Farm, Drumore Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 603353. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Tindall Farm, Fulton Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 603007. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Spangler Farm, Fulton Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 603006. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Edgewater Farm, Fulton Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

**Permit No. 603408. Philadelphia Water Department, Biosolids Recycling Center**, 7800 Penrose Ferry Road, Philadelphia, PA 19153. The permit was revoked at the request of the permittee for the Dempsey and Eckman Farms, Fulton Township, **Lancaster County**. The permit was revoked by the Southcentral Regional Office on September 3, 2004.

Persons interested in reviewing a general permit should contact Cynthia Wolfe, File Review Coordinator, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4732. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

**Permit modification under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate solid waste processing or disposal area or site.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 100944, Lanchester Landfill**, Caernarvon and Salisbury Townships, **Lancaster County** and Honeybrook Township, **Chester County**. The permit modification issued July 15, 2004, approves the Area D expansion. Compliance with the terms and conditions set forth in the permit is mandatory. Individuals have the right to file an appeal as to these terms and conditions.

Persons interested in reviewing the general permit should contact John Krueger, Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

## 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.**

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

**GP3-57-02: Haines and Kibblehouse, Inc.** (2052 Lucon Road, Skippack, PA 19474) on August 20, 2004, to operate a portable stone crushing plant under the General Plan Approval and General Operating Permit for Portable Non-Metallic Mineral Processing Plants at the Dushore Materials site in Cherry Township, **Sullivan County**.

**GP5-17-18A: American Exploration Co.** (100 Four Falls Corporate Center, West Conshohocken, PA 19428) on August 23, 2004, to construct and operate a 220 horsepower natural gas-fired reciprocating internal combustion compressor engine and associated catalytic converter under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities at the Tyler Compressor Station in Huston Township, **Clearfield County**.

**GP3-59-02A: Fred J. Robbins** (R. R. 2, Box 25A, Tioga, PA 16946) on August 23, 2004, to construct and operate a portable stone crushing plant under the General Plan Approval and General Operating Permit for Portable Non-Metallic Mineral Processing Plants in Lawrence Township, **Tioga County**.

**Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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

**09-0027F: FresCo System—USA Inc.** (3005 State Road, Telford, PA 18969) on September 3, 2004, to operate three printing stations and laminator press in West Rockhill Township, **Bucks County**.

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

**54-399-029B: Silberline Manufacturing Co., Inc.** (130 Lincoln Drive, Tamaqua, PA 18252) on August 26, 2004, to modify a vacuum metalize pigment process at the facility in Rush Township, **Schuylkill County**.

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

**06-05078E: FR and S, Inc.** (727 Red Lane Road, Birdsboro, PA 19508) on September 1, 2004, to install a

second enclosed ground flare at the Pioneer Landfill to control emissions of landfill gas from a municipal solid waste landfill in Exeter Township, **Berks County**.

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

**03-00976B: AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650) on August 30, 2004, to install a screen at their Ridge Deep Mine in South Bend Township, **Armstrong County**.

**32-00375A: Britt Energies, Inc.** (2450 Philadelphia Street, Indiana, PA 15701) on September 1, 2004, to allow the installation of a new coal crusher/screen (rated at 300 tons/hr) powered by a diesel engine (rated at 150 hp) and assorted supporting equipment at the mouth of the Lowry Deep Mine in White Township, **Indiana County**. Plant will be used to crush and screen run-of-mine coal, as well as to blend coal that will be trucked in from outside sources.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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

**09-0068A: Orchard Hill Memorial Park, Inc.** (75 Sterling Road, Warren, PA 07059) on August 30, 2004, to operate an incinerator in Richland Township, **Bucks County**.

**23-0001S: Sunoco, Inc.—R and M** (100 Green Street, P. O. Box 426, Marcus Hook, PA 19061) on August 30, 2004, to operate a boiler and heater in Marcus Hook Borough, **Delaware County**.

**46-0035B: SmithKline Beecham d/b/a GlaxoSmithKline** (1250 South Collegeville Road, Collegeville, PA 19426) on September 2, 2004, to operate an emergency electric generator in Upper Merion Township, **Montgomery County**.

**46-0069: Highway Materials, Inc.** (1750 Walton Road, Blue Bell, PA 19422) on August 31, 2004, to operate a portable crushing plant and two engines in Whittemarsh Township, **Montgomery County**.

**46-0155: Sermatech International, Inc.** (155 South Limerick Road, Limerick, PA 19468) on August 31, 2004, to operate three paint spray booths in Limerick Township, **Montgomery County**.

**46-0155A: Sermatech International, Inc.** (155 South Limerick Road, Limerick, PA 19468) on August 31, 2004, to operate two ATR CEW spray booths in Limerick Township, **Montgomery County**.

**46-0025B: Lonza, Inc.** (900 River Road, Conshohocken, PA 19428) on August 31, 2004, to operate a hydrogenation reactor train in Upper Merion Township, **Montgomery County**.

**46-0155B: Sermatech International, Inc.** (155 South Limerick Road, Limerick, PA 19468) on August 31, 2004, to operate a thermal spray unit in Limerick Township, **Montgomery County**.

**46-0155C: Sermatech International, Inc.** (155 South Limerick Road, Limerick, PA 19468) on August 31, 2004, to operate a binder mix tank in Limerick Township, **Montgomery County**.

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

**19-00006B: Del Monte Corp.** (6670 Low Street, Bloomsburg, PA 17815) on August 31, 2004, to transfer plan approval to modify two 26.6 million Btu per hour natural gas/no. 6 fuel oil-fired boilers from DLM Foods, LLC to Del Monte Corporation in South Centre Township, **Columbia County**.

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

**26-00547A: Mypodiamond, Inc.** (1101 Mount View Drive, Smithville, PA 15478) on August 27, 2004, to construct an industrial diamond plant at Fayette Business Park in Georges Township, **Fayette County**. This plan approval was extended.

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

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

**V95-006: Exelon Generation Co.—Schuylkill Generating Station** (2800 Christian Street, Philadelphia, PA 19146) on August 27, 2004, to operate an electric utility in the City of Philadelphia, **Philadelphia County** and to modify testing requirements for their oil-fired 1,530 mmBtu/hr boiler and to modify contact information.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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

**06-03012: Brenntag Northeast, Inc.** (81 West Huller Lane, P. O. Box 13788, Reading, PA 19612-3788) on August 30, 2004, to operate their Leesport (Snyder Road) chemical distribution facility in Ontelaunee Township, **Berks County**.

**67-03125: York Hospital** (P. O. Box 15198, 1001 South George Street, York, PA 17405-7198) on September 2, 2004, to operate a hospital in York City, **York County**.

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

**65-00802: Beckwith Machinery Co.** (P. O. Box 140, Delmont, PA 15626) on August 19, 2004, at their Delmont Plant in Salem Township, **Westmoreland County**. The facility's source of emissions is a waste oil boiler.

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**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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

**36-05119: Signature Custom Cabinetry, Inc.** (434 Springville Road, Ephrata, PA 17522) on August 26, 2004, to administratively amend their State-only Operating

Permit to incorporate Plan Approval 36-05119A for a coating booth in Ephrata Township, **Lancaster County**. This is Revision No. 1.

## 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

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

**26030103 and NPDES Permit No. PA0250503. Amerikohl Mining, Inc.** (P. O. Box 427, Acme, PA 15610-0427). Permit issued for commencement, operation and reclamation of a bituminous surface mining site in Nicholson Township, **Fayette County**, affecting 88.5 acres. Receiving streams: unnamed tributary to Cats Run and unnamed tributary to Jacobs Creek. Application received November 14, 2003. Permit issued August 31, 2004.

**65990107 and NPDES Permit No. PA0202657. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Permit renewal issued for continued reclamation only of a bituminous surface mining site in Mt. Pleasant Township, **Westmoreland County**, affecting 55.6 acres. Receiving streams: unnamed tributaries to Jacobs Creek, Jacobs Creek to Youghiogheny River. Application received June 14, 2004. Reclamation only renewal issued September 1, 2004.

**63020102 and NPDES Permit No. PA0250309. Muligan Mining, Inc.** (5945 Pudding Stone Lane, Bethel Park, PA 15102). Permit revised to include a variance to mine within 100 feet of a township road and add mining acreage at an existing bituminous surface mining site in Smith Township, **Washington County**, affecting 107.6 acres. Receiving streams: unnamed tributaries to Little Raccoon Run to Little Raccoon Run to Raccoon Creek to the Ohio River; Raccoon Creek and unnamed tributaries to Raccoon Creek to Raccoon Creek to the Ohio River. Application received June 21, 2004. Revised permit issued September 2, 2004.

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

**33040101 and NPDES Permit No. PA0242497. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767). Commencement, operation and restoration of a bituminous strip operation in Perry Township, **Jefferson County** affecting 114.5 acres. Application to include a

change from the post-mining land use from forestland to unmanaged natural habitat on the Benjamin Z. Means property. Receiving streams: Perryville Run, Nicely Run, unnamed tributary to Mahoning Run. Application received February 18, 2004. Permit issued August 31, 2004.

**24890107 and NPDES Permit No. PA0207624. AMFIRE Mining Company, LLC** (One Energy Plaza, Latrobe, PA 15650). Renewal of an existing bituminous strip and auger operation in Horton Township, **Elk County** affecting 38.0 acres. This renewal is issued for reclamation only. Receiving streams: Johnson Run. Application received July 12, 2004. Permit issued September 2, 2004.

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

**02733702. NPDES Permit No. PA0023370, Consolidation Coal Company** (P. O. Box 355, 172 Route 519, Eighty Four, PA 15330), to renew the permit for the Renton Refuse Area in Plum Borough, **Allegheny County** and related NPDES permit. No additional discharges. Permit issued August 31, 2004.

**32850701. NPDES Permit No. PA0213683, AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), to transfer the permit for the Clymer Refuse Disposal Site in Cherryhill Township, **Indiana County** and related NPDES permit from Mears Enterprises, Inc. No additional discharges. Permit issued August 31, 2004.

**32961302. NPDES Permit No. PA0214949, AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), to revise the permit for the Ondo Mine in Brush Valley and Center Townships, **Indiana County** to add underground and subsidence control plan area permit boundary acres. Underground Acres Proposed 573.2, SCP Acres Proposed 530.5. No additional discharges. Permit issued August 31, 2004.

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

**56020105 and NPDES Permit No. PA0249262. Alverda Enterprises, Inc.,** P. O. Box 87, Alverda, PA 15710, commencement, operation and restoration of a bituminous surface and auger mine and for discharge of treated mine drainage in Brothersvalley Township, **Somerset County**, affecting 87.7 acres. Receiving streams: unnamed tributaries of Millers Run (CWF) and Sandy Hollow (CWF). There are no potable water supply intakes within 10 miles downstream. Application received July 11, 2002. Permit issued September 1, 2004.

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

**54830101R4. K & K Coal Company** (133 Valley Furnace Avenue, Port Carbon, PA 17965), renewal of an existing anthracite surface mine operation in Blythe Township, **Schuylkill County** affecting 176.0 acres, receiving stream: unnamed tributary to Schuylkill River. Application received May 14, 2004. Renewal issued September 3, 2004.

### Noncoal Permits Actions

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, (814) 472-1900.*

**56920301 and NPDES Permit No. PA0599417, New Enterprise Stone & Lime Company, Inc.,** P. O. Box 77, New Enterprise, PA 16664-0077, renewal of NPDES Permit, Ogle Township, **Somerset County**. Receiving stream: unnamed tributaries to Clear Shade Creek (EV). The first downstream potable water supply intake from

the point of discharge is the Cambria Somerset Authority Stonycreek withdrawal. NPDES renewal application received June 21, 2004. Permit issued September 1, 2004.

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

**26980601 and NPDES Permit No. PA0202193. Better Materials Corporation** (2200 Springfield Pike, Conellsville, PA 15425). Permit revised to add 113.9 acres to an existing noncoal surface mine/limestone quarry in Bullskin Township, **Fayette County**, now affecting 673 acres. Receiving streams: unnamed tributary to Breakneck Run to Whites Run to Mounts Creek. Application received November 18, 2003. Revision issued September 1, 2004.

**26990301 and NPDES Permit No. PA0202584. Vanderbilt Aggregates, LLC** (P. O. Box 125, Uniontown, PA 15401). Transfer of permit formerly issued to Carbon Fuel Resources, Inc. for continued operation and reclamation of a noncoal surface mine in Dunbar Township and Vanderbilt Borough, **Fayette County**, affecting 297 acres. Receiving streams: unnamed tributaries to Dickerson Run to Dickerson Run. Transfer application received January 16, 2004. Transfer permit issued September 3, 2004.

*Noncoal Permit Final Bond Release*

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

**18900804. Nancy Dingman** (Box 245, Cross Fork, PA 17729). Final bond release for a small noncoal mining operation in Leidy Township, **Clinton County**. Restoration of 1 acre completed. Application for final bond release received April 3, 2004. Final bond release approved August 30, 2004.

#### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151—161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

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

**14044002. Galen Dreibelbis** (1535 N. Atherton Street, State College, PA 16840), for construction blasting in Ferguson Township, **Centre County**, with an expected duration of 30 days. Permit issued August 26, 2004.

**18044001. Francis J. Palo, Inc.** (P. O. Box 368, 309 S. 4th Avenue, Clarion, PA 16214), for construction blasting in Chapman Township, **Clinton County**, with an expected duration of 120 days. Permit issued August 31, 2004.

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

**21044065. Brubacher Excavating, Inc.** (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting in Silver Spring Township, **Cumberland County** with an expiration date of August 31, 2005. Permit issued August 30, 2004.

**36044081. Abel Construction Co., Inc.** (3925 Columbia Avenue, Mountville, PA 17554), construction blasting at Penn's Crossing, Phase 3 in Manheim Township,

**Lancaster County** with an expiration date of September 23, 2005. Permit issued August 30, 2004.

**36044082. Abel Construction Co., Inc.** (3925 Columbia Avenue, Mountville, PA 17554), construction blasting for a road extension in Rapho Triangle Industrial Park East, Phase 2, Rapho Township, **Lancaster County** with an expiration date of September 23, 2005. Permit issued August 30, 2004.

**15044035. Horst Drilling & Blasting, Inc.** (141 Ranck's Church Road, New Holland, PA 17557), construction blasting at Dupont Property Residential Community in West Bradford Township, **Chester County** with an expiration date of September 24, 2005. Permit issued August 30, 2004.

**36044083. Liberty Excavators, Inc.** (4410 Gettysburg Road, Camp Hill, PA 17011) and **Kesco, Inc.** (127 Oneida Valley Road, Butler, PA 16001), construction blasting at Presbyterian Church, Manheim Township, **Lancaster County** with an expiration date of March 24, 2005. Permit issued August 31, 2004.

**23044006. Allan A. Myers, LP** (P. O. Box 98, Worcester, PA 19490), construction blasting for Mill Ridge development in Aston Township, **Delaware County** with an expiration date of September 25, 2005. Permit issued August 31, 2004.

**23044007. Allan A. Myers, LP** (P. O. Box 98, Worcester, PA 19490), construction blasting for Northbrook development in Bethel Township, **Delaware County** with an expiration date of September 25, 2005. Permit issued August 31, 2004.

**23044008. Allan A. Myers, LP** (P. O. Box 98, Worcester, PA 19490), construction blasting for Pond View development in Bethel Township, **Delaware County** with an expiration date of September 25, 2005. Permit issued August 31, 2004.

**46044032. Brubacher Excavating, Inc.** (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting for Cross Winds in Limerick Township, **Montgomery County** with an expiration date of September 25, 2005. Permit issued August 31, 2004.

**15044036. Horst Drilling & Blasting, Inc.** (141 Ranck's Church Road, New Holland, PA 17557), construction blasting for Highlands of Charlestown residential community in Charlestown Township, **Chester County** with an expiration date of September 25, 2005. Permit issued August 31, 2004.

#### FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

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

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

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

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

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

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

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

#### **WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E15-717. Department of Transportation, District 6-0**, 7000 Geerdes Road, King of Prussia, PA 19406-1525. West Bradford Township, **Chester County**, ACOE Philadelphia District. To remove an existing single span stone masonry arch bridge and to construct and maintain, in its place, a single span precast concrete arch bridge across Broad Run (EV) impacting 0.05 acre of wetlands (PEM). The proposed bridge will have a width of 28 feet, a clear span of 48.0 feet and a minimum underclearance of approximately 12.0 feet. This work also includes placement and maintenance of associated rip-rap protection at the abutments and temporary sand bag cofferdam. The site is just southwest of the intersection of Broad Run and Telegraph Roads (SR 0162) (Unionville, PA USGS Quadrangle N: 12.7 inches; W: 11.0 inches).

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

**E39-433. South Whitehall Township**, 4444 Walbert Avenue, Allentown, PA 18104-1699. South Whitehall Township, **Lehigh County**, Army Corps of Engineers Philadelphia District, Subbasin 2C.

To construct and maintain two 34-foot by 7-foot above-grade dugouts in the floodplain of Jordan Creek (TSF, MF). The project is within Covered Bridge Park approximately 0.25 mile east of the intersection of Wehr Mill Road and Herman Lane (Cementon, PA Quadrangle N: 0.5 inch; W: 8.4 inches).

**E39-405C. City of Allentown, Bureau of Parks**, 2700 Parkway Boulevard, Allentown, PA 18104-5399. South Whitehall Township, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To construct and maintain Phase IV of a stream restoration project in a 4,135-foot reach of Little Cedar Creek (HQ-CWF). The project is known as the Allentown Municipal Golf Course Little Cedar Creek Rehabilitation Project.

Phase IV of the multiphase project includes: (1) restoration of 1,000 linear feet of Little Cedar Creek with work consisting of reshaping the channel and stabilizing the banks with a combination of soil reinforcement matting, rock armor and vegetation; (2) removing three existing structures known as Bridge No. 5, Bridge No. 7 and Bridge No. 9; (3) removing the existing structure known as Bridge No. 4 and constructing and maintaining a golf cart bridge having a 30-foot span and a 4.1-foot underclearance; (4) removing the existing structure known as Bridge No. 6 and constructing and maintaining a golf cart bridge having a 32-foot span and a 4.1-foot underclearance; (5) removing the existing structure known as Bridge No. 8 and constructing and maintaining a golf cart bridge having a 30-foot span and a 4.1-foot underclearance; and (6) modifying and maintaining a 30-inch diameter HDPE pipe outfall with work consisting of changing the alignment and adding a section of pipe and a flared end section.

Phase IV begins approximately 1,600 feet downstream of Little Cedar Creek's intersection with Springhouse Road (Allentown West, PA Quadrangle N: 18.4 inches; W: 5.8 inches) and extends 1,000 feet downstream (Allentown West, PA Quadrangle N: 17.9 inches; W: 5.5 inches) in the City of Allentown, Lehigh County (Subbasin: 2C).

**E13-142. Kovatch Enterprises, Inc.**, One Industrial Complex, Nesquehoning, PA 18240-1499. Nesquehoning Borough, **Carbon County**, Army Corps of Engineers Philadelphia District.

To place fill in 3.76 acres of PEM Wetlands within Nesquehoning Creek Watershed (HQ-CWF) for the purpose of developing Lots 5, 6, 8 and 9 of the Green Acres Industrial Park. The permittee is required to provide 3.76 acres of replacement wetlands. The project is along Industrial Road approximately 1.0 mile north of SR 0054 (Nesquehoning, PA Quadrangle N: 19.0 inches; W: 15.0 inches) (Subbasin: 2B).

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

**E01-046. Brethren Home Community**, 2990 Carlisle Pike, P. O. Box 128, New Oxford, PA 17350 in Oxford Township, **Adams County**, ACOE Baltimore District.

To construct and maintain: (1) one 24-inch by 64-foot and four 12-inch by 64-foot pipes for a road crossing of palustrine forested (PFO) wetlands in the South Branch Conewago Creek Watershed; (2) two 12-inch by 81-foot pipes for a road crossing of an unnamed tributary to the South Branch Conewago Creek (WWF) and an associated PFO wetland; (3) one 15-inch by 83-foot pipe for a road crossing of an unnamed tributary to the South Branch Conewago Creek and an associated PFO wetland; (4) one 24-inch by 60-foot and two 12-inch by 60-foot pipes for a road crossing of an unnamed tributary to the South Branch Conewago Creek and an associated PFO wetland; (5) one 30-inch by 60-foot and two 12-inch by 60-foot pipes for a road crossing of an unnamed tributary to the South Branch Conewago Creek and an associated PFO wetland and one 36-inch storm sewer pipe; (6) one



30-inch by 60-foot and two 12-inch by 60-foot pipes for a road crossing of an unnamed tributary of the South Branch Conewago Creek and an associated PFO wetland; (7) one 6-foot wide by 80-foot long footbridge crossing and one 36-inch storm sewer pipe crossing of an unnamed tributary of the South Branch Conewago Creek and an associated PFO wetland; and (8) an 8-inch by 563-foot sanitary sewer line crossing of PFO wetlands. This permit also authorizes the installation of various utility crossings for the development including an 8-inch sewer line, a 6-inch waterline, a 2-inch gas line, a 4-inch electrical conduit, a 4-inch cable conduit and a 4-inch telephone conduit. The project is in Oxford Township, Adams County (McSherrystown, PA Quadrangle N: 20.1 inches; W: 4.3 inches). The project will impact 1.14 acres of forested wetlands, 0.85 acre permanent and 0.29 acre temporary. The permittee is required to provide a minimum of 2.30 acres of replacement wetlands.

**E67-744: West Manchester Township**, 2115 Log Cabin Road, York, PA 17404 in West Manchester Township, **York County**. ACOE Baltimore District.

To construct and maintain Well No. 9, a 22-foot by 29.5-foot pump house and all piping associated with connecting the pump house to the well, a 24-inch rock lined stormwater swale with a rip-rap apron within the floodplain of the Little Conewago Creek (TSF) (West York, PA Quadrangle N: 22.4 inches; W: 7.3 inches) in West Manchester Township, York County.

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

**E14-462. Jerry L. Witherite**, 532 Main Street, Box 57, Coburn, PA 16832. Witherite Garage in Penn Township, **Centre County**, ACOE Baltimore District (Coburn, PA Quadrangle N: 19.90 inches; W: 12.25 inches).

To build a 35-foot by 60-foot steel sided pole barn style garage with 43 inches of stone and concrete fill inside the building to elevate the floor 18 inches above the FEMA 100-year flood elevation of Penns Creek's right floodway in the right floodway 68 feet upstream of the Coburn bridge. This permit was issued under section 105.13(e) "Small Projects."

**E55-197. Department of Transportation, Engineering District 3-0**, P. O. Box 218, Montoursville, PA 17754-0218. Water Obstruction and Encroachment Permit application in Chapman Township, **Snyder County**, ACOE Susquehanna River Basin District (Dalmatia, PA Quadrangle N: 11.4 inches; W: 1.8 inches).

To remove an existing reinforced concrete slab bridge and construct and maintain a reinforced concrete box culvert measuring 20 feet wide by 7 feet high in Chapman Creek (WWF) along SR 2013, Segment 0020 at offset 0000. This project proposes to have a minimal impact on Chapman Creek. The project does not propose to impact any jurisdictional wetlands. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E59-460. Department of Conservation and Natural Resources, Bureau of Forestry**, 262 Sizerville Road, Emporium, PA 15834. Pedestrian trail along Pine Creek in Delmar and Elk Townships, **Tioga County**, ACOE Baltimore District (Tiadaghton, PA Quadrangle N: 5 inches; W: 12.1 inches).

To construct, operate and maintain 300 linear feet of R-7 riprap along the stream bank. The second site

proposes to install 200 linear feet of R-7 riprap along with three rock deflectors constructed in accordance with the General Permit No. 3 guidelines not to extend 45 linear feet from the stream bank into the stream. The deflectors shall be constructed using R-7 riprap and shall have toe protection in-between each structure on the downstream side to prevent future erosion of the banks. Both projects are on Pine Creek (HQ-CWF). These projects are 7 miles north of Blackwell on the Pine Creek Trail. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E11-296. Dennis A. Storm**, 374 Hanlon Road, Gallitzin, PA 16641. Bridge, four culverts and wetland impacts in Clearfield Township, **Cambria County**, Pittsburgh ACOE District (Ashville, PA Quadrangle N: 17.4 inches; W: 4.8 inches—Latitude: 40° 35' 45" and Longitude: 78° 32' 04"). To operate and maintain an existing 34.0-foot long, 9.3-foot steel pipe culvert in Indian Run (CWF) which impacted 0.08 acre of wetlands for the purpose of providing access to the permittee's property. This permit also covers the operation and maintenance of a permanent sediment trap along an unnamed tributary to Indian Run (CWF) and the operation and maintenance of four culverts having a combined length of 96.0 feet in unnamed tributaries to Indian Run eligible for authorization under the Department's waiver 105.12(a)(2). To compensate for wetland impacts, the permittee shall construct 0.16 acre of replacement wetlands onsite. The project is off of SR 1012, approximately 1.4 miles west of its intersection with SR 36.

**E63-553. City of Monongahela**, 449 West Main Street, Monongahela, PA 15063. Sewer line across Pigeon Creek in the City of Monongahela, **Washington County**, Pittsburgh ACOE District (Monongahela, PA Quadrangle N: 12.5 inches; W: 7.5 inches—Latitude: 40° 11' 38" and Longitude: 79° 55' 43"). To construct and maintain a sanitary sewer line in, along and across the channels of Pigeon Creek (WWF), Dry Run (WWF) and unnamed tributaries to Pigeon Creek and the Monongahela River (WWF) and a de minimis area of PFO wetlands (0.02 acre) for the purpose of providing sewer service to residents. The project is between SR 136 (Dry Run Road) intersection of East Main Street and Alabama Street. The project will impact approximately 100 linear feet of stream channel and 0.02 acre of PFO wetland.

#### ENVIRONMENTAL ASSESSMENTS

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

**EA26-002. James V. Weimer**, 399 Boxwood Road, Smithfield, PA 15478. Nicholson Township, **Fayette County**, ACOE Pittsburgh District.

Project proposes to construct, operate and maintain a nonjurisdictional dam across an unnamed tributary to York Run (WWF) in Nicholson Township, Fayette County. The proposed dam will inundate 187.5 feet of stream channel and will have no direct or indirect impacts to wetlands. The proposed dam will be approximately 2,200 feet northwest of the intersection of New Geneva Rd. (SR 3006) and Boxwood Rd. (T 464) (Smithfield, PA Quadrangle N: 10.6 inches; W: 13.8 inches).

**STORAGE TANKS****SITE-SPECIFIC INSTALLATION PERMITS**

**The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Land Recycling and Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.**

<i>SSIP Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
04-02-023	Michael Dzurinko U. S. Steel Corp.—Irvin Plant P. O. Box 878 Dravosburg, PA 15304	Allegheny	West Mifflin Borough	Two ASTs storing ferrous chloride	50,000 gallons each

**SPECIAL NOTICES****Certification to Perform Radon-Related Activities in this Commonwealth**

During August 2004, the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder in 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>
Joseph Cocciardi	335 East Meadow Drive Mechanicsburg, PA 17055	Testing
Donald Dunmire	204 Main Street, Box 211 Worthington, PA 16262	Testing
Theresa Edwards	215 Kelso Circle Collegeville, PA 19426	Testing
Perry Ecksel	626 Jacksonville Road Suite 200 Warminster, PA 18974	Testing
Tariq Farooqi PRO-LAB	3300 Corporate Avenue No. 112 Weston, FL 33331	Laboratory
James Hughes	613 Yorkshire Drive Flemington, NJ 08822	Testing
Douglas Kaup	263 Sewickley Oakmont Road Pittsburgh, PA 15237	Testing
Deborah Mancini-Wilson Safe-Gard Consolidated Inspection Services, Inc.	P. O. Box 748 Ingomar, PA 15127	Testing
Robert Meyer	124 Partridge Way Landenberg, PA 19350	Testing
Eric Mills	1341 North Delaware Avenue Suite 205 Philadelphia, PA 19125	Testing
Jeffrey Nicholls	P. O. Box 400 Henryville, PA 18332	Testing
Radon Relief Contracting	454 Dana Street Wilkes-Barre, PA 18702	Testing
Troy Rudy Allied Home Inspections, Inc.	1604 Lititz Avenue Lancaster, PA 17601	Mitigation
Jeffrey Smith	P. O. Box 70 Bellwood, PA 16617	Testing
John Staz, III	1738 North Third Street Suite A Harrisburg, PA 17102	Testing

### Availability of Final Total Maximum Daily Loads (TMDLs)

The Department has developed TMDLs for the following watersheds. A TMDL sets the pollutant loading amounts for impaired waters that are allocated among the sources in the watershed. These TMDLs have been approved by the EPA and satisfies the Department's obligations under section 303(d) of the Federal Clean Water Act.

<i>Stream Name</i>	<i>County</i>	<i>Pollutants</i>
Buffalo Creek	Centre and Union	pH
Unnamed Tributary to Bow Creek	Dauphin	Nutrients
Little Cedar Creek	Lehigh	Sediment
Stonycreek River	Somerset	Nutrients and Sediment
Lake Jean	Sullivan and Luzerne	pH
Canonsburg Lake	Washington	Nutrients

To request a copy of a TMDL, contact the Division of Water Quality Assessment and Standards, Department of Environmental Protection, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 787-9637, rnaugle@state.pa.us. TMDLs can be accessed through the Department's website: [www.dep.state.pa.us/watermanagement\\_apps/tmdl/](http://www.dep.state.pa.us/watermanagement_apps/tmdl/) (choose stream under "Select By TMDL Name:").

### Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) Developed for Lititz Run in Lancaster County

The Department will accept comments on the proposed TMDL developed for Lititz Run in Lancaster County. The TMDL was established in accordance with the requirements of section 303(d) of the Clean Water Act. The Commonwealth's 1996, 1998, 2002 and 2004 Section 303(d) lists included stream segments in the watershed. The listings of these segments were due to use impairments caused by suspended solids (sediment) and turbidity, as a result of urban runoff, storm sewers and other nonpoint source runoff.

There currently are no State or Federal instream numerical water quality criteria for sediment. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings of sediment in Lititz Run. The sediment loadings were allocated among all land use categories present in the watershed. Data used in establishing these TMDLs were generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University.

The following table shows the estimated current sediment loading for the watershed. Overall load reductions necessary to meet the TMDLs are also identified.

#### *Summary of TMDL Based Load Reductions for Lititz Run*

<i>Pollutant</i>	<i>Existing Load (lbs/yr)</i>	<i>TMDL (lbs/yr)</i>	<i>% Reduction</i>
Sediment	10,571,598.80	6,066,464.43	43

The data and all supporting documentation used to develop the proposed TMDL are available from the Department. The proposed TMDL and information on the TMDL program can be accessed on the Department's website: [www.dep.state.pa.us/watermanagement\\_apps/tmdl/](http://www.dep.state.pa.us/watermanagement_apps/tmdl/). To request a copy of this TMDL contact Lee McDonnell, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2938, lmcdonnell@state.pa.us.

The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval. Written comments will be accepted at the previous address and must be postmarked by November 9, 2004. A public meeting to discuss the technical merits of the TMDL will be held on September 28, 2004, at 4 p.m. at the Warwick Township Building, 315 Clay Road, Lititz, PA.

### Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load (TMDL) Developed for an Unnamed Tributary to Mill Creek in Lancaster County

The Department will accept comments on the proposed TMDL developed for an unnamed tributary to Mill Creek (UNT Mill Creek) in Lancaster County. The TMDL was established in accordance with the requirements of section 303(d) of the Clean Water Act. The Commonwealth's 1996, 1998, 2002 and 2004 Section 303(d) lists included stream segments in the watershed. The listings of these segments were due to use impairments caused by sediment and nutrients, as a result of agricultural runoff.

There currently are no State or Federal instream numerical water quality criteria for sediment or nutrients. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings for sediment and phosphorus in UNT Mill Creek. Phosphorus was chosen as the TMDL endpoint for nutrient impairments due to it being the limiting nutrient in the watershed. The sediment and phosphorus loadings were allocated among all land use categories present in the watershed. Data used in establishing these TMDLs were generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University.

The following table shows the estimated current sediment and phosphorus loadings for the watershed. Overall load reductions necessary to meet the TMDLs are also identified.

#### *Summary of TMDL Based Load Reductions for UNT Mill Creek*

<i>Pollutant</i>	<i>Existing Load (lbs/yr)</i>	<i>TMDL (lbs/yr)</i>	<i>% Reduction</i>
Sediment	1,243,807.40	597,865.70	52
Phosphorus	1,776.65	1,289.94	27

The data and all supporting documentation used to develop the proposed TMDL are available from the Department. The proposed TMDL and information on the TMDL program can be accessed on the Department's website: [www.dep.state.pa.us/watermanagement\\_apps/tmdl/](http://www.dep.state.pa.us/watermanagement_apps/tmdl/). To request a copy of this TMDL contact Lee McDonnell, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2938, [lmcdonnell@state.pa.us](mailto:lmcdonnell@state.pa.us).

The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval. Written comments will be accepted at the previous address and must be postmarked by November 9, 2004. A public meeting to discuss the technical merits of the TMDL will be held on October 5, 2004, at 7 p.m. at the Old Leola Elementary School Building, 36 Hillcrest Avenue, Leola, PA.

[Pa.B. Doc. No. 04-1726. Filed for public inspection September 17, 2004, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Kindred Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Kindred Hospital has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

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

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

[Pa.B. Doc. No. 04-1727. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application of Lehigh Valley Hospital and Lehigh Valley Hospital—Muhlenberg for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lehigh Valley Hospital and Lehigh Valley Hospital—Muhlenberg has requested an exception to the requirements of 28 Pa. Code § 101.4 (relating to definitions).

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

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

[Pa.B. Doc. No. 04-1728. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application of Mount Nittany Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Mount Nittany Medical Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 7.2.A4 (relating to handwashing stations).

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

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care, (717) 783-8980, V/TT: (717) 783-6154 for speech and/or hearing impaired

persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 04-1729. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application of Sharon Regional Health System for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Sharon Regional Health System has requested an exception to the requirements of 28 Pa. Code § 107.62(b) (relating to oral orders).

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

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

[Pa.B. Doc. No. 04-1730. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application of Suburban General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Suburban General Hospital has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

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

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

[Pa.B. Doc. No. 04-1731. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application of Sunbury Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Sunbury Community Hospital has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

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

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

[Pa.B. Doc. No. 04-1732. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application of Tyrone Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Tyrone Hospital has requested an exception to the requirements of 28 Pa. Code § 137.21(b)(5) (relating to policies and procedures).

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

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

[Pa.B. Doc. No. 04-1733. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application of UPMC Horizon for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Horizon has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

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

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

[Pa.B. Doc. No. 04-1734. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application of UPMC Passavant for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Passavant has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 9.5.F2c (relating to minimum dimension of OR).

The request is on file with the Department. Persons may receive a copy of a request for exception by request-

ing a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, ddtlow@state.pa.us.

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care, (717) 783-8980, V/TT: (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 04-1735. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application of UPMC Southside for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Southside has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

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

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

[Pa.B. Doc. No. 04-1736. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application of The Western Pennsylvania Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that The Western Pennsylvania Hospital has re-

quested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

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

Persons who wish to comment on this exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

[Pa.B. Doc. No. 04-1737. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Immunization Practices for Children in Child Care Group Settings

In accordance with 28 Pa. Code § 27.77(c) (relating to immunization requirements for children in child care group settings), the Department of Health (Department, Bureau of Communicable Diseases, Division of Immunization, is updating the list of Morbidity and Mortality Weekly Report (MMWR) publications that contain the Advisory Committee on Immunization Practices (ACIP) recommendations that meet the standards in 28 Pa. Code § 27.77(c). Children in child care group settings as defined by 28 Pa. Code § 27.77(c) are required to be immunized in accordance with the recommendations included in the following publications. The Department is providing a summary of the publications for the ease of reference of the public:

“Notice to Readers: Limited Supply of Pneumococcal Conjugate Vaccine: Suspension of Recommendation for Fourth Dose,” MMWR, February 13, 2004/Vol. 53/No. 5.

Summary: In December 2003, the Federal Centers for Disease Control and Prevention (CDC) reported that Wyeth Vaccines, the only supplier in the United States of 7-valent pneumococcal conjugate vaccine (PCV7, marketed as Prevnar®), was experiencing production constraints that could cause delays in shipments and was implementing an allocation plan to ensure the equitable distribution of available vaccine (1). In February 2004, Wyeth Vaccines advised the CDC that production constraints had not been resolved and that supplies will remain limited at least through July 2004. Until full production capacity is resumed, local shortages might occur. Effective immediately, the CDC recommends that health-care providers temporarily suspend routine use of the fourth dose of PCV7 to conserve vaccine and minimize the likelihood of shortages.

“Notice to Readers: Updated Recommendations on the Use of Pneumococcal Conjugate Vaccine: Suspension of Recommendation for Third and Fourth Dose,” MMWR, March 5, 2004/Vol. 53/No. 8.

Summary: On February 13, 2004, the CDC recommended that health care providers temporarily suspend routine use of the fourth dose of PCV7 when vaccinating healthy children (1). This action was taken to conserve vaccine and minimize the likelihood of shortages until Wyeth Vaccines, the only supplier in the United States of PCV7, restores sufficient production capacity to meet the National need. Since that recommendation, PCV7 production has been much less than expected because of continuing problems with the PCV7 vial-filling production line. Shipments have been delayed, resulting in spot shortages that might continue beyond summer 2004 and become widespread. Effective immediately, to further conserve vaccine, the CDC recommends that all health care providers temporarily suspend routine administration of both the third and fourth doses to healthy children.

“Notice to Readers: Availability of Diphtheria Antitoxin Through an Investigational New Drug Protocol,” MMWR, May 21, 2004/Vol. 53/No. 19.

Summary: Effective treatment of respiratory diphtheria includes early administration of an equine diphtheria antitoxin (DAT). Delay in DAT administration can lead to life-threatening respiratory obstruction, myocarditis and other complications. To ensure quick access to DAT, the CDC maintains a stock of DAT for release to physicians in the United States.

“Prevention and Control of Influenza: Recommendations of the Advisory Committee on Immunization Practices (ACIP),” MMWR, May 28, 2004/Vol. 53/No. RR-6.

Summary: The 2004 recommendations include four principal changes or updates:

1. The ACIP recommends that healthy children 6 to 23 months of age, and close contacts of children aged 0 to 23 months of age, be vaccinated against influenza (see Target Groups for Vaccination).

2. Inactivated vaccine is preferred over live, attenuated influenza vaccine (LAIV) for vaccinating household members, health care workers and others who have close contact with severely immuno-suppressed persons during periods when these persons require care in a protected environment. If a health care worker receives the LAIV, the health care worker should refrain from contact with severely immuno-suppressed patients for 7 days after vaccine receipt. No preference exists for inactivated vaccine use by health care workers or other persons who have close contact with persons with lesser degrees of immuno-suppression (see Live Attenuated Influenza Vaccine Recommendations/Close Contacts of Persons at High Risk for Complications from Influenza).

3. Severely immuno-suppressed persons should not administer the LAIV. However, other persons at high risk for influenza complications may administer LAIV (see Personnel Who May Administer LAIV).

4. The 2004-2005 trivalent vaccine virus strains are A/Fujian/411/2002 (H3N2)-like, A/New Caledonia/20/99 (H1N1)-like and B/Shanghai/361/2002-like antigens. For the A/Fujian/411/2002 (H3N2)-like antigen, manufacturers may use the antigenically equivalent A/Wyoming/3/2003 [H3N2] virus and for the B/Shanghai/361/2002-like antigen, manufacturers may use the antigenically equivalent

lent B/Jilin/20/2003 virus or B/Jiangsu/10/2003 virus (see Influenza Vaccine Composition).

Additional information regarding vaccinations can be obtained from the Department's website: [www.dsf.health.state.pa.us/health/cwp/view.asp?a=178&Q=199020](http://www.dsf.health.state.pa.us/health/cwp/view.asp?a=178&Q=199020). Additional information regarding vaccinations can also be obtained from the National Immunization Program of the CDC's website: [www.cdc.gov/nip/default.htm](http://www.cdc.gov/nip/default.htm).

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape or Braille) should contact Alice Gray, Director, Division of Immunization, Department of Health, P. O. Box 90, Harrisburg, PA 17108-0090, (717) 787-5681, for speech and/or hearing impaired persons V/TT: (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 04-1738. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 201.18(e) (relating to management):

Latrobe Area Hospital Transitional Care Center  
121 West 2nd Avenue  
Latrobe, PA 15650

Frick Hospital Skilled Nursing Unit  
508 South Church Street  
Mount Pleasant, PA 15666

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

The Health Center at The Hill at Whitemarsh  
660 Thomas Road  
Lafayette Hill, PA 19444

Friendship Ridge  
246 Friendship Circle  
Beaver, PA 15009

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, [paexcept@health.state.pa.us](mailto:paexcept@health.state.pa.us).

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the previous address or phone number, for speech and/or hearing impaired persons, V/TT (717) 783-

6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

[Pa.B. Doc. No. 04-1739. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program); Maximum Allowable Prices

Under 28 Pa. Code § 1103.4(5) (relating to selection criteria for authorization and reauthorization), the WIC Program publishes notice of the maximum allowable prices. Effective October 1, 2004, through December 31, 2004, the maximum allowable prices the Department of Health will pay for a WIC allowable food are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 gal. of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.12
12 oz. Evaporated Milk	\$1.13
16 oz. Dry Milk	\$5.22
1 qt. Lactose Reduced Milk	\$1.95
1/2 gal. Kosher Milk	\$2.76
4 oz. Kosher Infant Juice	\$0.69
8 oz. Kosher Infant Cereal	\$1.92
1 doz. Grade A Eggs	\$1.39
1 lb. Fresh Carrots	\$1.10
14 to 16 oz. Canned Carrots	\$1.10
1 lb. Cheese	\$6.12
1 lb. Kosher Cheese	\$8.32
1 lb. Dry Beans or Peas	\$1.42
1 oz. Adult WIC Cereal	\$0.39
8 oz. Gerber Infant Cereal	\$1.92
15 to 18 oz. Peanut Butter	\$2.43
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$2.41
6 oz. Cans Juice	\$1.56
6 to 6.5 oz. Chunk Light Tuna Packed in Water	\$0.95
4 oz. Gerber Infant Juice	\$0.69
32 oz. Alimentum Advance Ready-to-Feed	\$9.32
16 oz. Alimentum Advance Powder	\$26.82
13 oz. Isomil Advance Concentrate	\$4.70
32 oz. Isomil Advance Ready-to-Feed	\$5.80
12.9 oz. Isomil Advance Powder	\$14.42
12.9 oz. Isomil 2 Advance Powder	\$14.42
13 oz. Isomil with Iron Concentrate	\$4.36
12.9 oz. Isomil with Iron Powder	\$13.29
32 oz. Isomil DF Ready-to-Feed	\$6.07
13 oz. Nutramigen Lipil Concentrate	\$7.04
32 oz. Nutramigen Lipil Ready-to-Feed	\$8.87
16 oz. Nutramigen Lipil Powder	\$24.42
8 oz. Pediasure Ready-to-Feed	\$2.24
8 oz. Pediasure with Fiber Ready-to-Feed	\$2.34
13 oz. Similac Advance Concentrate	\$4.38
32 oz. Similac Advance Ready-to-Feed	\$6.20
12.9 oz. Similac Advance Powder	\$13.66
12.9 oz. Similac 2 Advance Powder	\$13.66
13 oz. Similac with Iron Concentrate	\$4.07
32 oz. Similac with Iron Ready-to-Feed	\$5.39
12.9 oz. Similac with Iron Powder	\$12.95
13 oz. Similac Lactose Free Advance Concentrate	\$4.81
32 oz. Similac Lactose Free Advance Ready-to-Feed	\$5.92



<i>Description</i>	<i>Maximum Allowable Price</i>
12.9 oz. Similac Lactose Free Advance Powder	\$14.74
12.8 oz. Similac Neosure Advance Powder	\$15.65

A store must permit purchase of WIC allowable foods that exceed the maximum allowable price to WIC participants using a WIC check. However, the amounts that exceed the maximum allowable price of WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2 (relating to price adjustment).

Persons with a disability who require an alternative format of this listing of maximum allowable prices, (for example, large print, audiotape or Braille) should contact Chris Harr, Department of Health, Division of WIC, Room 604, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-1289, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 04-1740. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under the Federal Traumatic Brain Injury Act of 1996 (Pub. L. No. 104-66), will hold a public meeting on Thursday, September 23, 2004, from 10 a.m. to 3 p.m. in Hearing Room 2, Atrium Level, Keystone Building, Commonwealth Avenue at Forster Street, Harrisburg, PA.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Annette D. Jacek, Program Manager, Special Conditions Section, Division of Child and Adult Health Services, (717) 772-4959, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

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

[Pa.B. Doc. No. 04-1741. Filed for public inspection September 17, 2004, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Application for Lease of Right-of-Way

The Department of Transportation (Department), under section 2002(e) of The Administrative Code of 1929 (71 P. S. § 512(c)) and 67 Pa. Code § 495.4 (relating to application procedure), gives notice that an application to lease highway right-of-way has been submitted to the Department by Paul Lavriello, 926 W. Dekalb Pike, King of Prussia, PA seeking to lease highway right-of-way located at Kirk Avenue and North Gulph Road, Philadelphia, PA, Montgomery County, 0.2751 acre + adjacent to SR 422, Section 404, for the purpose of parking.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Andrew Warren, P. E., District Executive, Engineering District 6-0, Department of Transportation, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525, Attention: Ray DeMasi, R/W.

Questions regarding this application or the proposed use should be directed to Ray DeMasi, R/W, Real Estate Specialist, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525, (610) 205-6507

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 04-1742. Filed for public inspection September 17, 2004, 9:00 a.m.]

## HUMAN RELATIONS COMMISSION

### Public Hearing Opinions

The Human Relations Commission (Commission), under section 7(o) of the Pennsylvania Human Relations Act (act) (43 P. S. § 957(o)), announces the publication of the Findings of Fact, Conclusions of Law, Opinion and Final Order made after a public hearing under section 9(e)—(g) of the act (43 P. S. § 959(e)—(g)), in the following cases:

*James A. Cressman v. Associated Rubber, Inc.*; Doc. No. 200027235 (Human Relations Commission, August 31, 2004).

- Termination because of age (73) discrimination relating to employment.

Ruling for Complainant, 8-1 decision  
39 pages

*Johannie V. Lassiter, Jr. v. Wordsworth Academy*; Doc. No. 200207153 (Human Relations Commission, August 31, 2004)

- Damage case relating to termination because of sex (male) and race (Black) discrimination.

Ruling for Complainant, 10-0 decision  
18 pages

The final order in the cases is subject to appeal to Commonwealth Court, and if appealed is subject to being affirmed, reversed or modified, in whole or part.

A copy of an opinion listed in this notice can be obtained by mailing a request indicating the opinion desired, accompanied by a check or money order in the amount of 15¢ per page, to Laura J. Treaster, Communications Director, Human Relations Commission, 301 Chestnut Street, Suite 300, Pennsylvania Place, Harrisburg, PA 17101. The check or money order should be made payable to the "Commonwealth of Pennsylvania." Copies are also available on the Commission's website: [www.phrc.state.pa.us](http://www.phrc.state.pa.us) (choose "Legal" and "Public Hearing Opinions").

HOMER C. FLOYD,  
*Executive Director*

[Pa.B. Doc. No. 04-1743. Filed for public inspection September 17, 2004, 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 regulation. 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>
54-59	Pennsylvania Liquor Control Board Revisions to Codify Practices and Procedures Resulting from Legislative Amendments (34 Pa.B. 3411 (July 3, 2004))	8/2/04	9/1/04

### **Pennsylvania Liquor Control Board Regulation # 54-59 (IRRC # 2411)**

#### **Revisions to Codify Practices and Procedures Resulting from Legislative Amendments**

**September 1, 2004**

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Pennsylvania Liquor Control Board (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on August 2, 2004. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

#### **1. Section 3.1. Definitions.—Need; Clarity.**

The following eight definitions are being added to this section: “bar/counter,” “bench,” “booth,” “chair,” “eating space,” “seating,” “stool” and “table.” These definitions are not used in the body of either the existing or proposed regulations. The definitions of “bench,” “chair” and “eating space” are only used in other proposed definitions. What is the need for adding these eight definitions?

#### **2. Section 3.92. Brewery pubs.—Consistency with statute; Clarity.**

This section establishes the provisions for the issuance and operation of a brewery pub license. Subsection (d) allows a brewery pub to sell wine produced by the holder of a Pennsylvania limited winery license. However, 47 P. S. § 4-446(2) states that the wine must be purchased from either the holder of a Pennsylvania limited winery license or from the Board. The statute also requires the wine purchases to be consumed on the premises of the brewery pub. These provisions are not reflected in the proposed regulation. The Board should include these provisions in the final-form regulation.

#### **3. Section 3.101. Economic development licenses.—Clarity.**

This section establishes areas where economic development licenses may be issued. Subsection (a)(1) provides a citation to the applicable Keystone Opportunity Zone (KOZ) statute. Under subsection (a)(2), a statutory citation is not provided for an Enterprise Zone (EZ). For

clarity and consistency, a citation to applicable EZ statutes or regulations should be inserted into the final-form regulation.

#### **4. Section 3.102. Approval for economic development license.—Clarity.**

This section describes the application process for economic development licenses. The phrase “KOZ or EZ authorities” is used in subsection (a). Who qualifies as the “KOZ or EZ authorities?”

#### **5. Section 3.104. Municipal standing before the Board.—Clarity.**

This section permits a municipality receiving an economic development license to file a protest with the Board. Can the decision of the Board be appealed? If so, where would the appeal be filed?

#### **6. Section 3.105. Quarterly filing of applications and application hearings.—Clarity.**

This section establishes filing requirements for counties and appeal procedures for applicants. We have two concerns.

First, subsection (b) should include a cross-reference to the Board’s hearing provisions.

Second, subsection (e) should include the same language that is in the corresponding statutory provisions. It states that an applicant will receive a provisional license for 120 days. The same provision is included in 47 P. S. § 4-461(b.2), which also includes the phrase “exclusive of periods of safekeeping.” The final-form regulation should be amended to mirror the corresponding statutory provision.

#### **7. Section 5.30. Definitions.—Clarity.**

This section adds a definition of “sweepstakes” which includes conditions for permissible sweepstakes. The conditions are substantive. Substantive provisions in a definition are not enforceable. Therefore, the conditions should be moved to § 5.32(h), regarding sweepstakes promotions.

#### **8. Section 5.36. Municipal noise ordinances.—Clarity.**

Subsection (d) contains the phrase “any other condition the Board deems appropriate.” What “other conditions” would the Board deem appropriate?

**9. Section 5.86. Permitted exchange of club and catering club licenses.—Consistency with statute; Clarity.**

Subsections (a)—(e) list five different types of exchanges that may occur. The exchanges are:

- Club liquor license for a club malt beverage retail dispenser license.
- Club liquor license for a catering club liquor license.
- Catering club license for a club liquor license.
- Club malt beverage retail dispenser license for a catering club malt beverage retail dispenser license.
- Catering club malt beverage retail dispenser license for a club malt beverage retail dispenser license.

In the Regulatory Analysis Form, the Board notes that 47 P. S. §§ 4-401 and 4-472.3 provide the statutory basis for adding these provisions. Section 4-472.3(a) of 47 P. S. appears to be the only language that addresses exchanges of licenses. It permits a club to exchange a club liquor license for a club retail dispenser license. This type of exchange is not listed in subsections (a)—(e). Do the different types of licenses noted in subsection (a)—(e) fall under the type of license exchange noted in 47 P. S. § 4-472.3(a)?

Also, subsection (f) states that the Bureau of Licensing will set the fee for filing an application for the exchange of club licenses. The final-form regulation should establish the fee and the preamble should explain how the fee was set.

**10. Section 7.10. Conversion of suspension to fine.—Clarity.**

Subsection (c) states “the transferee’s request to the Office of Chief Counsel shall include the following:” However, subsection (c)(5) states “Other financial documents as requested by the Office of Chief Counsel.” Because the transferee is making the initial request to the Office of Chief Counsel, how will the transferee know what, if any, additional information is required to be contained in the request?

**11. Section 7.33. Sheriff’s sale of a liquor license.—Clarity.**

This section establishes procedures to be followed when a license is subject to a writ of execution. Paragraphs (2) and (3)(ii) state that certain actions “should” be performed. The word “should” indicates that the action is optional. The final-form regulation should replace the word “should” with “shall.”

**12. Section 7.63. Municipal standing before the Board.—Clarity.**

This section allows a municipality to file a protest against the approval of an intermunicipal transfer of a liquor license. Subsection (c) states that a protest must be timely filed. Provisions for filing a protest are found in § 17.13, regarding protests/intervention procedure. The final-form regulation should include a cross-reference to this section.

**13. Section 9.141. Requirements for licensure as a direct shipper.—Clarity.**

Subsection (a) is worded as a definition for “direct shipper.” However, “direct shipper” is already defined in § 9.132. It is not needed in both places. If necessary, the language contained in this subsection should be added to the definition in § 9.132 and deleted from this section.

**14. Section 9.142. Records to be maintained.—Reasonableness; Clarity.**

Subsection (a) establishes audit procedures to be followed when the Commonwealth audits a direct shipper. Does the term “Commonwealth” mean the Board? If it doesn’t, what department would be conducting the audits?

**15. Section 9.143. Sales of wines.—Clarity.**

Subsection (g) establishes a \$4.50 handling fee. Is this fee to be applied to each bottle ordered or the entire order? The Board should clarify this provision in the final-form version.

**16. Section 9.144. Products shipped.—Clarity.**

Subsection (i) requires a direct shipper to provide a “call tag” with each order. It is not clear what this term means. The final-form regulation should either define the term “call tag” or include the information that should appear on the tag.

**17. Section 9.145. Direct shipper’s website.—Reasonableness; Clarity.**

Information that must be present on a direct shipper’s website is included in this section. Subsection (c) pertains to age and residency requirements. It also states that sales will not be made to “anyone who is under the influence of alcohol or other drugs.” The Board has indicated that the intent of this provision is to prohibit a buyer under the influence of drugs or alcohol from picking up an order at a Pennsylvania Wine and Spirits Store. The final-form regulation should be amended to clearly express this intent.

**18. Section 13.52. Advertising novelties.—Clarity.**

Subsection (e) contains the phrase, “the point of sale advertising cost limit as set forth by the Board.” The Board should include a cross-reference to this cost limit.

**19. Miscellaneous edits.—Clarity.**

- Section 3.91, titled “alternate brewer’s license,” should read “alternating brewer’s license,” as defined in 47 P. S. § 1-102.

- The second sentence of § 3.105(a) and the information that follows it should be separated out and placed into its own subsection.

- Section 7.3(c), written as one sentence with several provisions, should be broken into smaller sentences. A similar concern also exists in § 9.142(a).

- In § 7.65, the phrase “period of” should be included in front of the phrase “5 years” or the “a” before “5 years” should be deleted.

- In § 11.7(b), “another party” should be inserted in front of “or other parties.”

- The phrase “without Board approval” in §§ 13.42 and 13.43 are not needed and could be deleted to add clarity.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 04-1744. Filed for public inspection September 17, 2004. 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: [www.irrc.state.pa.us](http://www.irrc.state.pa.us). To obtain a copy of a regulation, contact the promulgating agency.

*Final-Form*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
7-380	Environmental Quality Board Stream Redesignations (Brushy Meadow Creek, et al.)	9/2/04

*Final-Omit*

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
2-146	Department of Agriculture Amendments to Lifetime Licensure	9/1/04

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 04-1745. Filed for public inspection September 17, 2004, 9:00 a.m.]

## INSURANCE DEPARTMENT

**Alleged Violation of Insurance Laws; Michael Francis Napadow and Nations Hazard Insurance Agency d/b/a Nation's Hazard Insurance Company and "Hartford Casualty Insurance," 129 Centerfield Parkway, West Dundee, IL 60118-9182; Doc. No. SC04-08-041**

Notice is hereby given of the Order to Show Cause issued on September 7, 2004, by the Deputy Insurance Commissioner in the previously referenced matter. Violation of the following is alleged: 40 P. S. §§ 47, 1171.4 and 1171.5.

The respondent shall file a written answer to the Order to Show Cause within 20 days of the date of issue. If the respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at the hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency ADA Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1746. Filed for public inspection September 17, 2004, 9:00 a.m.]

### American Independent Insurance Company; Private Passenger Auto Rate Filing

On September 2, 2004, the Insurance Department (Department) received from American Independent Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 0.3% increase amounting to \$247,000 annually, to be effective November 1, 2004, for new business and December 1, 2004, for renewal business.

Unless formal administrative action is taken prior to November 1, 2004, the subject filing may be deemed approved by operation of law.

The filing is available for review on the Department's website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, under "Quick Links," click "Rate filings published in the PA Bulletin."

A copy of the filing is 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 Michael W. Burkett, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [mburkett@state.pa.us](mailto:mburkett@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1747. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Application for Approval to Acquire Control

Protective Underwriting Services, Inc. has filed an application to acquire control of American Independent Insurance Company, a Pennsylvania domiciled casualty insurance company. The filing was made under the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413). Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. 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 Stephanie Ohnmacht, Insurance Company Licensing Specialist, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, [sohnmacht@state.pa.us](mailto:sohnmacht@state.pa.us).

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1748. Filed for public inspection September 17, 2004, 9:00 a.m.]

**Application for Increase in Underwriting Authority of a Domestic Stock Casualty Insurance Company**

Colonial Surety Company (Colonial Surety), a domestic stock casualty insurance company, has filed an application to increase its approved classes of underwriting authorities. The class of insurance that Colonial Surety has applied to add is as mentioned in 40 P. S. § 382(c)(4). Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 14 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1749. Filed for public inspection September 17, 2004, 9:00 a.m.]

**Application for Increase in Underwriting Authority of a Domestic Stock Casualty Insurance Company**

United Security Assurance Company of Pennsylvania (United Security), a domestic stock casualty insurance company, has filed an application to increase its approved classes of underwriting authorities. The class of insurance that United Security has applied to add is as mentioned in 40 P. S. § 382(a)(1). Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 14 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1750. Filed for public inspection September 17, 2004, 9:00 a.m.]

**Application and Request for Approval to Redomesticate**

Valley Forge Life Insurance Company, a domestic stock life insurance company, has filed an application for approval of a plan of redomestication whereby the state of domicile would change from Pennsylvania to Indiana. The initial filing was made under 15 Pa.C.S. §§ 1101—4162

(relating to the Business Corporation Law of 1988). Persons wishing to comment on the grounds of public or private interest to the issuance of the Insurance Department's (Department) order approving the redomestication are invited to submit a written statement to the Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1751. Filed for public inspection September 17, 2004, 9:00 a.m.]

**Progressive Halcyon Insurance Company; Private Passenger Auto Program; Rate Filing**

On August 18, 2004, the Insurance Department (Department) received from Progressive Halcyon Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 3.01% decrease amounting to -\$2.584 million annually, to be effective November 30, 2004.

Unless formal administrative action is taken prior to October 17, 2004, the subject filing may be deemed approved by operation of law.

The filing is available for review on the Department's website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, under "Quick Links," click "Rate filings published in the PA Bulletin."

A copy of the filing is 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 Michael W. Burkett, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, mburkett@state.pa.us within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1752. Filed for public inspection September 17, 2004, 9:00 a.m.]

**United Services Automobile Association and USAA Casualty Insurance Company; Personal Auto Program Rate Revision; Rate Filing**

On August 26, 2004, the Insurance Department (Department) received from United Services Automobile As-

sociation and USAA Casualty Insurance Company a filing for a rate level change for private passenger automobile insurance.

The companies request an overall 8.1% decrease amounting to -\$12.883 million annually, to be effective November 29, 2004.

Unless formal administrative action is taken prior to October 25, 2004, the subject filing may be deemed approved by operation of law.

The filing is available for review on the Department's website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, under "Quick Links," click "Rate filings published in the PA Bulletin."

A copy of the filing is 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 Michael W. Burkett, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [mburkett@state.pa.us](mailto:mburkett@state.pa.us) within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1753. Filed for public inspection September 17, 2004, 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.

*Governor's Office*

Manual M530.4—Highlights of State Employee Benefits—Amended August, 2004.

Manual M110.1—2005-06 Budget Instructions—Amended August, 2004.

Management Directive No. 505.26—HIV/AIDS and Other Bloodborne Infections/Diseases in the Workplace—Amended August 31, 2004.

Administrative Circular No. 04-19—2005-06 Budget Instructions—Dated August 16, 2004.

MARY JANE PHELPS,  
*Director*  
*Pennsylvania Bulletin*

[Pa.B. Doc. No. 04-1754. Filed for public inspection September 17, 2004, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The Liquor Control Board seeks the following new site:

Allegheny County, Wine & Spirits Shoppe # 9208, Pittsburgh.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,000 net useable square feet of new or existing retail commercial space with a temporary 2-month lease in the 2004 holiday period in a major mall interior in the greater Pittsburgh area. Space shall be a kiosk or in-line store for use as a holiday Wine & Spirits gift store.

*Proposals due:* October 1, 2004, 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. 04-1755. Filed for public inspection September 17, 2004, 9:00 a.m.]

## PATIENT SAFETY AUTHORITY

### Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.303), will hold a meeting of the Authority's 11 member board on Monday, October 4, 2004, at 10 a.m. in Hearing Room 2, Commonwealth Keystone Building, Commonwealth Avenue and North Street, Harrisburg, PA.

Individuals with questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

ALAN B.K. RABINOWITZ,  
*Administrator*

[Pa.B. Doc. No. 04-1756. Filed for public inspection September 17, 2004, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Telecommunications

**A-311315F7001. Verizon North Inc. and Endless Mountains Wireless, LLC.** Joint petition of Verizon North Inc. and Endless Mountains Wireless, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Endless Mountains Wireless, LLC, by its counsel, filed on September 1, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and Endless Mountains Wireless, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1757. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Telecommunications

**A-311315F7000. Verizon Pennsylvania Inc. and Endless Mountains Wireless, LLC.** Joint petition of Verizon Pennsylvania Inc. and Endless Mountains Wireless, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Endless Mountains Wireless, LLC, by its counsel, filed on September 1, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Endless Mountains Wireless, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1758. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Transfer of Assets

**A-210034F2000 and A-230014F2000. Sand Spring Water and Sewer Company, Inc.** Application of Sand Spring Water and Sewer Company, Inc. for approval of the transfer of its water and sewer assets to Lehigh County Authority and for Sand Spring Water and Sewer Company, Inc. to abandon its certificates of public convenience.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylv-

vania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before October 4, 2004. The documents filed in support of the application 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 applicant's business address.

*Applicant:* Sand Spring Water and Sewer Company, Inc.

*Through and By Counsel:* Scott J. Rubin, Esquire, 3 Lost Creek Drive, Selinsgrove, PA 17870-9357.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1759. Filed for public inspection September 17, 2004, 9:00 a.m.]

### 2005 Schedule of Filing Dates for Recovery of Purchased Gas Costs; Doc. No. L-840102

Under 52 Pa. Code § 53.64(a) (relating to filing requirements for natural gas distributors with gross intrastate annual operating revenues in excess of \$40 million), the Pennsylvania Public Utility Commission annually publishes a schedule of filing dates for jurisdictional gas utilities subject to 66 Pa.C.S. § 1307(f) (relating to sliding scale of rates; adjustments) for the recovery of purchased gas costs.

The 2005 schedule of filing dates is as follows:

February 1, 2005: National Fuel Gas Distribution Corporation—PA Division; T. W. Phillips Gas and Oil Company

March 1, 2005: Philadelphia Gas Works

April 1, 2005: Columbia Gas of Pennsylvania, Inc.; Peoples Natural Gas Company; Equitable Gas Company

June 1, 2005: P. G. Energy, Inc.; PECO—Gas Division; UGI Corporation; PFG Gas, Inc.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1760. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Water Service

**A-210104F0052. Aqua Pennsylvania, Inc.** Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and supply water service to the public in an additional portion of Caln Township, Chester County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before October 4, 2004. The documents filed in support of the application 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 applicant's business address.

*Applicant:* Aqua Pennsylvania, Inc.

*Through and By Counsel:* Frances P. Orth, Esquire, 762 West Lancaster Avenue, Bryn Mawr, PA 19010.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1761. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Water Service

**A-212955F0013. Superior Water Company, Inc.** Application of Superior Water Company, Inc. for approval to begin to offer, render, furnish or supply water service to the public in portions of Lower Pottsgrove Township, Montgomery County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before October 4, 2004. The documents filed in support of the application 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 applicant's business address.

*Applicant:* Superior Water Company, Inc.

*Through and By Counsel:* Louise A. Knight, Esquire, Edward G. Lanza, Esquire, Saul Ewing, LLP, 2 North Second Street, 7th Floor, Harrisburg, PA 17101.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1762. Filed for public inspection September 17, 2004, 9:00 a.m.]

## PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

### Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

November 3, 2004	Thomas F. Doyle	10 a.m.
	William G. Gormley	
	Theodore Kirsch	
	Jacob B. Steinberg	
	(Final Average Salary)	

Persons with a disability who wish to attend the listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, at (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,  
*Executive Director*

[Pa.B. Doc. No. 04-1763. Filed for public inspection September 17, 2004, 9:00 a.m.]

### Hearing Scheduled

A hearing has been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

December 1, 2004	James R. Salsbury (D)	1 p.m.
	(Death Benefit)	

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, at (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,  
*Executive Director*

[Pa.B. Doc. No. 04-1764. Filed for public inspection September 17, 2004, 9:00 a.m.]

## STATE BOARD OF NURSING

**Bureau of Professional and Occupational Affairs v. Phillip N. Rowland, L.P.N.; Doc. No. 0757-51-03**

On January 7, 2004, Phillip N. Rowland, L.P.N., of Pittsburgh, Allegheny County had license no. PN-257089-L revoked based on findings that he had a temporary practice permit revoked by the proper licensing authority of another state.

Persons may obtain a copy of the adjudication by writing to Teresa Lazo-Miller, Board Counsel, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.



This adjudication and order represents the final State Board of Nursing (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

JANET HUNTER SHIELDS, MSN, CRNP, CS,  
*Chairperson*

[Pa.B. Doc. No. 04-1765. Filed for public inspection September 17, 2004, 9:00 a.m.]

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## STATE HARNESS RACING COMMISSION

### Evidentiary Hearing Regarding Valley View Downs, LP (Centaur) Application

The State Harness Racing Commission (Commission) gives notice that an application for a license to conduct a harness horse race meeting with pari-mutuel wagering was filed on December 27, 2002, by Valley View Downs, LP (Centaur), in which the limited partnership seeks approval to conduct live harness racing and pari-mutuel wagering at a proposed facility to be built in South Beaver Township, Beaver County. An evidentiary hearing

concerning this matter will be held on November 9, 2004, at 9 a.m. at the Farm Show Complex, 2300 North Cameron Street, Harrisburg, PA 17110. The hearing will be held to receive evidence concerning the listed application.

The hearing will be conducted in accordance with 58 Pa. Code § 185.83 (relating to Commission hearings) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). Testimony shall be under oath and witnesses may be cross-examined. The Commission will receive testimony from the applicant.

Individuals who believe they qualify as an intervenor must petition to intervene as provided by 1 Pa. Code §§ 35.27—35.32 (relating to intervention). Petitions to intervene must be filed with Anton J. Leppler, Executive Secretary, State Harness Racing Commission, Agriculture Building, Room 301, 2301 N. Cameron Street, Harrisburg, PA 17110-9408 with a copy to Edward S. Finkelstein, Esq., 700 Green St., Harrisburg, PA 17102-3015, Hearing Examiner for the Commission, on or before September 30, 2004, by 4:30 p.m. and served on all participants by that date and time. Proof of service shall be attached to the petition to intervene. No petition to intervene will be accepted after September 30, 2004. Answers to a petition to intervene must be filed within 7 calendar days after date of service at the previous addresses.

Testimony will only be taken from the applicant and any intervenors. No one else will be entitled to testify.

ANTON J. LEPLER,  
*Executive Secretary*

[Pa.B. Doc. No. 04-1766. Filed for public inspection September 17, 2004, 9:00 a.m.]

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# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

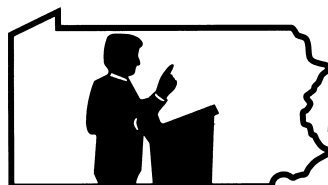
30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
PA Department of Community and Economic Development  
374 Forum Building  
Harrisburg, PA 17120  
800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services

Location: Harrisburg, Pa.

Duration: 12/1/93-12/30/93

Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

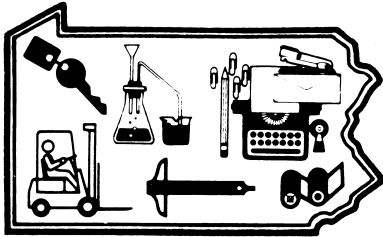
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except for the cost of photocopying contracts (15 cents per page); postage; redaction, and certified copies. The bureau may assess reasonable fees for labor and other expenses necessary to comply with the request. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room 201 Finance Building  
 Harrisburg, PA 17120  
 717-787-4586  
 1-800-252-4700  
 BizOutlet@patreasury.org

BARBARA HAFER,  
*State Treasurer*

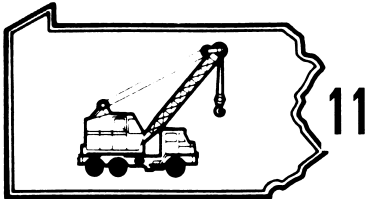


Commodities

**ADV-225** Indiana University of Pennsylvania (IUP), a member of PA State System of Higher Education, will have a need to replenish supplies in our Central Stores Warehouse during the period September 2004 through August 31, 2005. The following computer, office, printing and housekeeping supplies that may be included but not limited to are: HP and/or Canon Toner Cartridges, HP Ink/Print Cartridges, Hamermill Bond Envelopes, Printing Papers, and Plastic Bags (trash can liners), etc. The bid packages will be available at various times during this period depending on commodity reorder points. Requests for copies of bid packages for any of these supplies should be made in writing referencing Advertisement #ADV-225 and directed to Mrs. Roxie Johnson, Purchasing Agent, IUP Purchasing Services, Robertshaw Building, 650 S. 13th Street, Indiana, PA 15705; Fax: 724.357.2670; Email: rmjohnsn@iup.edu. When requesting a copy of bid package, please indicate the specific item/s that you want to bid on. The University encourages responses from small and disadvantaged, minority, and woman-owned firms.

**Department:** State System of Higher Education  
**Location:** Indiana University of Pennsylvania, Indiana, PA 15705  
**Contact:** Mrs. Roxie M. Johnson, (724) 357-3077

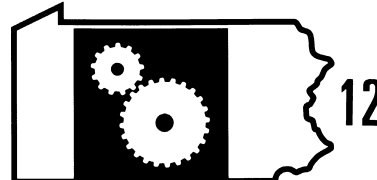
## SERVICES



Demolition—Structural Only

**788002-R1** Notice is hereby given that the Department of Transportation is seeking bids for the demolition and removal of five residential structures, six related out buildings, a commercial building and one sign in conjunction with the construction of S.R. 0119-495 in Indiana County, Rayne Township. Asbestos removal will be required. All contractors must be pre-qualified prime contractors for this service. For bid forms, date of inspection, specifications and further information, please contact Robert Herbein at (412) 261-5677.

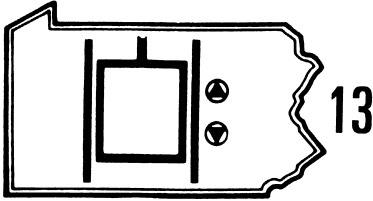
**Department:** Transportation  
**Location:** Indiana County, Rayne Township  
**Duration:** 60 Working Days from Notice To Proceed  
**Contact:** Robert Herbein, (412) 261-5677



Drafting and Design Services

**CU-04/05-02** Cheyney University of PA intends to solicit Request For Proposal (RFP) for professional design services for multiple maintenance, repair, renovation and alteration projects and possible some new construction. Interested proposers are asked to send a letter expressing their interest to the following: J. Gregory Hollman, Office of Contract Administration, Cheyney University of PA 1837 University Circle, Cheyney, PA 19319, jhollman@cheyney.edu, 610-399-2128 (fax). Please include your company's name, mailing address, phone and fax numbers, Federal ID No. or Social Security No., e-mail and/or web site address, salesperson and president/owner.

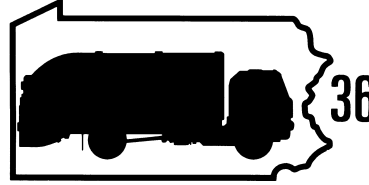
**Department:** State System of Higher Education  
**Location:** Cheyney University of PA, 1837 University Circle, Cheyney, PA 19013  
**Duration:** 2 years, options for two (2), two (2) year renewable  
**Contact:** Carl Williams, (610) 399-2116



## Elevator Maintenance

**SBC 0400001008** Cheyney University of PA intends to solicit bids to qualified contractors who can provide all service, maintenance, and repairs to campus elevators. Interested bidders are asked to send a letter of interest to the following: J. Gregory Hollman, Office of Contract Administration, Cheyney University of PA, 1837 University Circle, Cheyney, PA 19319, [jhollman@cheyney.edu](mailto:jhollman@cheyney.edu), 610-399-2128 (fax). Please include your company's name, mailing address, phone and fax numbers, Federal ID number or Social Security number, e-mail and/or web site address, salesperson and president/owner.

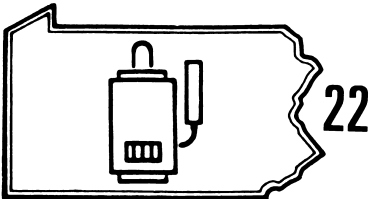
**Department:** State System of Higher Education  
**Location:** Cheyney University of PA, 1837 University Circle, Cheyney, PA 19319  
**Duration:** 3 years renewable options 2 years  
**Contact:** J. Gregory Hollman, (610) 399-2343



## Sanitation

**788001-R1** Provide licensed operator on site five (5) days per week to operate sewage treatment and drinking water plants at two (2) rest areas on Interstate 80 in Jefferson County. The contractor must provide all required chemicals, lubricates and laboratory testing to operate facilities in conjunction with State and Federal Laws and Permits. To request a bid package, please fax 724-357-2872 or e-mail [dspace@state.pa.us](mailto:dspace@state.pa.us) with the following information: company name, company address, company phone #, company fax #, name of contact person and SAP vendor #. Bidders must be registered as a vendor with the Commonwealth of PA prior to receiving a bid package.

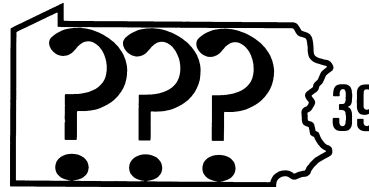
**Department:** Transportation  
**Location:** Rest Areas #25 and 26 on I-80 in Jefferson County  
**Duration:** One year (12 months) with four (4) one-year renewals, renewable by letter of mutual consent  
**Contact:** Diane Spence, (724) 357-7987



## HVAC Services

**053036** Service is for the installation, maintenance and repair of electrical systems throughout Lehigh County which includes services to its buildings, stockpiles and services along roadways which are maintained by the Department. Contract will be for 1-3 year term with a 1-2 year renewal option.

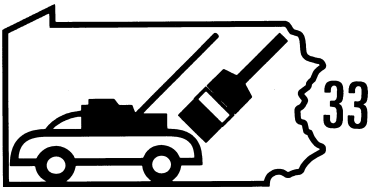
**Department:** Transportation  
**Location:** Lehigh County  
**Duration:** 1-3 year term with a 1-2 year renewal option  
**Contact:** Daniel R. Graham, (610) 798-4280, ext. 106



## Miscellaneous

**6000056412** The Department of Transportation has acquired a variety of Veritas software products to operate its storage area network. To create an efficient operating environment, installation services are needed to lead the initial setup of the system. In addition, Department of Transportation employees need training for Netbackup, Bare Metal Restore, Sanpoint Control, and Volume Manager.

**Department:** Transportation  
**Location:** PennDOT, Bureau of Information Systems, 1400A North Cameron St., Harrisburg, PA 17103  
**Duration:** Implementation of Software for Veritas is needed by November 2004.  
**Contact:** Donna Leitzel, (717) 705-6486



## Property Maintenance

**FM 8860** Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Latrobe Aviation Patrol Unit. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Latrobe Aviation Patrol Unit, Westmoreland County Airport, 5705 Route 981, Latrobe, PA 15650, Phone 724-520-3200  
**Duration:** 11/01/04 to 06/30/07  
**Contact:** Sandy Wolfe, (717) 705-5951

**CN00010812** The contractor shall provide Jewish Rabbi Services for inmates at the Department of Corrections at Chester. More detailed information can be obtained from the institution.

**Department:** Corrections  
**Location:** SCI-Chester, 500 E. 4th St., Chester, PA 19013  
**Duration:** Nov. 1, 2004 ending June 30, 2007.  
**Contact:** Jacqueline Newson, (610) 490-4370

[Pa.B. Doc. No. 04-1767. Filed for public inspection September 17, 2004, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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|--|---|
| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
|--|---|

DONALD T. CUNNINGHAM, Jr.  
*Secretary*