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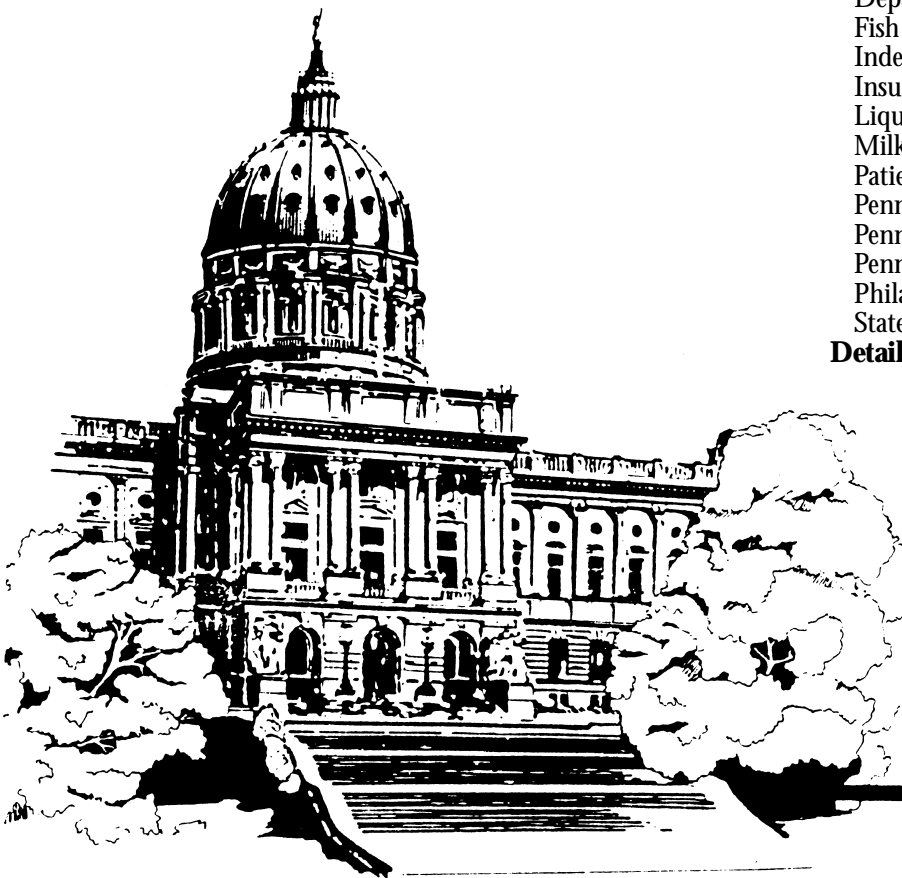
# PENNSYLVANIA BULLETIN

Volume 35  
Saturday, September 24, 2005 • Harrisburg, PA  
Number 39  
Pages 5227—5366

**Agencies in this issue:**

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The Courts  
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Department of Community and Economic  
Development  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Revenue  
Fish and Boat Commission  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Milk Marketing Board  
Patient Safety Authority  
Pennsylvania Council on Aging  
Pennsylvania Gaming Control Board  
Pennsylvania Public Utility Commission  
Philadelphia Regional Port Authority  
State Athletic Commission

**Detailed list of contents appears inside.**



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

**No. 370, September 2005**

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

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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# List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2005.

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### Adopted Rules

|     |           |
|-----|-----------|
| 6   | 348, 5236 |
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| 161 | 3143      |
| 243 | 2275      |
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|-----|------|
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| 249 | 5013 |

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|-----|---|
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| 9   | 20, 1223, 1584, 1775, 2315, 2414, 2753,<br>3147, 3426, 3946, 4198, 4925 |
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|-----|------|
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|-----|------|

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|------------------------|------------|
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| 145                    | 1772       |

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|-----|------|

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|-----|------|
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| 215 | 2276 |
| 403 | 3662 |

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|                       |                  |
|-----------------------|------------------|
| 86                    | 1663             |
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| 121                   | 2278             |
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|------|------|
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| 252  | 519  |
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| 1021 | 2107 |

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|    |            |
|----|------------|
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|----|------------|

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|----|----|
| 18 | 14 |
|----|----|

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|----|------|
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|----|------|

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|-----|------|
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| 123 | 3820 |

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|----|------|
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| 91 | 2279 |
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|----|------|
| 97 | 3053 |
|----|------|

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|---|------|
| 3 | 3547 |
|---|------|

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|    |      |
|----|------|
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| 11 | 2112 |
| 13 | 2112 |
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|                      |                        |
|----------------------|------------------------|
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| 13                   | 1667                   |
| 15                   | 353                    |
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| 11 | 1573 |
| 13 | 1208 |
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# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR’S OFFICE

#### [4 PA. CODE CH. 6]

[EXECUTIVE ORDER NO. 2005-1]

### Transportation Funding and Reform Commission

February 28, 2005

*Whereas*, there exists a structural imbalance between operating funds available to Pennsylvania’s transit agencies and the operating costs of these agencies; and

*Whereas*, unless rectified this shortfall will lead to major reductions to transit service, increases in transit fares and employee layoffs, and these dislocations would harm the Commonwealth’s business climate, damage its competitiveness and disrupt the lives of many of its citizens; and

*Whereas*, the pressing shortfall of operating funding for transit is the result of many factors, including: growth rates for tax sources dedicated to transit well below the rate of inflation; heavy dependence on State general fund appropriations with little growth in these appropriations from year to year; low levels of support from local government; and dramatic reductions in Federal operating support for transit; and

*Whereas*, steps to be taken early in 2005, either through legislative or executive action, are likely to provide at least temporary relief for this operating shortfall, but structuring a permanent, long term solution to this problem will be difficult without a fuller understanding of its causes, its magnitude and the full range of options addressing it; and

*Whereas*, other issues of transportation funding and management issues merit similar investigation, including the structure and magnitude of State funding for roads and bridges and the management of the State’s transit agencies.

*Now, Therefore*, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by the authority invested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order and direct that a Transportation Funding and Reform Commission (hereinafter referred to as “the Commission”) be established to investigate and make recommendations as provided in this order.

*Edward G. Rendell*

*Governor*

**Fiscal Note:** GOV 05-2. (1) General Government Operations;

|   | <i>Federal<br/>Funds</i> | <i>Public<br/>Transportation<br/>Assistance<br/>Fund</i> | <i>Motor<br/>License<br/>Fund</i> |
|---|--------------------------|--|-----------------------------------|
| (2) Implementing Year 2004-05 is  | \$0                      | \$1,000  | \$0                               |
| (3) 1st Succeeding Year 2005-06 is  | \$385,000                | \$250,000  | \$20,000                          |
| 2nd Succeeding Year 2006-07 is  | \$0                      | \$200,000  | \$20,000                          |
| 3rd Succeeding Year 2007-08 is  | \$0                      | \$0  | \$0                               |
| 4th Succeeding Year 2008-09 is  | \$0                      | \$0  | \$0                               |
| 5th Succeeding Year 2009-10 is  | \$0                      | \$0  | \$0                               |
| (4) 2003-04 Program—N/A; 2002-03 Program—N/A; 2001-02 Program—N/A; (8) recommends adoption. |                          |  |                                   |

**Annex A**  
**TITLE 4. ADMINISTRATION**  
**PART I. GOVERNOR'S OFFICE**  
**CHAPTER 6. ADDITIONAL COUNCILS AND COMMITTEES**  
**Subchapter N. TRANSPORTATION FUNDING AND REFORM**  
**COMMISSION**

|        |   |
|--------|---|
| Sec.   |   |
| 6.211. | Composition.                              |
| 6.212. | Powers and duties.                        |
| 6.213. | Responsibilities of other State agencies. |
| 6.214. | Reporting.                                |
| 6.215. | Duration.                                 |

**§ 6.211. Composition.**

(a) The Transportation Funding and Reform Commission (Commission) consists of nine members appointed as follows:

- (1) One by the Speaker of the House of Representatives.
- (2) One by the Minority Leader of the House of Representatives.
- (3) One by the President Pro Tempore of the Senate.
- (4) One by the Minority Leader of the Senate.
- (5) Five by the Governor.

(b) Members of the Commission will be appointed by March 28, 2005.

(c) Of those members appointed by the Governor, at least one shall be a resident of the County of Philadelphia and at least one shall be a resident of the County of Allegheny. One of the appointees of the Governor shall be the Secretary of Transportation, who serves as the Chairperson of the Commission.

(d) To the greatest degree possible, appointees should have a background in transportation policy and management, public finance, or institutional management and reform.

(e) Members of the Commission receive no compensation for their service as members. Nongovernment members will be reimbursed for travel and related expenses in accordance with Commonwealth policy. See Chapter 40 (relating to travel and subsistence).

**§ 6.212. Powers and duties.**

(a) The Transportation Funding and Reform Commission (Commission) shall conduct or cause to be conducted an operational audit of the Southeastern Pennsylvania Transit Authority, the Port Authority of Allegheny County and other transit agencies receiving funding from the Commonwealth as it deems appropriate. The audits must determine if opportunities exist to implement cost efficiencies, revenue enhancements and service improvements that would be in the best interest of the users of these systems and of the Commonwealth and its citizens. The audits must include an assessment of employee roles, responsibilities and compensation.

(b) The Commission shall study and make recommendations regarding appropriate levels of funding and sources of funding for transportation in this Commonwealth for the coming years, for transit and for roads and bridges, and for operating costs and capital investments. Regardless of what levels of funding are recommended, the Commission shall assess the need for adjustment to the methods by which funding is provided, the appropriate mix of State and local funding, and the structure of State funding programs.

(c) The Commission shall assess the structure of this Commonwealth's transit agencies and assess whether changes to their underlying structure can improve service, reduce costs and increase efficiency. This review shall include board structure and responsibilities and options for changes to asset ownership and operations, including competitive contracting.

(d) The Commission shall assess the relationship of growth and development patterns and policies to this Commonwealth's transportation systems,

particularly fixed rail systems. In metropolitan areas around the United States, policies are being put in place to encourage development patterns that are easily served by transit and lead to fewer car trips and less congestion, and the Commission shall assess the opportunity to implement similar policies in this Commonwealth.

(e) In addition to the items enumerated in subsections (a)—(d), the Commission may investigate other related matters as it deems appropriate.

(f) Public agencies receiving transportation funding from the Commonwealth shall, to the greatest extent possible, assist the Commission in carrying out its responsibilities and make available to the Commission records and information as are needed by the Commission to fulfill its responsibilities.

**§ 6.213. Responsibilities of other State agencies.**

All agencies of the Commonwealth shall cooperate as necessary with the Transportation Funding and Reform Commission (Commission) to assure it is able to carry out its responsibilities. The Secretary of Transportation shall assure that the Department of Transportation provides technical and logistical support to the Commission. This may include provision of meeting space and other logistical support, staff resources and payment of expenditures for consultants.

**§ 6.214. Reporting.**

At the close of its deliberations, but no later than November 15, 2006, the Transportation Funding and Reform Commission shall issue a final report to the Governor and the General Assembly containing its analysis and recommendations. The final report must, at a minimum, recommend specific funding sources and amounts for transit and for highways.

**§ 6.215. Duration.**

The Transportation Funding and Reform Commission shall commence its work as soon as possible after its members are appointed and disband upon the issuance of a final report.

[Pa.B. Doc. No. 05-1766. Filed for public inspection September 23, 2005, 9:00 a.m.]

# THE COURTS

## Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1 AND 10]

Order Promulgating Rules 1030, 1031, 1032, 1033, 1034, 1035, and 1036, and Amending Rules 105 and 1000; No. 327 Criminal Procedural Rules; Doc. No. 2

On September 9, 2005, effective February 1, 2006, upon the recommendation of the Criminal Procedural Rules Committee, the Court promulgated a new Chapter 10, Part B, consisting of new Pa.Rs.Crim.P. 1030, 1031, 1032, 1033, 1034, 1035, and 1036 governing procedures in Philadelphia Traffic Court, and adopted correlative changes to Rules 105 (Local Rules) and 1000 (Scope of Rules). These new rules, which establish procedures different from the procedures for traffic summary cases in the magisterial district courts, are necessary for Traffic Court to efficiently and judiciously handle its case load while providing defendants with a fair and expeditious disposition of their cases. The Final Report follows the Court's Order.

### Order

*Per Curiam:*

Now, this 9th day of September, 2005, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice and efficient administration, and a Final Report to be published with this *Order*:

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

(1) New Rules of Criminal Procedure 1030, 1031, 1032, 1033, 1034, 1035, and 1036 are promulgated; and

(2) Rules of Criminal Procedure 105 and 1000 are amended,

all in the following form.

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

### Annex A

#### TITLE 234. RULES OF CRIMINAL PROCEDURE

#### CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

#### PART A. Business of the Courts

#### Rule 105. Local Rules.

(A) For the purpose of this rule, the term "local rule" shall include every rule, regulation, directive, policy, custom, usage, form or order of general application, however labeled or promulgated, which is adopted or enforced by a court of common pleas, **by the Philadelphia Municipal Court, or by the Philadelphia Traffic Court** to govern criminal practice and procedure.

\* \* \* \* \*

(C) A local rule shall not become effective and enforceable until the adopting court has fully complied with all the following requirements:

\* \* \* \* \*

(5) The local rules shall be kept continuously available for public inspection and copying in the office of the prothonotary or clerk of [ **court** ] **courts**. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule.

(6) A local rule promulgated before the effective date of this rule shall be filed on or before that effective date with the prothonotary or clerk of [ **court** ] **courts** and shall be kept by the prothonotary or clerk for inspection, copying, and furnishing as provided in paragraph (C)(5).

\* \* \* \* \*

**Official Note:** Rule 6 adopted January 28, 1983, effective July 1, 1983; amended May 19, 1987, effective July 1, 1987; renumbered Rule 105 and amended March 1, 2000, effective April 1, 2001; amended October 24, 2000, effective January 1, 2001; Comment revised June 8, 2001, effective immediately; amended October 15, 2004, effective January 1, 2005; **amended September 9, 2005, effective February 1, 2006.**

*Committee Explanatory Reports:*

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

\* \* \* \* \*

**Final Report explaining the June 8, 2001 Comment revision citing to the AOPC's webpage published with the Court's Order at 31 Pa.B. 3310 (June 23, 2001).**

Final Report explaining the October 15, 2004 amendment to paragraph (A), and to paragraph (C)(3) concerning the Legislative Reference Bureau publication requirements, published with the Court's Order at 34 Pa.B. 5893 (October 30, 2004).

**Final Report explaining the September 9, 2005 amendments to paragraph (A) published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).**

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

#### Rule 1000. Scope of Rules.

(A) The rules in this chapter govern all proceedings in the Philadelphia Municipal Court, including summary cases; Municipal Court cases, as defined in Rule 1001(A); the filing of appeals from Municipal Court cases; the filing of petitions for writs of certiorari; and the preliminary proceedings in criminal cases charging felonies, **Part A, and govern proceedings in summary traffic cases in Traffic Court, Part B.**

(B) Any procedure that is governed by a statewide Rule of Criminal Procedure that is not specifically covered in Chapter 10 or by a Philadelphia local rule **authorized by these rules and** adopted pursuant to Rule 105 shall be governed by the relevant statewide rule.

#### Comment

The 2004 amendments make it clear that, except as otherwise provided in the rules, Chapter 10 governs all proceedings in the Philadelphia Municipal Court, including the procedures for instituting criminal cases charging

felonies, preliminary arraignments, and preliminary hearings. See 42 Pa.C.S. § 1123 (Jurisdiction and Venue).

**Official Note:** Rule 6000 adopted December 30, 1968, effective January 1, 1969; amended March 28, 1973, effective March 28, 1973; amended July 1, 1980, effective August 1, 1980; renumbered Rule 1000 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended June 30, 2005, effective August 1, 2006; **amended September 9, 2005, effective February 1, 2006.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the September 9, 2005 amendments adding new rules governing Philadelphia Traffic Court published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).**

#### **PART A. Philadelphia Municipal Court Procedures**

- 1002. Procedure in Summary Cases.
- 1003. Procedure in Non-Summary Municipal Court Cases.
- 1004. Arraignment Prior to Trial.
- 1005. Pretrial Applications for Relief.
- 1006. Notice of Right to Appeal or to Petition for Certiorari; Guilty Plea Challenge Procedure.
- 1007. Challenge to Guilty Plea.
- 1008. Contents of Notice of Appeal or Petition for Certiorari.
- 1009. Notice to Municipal Court Judge and Attorney for the Commonwealth of Appeal or of Petition for Certiorari.
- 1010. Procedure on Appeal.
- 1011. Bail.
- 1012. Recording and Transcribing Municipal Court Proceedings; Admissibility of Testimony at Trial De Novo.
- 1013. Prompt Trial—Municipal Court.

#### **PART B. Philadelphia Traffic Court Procedures**

- 1030. Scope of Summary Traffic Court Rules.
- 1031. Institution of Proceedings in Summary Traffic Cases.
- 1032. Pleas in Response to Citation.
- 1033. Procedures When Defendant Arrested with Warrant.
- 1034. Collateral.
- 1035. Appointment of Counsel.
- 1036. Traffic Court Hearing Officers.

#### **Rule 1030. Scope of Summary Traffic Court Rules.**

Except as provided in these rules or by local rule authorized by these rules, or elsewhere in Chapter 10, all criminal proceedings in which a person is accused of one or more summary traffic offenses only or violations of municipal traffic ordinances shall proceed as provided in Chapter 4 of the Rules of Criminal Procedure.

#### **Comment**

These rules were developed in 2005 to accommodate the procedures Philadelphia Traffic Court has implemented to address the issues in summary traffic cases unique to Philadelphia, to more efficiently handle the vast number of summary traffic cases, and to protect the defendants' rights to a fair and prompt disposition of their cases.

See Rule 105 for the procedures for promulgating local rules.

**Official Note:** Adopted September 9, 2005, effective February 1, 2006.

*Committee Explanatory Reports:*

Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).

#### **Rule 1031. Institution of Proceedings in Summary Traffic Cases.**

(A) Summary traffic cases in Philadelphia shall be instituted by:

(1) issuing a citation to the defendant as provided in Rules 405-409;

(2) filing a citation with the Traffic Court as provided in Rules 410-414; or

(3) arresting without a warrant when arrest is specifically authorized by law as provided in Rules 440 and 441.

(B) The Administrative Judge of Traffic Court, or in the event the position of Administrative Judge is vacant, the Traffic Court President Judge, may provide by local rule, as an exception to the trial notice procedures in Rule 408(B), when a citation is issued to the defendant as provided in Rule 405, that the law enforcement officer also shall give the defendant written notice of the date and time and location set for the summary trial.

(1) The trial notice shall include an explanation that if the defendant enters a guilty plea and pays the fine and costs indicated on the citation within the specified time, the summary trial will be cancelled.

(2) The trial notice also shall include notice to the defendant that:

(a) failure to appear for the trial shall constitute consent for the trial to be conducted in the defendant's absence;

(b) if the defendant is found guilty, the collateral deposited will be forfeited and applied toward the fine and costs; and

(c) the defendant will have the right to appeal within 30 days for a trial de novo in the court of common pleas.

#### **Comment**

See Rule 403 for the contents of the citation.

The trial notice permitted in paragraph (B) may be added to the citation form.

See Rule 105 for the procedures for promulgating local rules.

**Official Note:** Adopted September 9, 2005, effective February 1, 2006.

*Committee Explanatory Reports:*

Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).

#### **Rule 1032. Pleas in Response to Citation.**

In addition to the procedures in Rules 407 and 412 for entering a plea in a summary traffic case, the defendant, by means of electronic transmission as provided by local rule, may notify the Traffic Court of his or her plea, and either pay the fines and costs or post the requisite collateral.

#### **Comment**

See Rule 105 for the procedures for promulgating local rules.

**Official Note:** Adopted September 9, 2005, effective February 1, 2006.

*Committee Explanatory Reports:*

Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).

**Rule 1033. Procedures When Defendant Arrested with Warrant.**

(A) When a defendant is arrested pursuant to a warrant issued as provided in Rule 430, the police officer without unnecessary delay shall take the defendant before the proper issuing authority and shall proceed as provided in this rule and by local rule.

(B) When the defendant appears in person or appears by means of two-way simultaneous audio-video equipment, the judge or bail commissioner shall:

(1) inform the defendant concerning the specific citations to which the defendant has not entered a plea as required by Rules 407 and 412;

(2) inform the defendant concerning the specific citations that have been adjudicated that have outstanding fines or costs for which the defendant is in default of a payment order or a payment plan; and

(3) advise the defendant of the right to retain counsel, and if, in the event of a conviction, there is a reasonable likelihood of a sentence of imprisonment and the defendant does not have the financial ability to retain counsel, advise the defendant that counsel will be appointed by Traffic Court as provided in Rule 1035.

(C) When the defendant appears before a bail commissioner, the bail commissioner shall schedule the next court proceeding before the Traffic Court and give the defendant a hearing notice or subpoena, set collateral as provided in Rule 1034 and local rule, and release the defendant, or if the defendant is unable to post the collateral, commit the defendant.

(D) When the defendant appears before a Traffic Court judge,

(1) if the matter is not ready to proceed, the Traffic Court judge shall schedule the next court proceeding and give the defendant a scheduling order, set collateral as provided in Rule 1034 and local rule, and release the defendant, or if the defendant is unable to post the collateral, commit the defendant.

(2) If the matter is ready to proceed,

(a) when the defendant is arrested pursuant to a warrant issued as provided in Rule 430(A) or (B)(1)(a) or (B)(2), the defendant shall enter a plea. If the defendant pleads guilty, the Traffic Court judge shall impose sentence. If the defendant pleads not guilty, the summary trial shall be conducted.

(b) When the defendant is arrested following a trial in absentia pursuant to a warrant issued as provided in Rule 430(B)(3)(c) and (B)(4),

(i) the Traffic Court judge shall conduct an immediate hearing to determine defendant's financial ability to pay the full amount due.

(ii) If the Traffic Court judge determines the defendant is financially unable to pay the full amount due, the judge may order an installment payment plan as provided in Rule 456(C)(2).

(iii) If the judge determines the defendant is financially able to pay the full amount due, and that there is a

likelihood that imprisonment will be imposed at the conclusion of the hearing, the judge shall advise the defendant of the right to retain counsel, and, if the defendant does not have the financial ability to retain counsel, advise the defendant that counsel will be appointed by Traffic Court as provided in Rule 1035. A hearing may be held if retained or appointed counsel is available; otherwise, the hearing shall be rescheduled for a date certain, and the defendant shall be released on collateral as provided in Rule 1034.

(iv) At the conclusion of the hearing, the Traffic Court judge shall proceed as provided in Rule 456(C)(3).

(c) When the defendant is arrested after defaulting on the payment of fine or costs or restitution pursuant to a warrant issued as provided in Rule 430(B)(3)(b) and (B)(4),

(i) the Traffic Court judge shall conduct an immediate hearing to determine whether the defendant is financially able to pay the outstanding fines and costs as previously ordered.

(ii) If the judge determines the defendant is financially unable to pay as previously ordered, the judge may issue a revised payment order or payment plan.

(iii) If the judge determines the defendant is financially able to pay as previously ordered, and that there is a likelihood that imprisonment will be imposed at the conclusion of the hearing, the judge shall advise the defendant of the right to retain counsel, and if, the defendant does not have the financial ability to retain counsel, advise the defendant that counsel will be appointed by Traffic Court as provided in Rule 1035. A hearing may be held if retained or appointed counsel is available; otherwise the hearing shall be rescheduled for a date certain, and the defendant shall be released on collateral as provided in Rule 1034.

(iv) At the conclusion of the hearing, the Traffic Court judge shall proceed as provided in Rule 456(C)(3).

(d) When the defendant is arrested on multiple warrants in cases involving both unadjudicated citations and adjudicated citations with outstanding balances, the matter shall proceed as provided in paragraph (D)(2)(a) (summary trial), or paragraphs (D)(2)(b) or (D)(2)(c) (default hearings). These cases may be joined and the proceeding scheduled before the same Traffic Court judge.

**Comment**

Pursuant to Municipal Court Local Rule 540 and Traffic Court Local Rule 1033, when a defendant is arrested outside the normal business hours of Traffic Court, the defendant is to be taken without unnecessary delay before a Philadelphia Municipal Court bail commissioner who shall proceed as provided in paragraph (C) and in Traffic Court Local Rule 1033.

"Proper issuing authority" as used in this rule is the traffic court judge or bail commissioner assigned to conduct these proceedings as provided in this rule, Municipal Court Local Rule 540, and Traffic Court Local Rule 1033.

For the procedures for contempt proceedings in Traffic Court cases, see Rules 140, 141, and 142.

For the summary appeal procedures, see Rules 460, 461, and 462.

See Rule 105 for the procedures for promulgating local rules.



**Official Note:** Adopted September 9, 2005, effective February 1, 2006.

*Committee Explanatory Reports:*

Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).

**Rule 1034. Collateral.**

(A) Except as provided in this rule, the procedures for collateral shall be as provided in Rule 452.

(B) When determining the amount of collateral, if any,

(1) if the defendant does not have a prior history of failure to appear for scheduled hearings, or there are other reasonable grounds to believe that the defendant will appear, or the defendant is without adequate resources to deposit collateral, the Traffic Court judge or bail commissioner shall consider releasing the defendant on his or her own recognizance, or sign own bail ("SOB"), or on a nominal amount of collateral.

(2) If the defendant has a prior history of failing to appear for Traffic Court scheduled hearings, and notice of the hearings was served personally on defendant, the Traffic Court judge or bail commissioner may set collateral in an amount not to exceed the collateral that may be required for the payment of defendant's adjudicated citations and the balance of outstanding fines and costs owed on adjudicated citations.

**Comment**

When the collateral is set in a monetary amount, the Traffic Court judge or bail commissioner may permit the defendant to be released from custody when 10% of the amount has been posted.

When determining the amount of collateral to set in paragraph (B)(2), the judge or bail commissioner must take into consideration the defendant's financial resources and ability to post the amount set. The amount of collateral must be reasonable.

See Rule 105 for the procedures for promulgating local rules.

**Official Note:** Adopted September 9, 2005, effective February 1, 2006.

*Committee Explanatory Reports:*

Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).

**Rule 1035. Appointment of Counsel.**

(A) When the Traffic Court judge has preliminarily determined that there is a likelihood that imprisonment will be imposed at the conclusion of a summary traffic proceeding,

(1) a hearing may be held if retained or appointed counsel is available; or

(2) if the defendant is without financial resources or is otherwise unable to employ counsel, the judge shall continue the proceeding, issue a scheduling order, and either appoint counsel or direct the defendant to report for a financial interview to determine eligibility to court-appointed counsel.

(B) When the defendant reports for the financial interview to determine eligibility to court-appointed counsel, the defendant shall provide supporting documentation, such as a driver's license, a DPW card, pay stubs, and any other relevant information. Upon review of the

information provided by the defendant during the financial interview, the Traffic Court judge shall enter an appropriate order.

(C) Counsel's appointment shall terminate at the conclusion of the Traffic Court proceeding, unless the Traffic Court judge sentences the defendant to a period of incarceration, in which case, counsel's appointment shall continue through any appeal for a trial de novo in the court of common pleas.

(D) At the time a sentence is imposed that includes a period of incarceration, if the defendant is represented by private counsel, the Traffic Court judge shall advise the defendant that, in the event private counsel ceases to represent the defendant after the imposition of the sentence and before the sentence is carried out, if the defendant is unable to afford counsel, he or she has the right to have counsel appointed to represent the defendant to file an appeal for a trial de novo, and if appointed, counsel's appointment shall continue through the trial de novo in the court of common pleas.

**Comment**

No defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial. See *Alabama v. Shelton*, 535 U.S. 654, 122 S.Ct. 1764, 152 L.Ed.2d 888 (2002), *Scott v. Illinois*, 440 U.S. 367, 99 S.Ct. 1158, 59 L.Ed.2d 383 (1979), and *Argersinger v. Hamlin*, 407 U.S. 25, 92 S.Ct. 2006, 32 L.Ed.2d 530 (1972).

See Rules 460, 461, and 462 for the procedures for summary case appeals.

**Official Note:** Adopted September 9, 2005, effective February 1, 2006.

*Committee Explanatory Reports:*

Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).

**Rule 1036. Traffic Court Hearing Officers.**

(A) The Administrative Judge of Traffic Court, or in the event the position of Administrative Judge is vacant, the President Judge of Traffic Court, may appoint Traffic Court hearing officers to conduct post-hearing proceedings, including but not limited to, establishing or re-establishing payment plans, monitoring compliance with payment plans, holding warrant hearings, and performing additional duties as may be identified by local rule.

(B) The Administrative Judge by local rule shall establish the qualifications and educational requirements for the position of Traffic Court hearing officer.

**Comment**

See Pa.R.Crim.P. 105 for the procedures for promulgating local rules.

**Official Note:** Adopted September 9, 2005, effective February 1, 2006.

*Committee Explanatory Reports:*

Final Report explaining the provisions of the new rule published with the Court's Order at 35 Pa.B. 5242 (September 24, 2005).

**FINAL REPORT<sup>1</sup>**

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

**New Rules of Criminal Procedure 1030, 1031, 1032, 1033, 1034, 1035, and 1036; Correlative Amendments to Rules of Criminal Procedure 105 and 1000**

***Philadelphia Traffic Court Procedures***

On September 9, 2005, effective February 1, 2006, upon the recommendation of the Criminal Procedural Rules Committee, the Court promulgated a new Chapter 10, Part B, consisting of new Pa.Rs.Crim.P. 1030, 1031, 1032, 1033, 1034, 1035, and 1036 governing procedures in Philadelphia Traffic Court, and adopted correlative changes to Rules 105 (Local Rules) and 1000 (Scope of Rules).

**I. BACKGROUND**

The need for changes to the Rules of Criminal Procedure that would accommodate Philadelphia Traffic Court arose in the wake of a federal law suit challenging Philadelphia Traffic Court's procedures related to the post-arrest imprisonment of defendants without affording them counsel in cases in which the defendants were arrested for failing to respond to citations or failing to pay the fines and costs. As part of the settlement the parties reached, Traffic Court's President Judge issued an administrative order that included an explanation of the statewide Criminal Rule procedures governing summary traffic cases and the interplay between these procedures and the Philadelphia Traffic Court procedures to be implemented under the terms of the settlement.

Concerned about the possible conflicts between the Criminal Rules and the Administrative Order, the Committee reviewed the statewide rules and the procedures set forth in the Administrative Order, noting the Court had issued an order in the early 1980's directing that Philadelphia Traffic Court comply with the statewide Criminal Rules. As a result of the Committee's review and the concerns about the inconsistencies, the Committee's Staff informally met several times with representatives from Traffic Court to address the Committee's concerns in an effort to resolve the inconsistencies and to bring the local procedures in line with the statewide Criminal Rules. Because of the vast number of cases Traffic Court handles compared to the rest of the state, several procedural issues were not able to be resolved satisfactorily within the scope of the statewide rules. In view of this, with the Court's approval, the Committee has developed separate Traffic Court rules within the statewide Criminal Rules similar to the current Municipal Court rules in Chapter 10 to accommodate these Traffic Court issues.

**II. THE ISSUES**

The procedural differences identified as necessitating separate rules concern (1) the use of a form of preliminary arraignment in summary traffic cases; (2) the use of the bail rules for these summary traffic cases; and (3) the procedure whereby the Traffic Court President Judge, with the consent of the Municipal Court President Judge, may delegate to the Municipal Court bail commissioners the authority to conduct the Traffic Court-created summary case arraignments when Traffic Court is not open.

**1. Preliminary Arraignment-Type Procedures**

The Traffic Court representatives explained the "preliminary arraignment" procedure is necessary to provide Traffic Court with the flexibility it needs to accommodate the vast numbers of defendants who have numerous outstanding cases in which the defendants have not responded to the citation, or have failed to pay the fines and costs or to make payments as required by a payment

schedule; or when there is a determination of a likelihood of imprisonment and the defendant must be afforded an opportunity to obtain counsel; or when the defendant is arrested outside Traffic Court's normal business hours.

**2. Traffic Court "Bail"**

Philadelphia Traffic Court uses the statewide bail rules for summary traffic offenses (1) based on the Philadelphia District Attorney's Office's interpretation that the bail rules apply to Philadelphia Traffic Court cases, and (2) to encourage the Traffic Court judges and bail commissioners to use ROR or nominal bail. When following Rule 452 (Collateral), the Traffic Court judges are imposing the full amount of fines and costs, as permitted by the rule, especially in the most egregious cases of failures to pay or failures to respond, rather than assessing the defendant's ability to pay, and this has led to numerous defendants being incarcerated for relatively long periods of time without assistance of counsel, one of the problems leading to the federal law suit.

**3. Philadelphia Bail Commissioners**

Related to the arraignment issue is the question of the propriety of Traffic Court using Municipal Court bail commissioners to handle after-hours release issues for Traffic Court when a defendant is arrested outside the normal business hours of Traffic Court. This procedure has been in place for a number of years pursuant to Municipal Court Local Rule 540 (Bail for Traffic Court Scofflaws). Although the authority for bail commissioners is in 42 Pa.C.S. § 1123(a)(5) (Jurisdiction and venue) [*of Municipal Court judges*], the Traffic Court and Municipal Court President Judges had agreed to retain this arrangement because the bail commissioners are available 24 hours a day, 7 days a week to process arrests, including arrests in non-traffic summaries that are within the jurisdiction of the Municipal Court. They thought this arrangement is the best use of limited judicial resources within the First Judicial District.

**4. Correlative Matters**

**a. Trial Date on Citation**

In addition to the specific issues concerning Traffic Court noted above, there are a few correlative procedures being addressed. First, the Traffic Court representatives suggested, either as a statewide rule or a separate Traffic Court rule, that the summary citation rules be modified to permit police officers to include on the citation a date certain for the summary trial. Traffic Court and the Philadelphia police are able to do this, and such a procedure will ensure actual notice of the summary trial dates. Traffic Court officials believe this will reduce the number of failures to appear.

**b. Trial de novo**

Another issue concerns the 2003 changes to the Criminal Rules that clarify once a case is appealed for a trial de novo, the case is to remain in the common pleas court for disposition.<sup>2</sup> This procedure is contrary to what is occurring in Philadelphia. Both Traffic Court and Philadelphia Common Pleas Court have serious concerns about the significant burden the statewide procedure would have on the Common Pleas Court, especially given the extraordinary number of cases involved and the amount of the fines and costs owed. Both courts note the current practice of returning the cases to Traffic Court for collection following the trial de novo works efficiently and has been successful.

<sup>2</sup> See Court's February 28, 2003 Order, effective July 1, 2003, and the Committee's explanatory Final Report published at 33 Pa.B. 1326 (3/15/2003).

### c. *Pleas in Summary Traffic Cases*

Traffic Court has implemented procedures for defendants to enter guilty pleas and pay their fines and costs via the Internet. They are working on permitting not guilty pleas to be entered in the same manner. The electronic entry of pleas is not currently covered by the Criminal Rules, but given the recent trend to accommodate advanced communication technology in criminal proceedings, this Traffic Court procedure seems a logical next step.

## III. DISCUSSION OF THE NEW RULES

The new Philadelphia Traffic Court rules are set forth as new Part B of Chapter 10.<sup>3</sup> Generally, Chapter 4 (Procedures in Summary Cases) of the Rules of Criminal Procedure will apply to Traffic Court cases. See Rule 1030 (Scope of Summary Traffic Court Rules).

### 1. *New Rule 1031 (Institution of Proceedings in Summary Traffic Cases)*

Rule 1031 sets forth the methods of instituting proceedings in Traffic Court. Rule 1031(A) provides that Traffic Court cases will continue to be instituted as provided in Rules 405–409 when the citation is issued to the defendant, or in Rules 410–414 when the citation is filed, or as provided in Rules 440 and 441 when the case is instituted by arrests without a warrant.<sup>4</sup> Paragraph (B) gives the Traffic Court Administrative Judge<sup>5</sup> the authority to establish by local rule the scheduling of a summary case trial for a date certain at the time the citation is issued to the defendant. The scheduling notice will be added to the citation, and will advise the defendant that the summary trial is scheduled for a date/time/place certain, and inform the defendant that if the defendant pleads guilty and pays the fine and costs within the applicable time limits, the summary trial will be cancelled.

The purpose of providing the procedures by local rule is to afford some flexibility to the Administrative Judge in determining when and for what cases the notice will be included on the citation.<sup>6</sup> This local rule procedure permits the Administrative Judge to institute this form of trial notice on the citation when the technology is in place to add such notice to the citation, and gives the Administrative Judge discretion whether to provide that the trial notices either appear on all citations or only when the charges are for specified types of offenses, such as when the offense charged carries a mandatory prison sentence upon conviction, or for “special” programs such as “drag racing” and other offenses that may impact on quality of life issues.

### 2. *New Rule 1032 (Pleas in Response to Citation)*

Rule 1032 provides for the electronic transmission of a plea and payment of fines and costs or collateral in a summary traffic case pursuant to procedures established by local rule. This procedure is in addition to the methods of entering a plea set forth in Rules 407 and 412.

<sup>3</sup> Chapter 10 currently sets forth the rules governing Philadelphia Municipal Court proceedings. Chapter 10 has been modified to address both Municipal Court proceedings and Traffic Court proceedings with the Municipal Court rules, now Part A.

<sup>4</sup> Because there are no private complaints in Traffic Court, there is no reference to Rules 420-424, the summary case rules governing private criminal complaints in summary cases, in this section of the rule.

<sup>5</sup> The Traffic Court Administrative Judge's authority includes all matters related to the daily operations of the court, including promulgation of local rules. The President Judge only assumes this responsibility when there is no Administrative Judge.

<sup>6</sup> In addition, this permits the Administrative Judge to modify the procedures without having to go through the ordinarily lengthy process of statewide rule changes. Of course, the Committee pursuant to Rule 105 will monitor any changes to the local rule the Administrative Judge promulgates.

### 3. *New Rule 1033 (Procedures When Defendant Arrested with Warrant)*

Rule 1033 sets forth the procedures following an arrest with a warrant in a Philadelphia Traffic Court case. Paragraph (B) sets forth the information about outstanding citations, outstanding fines and costs, and right to counsel that the bail commissioner or Traffic Court judge must provide a defendant following an arrest with a warrant.

Paragraph (C) sets forth the procedures when the defendant appears before a bail commissioner. These procedures are a form of “preliminary arraignment.” The bail commissioner will set the date and time for the defendant to appear in Traffic Court for the scheduled hearing, set collateral, and release the defendant if the collateral is posted or commit the defendant until the collateral is posted or a Traffic Court hearing is held.

Paragraph (D) sets forth the procedures when the defendant appears before the Traffic Court judge. In these cases, the defendant either receives an immediate hearing or, in the Traffic Court judge's discretion, at the initial post-arrest appearance collateral is set and the hearing is set for a date certain.<sup>7</sup> The procedures are separated by types of arrest: procedures when the arrest is pursuant to Rule 430(A) or (B)(1)(a) or (2); when the defendant is arrested following a trial in absentia; and when the defendant is arrested after defaulting on the payment of fines and costs.

### 4. *New Rule 1034 (Collateral)*

Traffic Court and the bail commissioners, when conducting Traffic Court post-arrest proceedings, will set “collateral” as provided in the Criminal Rules, and Traffic Court will continue to forfeit the collateral and apply the money toward the defendants' fines and costs consistent with Rule 452(C). The types of collateral that may be set in a Traffic Court case are expanded in Rule 1034 to include not only a monetary amount not exceeding the full amount of fines and costs as provided in Rule 452(A) and (B) and ROR, but also a 10% cash program and the unsecured bail bond (“sign own bail”<sup>8</sup> in Philadelphia).

The Comment includes a cautionary reminder to the Traffic Court judges and bail commissioners that, when setting a monetary amount of collateral, the amount must be reasonable and the judge or bail commissioner must take into consideration the defendant's financial resources and ability to pay.

### 5. *New Rule 1035 (Appointment of Counsel)*

One of the major issues in the federal law suit concerned the incarceration of defendants in Traffic Court cases without the appointment of counsel. As part of the settlement, the First Judicial District has established for Traffic Court a mechanism to ensure the appointment of counsel. These procedures are incorporated in Rule 1035.

The Rule 1035 Comment cross-references *Argersinger v. Hamlin*, 407 U. S. 25, (1972) and its progeny, and cautions that “no defendant may be sentenced to imprisonment or probation if the right to counsel was not afforded at trial.”<sup>9</sup>

<sup>7</sup> Instead of using the terminology “hearing notice,” which is the term used in the summary case rules, Traffic Court will continue to issue “scheduling orders” to give notice of hearings, and the bail commissioners will continue to use the subpoena/commitment form to give to the defendant as the defendant's notice to appear in Traffic Court and to give to the place of commitment in the event the defendant does not post the collateral. Scheduling orders and subpoena/commitment forms have been in use for a number of years and it will be less confusing for Traffic Court judges and staff, the bail commissioners, and the police if these terms are retained.

<sup>8</sup> This Philadelphia-specific local phraseology is commonly abbreviated “SOB.”

<sup>9</sup> See also the Comments to Rules 122 (Assignment of Counsel) and 454 (Trial in Summary Cases).

#### 6. *New Rule 1036 (Traffic Court Hearing Officers)*

Rule 1036 permits the Administrative Judge to establish for Traffic Court a hearing officer program that would provide for the non-judicial position of hearing officer to handle the cases in which the Traffic Court judge has determined a defendant should have a payment plan to pay the fines and costs. It is envisioned the hearing officer would, for example, conduct the financial background investigations and work with the defendants to establish payment plans, receive the money, monitor the payments, and send out default notices. This position would be similar to the trial commissioners used by Municipal Court but in a more limited capacity.

Pursuant to paragraph (B), the Administrative Judge must establish by local rule the qualifications and educational requirements for the position.

#### IV. CORRELATIVE CHANGES

Rule 105(A) has been amended to include references to Philadelphia Municipal Court and Philadelphia Traffic Court to make it clear in the rules that these "minor" courts have the authority to enact local rules governing procedures in their courts, and that they must proceed pursuant to Rule 105 when they do enact local rules.

To accommodate the addition of new Part B (Philadelphia Traffic Court) in Chapter 10, the Municipal Court Rules, Rules 1002 through 1013, are now new Part A. In addition, the titles to Chapter 10 and Rule 1000 have been amended to include references to Philadelphia Traffic Court.

[Pa.B. Doc. No. 05-1767. Filed for public inspection September 23, 2005, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BERKS COUNTY

#### Administrative Order Relative to Amendment of Rules of Judicial Administration; No. 98-8009 Prothonotary; No. 1-MD-2005 Clerk of Courts

##### Order

*And Now*, this 2nd day of September, 2005, it is hereby *Ordered* that Berks County Rules of Judicial Administration 6000.1 through 6000.5 are *Rescinded* in their entirety and made null and void effective this date.

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

1. File ten (10) certified copies of this Order with the Administrative Office of Pennsylvania Courts for distribution in accordance with Pa.R.J.A. 103(c);

2. File two (2) certified copies of this Order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

3. File one (1) certified copy of this Order with the Berks County Law Library;

4. Have other, non-certified copies of this Order continually available for public inspection and copying.

*By the Court*

ARTHUR E. GRIM,  
*President Judge*

[Pa.B. Doc. No. 05-1768. Filed for public inspection September 23, 2005, 9:00 a.m.]

### CHESTER COUNTY

#### Adoption of Local Rules of Criminal Procedure; No. 859M05

##### Order

*And Now*, this 1st day of September, 2005, the Court approves and adopts the following Chester County Local Rules of Criminal Procedure. These Rules shall become effective thirty (30) days from the date of publication in the *Pennsylvania Bulletin*.

In conformity with Pa.R.C.P. 105, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Criminal Procedural Rules Committee. One (1) copy shall be filed with the Clerk of Courts of Chester County, one (1) copy with the Court Administrator of Chester County, one (1) copy with the Chester County Bar Association, one (1) copy with the Law Library of Chester County and one (1) copy with each Judge of this Court.

*By the Court*

PAULA FRANCISCO OTT,  
*President Judge*

#### CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

##### Rule 100. Scope of Local Rules.

These local rules shall govern criminal proceedings in all Chester County Courts, including Courts not of record where applicable. Unless otherwise specifically provided, these local rules shall not apply to juvenile or domestic relations proceedings.

These local rules have been structured and given numbers that are keyed to the numbers of the general rules of the Supreme Court to which the local rules correspond. As these local rules are intended to be a supplement to the general rules of the Supreme Court and Acts of the Assembly, the parties should always consult the corresponding general rules of the Supreme Court and any applicable Act of the Assembly.

##### Rule 101. Purpose and Construction of Local Rules.

(A) These rules are intended to provide for the just determination of every criminal proceeding.

(B) These rules shall be construed to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay.

(C) To the extent practicable, these rules shall be construed in consonance with the rules of statutory construction.

(D) These rules are intended to be a supplement to the Pennsylvania Rules of Criminal Procedure and Acts of the Assembly, and are not intended to conflict with them.

(E) These rules shall not be construed in any manner that would render them inconsistent with any general rule of the Supreme Court or any Act of the Assembly.

**Rule 102. Citing the Chester County Criminal Rules.**

These rules shall be known as the Chester County Rules of Criminal Procedure, and shall be cited as "C.C.R.Crim.P. \_\_\_\_."

**PART A  
BUSINESS OF THE COURTS**

**Rule 103. Definitions.**

Unless otherwise defined, the words and phrases used in the Chester County Rules of Criminal Procedure shall have the same meaning as the definitions set forth in Pa.R.Crim.P. 103.

**Rule 104. Forms.**

The Clerk of Courts shall maintain, in each courtroom, forms for use by defendants and by counsel, including:

- Application for Continuance
- Application for Bench Warrant
- Application to Dismiss/Quash Bench Warrant
- Praecept for Appearance
- Transport Order
- Bail Slips
- Verdict, Sentence and Explanation of Post Verdict Rights
- Waiver of Jury Trial
- Plea Colloquy
- Sentencing Sheets
- Probation and Parole Violation Sentencing Form
- Summary Plea and Verdict Form
- Discharge Order
- Driving Under Influence/Intermediate Punishment Parole Order
- Pre-Sentence Investigation Order
- Indirect Criminal Contempt/PFA Order
- License Suspension Affidavits
- General Order Form

**Rule 105(C). Amendment of Local Rules.**

A local rule can be amended, upon approval by a majority of the sitting judges of the Court of Common Pleas of Chester County, and upon compliance with applicable rules and law, pursuant to Pa.R.Crim.P. 105(C).

**Rule 105(D). Effective Date.**

A local rule shall become effective 30 days after the date of publication of the rules in the *Pennsylvania Bulletin*, pursuant to Pa.R.Crim.P. 105(D), unless a later date is specified in the Amendment.

**Rule 105(E). Violation of Local Rule.**

These local rules are procedural and do not create any enforceable substantive rights in any party. No case shall be dismissed nor request for relief granted or denied because of failure to comply with a local rule. In any case

of noncompliance with a local rule, the Court shall alert the party to the specific provision at issue and provide a reasonable time for the attorney to comply with the local rule. After the Court has alerted the party to the local rule, the court may impose a sanction for subsequent noncompliance either on counsel, or the defendant, if proceeding pro se, but may not dismiss the case, or grant or deny relief because of noncompliance.

**Rule 105(F).1. Authority of President Judge.**

The President Judge of the Court of Common Pleas of Chester County may, by Administrative Regulation, suspend or vacate a local rule under applicable law when it appears that the rule is no longer in conformity with applicable state law.

Nothing in these local rules shall limit the authority of the President Judge to issue Administrative Orders that the President Judge may otherwise have the authority to issue under applicable law.

**Rule 105(F).2. Chester County Criminal Rules Committee.**

A criminal procedural rules committee may be established by the President Judge from time to time to study and make recommendations to the Court concerning local procedure in criminal matters and the promulgation and amendment of local rules of criminal procedure. The committee shall consist of a judge of the Court of Common Pleas of Chester County, together with at least four (4) members in good standing of the Bar of the Supreme Court of Pennsylvania, who maintain a principal office for the practice of law in Chester County. The judicial member and two lawyer members of the committee shall be appointed by the President Judge, one representative shall be named by the District Attorney of Chester County and one representative shall be named by the Public Defender of Chester County. All members shall serve at the will of the person appointing them. The President Judge shall select the Chairman of the committee. The committee shall meet and report at the direction of the President Judge, or of the Chairman of the committee.

**Rule 105.1(a). Individual Calendars.**

When a criminal proceeding is filed with the Clerk of Courts, the Court Administrator's Office shall forthwith assign it to a judge. Said assigned judge shall then be responsible for handling all phases of the assigned case, including but not limited to: Pre-Trial Motions, Trials, Post-Trial Motions and Sentencing, unless otherwise directed by the President Judge.

**Rule 105.1(b). Assignment Method.**

The Court Administrator in accordance with regulations approved by the President Judge shall make the assignment to a judge. Said regulations shall create a blind rotation system, which balances the caseloads among the judges. The sequence of assignment shall be kept secret and all steps shall be taken to prevent any person from being able to ascertain the name of the judge to whom any case may be assigned before the assignment.

**Rule 105.1(c). Murder and Major Cases; Pre-Assignment.**

When a defendant is charged with murder or a major crime in the complaint, upon written request of counsel to the Court Administrator the case may be assigned to a judge before the preliminary hearing.

**Rule 105.1(d). Reassignment of Cases.**

The President Judge may reassign cases whenever necessary to eliminate conflicts, to promote a balance of

the workload among the judges, and to improve prompt and just administration of all cases.

**Rule 105.1(e). Consolidation.**

Cases that are consolidated for trial after assignment to separate judges will be so consolidated by the Court Administrator's Office.

**Rule 105.2. Interpreters.**

In all criminal proceedings in Court or before Magisterial District Judges, where either a defendant or a testifying witness so requests, an official interpreter, or an alternate, shall be provided by the Court, through the Court Administrator's Office. It shall be the responsibility of counsel representing the defendant, or calling the witness, to notify the Court Administrator's Office, not less than twenty-four (24) hours in advance of the proceeding, when an interpreter will be needed.

Note: If the Magisterial District Judge is aware that an interpreter will be needed, the Magisterial District Judge should advise the Court Administrator.

**Rule 105.3(a). Transport of Prisoners; Out of County.**

In any criminal proceeding in which a court appearance by a prisoner housed in a facility out of Chester County will be required, the party, designated by C.C.R.Crim.P. 105.3(c), shall submit to the Court a transport order containing the location of the prisoner and when the prisoner will be needed for court. Once the Court signs the transport order, it shall be filed with the Clerk of Courts and copies provide to the Court Administrator and the Sheriff. The Sheriff shall arrange appropriate transportation of the prisoner. Absent genuine exigency or most unusual circumstances, a request for transport of a prisoner shall be made not less than three (3) days before the scheduled court appearance.

Note: The Court Administrator can issue a per curiam transport order if the prisoner is housed in a county facility. However, if the prisoner is housed in a state facility, the transport order requires a judicial signature.

**Rule 105.3(b). Transport of Prisoners; County Prisoners.**

In any criminal proceeding in which a court appearance by a prisoner housed by Chester County Prison will be required, the party, designated by C.C.R.Crim.P. 105.3(c), shall contact the Chester County Sheriff and request that the prisoner be transported. The Sheriff shall be provided with the name of the prisoner, the prisoner's identification number or date of birth, and the time and location of the appearance. Absent genuine exigency or most unusual circumstances, a request for transport of a prisoner shall be made not less than one (1) day before the scheduled court appearance.

**Rule 105.3(c). Party Responsible for Transport Orders.**

The party responsible for requesting the transport of a prisoner shall be as follows:

(A) Defense counsel shall have the responsibility for arranging transportation for hearings involving bail, habeas corpus, PCRA, Rule 600, the entering of a plea, and any other proceedings initiated by the defense, where the defendant's presence is required.

(B) The District Attorney shall be responsible for arranging transportation for proceedings such as arraignment, trial, sentencing, extradition, or hearings involving violation of probation or parole.

(C) For matters not listed above, the parties shall make every effort to agree as to who shall be responsible for arranging transportation of the prisoner.

**Rule 105.3(d). Constable Transports—Humanitarian Reasons.**

As there are instances when, for humanitarian reasons, or for other good cause, persons in confinement need to be transported from the place of confinement to another location, the Court may, upon petition and good cause shown, issue an Order authorizing the transport, either at the cost of the defendant, or at the cost of the County, to be made by a constable. These constables may be assigned at random by the Court from a list of constables duly qualified to do such transports. The Court Administrator of Chester County shall notify all Chester County constables who wish to be involved in said transports to do so in writing to the Court Administrator of Chester County. The Warrant Enforcement Bureau (WEB) will maintain this list and the assignments may be made on a random, rotating basis. Constables who wish to be part of this list must agree that in appropriate cases the Court may determine that a single constable will be sufficient for said transport. In any case in which the County pays the constable transport cost, the constable must comply with the Constable Handbook adopted by the Chester County Commissioners.

**Rule 105.4. Documents.**

A carbon, photo static, or NCR copy of any document filed with the Clerk of Court shall be given the full lawful effect of its original for all purposes when certified as a true copy by the Clerk of Courts or a duly authorized deputy.

**Rule 105.5(a). Answer to Parole Petition by Commonwealth.**

Upon receipt of a copy of a parole application, the attorney for the Commonwealth shall, within ten (10) days, in a signed writing, advise the judge to whom the application is addressed whether the application is opposed. The attorney for the Commonwealth shall serve a copy of such notice upon the defendant and upon the filing attorney or the last attorney of record.

**Rule 105.5(b). Parole Hearing.**

If the attorney for the Commonwealth or the warden opposes the application, and the Court does not deny the application, the Court shall schedule a hearing, with notice to the defendant, to the attorney for the Commonwealth, and to defendant's attorney of record, if any.

**Rule 105.6(a). Session Calls.**

Unless otherwise directed by the assigned judge, the principal call of said judge's criminal list, will be conducted, during the week immediately prior to the judge's trial session. The Criminal Court Administrator, a court reporter, counsel of record and unrepresented defendants shall be present, except as otherwise provided in this rule. The Court Administrator shall send notice.

**Rule 105.6(b). Presence of Counsel.**

Counsel of record need not be personally present:

(i) for continuance requests for filed ARD or IPP applications, with the written consent of the District Attorney; or

(ii) if there is present at the call of the list a lawyer who counsel of record has designated to answer the call for counsel of record and which designee has knowledge of the status of the case; or

(iii) if Counsel has notified the Court Administrator, copy to District Attorney, in writing of the disposition of the case (other than a continuance) prior to the call of the list.

**Rule 105.6(c). Periodic Calls.**

During the trial week, periodic calls shall be held at such times and in such manner as directed by the judge to whom the case has been assigned.

**Rule 105.6(d). Duty of Counsel.**

Counsel shall be required to keep the Criminal Court Administrator advised of changes in the status of the case.

**Rule 105.7(a). Copies of Orders.**

A party who has obtained an order shall, at the time of filing, supply to the Clerk of Courts two (2) copies thereof to be conformed and delivered by the Clerk in accordance with the State Rules.

**Rule 105.7(b). Delivery to District Attorney or Public Defender.**

Delivery of documents by the Clerk to the District Attorney or Public Defender may be achieved by the Clerk of Courts placing conformed and time-stamped copies thereof in the boxes provided in the Clerk's Office for that purpose.

**Rule 105.8. Praecepto to Reduce Sentence to Judgment.**

In all Court Cases and Summary Cases, once the Judge has imposed sentence, the Clerk of Courts shall reduce the sentence to judgment and enter that judgment upon the appropriate docket. A separate praecipe to reduce sentence to judgment shall not be required.

Note: Traditionally a praecipe to reduce sentence to judgment was filed so the Clerk of Courts would enter the judgment of sentence on the appropriate docket for appeal purposes. See Pa.R.A.P. 301(a) and 904(d). However, current practice is that the judgment of sentence is always entered on the appropriate docket without a request from a party. See Pa.R.Crim.P. 113 and 114.

**Rule 105.1901. Dismissals.**

Pursuant and subject to the requirements of Pa.R.J.A. 1901, the Clerk of Courts shall prepare a 1901 list no later than February 1 of each year and send it to the District Attorney with a copy to the Public Defender. Counsel shall advise the court in writing, within ninety (90) days of the list being delivered, of good cause for retaining a matter on the list. If no good cause of continuing a proceeding is shown an order for dismissal shall be entered by the Court, subject to the right of either party to petition to reactivate the matter for good cause shown.

**Rule 106(A). Applications for Continuance.**

All applications for continuance shall be made to the assigned judge or substitute, with notice to the opposing party, setting forth the reason for the requested continuance.

**Rule 106(B). Order for Continuance.**

Counsel requesting a continuance shall submit a proposed order, which shall specify:

1. The party requesting the continuance
2. The reason for the continuance request
3. The position of the opposing party

4. Reason for Grant/Denial

The Court Administrator will provide a suggested form of such order.

**Rule 114. Orders and Court Notices: Filing; Service; and Docket Entries.**

Pa.R.Crim.P. 114 shall govern the procedures for the filing, service, and docketing of orders and court notices.

**Rule 114(B)(2). Service of Orders and Court Notices.**

The Clerk of Courts, the Court Administrator, or the Court, may serve orders and court notices.

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

Pursuant and subject to the requirements of Pa.R.Crim.P. 117, the President Judge shall, as needed, issue an Administrative Order implementing Pa.R.Crim.P. 117.

**Rule 118. Use of Two-Way Simultaneous Audio-Visual Communication in Criminal Proceedings.**

Pa.R.Crim.P. 118 shall govern the procedures for the use of two-way simultaneous audio-visual communication in criminal proceedings.

**PART B  
COUNSEL**

**Rule 120.1. Appearance and Withdrawals.**

Appearances and Withdrawals Shall be in Accordance with State Rule 120, et seq.

**Rule 120.2. Effect of Entry of Appearance.**

The entry of the formal written appearance shall require counsel to represent the defendant until proceedings have been terminated in the Court of Common Pleas of Chester County, including without limitation, motions for withdrawal of guilty plea or for modification of sentence, except that the attorney may withdraw an appearance with leave of Court. Court-appointed counsel shall continue representation only through any direct appeal by right, unless the period of representation is specifically extended by the Court.

**Rule 120.3. Obligation of Counsel After Certain Dispositions.**

A previously filed appearance shall not require counsel to represent a defendant after placement on ARD, or in proceedings involving probation or parole.

**CHAPTER 2. INVESTIGATIONS**

**PART A  
SEARCH WARRANTS**

**Rule 202. Approval of Search Warrant Applications by Attorney for the Commonwealth.**

The District Attorney of Chester County having filed a certification, pursuant to Pa.R.Crim.P. 202, search warrants shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

**CHAPTER 3. ACCELERATED REHABILITATIVE DISPOSITION (ARD)**

**PART A  
SUMMARY CASES**

**Rule 300. Summary Cases Excluded.**

The District Attorney of Chester County having filed a certification, pursuant to Pa.R.Crim.P. 300, has desig-

nated, in addition to those offenses and/or offenders which are statutorily excluded, that summary cases are ineligible for ARD.

**PART B  
COURT CASES**

**Rule 316(A).1. Administration Fee.**

In addition to such other conditions as may be imposed, a condition of admission into the ARD program shall be that a person accepted into the program shall pay a fee as established by Court Order.

**Rule 316(A).2. Terms of Payment.**

Unless the terms of payment are agreed upon prior to the ARD hearing, the Court shall include in its Order the method, amounts and times for payment. In the absence of good cause shown, all fees shall be paid in advance of the ARD hearing.

**CHAPTER 4. PROCEDURES IN SUMMARY CASES**

**PART F  
PROCEDURES IN SUMMARY CASES FOR  
APPEALING TO COURT OF COMMON PLEAS FOR  
A TRIAL DE NOVO**

**Rule 460.1 Procedures in Summary Cases for Appealing to Court of Common Pleas; Nunc Pro Tunc.**

When an appeal is authorized by law in a summary proceeding, a summary appeal shall be perfected, pursuant to Pa.R.Crim.P. 460, by filing a Notice of Appeal, with the Clerk of Courts, within thirty (30) days after the entry of the guilty plea, the conviction, or other final order, from which the summary appeal is taken.

If a party seeks to file a summary appeal after the thirty (30) day appeal period has expired, the following procedure shall be followed:

(A) The party seeking a summary appeal nunc pro tunc shall file, pursuant to Pa.R.Crim.P. 460, a Notice of Appeal, with the Clerk of Courts. The party shall pay any applicable fees. The Clerk of Courts shall, within five (5) days, follow the procedure set forth in Pa.R.Crim.P. 460(C). The Issuing Authority shall, within twenty (20) days, follow the procedure set forth in Pa.R.Crim.P. 460(D).

(B) The party shall also file, contemporaneously, with the Clerk of Courts, a Petition for Summary Appeal Nunc Pro Tunc. Pursuant to C.C.R.Crim.P. 575(A), before the Petition is filed, it shall be covered with a Notice of Hearing, completed by the Court Administrator, setting forth the time and place of the hearing. However, the Court Administrator shall not schedule a hearing if the party has not complied with paragraph (A) of this rule, nor shall the Court Administrator schedule a hearing for the appeal filed pursuant to paragraph (A) of this rule. The hearing date shall not be less than thirty (30) days from the date of the request for a hearing.

(C) In addition to the requirements of Pa.R.Crim.P. 575, the Petition for Summary Appeal Nunc Pro Tunc shall contain the following:

1. The Caption of the Case; including the Miscellaneous Number assigned by the Clerk of Courts.
2. The procedural history of the case; including all relevant dates, charges, and citation numbers.
3. The specific facts the party would attempt to prove at a hearing, which the party asserts would warrant nunc pro tunc relief.

Note: A party who seeks a summary appeal nunc pro tunc must plead and prove that the failure to file a timely summary appeal was caused by the "fraud or its equivalent" of a "court official" or because of a "breakdown in the court's operation."

4. The specific facts the party would attempt to prove demonstrating that the party acted promptly in seeking nunc pro tunc relief.

Note: A party who seeks a summary appeal nunc pro tunc must plead and prove that they acted promptly to assert such a right upon learning of the existence of the grounds relied upon for such relief.

5. Copies of all documents and a list of all witnesses that the party relies upon.

6. A copy of the completed Notice of Appeal filed pursuant to paragraph (A) of this rule.

7. Any legal authority and theories the party relies upon in seeking nunc pro tunc relief.

8. A sworn affidavit of the person or persons having knowledge of the facts that the facts are verified as true and correct, or an unsworn written statement of such person or persons, that the facts are verified as true and correct subject to the penalties for Unsworn Falsification to Authorities, pursuant to 18 Pa.C.S.A. § 4904 of the Crimes Code.

(D) If the Petition for Summary Appeal Nunc Pro Tunc is granted, and no appeal from that order is filed, the Clerk of Courts shall combine the summary appeal file containing the Notice of Appeal with the miscellaneous file containing the Petition for Summary Appeal Nunc Pro Tunc, and the Court Administrator shall schedule a hearing on the merits, as it would if the Notice of Appeal was filed timely.

(E) If the Petition for Summary Appeal Nunc Pro Tunc is denied, the Clerk of Courts shall mark the Notice of Appeal as dismissed as untimely, and the judgment of the Magisterial District Judge shall stand. If there are any unpaid fines, costs, restitution, or any other outstanding matters such as community service, treatment, etc., the case shall be returned to the Magisterial District Judge, for further proceedings.

**CHAPTER 5. PRETRIAL PROCEDURES IN  
COURT CASES**

**PART B(1)  
COMPLAINT PROCEDURES**

**Rule 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth.**

The District Attorney of Chester County having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging the following offenses shall not hereafter be accepted by any judicial officer unless the complaint and affidavit have the approval of an attorney for the Commonwealth prior to filing:

- Criminal Homicide—18 Pa.C.S.A. § 2501;
- Murder in any degree—18 Pa.C.S.A. § 2502;
- Voluntary Manslaughter—18 Pa.C.S.A. § 2503;
- Involuntary Manslaughter—18 Pa.C.S.A. § 2504;
- Rape—18 Pa.C.S.A. § 3121;
- Statutory Sexual Assault—18 Pa.C.S.A. § 3122.1;



- Involuntary Deviate Sexual—18 Pa.C.S.A. § 3123;
- Sexual Assault—18 Pa.C.S.A. § 3124.1;
- Institutional Sexual Assault—18 Pa.C.S.A. § 3124.2;
- Aggravated Indecent Assault—18 Pa.C.S.A. § 3125;
- Arson—18 Pa.C.S.A. § 3301;
- Robbery—18 Pa.C.S.A. § 3701(a)(1)(i), (ii), (iii);
- Homicide by Vehicle—75 Pa.C.S.A. § 3732;
- Homicide by Vehicle While DUI—75 Pa.C.S.A. § 3735.
- Any criminal complaint filed against a person who is under 18 years of age under circumstances where the law authorizes such person to be charged as if the person were an adult. See C.C.R.Crim.P. 540.2.

### PART C BAIL

#### **Rule 522. Material Witnesses.**

The Chester County Local Bail Rules shall apply equally to witnesses detained under Pa.R.Crim.P. 522. Applicability of these Rules in interstate witness situations under 42 Pa.C.S.A. § 5963 or § 5964 shall be subject to the discretion of the Court.

### PART C(1) RELEASE PROCEDURES

#### **Rule 524(C).1. R.O.R.**

Where the Court or the issuing authority releases a defendant on the defendant's own recognizance (R.O.R.), the defendant shall not be subject to the rules, regulations, and special conditions of the Chester County Court Bail Agency.

#### **Rule 528(C).1. Ten Percent Bail.**

An issuing authority, with notice to the Chester County Court Bail Agency, or the Court may release a defendant upon the posting by or for defendant of ten (10) percent of the amount of bail set, but in no event less than twenty-five dollars (\$25). Defendant or a private third party surety shall execute the bail bond and post the sum required with the issuing authority or the Clerk of Courts.

#### **Rule 528(D).1. Posting Real Estate Bail.**

If realty is offered to satisfy the bail set for a defendant, whether before an issuing authority or thereafter, the following must be provided to the Clerk of Courts of Chester County:

- (i) the original deed, or a true copy certified by the Recorder of Deeds, for the realty being posted;
- (ii) a certificate from the Tax Assessment Office of the county in which the property is located, setting forth a general description of the property, the tax book references, and the assessed valuation of the realty as of the time the bail is requested;
- (iii) if the property is mortgaged, the original of a statement from the mortgagee indicating the unpaid balance due;
- (iv) a lien, judgment, and last owner search, dated not more than two (2) days prior to the posting of the bail, prepared by a reputable title insurance company or a reputable local abstractor;
- (v) the most recent tax receipts for county and school taxes applicable to the realty; and

(vi) if the realty offered is situated in another county, a written statement from the Prothonotary of such county that, in the event of forfeiture of the bail, said Prothonotary will accept said forfeiture for filing in that county and for entry and indexing as a judgment against the surety.

The Clerk of Courts shall enter judgment on the bond, and file a lien in the amount of the bond, in the office of the Prothonotary in the county in which the realty is located.

#### **Rule 528(D).2. Establishing Value of Real Estate Bail.**

The net value of any piece of realty, for purposes of posting bail, shall be determined by multiplying the assessed valuation of said property by the applicable county factor, and subtracting there from any mortgages, liens, or encumbrances. Alternatively, or if such calculation shall yield a value insufficient for the posting of bail, the surety may present a verified appraisal report from a licensed real estate broker doing business in the county where the realty is located, establishing a higher valuation for the realty. Such appraisal may be substituted for the multiple of assessed valuation.

#### **Rule 528(D).3. Review of Documents by Clerk of Courts.**

Upon review of the above documents, a determination will be made by the Clerk of Courts, as to whether the actual net value of the realty equals or exceeds the amount of the bail. Only after necessary documentation is provided to, and such determination made by the Clerk of Courts may realty be accepted for bail.

#### **Rule 528(D).4. Posting for More Than One Defendant Prohibited.**

Any piece of realty may be posted as bail only if it is not presently posted as bail for any other defendant or in any other matter, except with leave of Court.

#### **Rule 528(D).5. Verification of Surety.**

When realty is offered for bail, the owner(s) shall, in the presence of a member of the issuing authority's staff or Clerk of Courts' staff, file a verification of surety in the form required by the Clerk of Courts, and a verified statement that the realty posted is not subject to any outstanding lien, encumbrance, or agreement not shown in the search required by C.C.R.Crim.P. 528(D).1(iv).

### PART C(2) GENERAL PROCEDURES IN ALL BAIL CASES

#### **Rule 530.1. Powers of Bail Agency.**

The Chester County Court Bail Agency is designated to have the duties and powers as set forth in Pa.R.Crim.P. 530.

#### **Rule 530.2. Supervision by Bail Agency.**

Any defendant released on percentage, nominal or unsecured bail shall be subject to the rules, regulations and special conditions of the Chester County Court Bail Agency, as set forth on the Bond. Where the Court or the issuing authority releases a defendant on percentage or nominal bail, the Chester County Court Bail Agency may be designated as surety for the defendant.

#### **Rule 531(A).1. Corporate Sureties.**

Corporate sureties or professional bail bondsmen or agents thereof are expressly prohibited from posting percentage bail allowed pursuant to these rules.

**Rule 531(A).2. Application to Surety and Fidelity Companies and Professional Bondsmen, in General.**

Surety companies, fidelity companies and bondsmen are not qualified to act as sureties in Chester County except as otherwise provided for in these rules.

**Rule 531(A).3. Listing of Approved Sureties and Bondsmen.**

The Clerk of Courts shall compile, maintain, and make available for public inspection a list of approved surety companies, fidelity companies, and professional bondsmen qualified to act as sureties in Chester County (hereinafter, "the approved list").

**Rule 531(A).4. Approved Bondsman, Requirements to be Fulfilled By.**

A professional bondsman, as defined in 42 Pa.C.S.A. § 5741, may not be included on the approved list unless the bondsman:

(i) presents proof of currently valid registration and licensure by the Insurance Department of the Commonwealth of Pennsylvania, pursuant to 42 Pa.C.S.A. § 5742;

(ii) presents proof that the bondsman maintains an office in Chester County from which the bondsman conducts business, pursuant to 42 Pa.C.S.A. § 5744;

(iii) posts and maintains as security with the Clerk of Courts the sum of twenty-five thousand dollars (\$25,000) in United States currency or securities of the United States government.

**Rule 531(A).5. Approved Surety/Fidelity Companies, requirements to be fulfilled by.**

Any fidelity or surety company authorized to act as surety within this Commonwealth may not be included on the approved list unless the company:

(i) presents proof of currently valid registration and licensure by the Insurance Department of the Commonwealth of Pennsylvania, pursuant to 40 P. S. § 831 et seq;

(ii) files with the District Attorney and with the Clerk of Courts, for the last calendar quarter ending before the date of the application, a report of the sort required to be filed quarterly, pursuant to 42 Pa.C.S.A. § 5747;

(iii) posts and maintains as security with the Clerk of Courts the sum of twenty-five thousand dollars (\$25,000) in United States currency or securities of the United States government.

**Rule 531(A).6. Petition for Placement on Approved List.**

A professional bondsman or fidelity or surety company wishing to be placed on the approved list must file a petition for such inclusion, in the manner provided by Pa.R.Crim.P. 575 et seq. Copies of said petition shall be served on the District Attorney and the Bail Agency. Hearing on said petition shall be scheduled by the Court Administrator on not less than 20 days notice to the District Attorney and the Bail Agency, which period may be extended for good cause shown on application by either agency. Upon a finding of compliance by the applicant with these rules and all applicable laws, the Court shall order the placement by the Clerk of Courts of the name of the applicant on the approved list.

**Rule 531(A).7. Removal of Surety or Bondsman from Approved List.**

Upon order of the Court of Common Pleas of Chester County, after Motion filed by any interested party and

hearing held on not less than ten (10) days notice to the bondsman or fidelity or surety company, the Clerk of Courts shall remove the name of the bondsman or company from the approved list. Grounds for suspension or revocation shall include, in the discretion of the Court:

(i) failure of the bondsman or fidelity or surety company to comply with any requirement of these rules;

(ii) suspension of the license of a bondsman by a Court of Common Pleas elsewhere in the Commonwealth of Pennsylvania for reasons other than failure to maintain an office in the county in which the bondsman was suspended;

(iii) suspension of the license of a fidelity or surety company by the Insurance Department of the Commonwealth of Pennsylvania;

(iv) non-compliance by a fidelity or surety company with the requirements of 42 Pa.C.S.A. § 5747;

(v) non-compliance by a bondsman with the requirements of 42 Pa.C.S.A. § 5746(b).

**Rule 531(A).8. Bail Forfeiture, Deduction from Surety's Posted Security.**

Whenever bail has been forfeited with respect to a defendant for whom bail has been posted by a professional bondsman or surety company or fidelity company, the amount of said forfeited bail shall, pursuant to Pa.R.Crim.P. 536, be deducted and withdrawn by the Clerk of Courts from the security posted by the said bondsman or company pursuant to these rules. Within ten (10) days after notice to the bondsman or company of such withdrawal by the Clerk of Courts, the said bondsman or company shall replenish the posted security to maintain twenty-five thousand dollars (\$25,000) as security. Failure, after such notice, to replenish the security shall (i) require notice by the Clerk of Courts of such failure to the District Attorney, and (ii) be grounds for removal of the name of the bondsman or fidelity or surety company from the approved list.

**Rule 531(A).9. Approved List, Additions and Deletions, Circulation of.**

The Clerk of Courts may make additions to or deletions from the approved list at any time. When there is an addition to or deletion from the list, the Clerk of Courts shall distribute copies of the list to the District Attorney of Chester County, Public Defender of Chester County, Bail Agency, Warden, and to the Court Administrator who shall distribute the list to all sitting Judges and Magisterial District Judges of the 15th Judicial District. An updated list shall be distributed to the above individuals by the Clerk of Courts at least once every twelve (12) months, notwithstanding the absence of any additions or deletions from the list.

**Rule 531(A).10. Bail Accepted only from Approved Sureties.**

No person or office may accept bail from a bondsman, a fidelity company or a surety company that is not included on the current approved list.

**Rule 534. Termination of Case.**

In cases where a defendant has been sentenced to a term of imprisonment, commencement of which sentence has been deferred, full and final disposition of the case shall not be deemed to occur prior to defendant's surrender to authorities for commencement of the sentence of imprisonment.

**Rule 535(A). Receipt.**

At the time of posting of any bail, including percentage bail, but excluding a surety bond, the office at which the bail is posted shall issue, to the person posting the bail a receipt itemizing the bail and the fees and costs which will apply in the absence of a violation or forfeiture.

**Rule 535(D).1. Return of Cash Bail to Surety by Clerk of Courts.**

Within twenty (20) days after the full and final disposition of a case on which full cash bail has been posted, the Clerk of Courts shall retain the lawful fee provided by the Judicial Code, and shall return the balance to the defendant or an assignee or the third party surety unless the balance is applied to pay a fine and costs of prosecution or to make restitution.

**Rule 535(D).2. Return of Cash Bail to Surety by Issuing Authority.**

Where a matter reaches a full and final disposition before an issuing authority, the issuing authority shall return the entire amount of full cash bail, which has been posted with the issuing authority.

**Rule 535(D).3. Removal of Judgment Indexed Against Realty.**

The Clerk of Courts shall, within twenty (20) days after the full and final disposition of a case on which realty has been posted as bail, notify the surety to present to the Clerk of Courts for execution by the Clerk of Courts a praecipe to remove the judgment previously entered by the Clerk of Courts.

**Rule 535(D).4. Bail Agency Fee; Return of Bail to Surety.**

Within twenty (20) days after full and final disposition [as defined by Pa.R.Crim.P. 534] of a case in which percentage bail has been posted, the issuing authority or the Clerk of Courts shall retain forty (40) percent of the amount deposited, but in no event less than fifty dollars (\$50), as administrative costs for the Chester County Court Bail Agency and shall return the balance to the defendant or an assignee or the third party surety unless the balance is applied to pay a fine and costs of prosecution or to make restitution. The fees to which the Bail Agency is entitled by law are deemed earned at the time the bail undertaking is executed and the money deposited.

**Rule 535(D).5. Disposition of Bail Deposited by Defendant.**

If the Court, upon sentence, orders the defendant to pay a fine and costs of prosecution or to make restitution, the amount deposited by the defendant, whether under the percentage cash bail program or otherwise, shall be first applied, in the case of percentage bail, to the administrative costs of the Chester County Court Bail Agency and then to any restitution ordered by the Court, then to the fine, if any, and then to other costs ordered by the Court to be paid.

**Rule 535(D).6. Disposition of Bail Deposited by Third Party.**

Where a third party surety has deposited money, under the percentage cash bail program or otherwise, the monies deposited shall be first applied, in the case of percentage bail, to the administrative costs of the Chester County Court Bail Agency. With voluntary written authorization of the person who deposited the bail, any balance shall then be applied to any restitution ordered by the

Court, then to the fine, if any, and then to other costs ordered by the Court to be paid.

**Rule 535(D).7. Authorization to Pay Attorney.**

When authorized in writing by the defendant and any third party surety who posted the deposit, whatever balance of such deposit is repayable to the defendant or the third party surety, may be paid to the defendant's attorney of record, upon filing such written authorization with the Clerk of Courts.

**Rule 535(D).8. Notice to Person Posting.**

The Clerk of Courts shall send notice of the full and final disposition to the person who originally posted money, at the address of record. Any money not claimed within one hundred and eighty (180) days from the time of full and final disposition of the case shall be forfeited to the use of the County of Chester.

**Rule 536. Revocation of Bail.**

When a defendant has failed to comply with the rules and regulations of the bail, or of the Chester County Court Bail Agency, or any additional conditions of the defendant's release, the Chester County Court Bail Agency may execute a bail piece, and/or petition that a bench warrant be issued, so that the defendant may be brought before the Court, to determine if additional bail shall be set in the case or bail revoked.

**PART D  
PROCEDURES IN COURT CASES  
BEFORE ISSUING AUTHORITIES**

**Rule 540.1. Arrest of Fugitive from Justice; Another State.**

In cases where complaints have been filed charging a defendant with being fugitive from justice wanted in another state, the Magisterial District Judge shall transmit the file to the Clerk of Courts following the preliminary arraignment. See 42 Pa.C.S.A. §§ 9134, 9135, 9136, and 9137. All subsequent proceedings will then be conducted by the Court of Common Pleas. See 42 Pa.C.S.A. §§ 9138 and 9139.

**Rule 540.2. Arrest of Juvenile as Adult.**

(A) The arrest of a juvenile for an offense required to be prosecuted as a criminal matter, by operation of 42 Pa.C.S.A. § 6355(e), shall be pre-approved by the District Attorney of Chester County or a designee.

(B) A juvenile arrested for an offense required to be prosecuted as a criminal matter by 42 Pa.C.S.A. § 6355(e) shall be immediately brought before the appropriate Magisterial District Judge for preliminary arraignment.

(C) The Magisterial District Judge conducting the preliminary arraignment shall:

1. In the case of an Arrest Without Warrant, pursuant to Pa.R.Crim.P. 519, contact the on-call District Attorney who shall pre-approve the Commonwealth's decision to proceed pursuant to 42 Pa.C.S.A. § 6355(e). The Magisterial District Judge shall then make the independent analysis required under Pa.R.Crim.P. 540(D).

2. The Magisterial District Judge shall inquire of the juvenile and/or the juvenile's parents and/or interested adult whether or not private counsel will be retained for the juvenile. In the absence of an affirmative response the Magisterial District Judge shall appoint the Public Defender of Chester County to represent the juvenile at the juvenile's preliminary hearing. The Magisterial District

Judge shall immediately notify the Public Defender of Chester County of said appointment by fax and in writing.

3. The Magisterial District Judge shall provide contact information for the Public Defender's Office to the juvenile and/or the juvenile's parents and/or interested adult. If the juvenile is not incarcerated, the Public Defender's Office shall be contacted, by the juvenile and/or the juvenile's parents and/or interested adult, as soon as possible, to undergo a financial qualification determination as to whether the juvenile is eligible for Public Defender's Office representation beyond the preliminary hearing. If the juvenile is incarcerated, an investigator from the Public Defender's Office will initiate contact for the purpose of determining eligibility for representation.

4. The Magisterial District Judge shall schedule the preliminary hearing pursuant to Pa.R.Crim.P. 540(F). In the case of a juvenile incarcerated at Chester County Prison, the hearing may not be extended pursuant to the provisions of Pa.R.Crim.P. 540(F)(1)(a) or Pa.R.Crim.P. 542(E) except upon order of a Judge of the Court of Common Pleas.

5. The attorneys for the Commonwealth and the juvenile defendant shall be attached for said preliminary hearing, which shall have priority over any other hearing in which counsel are involved in any District Court or Court of Common Pleas.

6. If the juvenile is detained by virtue of the juvenile's inability to post bail pursuant to Pa.R.Crim.P. 540(G) the juvenile shall be committed to the Chester County Prison.

7. All members of the minor judiciary are hereby granted the authority to commit a juvenile to the Chester County Prison notwithstanding the provisions of 42 Pa.C.S.A. § 6303(b).

8. The Magisterial District Judge shall immediately notify, by fax and in writing, the Court Administrator of Chester County (who will notify the Common Pleas Court Judge handling juvenile matters), the District Attorney of Chester County, the Public Defender of Chester County and the Director of the Juvenile Probation Office whenever a juvenile is committed to the Chester County Prison.

(D) The preliminary hearing shall be conducted in such a manner as to afford the Court of Common Pleas a full evidentiary record such that the Court of Common Pleas can rule on a motion for Writ of Habeas Corpus that the juvenile has in fact not committed an act required to be prosecuted as a criminal matter by 42 Pa.C.S.A. § 6355(e). The Magisterial District Judge shall determine on the record whether the Commonwealth has presented prima facie evidence that the matter should be prosecuted pursuant to 42 Pa.C.S.A. § 6355(e), taking into consideration documentary evidence and hearsay testimony, provided that the Attorney for the Commonwealth certifies that admissible evidence will be available from an identified source at the time of trial and/or sentencing. Said hearing shall be stenographically taken.

(E) In any case where a juvenile is held for the Court of Common Pleas for an offense, required to be prosecuted, as a criminal matter by operation of 42 Pa.C.S.A. § 6355(e), the juvenile through counsel shall, where appropriate, include in the juvenile's omnibus Pre-Trial Motion pursuant to Pa.R.Crim.P. 578 a petition for transfer from the criminal to juvenile court pursuant to 42 Pa.C.S.A. § 6322 and shall, where appropriate, file a Motion for Writ of Habeas Corpus, which motion shall be heard at the same time as the petition for transfer.

Counsel for the juvenile shall serve a copy of the petition for transfer upon the director of the Juvenile Probation Office.

(F) A juvenile held for the Court of Common Pleas for an offense required to be prosecuted as a criminal matter by operation of 42 Pa.C.S.A. § 6355(e) shall be assigned for trial purposes through the individual calendaring method to a list of judges maintained by the Court Administrator of Chester County.

(G) Any juvenile detained at the Chester County Prison shall, to the extent possible, be housed in an area separate from the general population and shall be observed on a twenty-four (24) hour basis through the use of video equipment and/or prison personnel.

(H) The Warden of the Chester County Prison shall, to the extent possible, accommodate the reasonable educational needs of the juvenile. In all other respects the juvenile shall be treated in the same manner as other inmates at the Chester County Prison.

(I) In the event that a juvenile is convicted of an offense required to be prosecuted as a criminal matter by operation of 42 Pa.C.S.A. § 6355(e), the Juvenile Probation Department in conjunction with the Adult Probation Department shall prepare a pre-sentence investigation memorandum on an expedited basis.

**Rule 540.3. Preliminary Arraignment and Bail; Local Fugitives.**

When the attorney for the Commonwealth has filed an information with the Court of Common Pleas without a preliminary hearing, pursuant to C.C.R.Crim.P. 565(D), because the defendant had been declared a fugitive, the Magisterial District Judge will retain limited jurisdiction over the case for the sole purpose of conducting a preliminary arraignment and setting bail, once the defendant is located, after which the remainder of the case will be forwarded to the Clerk of Courts, for further proceedings.

**Rule 543.1. Disposition of Case at Preliminary Hearing; Summary Offenses.**

In order to establish uniform procedures for Magisterial District Judges when conducting preliminary hearings that involve summary offenses charged on a criminal complaint with misdemeanor and/or felony charges, the following procedure shall be followed:

(A) When a Magisterial District Judge is conducting a preliminary hearing on misdemeanor and/or felony charges the Commonwealth is not required to provide evidence to substantiate summary criminal offenses included on the criminal complaint. At the conclusion of the preliminary hearing, if the Magisterial District Judge determines the Commonwealth has established a prima facie case with respect to the misdemeanor and/or felony charges, the Magisterial District Judge should hold those charges and the summary offenses over to the Court of Common Pleas.

(B) Upon completion of the preliminary hearing, if the Magisterial District Judge determines the Commonwealth has not established a prima facie case with respect to the misdemeanor and/or felony charges, the Magisterial District Judge should ask the attorney for the Commonwealth whether the Commonwealth intends to refile the misdemeanor and/or felony charges. If the Commonwealth's response is yes, no further evidence is required and the Magisterial District Judge shall state the lack of a prima facie case ruling in open Court. If the Commonwealth's response is that the defendant will not be

rearrested, the Magisterial District Judge shall allow the Commonwealth the opportunity to immediately supplement the hearing with additional evidence concerning the summary offenses, if needed, and then make a finding of guilt or innocence by proof beyond a reasonable doubt in regard to the charged summary offenses.

**Rule 543.2(a). Motions Challenging Preliminary Hearing (Habeas Corpus).**

All motions challenging the action of a Magisterial District Judge in finding a prima facie case shall have the substantive characteristics of a habeas corpus motion, but shall be captioned "Commonwealth v. Defendant," together with the term number, if any, or the offense tracking number. Such motions need consist only of a motion and notice of hearing. A writ shall be prepared only when specifically requested by the motion, and shall be directed to such custodian as shall be named in the motion. The motion and notice shall be assigned a hearing date on the miscellaneous list by the Court Administrator, and shall be filed with the Clerk of Courts. Where an expedited hearing is requested, the assigned judge may order an accelerated listing.

**Rule 543.2(b). Sharing Cost of Transcript.**

In all cases where the notes of testimony from a preliminary hearing are taken and/or transcribed by a court reporter, the entire cost of the services of the court reporter and the notes of testimony shall be borne equally by all parties requesting transcripts at any time. The original of the notes of testimony shall be provided to the party who engaged the services of the reporter.

**Rule 543.2(c). Providing Transcript to Court, and Opposing Party.**

It shall be the duty of the party filing such motion to obtain a transcript of the record of the preliminary hearing, or relevant portion thereof, regardless of the manner in which the record was made, and make such transcript available to the Court, and the opposing party, as soon as practicable.

**Rule 543.2(d). Transcripts From Tape Recordings.**

If the preliminary hearing was recorded electronically, each party shall review the transcript, and, prior to the hearing, note any objections or discrepancies for the Court. The parties shall attempt to resolve any such discrepancies prior to the hearing.

**Rule 543.2(e). Stipulations in Absence of Record.**

Where no record of the preliminary hearing has been made, or upon motion of either party, the Court may hear testimony or consider stipulations of the parties to supplement the record from the preliminary hearing.

**PART E  
INFORMATIONS**

**Rule 565. Presentation of Information Without Preliminary Hearing; Fugitives.**

(A) When the attorney for the Commonwealth certifies to the Court of Common Pleas that a preliminary hearing cannot be held for a defendant for good cause, the Court of Common Pleas may grant leave to the attorney for the Commonwealth to file an information with Court of Common Pleas without a preliminary hearing.

(B) When a juvenile has been transferred for prosecution as an adult, the attorney for the Commonwealth may file an information with the Court without a preliminary hearing.

(C) Nothing in this rule is intended to preclude the attorney for the Commonwealth from filing an information or from having the date for the arraignment scheduled in those cases in which the issuing authority has conducted the preliminary hearing in the defendant's absence as provided for in Pa.R.Crim.P. 543(D).

(D) Where the defendant has been declared a fugitive by the Magisterial District Judge, and a preliminary hearing cannot be held in the defendant's absence pursuant to Pa.R.Crim.P. 543(D), the attorney for the Commonwealth may file an information with Court of Common Pleas without a preliminary hearing, under the following circumstances:

1. The Magisterial District Judge has declared the defendant a fugitive after a police officer or constable reports that the defendant cannot be located, and the police officer or constable completes an Affidavit of Due Diligence that the following steps have been taken to locate the defendant:

- Contact the defendant's last known address.
- Attempt to find the defendant at place of business or usual habitat.
- Contact neighbors and friends of the defendant.
- Verify that the defendant's name is on NCIC (National Crime Information Center); Pennsylvania's CLEAN (Commonwealth's Law Enforcement Assistance Network); and Chester County's WEB (Warrant Enforcement Bureau).
- Contact the post office to learn the whereabouts of the defendant.
- Contact state and county probation and parole officers.
- Contact county prison personnel.
- Make such other effort, as the serving officer deems appropriate under the circumstances of the case, such as, contacting any known telephone numbers of the defendant.

• Affidavits of Due Diligence shall also include a statement from the police officer or constable that they cannot locate the defendant, and believes the defendant to be a fugitive.

2. After a reasonable time, usually thirty (30) days after the issuance of the warrant that cannot be served, the Magisterial District Judge shall notify the arresting officer or the constable holding the warrant that they must come to the Magisterial District Judge's Office and complete the Affidavit of Due Diligence.

3. Once the Affidavit of Due Diligence has been completed and filed with the Magisterial District Judge, the Magisterial District Judge shall forward the file to the Clerk of Courts in accordance with procedures established by the Court Administrator. See C.C.R.Crim.P. 540.3 (retained jurisdiction for purpose of conducting preliminary arraignment and setting bail).

(E) The District Attorney of Chester County certifies that a preliminary hearing cannot be held for a defendant who has been declared a fugitive, pursuant to C.C.R.Crim.P. 565(D)(1), for the following good cause show:

- The defendant will be a fugitive for the foreseeable future, and may never be located.
- Decisions concerning extradition are expedited when the file is with the Court of Common Pleas.

- The extradition process is expedited when the file is with the Court of Common Pleas.

- Fugitive cases are more effectively monitored when they are centralized with the Court of Common Pleas, as this helps limit potential Pa.R.Crim.P. 600 problems, and promotes the dismissal of older fugitive cases that should be closed after a period of time.

- If the defendant is found, the defendant can petition the Court of Common Pleas for a remand for a preliminary hearing, or to have the Court of Common Pleas conduct such a hearing by way of a petition for a writ of habeas corpus.

(F) The Court of Common Pleas grants leave to the attorney for the Commonwealth to file an information with Court of Common Pleas without a preliminary hearing when the conditions of C.C.R.Crim.P. 565(D) are met, for the reasons set forth in C.C.R.Crim.P. 565(E).

(G) Nothing in this rule shall prevent the defendant from filing a petition for a remand to the Magisterial District Judge for the purpose of conducting a preliminary hearing, or prevent the Court of Common Pleas from conducting a preliminary hearing upon petition, except where the issuing authority has conducted the preliminary hearing in the defendant's absence as provided for in Pa.R.Crim.P. 543(D).

#### **PART F PROCEDURES FOLLOWING FILING OF INFORMATION**

##### **Rule 571.1. Notice From Issuing Authority.**

At the conclusion of a preliminary hearing in which a defendant is bound over for action by the Court of Common Pleas, the issuing authority will provide written notice of the date, place and time of arraignment.

##### **Rule 571.2. Role of Court Administrator.**

Arraignment may be conducted by the Court Administrator or a designated assistant.

##### **Rule 571.3. Presence of Defendant.**

A defendant shall be present at the arraignment unless all of the following requirements are met:

(i) the defendant is represented by counsel of record; and

(ii) prior to the date of arraignment, the defendant has filed a written waiver of arraignment with the attorney for the Commonwealth, signed by both defendant and defendant's counsel.

##### **Rule 571.4. Consequences of Failure to Appear.**

Upon failure of a defendant to be present when required hereby, the defendant's bail may be forfeited and a bench warrant may be issued.

#### **PART F(1) MOTION PROCEDURES**

##### **Rule 575. Motions and Orders.**

Pa.R.Crim.P. 575 shall govern the procedures for motions and answers.

##### **Rule 575(A). Motions; Notice of Hearing.**

The use of a rule returnable and/or a rule to show cause in motions in criminal matters is abolished. Before a motion is filed by either party, it shall be covered with a Notice of Hearing, completed by the Court Administrator, setting forth the time and place of the hearing.

##### **Rule 575(B). Answers to Motions.**

Unless specifically so ordered by the Court, neither party shall be required to file a written answer to any motion.

##### **Rule 576. Filing and Service by Parties.**

Pa.R.Crim.P. 576 shall govern the procedures for the filing and service of motions and answers by the parties.

##### **Rule 576.1. Filing and Service of Motions.**

Before a motion is filed in a criminal matter, the Court Administrator shall complete the Notice of Hearing attached thereto. Thereafter, such motion and Notice shall be filed with the Clerk of Courts, and a copy delivered to the opposing party.

##### **Rule 577. Procedures Following Filing of Motion.**

Pa.R.Crim.P. 577 shall govern the procedures following the filing of motion.

##### **Rule 580. Pre-Trial Motion**

All other pre-trial motions shall be scheduled by the Court Administrator for hearing on the Miscellaneous List, unless deferred by the moving party for hearing immediately prior to trial.

#### **PART G PLEAS PROCEDURES**

##### **Rule 590.1. Preparation of Guilty Plea Form.**

During the course of counseling a defendant relative to any plea of guilty or nolo contendere in the Court of Common Pleas, counsel shall review with the defendant a Chester County guilty plea form available from the Court Administrator, and shall explain to the defendant the contents of that form. Such forms shall be initialed and signed where appropriate and counsel's signature thereon shall constitute a certification by the attorney that the attorney has read, discussed and explained the plea form with the defendant, and that to the best of counsel's knowledge, information and belief, the defendant understands what the defendant is doing by entering the plea. Guilty plea forms shall be filed in open Court at the time of entry of any plea of guilty or nolo contendere. For pleas to a summary offense, the plea form need only consist of the disposition page, and need only state the offenses to which the defendant is pleading and the sentence which the defendant is to receive.

##### **Rule 590.2. Sentencing Guideline Form.**

Prior to entering the plea, the defendant shall review with counsel the sentencing guidelines. Completed forms, reviewed by both counsel will be submitted to the Court.

##### **Rule 590.3. Prior Convictions.**

The attorney representing the Commonwealth at the time the plea is entered shall be familiar with the case, and shall advise the Court of any prior convictions or adjudications of the defendant for felonies and misdemeanors.

##### **Rule 590.4. Plea Agreements in Writing.**

All plea agreements shall be in writing, on Chester County guilty plea colloquy forms, signed by the defendant, defense counsel, (if represented) and the Assistant District Attorney.

##### **Rule 591. Motion to Challenge or Withdraw Plea.**

Any motion to withdraw or challenge a plea of guilty or nolo contendere shall include a separate page addressed to the court reporter requesting transcription of the proceeding at which the plea was entered and of the

sentencing proceeding, if any. The entire transcripts of such proceedings shall be prepared unless limited by the Court. Copies of the motion shall be delivered to the trial judge, the court reporter, and the District Attorney immediately after filing thereof.

**CHAPTER 6. TRIAL PROCEDURES IN COURT CASES**

**PART C(2)  
CONDUCT OF JURY TRIAL**

**Rule 647. Points for Charge.**

Each requested point for charge shall cite the authority therefor and be set forth on a separate sheet of paper.

**CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES**

**PART A  
SENTENCING PROCEDURES**

**Rule 702.1. Criminal History Information.**

When a case is bound over to Court, the District Attorney shall immediately obtain criminal history information records from the Federal Bureau of Investigation and the Pennsylvania State Police Bureau of Criminal Investigation.

**Rule 702.2. Forwarding Criminal History Information.**

Upon receipt of those records, the District Attorney shall immediately forward copies to defense counsel and the Adult Probation Department. In the event that no record exists, the District Attorney shall report that information to the Adult Probation Department.

**Rule 702.3. Role of Adult Probation Department.**

Upon receipt of criminal history information records, the Adult Probation Department shall obtain such information as may be missing from the reports, including disposition, sentences and the specific offenses of which the accused has been convicted and any other information necessary to calculate the defendant's prior record score.

**Rule 702.4. Delivery of Criminal History to Parties.**

Upon the completion of the update of the criminal history information, the Adult Probation Department shall send copies of the updated information to the District Attorney and defense counsel.

**Rule 702.5. Preparation of Sentencing Guideline Form by Parties.**

The District Attorney shall, after consultation with defense counsel and prior to sentencing, supply the sentencing judge with a sentencing guideline form completed except for the disposition section. Defense counsel shall be provided with a copy of the guideline form to be submitted by the District Attorney. Defense counsel shall immediately notify the sentencing judge of any objection to the sentencing guideline form submitted by the District Attorney, and may, where appropriate, provide a substitute guideline form reflecting the defense position.

**Rule 702.6. Completion of Sentencing Guideline Form by Judge.**

The sentencing judge shall be responsible for the final completion of the sentencing guideline forms and for the transmittal of those forms to the Commonwealth of

Pennsylvania. For Plea Agreements the District Attorney shall complete the disposition sections.

**Rule 704.1. Reporting to Probation Office.**

Where a defendant receives a sentence of county probation or immediate parole, the defendant shall report to the Adult Probation Office immediately after the imposition of sentence, or immediately after the defendant's discharge from custody, whichever is later.

**Rule 704.2. Parole Orders.**

In all cases where the defendant receives a sentence giving him immediate parole, it shall be the responsibility of defendant's counsel to provide the Court with a written order for immediate parole and to deliver two (2) certified copies of the signed order to the Chester County Sheriff for delivery to the institution of confinement.

**Rule 704.3. Parole After Sentence of 30 Days or Less.**

In all cases where the Court has signed a conditional order of parole to be effective after defendant serves thirty (30) days or less prison sentence, defendant's counsel shall provide him with a certified copy of said order immediately after sentencing. The defendant shall present that certified parole order at the prison when the defendant reports to begin serving the sentence.

**Rule 704.4. Form of Parole Order.**

Forms for parole orders not involving special conditions shall be available in the Court Administrator's Office.

**PART B  
POST-SENTENCE PROCEDURES**

**Rule 720.1. Filing and Delivery of Transcripts.**

Transcript of the trial shall be delivered by the court reporter to the Clerk of Courts within sixty (60) days from the service upon the court reporter of the request for transcript.

**Rule 720.2. Time for Filing of Post-Sentence Motion Briefs.**

Defendant's brief shall be filed thirty-five (35) days after the filing of the post-sentence motion unless otherwise ordered by the Court. The Commonwealth's brief shall be due thirty-five (35) days from the date of filing of defendant's brief. Briefs shall be filed with the Clerk of Courts and a copy to the Judge and opposing party.

**Rule 720.3. Extension of Post-Sentence Motion Briefing Schedule.**

Any party, for good cause, may apply to the Court for an extension of time to file the post-sentence motion brief. The application is to be filed with the Clerk of Courts and a copy is to be delivered to the trial judge and opposing counsel. The application shall identify the moving party, state the reasons for the requested extension, and recite whether the request for extension is opposed or unopposed.

**CHAPTER 8. SPECIAL RULES IN CASES IN WHICH DEATH SENTENCE IS AUTHORIZED**

*(Reserved)*

**CHAPTER 9. POST-CONVICTION COLLATERAL PROCEEDINGS**

*(Reserved)*

[Pa.B. Doc. No. 05-1769. Filed for public inspection September 23, 2005, 9:00 a.m.]

# DISCIPLINARY BOARD OF THE SUPREME COURT

## Notice of Suspension

Notice is hereby given that by Order of the Supreme Court of Pennsylvania dated September 8, 2005, Timothy John Blatt is Suspended on Consent from the Bar of this Commonwealth for a period of six months, to be effective October 8, 2005. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 05-1770. Filed for public inspection September 23, 2005, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### MILK MARKETING BOARD

[7 PA. CODE CH. 145]

#### Transactions Between Dealers and Customers; Dealer Inducements

The Milk Marketing Board (Board), under authority of section 307 of the Milk Marketing Law (act) (31 P. S. § 700j-307), amends §§ 145.11, 145.21 and 145.26 (relating to financing; giveaways; and extension of credit to wholesale customers) and deletes § 145.25 (relating to loans and credit; wholesale customers).

Notice of proposed rulemaking was published at 35 Pa.B. 1772 (March 19, 2005) with an invitation to submit written comments within 30 days. The Board received no comments during the public comment period. The Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee offered no comments, suggestions or objections to the proposed rulemaking. The Independent Regulatory Review Commission (IRRC) offered no comments, suggestions or objections to the proposed rulemaking.

#### *Purpose*

The principal purpose of the final-form rulemaking is to prohibit loans made by Board licensed milk dealers to their customers. Section 807 of the act (31 P. S. § 700j-807) provides that “no method or device shall be lawful whereby milk is bought or received . . . , or sold . . . or delivered . . . , or offered to be bought or received . . . , or sold . . . or delivered . . . , at a price less than the minimum price applicable to the particular transaction . . . .” Milk dealers, in the course of acquiring new customers, sometimes make loans to these customers. Examining these loans to determine if they have the effect of bringing any particular transaction below the minimum price applicable for that transaction raises a myriad of valuation and enforcement issues. Widespread use of loans also has the potential to cause market disruption in some areas of this Commonwealth. In addition, the Board believes that the majority of milk dealers do not want to provide loans to customers, but in many cases the dealers feel that they must make a loan to retain or acquire a customer. The Board believes that prohibiting loans will tend to reduce the potential for market disruption and will lead to improved compliance with the act’s minimum pricing provisions.

A secondary purpose of the final-form rulemaking is to achieve greater clarity and consistency in the regulations.

#### *Paperwork Estimates*

There will be no additional paperwork requirements due to this final-form rulemaking.

#### *Effective Date*

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

#### *Sunset Date*

There is no sunset date.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 4, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 1772, to IRRC and the Chairpersons of the Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee 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 13, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. The final-form rulemaking was deemed approved by IRRC under section 5(g) of the Regulatory Review Act, effective July 13, 2005.

#### *Contact Person*

The official responsible for information on this final-form rulemaking is Keith Bierly, Secretary, Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4194.

#### *Findings*

The Board finds that:

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

(2) A public comment period was provided as required by law.

(3) The final-form rulemaking is necessary and appropriate for the administration of the act.

#### *Order*

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 7 Pa. Code Chapter 145, are amended by amending §§ 145.11, 145.21 and 145.26 and by deleting § 145.25 to read as set forth at 35 Pa.B. 1772.

(b) The Board will submit this order and 35 Pa.B. 1772 to the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Board shall certify this order and 35 Pa.B. 1772 and deposit them with the Legislative Reference Bureau as required by law.

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

BOYD E. WOLFF,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 4270 (July 30, 2005).)

**Fiscal Note:** Fiscal Note 47-11 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 05-1771. Filed for public inspection September 23, 2005. 9:00 a.m.]

## Title 58—RECREATION

### STATE ATHLETIC COMMISSION

#### [58 PA. CODE CHS. 1 AND 21]

#### Communicable Disease Testing

The State Athletic Commission (Commission) amends §§ 1.1 and 21.8 (relating to definitions; and boxers) as they pertain to the testing of professional boxers for communicable diseases to read as set forth in Annex A.

#### A. *Effective Date*

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

#### B. *Statutory Authority*

The final-form rulemaking was authorized under 5 Pa.C.S. § 103 (relating to duties of commission), which authorizes the Commission to establish policy and promulgate rules and regulations regarding professional boxing contests and exhibitions and all matters pertaining thereto.

#### C. *Comments Received*

The Commission did not receive any public comments or comments from the House or Senate State Government Committees. The Independent Regulatory Review Commission (IRRC) commented that the Commission should delete the phrase "such as Hepatitis" from the definition of "communicable disease" in § 1.1 to be consistent with the Department of Health definition of communicable disease in 28 Pa. Code § 27.1 (relating to definitions). The Commission agreed with IRRC's comment and deleted the phrase.

IRRC also commented that for consistency with the existing language of § 21.8 that sets forth the requirements for testing for Human Immunodeficiency Virus (HIV), the requirements for Hepatitis testing should be included in this section and deleted from the § 1.1. Since the Commission would like to test for all communicable diseases and the same requirements for the testing of HIV will apply to that testing, subsequent discussions with IRRC revealed that it would be acceptable to retain the phrase "and any other communicable disease" in § 21.8. Therefore, as a condition for an initial or renewed license as a professional boxer, in addition to being required to be tested for HIV, an applicant would also be required to be tested for communicable diseases as defined in § 1.1.

#### D. *Background and Purpose*

Increasing concerns about the rapid spread of communicable diseases has led to an ever greater call for testing professional boxers for communicable diseases. Given the devastating long-term health consequences of Hepatitis C, which according to the Centers for Disease Control and Prevention often includes chronic liver disease, cirrhosis and even death in 3% of those infected, the American

Association of Boxing Commissions and the American Association of Professional Ringside Physicians recently recommended that the boxing commissions in various states consider adopting a requirement for the testing of Hepatitis C and other communicable diseases. The Commission's Medical Advisory Board also unanimously endorses the adoption of a requirement with the concurrence of the Commission.

Therefore, the Commission amends its current regulations pertaining to professional boxers to require annual testing for communicable diseases. It is the intent of the final-form rulemaking to better protect professional boxers, who frequently come into direct contact with the blood of an opponent in a boxing contest or exhibition, from contracting a communicable disease. The cost for the additional test will be limited to no more than \$50 per annual test, which is outweighed by the benefit of the protection that the test affords.

#### E. *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have no adverse fiscal impact on the Department of State (Department) or the Commission. The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will not impose any additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector. The final-form rulemaking will have a minimal fiscal impact on the professional boxers the Commission regulates by requiring that they must incur the cost for an annual test for communicable diseases but at an estimated cost of no more than \$50 per test.

#### F. *Sunset Date*

The Commission and the Department monitor the regulations of the Commission on a continuing basis. Therefore, no sunset date has been assigned.

#### H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 1, 2004, the Commission submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 6150 (November 13, 2004), to IRRC and the Chairpersons of the Senate and House State Government 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 August 24, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on August 25, 2005, and approved the final-form rulemaking.

#### I. *Additional Information*

Individuals who require information about the final-form rulemaking should contact Gregory P. Sirb, Executive Director, State Athletic Commission, 2601 North Third Street, Harrisburg, PA 17110.

#### J. *Findings*

The Chairperson of the Commission finds that:

(1) Public notice of intention to adopt these regulations was given under sections 201 and 202 of the act of July

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

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

(3) The amendments made to the final-form rule-making do not enlarge the original purpose of the proposed rulemaking as published under section 201 of the CDL.

(4) These regulations are necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this preamble.

#### K. Order

The Chairperson of the Commission, acting under the authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 1 and 21, are amended by amending §§ 1.1 and 21.8 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

CHARLES BEDNARIK,  
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 5068 (September 10, 2005).)

**Fiscal Note:** Fiscal Note 16-34 remains valid for the final adoption of the subject regulations.

#### Annex A

### TITLE 58. RECREATION

#### PART I. STATE ATHLETIC COMMISSION

##### Subpart A. GENERAL PROVISIONS

#### CHAPTER 1. PRELIMINARY PROVISIONS

##### § 1.1. Definitions.

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

*Athletic Code*—5 Pa.C.S. Part I (relating to boxing and wrestling).

*Commission*—The State Athletic Commission of the Commonwealth.

*Commission credentials*—Documents issued by the Commission to individuals approved by the Commission granting them the authority to attend a specific event, without payment of an entry fee, on behalf of the Commission.

*Commissioner*—A member of the Commission, as defined in section 101 of the code (relating to definitions).

*Communicable disease*—An illness which is capable of being spread to a susceptible host through the direct or indirect transmission of an infectious agent or its toxic product by an infected person, animal or arthropod, or through the inanimate environment.

*Event*—One or more contests, as defined in section 302 of the code (relating to definitions), conducted at the same location on the same day.

*Knockdown*—When any part of a boxer's body, except the feet, touch the ring canvass, at the hand of the opponent, as determined by the referee.

*Licensee*—A person licensed by the Commission to perform duties in relation to an event.

*Main contest*—The most important contest during an event for which the public interest is the greatest.

#### Second—

(i) An individual licensed by the Commission to work in a professional boxer's corner during an event, as provided in section 716 of the Athletic Code (relating to seconds).

(ii) The term also includes a trainer.

(b) The definitions in section 302 of the Athletic Code (relating to definitions) are incorporated for the regulatory provisions relating to boxing which include this subpart and Subpart B (relating to boxing).

(c) The definitions in section 1902 of the Athletic Code (relating to definitions) are incorporated for the regulatory provisions relating to wrestling, which include this subpart and Subpart C (relating to wrestling).

#### Subpart B. BOXING

#### CHAPTER 21. PROFESSIONAL BOXING

##### § 21.8. Boxers.

(a) Professional boxers shall be licensed by the Commission. The Commission will not license or renew the license of a professional boxer unless the license application is accompanied by a report from a Department of Health facility, a laboratory possessing a permit from the Department of Health under 28 Pa. Code § 5.11 (relating to permit, requirements, application and conditions) or a report from a laboratory licensed in another jurisdiction that meets the requirements to be issued a permit under 28 Pa. Code § 5.11, and is acceptable to the Commission, which indicates that the applicant has been tested for any virus, antibody, antigen or etiologic agent determined to cause or indicate the presence of human immunodeficiency virus and any other communicable disease and the results of those tests were negative. The tests shall have been initiated no more than 60 days prior to the date of filing the application. A boxer whose application for license has been denied has the right to a hearing before the Commission under 2 Pa.C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies). The applicant shall apply, in writing, to the Commission requesting a hearing. The Commission will conduct a hearing within 10 business days from the receipt of the written request.

\* \* \* \* \*

[Pa.B. Doc. No. 05-1772. Filed for public inspection September 23, 2005, 9:00 a.m.]

**FISH AND BOAT COMMISSION**  
**[58 PA. CODE CHS. 63 AND 69]**  
**[58 PA. CODE CH. 75]**

**Fishing**

[Correction]

The Fiscal Note numbers were incorrect in two documents which appeared at:

(1) 35 Pa.B. 5008, 5010 (September 10, 2005). The correct Fiscal Note number for this document, which amended Chapters 63 and 69, is 48A-174.

(2) 35 Pa.B. 5010, 5012 (September 10, 2005). The correct Fiscal Note number for this document, which amended Chapter 75, is 48A-167.

[Pa.B. Doc. Nos. 05-1674 and 05-1675. Filed for public inspection September 9, 2005, 9:00 a.m.]

**FISH AND BOAT COMMISSION**  
**[58 PA. CODE CH. 65]**

**Fishing; Special Trout Fishing Regulations**

The Fish and Boat Commission (Commission) amends Chapter 65 (relating to special fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The final-form rulemaking simplifies the existing special trout fishing regulations by combining certain existing programs and makes certain conditions consistent across all special trout regulation programs.

*A. Effective Date*

The final-form rulemaking will go into effect on January 1, 2006.

*B. Contact Person*

For further information on the final-form rulemaking, contact Laurie E. Shepler, Chief Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This final-form rulemaking is available on the Commission's website at [www.fish.state.pa.us](http://www.fish.state.pa.us).

*C. Statutory Authority*

The amendments to §§ 65.2, 65.3, 65.4a, 65.5, 65.6, 65.7 and 65.24 and new §§ 65.14 and 65.15 (relating to catch and release fly-fishing only areas; and catch and release all-tackle areas) are published under the statutory authority of sections 2102 and 2307 of the code (relating to rules and regulations; and waters limited to specific purposes).

*D. Purpose and Background*

In the recent past, there were at least 12 different special regulations programs used in trout stream management. They included Selective Harvest, All-Tackle Selective Harvest, Delayed Harvest Fly-Fishing-Only, Heritage Trout Angling, Trophy Trout, All-Tackle Trophy Trout, Catch and Release, Delayed Harvest Artificial Lures Only, Wild Brook Trout Enhancement and at least three different miscellaneous special regulations. In January 2005, the Commission eliminated the Selective Harvest and All-Tackle Selective Harvest Programs. The Commission has not contemplated any changes to the recently created Wild Brook Trout Enhancement Program, and only minor changes to the Delayed Harvest

Artificial Lure Only Program have been considered to make it consistent with other special trout regulation programs.

As part of the simplification process and to promote consistency within the special trout regulations programs, the Commission approved the publication of a proposed rulemaking seeking public comments on two options: one focusing on catch and release and the other focusing on trophy trout. The proposed rulemaking for which the Commission primarily sought public comment contained the trophy trout focus. However, the Commission also sought public comment on an alternative proposed rulemaking that focused on catch and release and would not allow the harvesting of any fish in certain special regulation waters.

This final-form rulemaking is designed to simplify, improve and make consistent the Commission's special trout regulations. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

*E. Summary of Changes*

The Commission's primary proposed rulemaking had the following components:

(1) The Commission proposed establishing a new program called Catch and Release Fly-Fishing Only. Under the proposed rulemaking, the Heritage Trout Angling Program and the Delayed Harvest Fly-Fishing Only Program would be eliminated, and all waters currently in them (7 waters in the Heritage Program and 26 waters in the Delayed Harvest Fly-Fishing Only Program) would be designated into the new Catch and Release Fly-Fishing Only Program. This program, as proposed, would provide no closed season with no harvest, no hourly restrictions, no restriction on wading and no requirement for barbless hooks. During the public comment period for a prior Commission proposed rulemaking to permit all-tackle on delayed harvest waters during the harvest season, a large segment of the fly fishing community indicated a preference for no-harvest in the current Delayed Harvest Fly-Fishing Only Program. The main amendment for current delayed harvest fly-fishing-only waters was the removal of the former summer harvest season.

On final-form rulemaking, the Commission adopted the changes as proposed with the following exceptions. The Commission added a provision restricting the fishing hours to 1 hour before sunrise to 1 hour after sunset, and it added a provision clarifying that wading is permitted unless otherwise posted. The Commission determined, based upon recent discussions among the Trout Management Workgroup (Workgroup), that barbless hooks should not be required. However, the Commission believes that it is appropriate to include language in future summary books, beginning with the 2006 edition, that encourages anglers to use barbless hooks to facilitate catch and release angling. The Commission further believes that it is appropriate to undertake efforts to further educate anglers on the benefits of barbless hooks.

The Commission also took action to redesignate the 7 waters that are currently in the Heritage Trout Angling Program and the 26 waters in the Delayed Harvest Fly-Fishing Only Program into the new Catch and Release Fly-Fishing Only Program.

(2) The Commission proposed to rename the All-Tackle Trophy Trout to Trophy Trout All-Tackle. Under the proposed rulemaking, the program would offer a year-round harvest season (increased from mid-April to Labor Day) with a 24-inch minimum length limit (increased

from 14 inches), a one trout daily creel limit and no wading restrictions. A section of the Allegheny River, Warren County, would be moved from miscellaneous special regulation under § 65.24 (relating to miscellaneous special regulations) to the renamed Trophy Trout All-Tackle program.

Based upon recent discussions among the Workgroup, the Commission, on final-form rulemaking, decided to defer consideration of the proposed amendments and to leave the existing regulations for the All-Tackle Trophy Trout Program unchanged with the exception of stylistic changes and the clarification that a trout/salmon permit is required. The Commission also decided to defer consideration of the proposed rulemaking to delete the miscellaneous special regulation for the Allegheny River, Warren County, and to leave the regulation unchanged.

(3) The Commission proposed renaming the existing Trophy Trout Program to the Trophy Trout Artificial Lures Only Program and eliminating the existing Catch and Release Program. Under the proposed rulemaking, all waters in the existing Trophy Trout Program would remain in the renamed program and all waters in the existing Catch and Release Program would be designated to the Trophy Trout Artificial Lures Only Program. Tackle for this program would remain artificial lures only as currently specified in both existing programs, except barbed hooks would be allowed. Fishing would be permitted year-round with no hourly restriction and no taking of bait fish or fish bait. A 24-inch minimum length limit and a one trout per day creel limit would apply.

Based upon the recent discussions among the Workgroup, the Commission, on final-form rulemaking, decided to defer consideration of the proposed changes and to leave the existing regulations for the Trophy Trout Program and Catch and Release Program unchanged with the exception of stylistic changes and the clarification that a trout/salmon permit is required. The Commission also removed the requirement for barbless hooks in the current Catch and Release Program to achieve consistency among programs.

(4) The Commission proposed creating a new program called Catch and Release All-Tackle Areas. Under the proposed rulemaking, one miscellaneous special regulation water, Spring Creek, Centre County, and one water designated under § 65.23 (relating to special restrictions on polluted zones), Valley Creek, Chester County, would be designated into the new program.

Based upon recent discussions among the Workgroup, the Commission, on final-form rulemaking, adopted the new regulations for Catch and Release All-Tackle Areas, eliminated the miscellaneous special regulation for Spring Creek, Centre County, and removed the special restrictions on Valley Creek, Chester County. In addition, the Commission took action to designate Spring Creek and Valley Creek as waters to be regulated and managed under the new Catch and Release All-Tackle regulations.

(5) The Commission proposed amending the Delayed Harvest Artificial Lures Only Program to remove the daily fishing time restriction and to clarify that a current trout/salmon permit is required. Based upon recent discussions among the Workgroup, the Commission, on final-form rulemaking, adopted the changes as set forth in the notice of proposed rulemaking with the exception of removing the time restriction.

#### F. Paperwork

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

#### G. Fiscal Impact

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

#### H. Public Involvement

Notice of proposed rulemaking was published at 35 Pa.B. 2634 (April 30, 2005). The Commission solicited public comments for an extended period of 45 days. Prior to the formal public comment period, the Commission received 116 comments. The Commission received 42 public comments during the formal public comment period. After the close of the formal public comment period and as of July 8, 2005, the Commission received 67 public comments. The Commission received approximately 225 public comments as of July 8.

Regarding overall simplification, the Commission received 62 comments. Of those, 87% were in favor of simplification and 13% were opposed.

Regarding the proposed rulemaking with a trophy trout focus, 113 comments were received. Of those, 24% were in favor and 76% were opposed. In comparison, the Commission received 114 comments regarding the alternative focusing on catch and release. Of those, 97% were in favor and 3% were opposed.

The Commission received comments on particular aspects of the trophy trout focus, including a 24-inch minimum size limit, a reduction in the creel limit from two fish per day to one fish per day and a proposed year-round trophy trout harvest season. The comments may be summarized as follows: (1) 24-inch minimum: 40 comments were received—70% in favor, 30% opposed; (2) creel limit of one fish per day: 26 comments were received—85% in favor, 15% opposed; and (3) year-round harvest of trophy trout: 31 comments were received—16% in favor, 84% opposed.

The Commission received comments regarding its proposed rulemaking to simplify the restrictions across all special trout regulations, including provisions that barbed hooks, wading and 24-hour fishing be allowed on all special regulation waters. These comments may be summarized as follows: (1) barbed hooks allowed: 76 comments were received—7% in favor, 93% opposed; (2) wading allowed: 53 comments were received—11% in favor, 89% opposed; and (3) 24-hour fishing allowed: 46 comments were received—20% in favor, 80% opposed. Copies of all public comments were provided to the Commissioners.

#### Findings

The Commission finds that:

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

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

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

#### Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 65, are amended by deleting §§ 65.2 and 65.3 as set forth at 35 Pa.B. 2634 and by amending §§ 65.4a, 65.5, 65.6, 65.7 and 65.24 and adding §§ 65.14 and 65.15 to read as set forth in Annex A.

(b) The Executive Director will submit this order, 35 Pa.B. 2634 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 35 Pa.B. 2634 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on January 1, 2006.

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

(Editor's Note: Documents relating to the amendment of § 65.24 appear at 35 Pa.B. 5124 (September 17, 2005) and 35 Pa.B. 5268 (September 24, 2005).)

**Fiscal Note:** Fiscal Note 48A-170 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

**CHAPTER 65. SPECIAL FISHING REGULATIONS**

**§ 65.4a. All-tackle trophy trout.**

(a) The Executive Director, with the approval of the Commission, may designate waters as all-tackle trophy trout areas. The designation of waters as all-tackle trophy trout 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 all-tackle trophy trout areas except in compliance with the following requirements:

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

(2) Minimum size is 14 inches, caught on, or in possession on, the waters under regulation.

(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 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.

**§ 65.5. Catch and release areas.**

(a) The Executive Director, with the approval of the Commission, may designate waters as catch and release areas. The designation of waters as catch and release 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 catch and release areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only constructed of metal, plastic, rubber or wood or with flies

and streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear.

(2) The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

(3) Fishing hours are 1 hour before sunrise to 1 hour after sunset.

(4) No trout may be killed or had in possession.

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

(6) Wading is permitted unless otherwise posted.

(7) Taking of baitfish or fishbait is prohibited.

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

**§ 65.6. Delayed harvest artificial lures only areas.**

(a) The Executive Director, with the approval of the Commission, may designate waters as delayed-harvest, artificial lures only areas. The designation of waters as delayed-harvest, artificial lures only 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 delayed-harvest, artificial lures only areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only constructed of metal, plastic, rubber or wood or with flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear.

(2) The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

(3) Fishing hours are 1 hour before sunrise to 1 hour after sunset during the regular and any extended trout season.

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

(5) The daily creel limit is: three combined species except during the period after Labor Day and before June 15 when the daily limit shall be zero trout combined species, caught on or in possession on the waters under regulation.

(6) Taking of baitfish or fishbait is prohibited.

**§ 65.7. Trophy Trout Program.**

(a) The Executive Director, with the approval of the Commission, may designate waters as trophy trout areas. The designation of waters as trophy trout 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 trophy trout areas except in compliance with the following requirements:

(1) Fishing may be done with artificial lures only, constructed of metal, plastic, rubber or wood or with flies and streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. Anything other than these items is prohibited.

(2) The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

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

(4) The minimum size is 14 inches, caught on or in possession on the waters under 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.

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

**§ 65.14. Catch and release fly-fishing only areas.**

(a) The Executive Director, with the approval of the Commission, may designate waters as catch and release fly-fishing only areas. The designation of waters as catch and release fly-fishing only 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 catch and release fly-fishing only areas except in compliance with the following requirements:

(1) Fishing may be done with artificial flies and streamers constructed of natural or synthetic materials so long as all flies are constructed in a normal fashion on a single hook with components wound on or about the hook. Anything other than these items is prohibited.

(2) Fishing shall be done with tackle which is limited to fly rods, fly reels and fly line with a maximum of 18 feet in leader material or monofilament line attached. Spinning, spincast and casting rods and reels are prohibited.

(3) The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.

(4) No trout may be killed or had in possession.

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

(6) Fishing hours are 1 hour before sunrise to 1 hour after sunset.

(7) Taking of baitfish or fishbait is prohibited.

(8) Wading is permitted unless otherwise posted.

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

**§ 65.15. Catch and release all-tackle areas.**

(a) The Executive Director, with the approval of the Commission, may designate waters as catch and release all-tackle areas. The designation of waters as catch and release all-tackle 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 catch and release all-tackle areas except in compliance with the following requirements:

(1) No trout may be killed or had in possession.

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

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

**§ 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>  |
|---|-------------------------------------|---|
| Allegheny                                     | Pine Township Park Pond             | Fishing permitted on a catch-and-release basis. It is unlawful for a person to take or kill fish caught from these waters.  |
| Beaver  | Hopewell Township Park Lake         | Bass—15-inch minimum size limit and a two bass daily creel limit. Panfish (combined species): ten fish daily creel limit. Use of live fish for bait is prohibited.  |
| Beaver  | Raccoon Creek State Park Upper Pond | 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.  |
| Blair, Huntingdon, Juniata, Mifflin and Perry | Juniata River and its tributaries   | Rock bass—Daily creel limit is 10; open year-round; no minimum size limit.  |
| Butler  | Lake Arthur                         | The Executive Director or a designee may issue permits for use of cast nets or throw nets for taking only gizzard shad and alewife. In addition to other permit conditions that the Executive Director may require, the permits shall be limited to cast nets or throw nets of no greater than 10 feet in radius (20 feet in diameter) with a mesh size of at least 3/8 inches. |
| Chester                                       | Elk Creek (Big Elk Creek)           | The maximum size limit for alewife and blueback herring is 8 inches. It is unlawful to take, catch, kill or possess, while in the act of fishing, blueback herring or alewife 8 inches or more in length.   |
| Clarion                                       | Beaver Creek Ponds                  | Closed to fishing from 12:01 a.m. January 1 to 12:01 a.m. the first Saturday after June 11 of each year. Bass—15-inch minimum size limit and a two bass daily creel limit for the total project area. Panfish (combined species) ten fish daily creel limit for the total project area. Other species—inland regulations apply.   |

| <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.  |
| Crawford and Erie           | Conneaut Creek<br>E. Branch Conneaut Creek<br>M. Branch Conneaut Creek<br>W. Branch Conneaut Creek<br>Mud Run<br>Stone Run  | Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the opening day of trout season in April.<br>Minimum size limit: 15 inches.<br>Daily creel limit: 3 (combined species).<br>Lake Erie fishing permit is not required.  |
| Crawford                    | Crazy Run   | Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the opening day of trout season in April.<br>Minimum size limit: 15 inches.<br>Daily creel limit: 3 (combined species).<br>Lake Erie fishing permit is not required.  |
| Crawford                    | Pymatuning Reservoir  | Only carp and suckers may be taken by means of spearing or archery in compliance otherwise with § 63.8 (relating to long bow, spears and gigs). Minnow seines and dip nets are restricted to no more than 4 feet in size, and the mesh of the nets shall measure no less than 1/8 nor more than 1/2-inch on a side. Float line fishing is prohibited.   |
| Crawford                    | Sugar Lake  | Muskellunge—36-inch minimum size limit and a one muskellunge daily creel limit. Other species—inland regulations apply.   |
| Elk                         | West Branch, Clarion River  | The following additional restrictions apply to the “Delayed-Harvest, Fly-Fishing Only” area located on a 1/2-mile stream section from the intersection of S. R. 219 and S. R. 4003, upstream to the Texas Gulf Sulphur Property: Wading prohibited. Fishing permitted from east shore only.   |
| Erie                        | E. Branch Conneaut Creek<br>Marsh Run<br>Temple Run<br>Turkey Creek   | Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the opening day of trout season in April.<br>Minimum size limit: 15 inches.<br>Daily creel limit: 3 (combined species).<br>Lake Erie fishing permit is not required.  |
| Huntingdon                  | Raystown Lake (includes Raystown Branch from the Raystown Dam downstream to the confluence with the Juniata River).   | Trout (all species)—no closed season. Creel limits: Regular inland season—5. Day after Labor Day to opening day of next regular inland season—3 (combined species). Size limits: Inland rules apply. Smelt may be taken from shore or by wading by means of dip nets not to exceed 20 inches in diameter or 20 inches square. The daily limit per person is the greater of 1 gallon of smelt by volume or 200 smelt by number. The Executive Director or a designee may issue permits for use of cast nets or throw nets for taking only gizzard shad and alewife on Lake Raystown. In addition to other permit conditions that the Executive Director may require, the permits shall be limited to cast nets or throw nets of no greater than 10 feet in radius (20 feet in diameter) with a mesh size of at least 3/8 inches. |
| Lackawanna                  | Lake Scranton   | It is unlawful for a person to fish from the fishing pier designated for use by persons with disabilities unless the person is: totally blind; or so severely disabled that the person is unable to cast or retrieve a line or bait hooks or remove fish without assistance; or deprived of the use of both legs; or participating in a special fishing event for persons with disabilities under conditions approved by the owner of the lake. The person may fish with only one legal device and shall be within 10 feet of the device being used. A person authorized to fish from the fishing pier under this section may be attended by another individual who may assist the person with the disability in using the fishing device.  |



| <i>County</i>                                 | <i>Name of Water</i>   | <i>Special Regulations</i>   |
|---|--|--|
| Luzerne                                       | Harveys Lake   | During the period from the opening day of trout season through midnight March 31, the daily creel limit for trout (combined species) is 3, only one of which may exceed 18 inches in length.<br>Fishing is prohibited from April 1 through 8 a.m. of the opening day of regular trout season.<br>Warmwater/coolwater species, except as provided in this section-Inland regulations apply.   |
| Mercer  | Shenango River from the dam downstream to SR 3025, a distance of 1.5 miles.  | Closed season on trout: April 1 until 8 a.m., first Saturday after April 11. Daily limit—Opening day of trout season in April until Labor Day: five trout per day; day after Labor Day to midnight, March 31 of the following year—three trout per day. Inland regulations apply to warmwater/coolwater species.   |
| Monroe and Pike                               | Delaware Water Gap National Recreation Area  | The use of eel chutes, eelpots and fyke nets is prohibited. The taking of the following fishbait is prohibited: crayfish or crabs, mussels, clams and the nymphs, larva and pupae of all insects spending any part of their life cycle in the water. The taking, catching, killing and possession of any species of amphibians or reptiles within the boundaries of the Delaware Water Gap National Recreation Area is prohibited.   |
| Somerset, Fayette, Westmoreland and Allegheny | Youghiogheny River from confluence with Casselman River downstream to the confluence with Ramcat Run Youghiogheny River from the pipeline crossing at the confluence with Lick Run downstream to the mouth of the river.<br><br>Youghiogheny River from Reservoir downstream to confluence with Casselman River. | No closed season on trout. Daily limit opening day of trout season to Labor Day—5 trout; day after Labor Day to succeeding opening day of trout season—3 trout per day. Inland regulations apply to warmwater/coolwater species.<br><br>Closed season on trout: April 1 until 8 a.m., first Saturday after April 11. Daily limit—Opening day of trout season in April until Labor Day—five trout per day; day after Labor Day to midnight, March 31 of following year: three trout per day. Inland regulations apply to warmwater/coolwater species. |
| Warren  | Allegheny River—8.75 miles downstream from the outflow of the Allegheny Reservoir to the confluence with Conewago Creek  | Trout—minimum size limit—14 inches; daily creel limit—2 trout per day (combined species) from 8 a.m. on the opening day of regular trout season through midnight Labor Day, except during the period from the day after Labor Day to the opening day of regular trout season of the following year, when no trout may be killed or had in possession. Other inland seasons, sizes and creel limits apply.  |
| Washington                                    | Little Chartiers Creek from Canonsburg Lake Dam approximately 1/2 mile downstream to mouth of Chartiers Creek  | Fishing is prohibited from 12:01 a.m. March 1 to 8 a.m. opening day of trout season.   |
| Washington                                    | Cross Creek Lake   | Bass—15-inch minimum size limit. Panfish groupings—10 per day creel limit combined species within grouping. Sunfish, crappies, rock bass—10 per day creel limit; combined species. Perch—10 per day creel limit; combined species. Catfish—10 per day creel limit; combined species. Other panfish (except those specified above)—10 per day creel limit; combined species. All other species—Inland seasons, size and creel limits apply. See § 61.1.   |

| <i>County</i> | <i>Name of Water</i>       | <i>Special Regulations</i>  |
|---------------|----------------------------|---|
| Wayne         | West Branch Delaware River | Trout: From the Pennsylvania/New York border downstream to the confluence with the East River Branch of the Delaware River: no-harvest artificial lures only season on trout from October 16 until midnight of the Friday before opening day of trout season. During the no-harvest artificial lures only season:<br>1. Fishing may be done with artificial lures only, constructed of metal, plastic, rubber or wood, or flies or streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear.<br>2. The use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substance is prohibited.<br>3. The daily creel limit for trout is 0. |
| Westmoreland  | Indian Lake                | The following size and creel limits apply: Bass—15 inch minimum size limit; 2 bass per day creel limit (combined species). Panfish: 10 fish per day creel limit (combined species). Other species—Inland regulations apply.   |
| Westmoreland  | Lower Burrell Park Pond    | 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.  |
| Wyoming       | Lake Winola                | Bass—It is unlawful to take, catch, kill or possess bass that are 12 to 18 inches in length. The daily creel limit for bass less than 12 inches in length and greater than 18 inches in length is 6, only one of which may exceed 18 inches in length. Closed to all fishing from 12:01 a.m. March 1 to 8 a.m. the first Saturday after April 11.   |

[Pa.B. Doc. No. 05-1773. Filed for public inspection September 23, 2005, 9:00 a.m.]

# PROPOSED RULEMAKING

## FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 63 AND 65]

### Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapters 63 and 65 (relating to general fishing regulations; and 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 rulemaking pertains to permits for the use of cast nets and throw nets (10 feet in radius or 20 feet in diameter) for the taking of gizzard shad 8 inches or less in length and alewife in waters to be determined by the Executive Director. The proposed rulemaking also eliminates two miscellaneous special regulations pertaining to this subject.

#### A. Effective Date

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

#### B. Contact Person

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

#### C. Statutory Authority

The proposed addition of § 63.48 (relating to permit for the use of cast nets or throw nets) is published under the statutory authority of section 2102 of the code (relating to rules and regulations). The proposed amendments to § 65.24 (relating to miscellaneous special regulations) are published under the statutory authority of section 2307 (relating to waters limited to specific purposes).

#### D. Purpose and Background

Currently, there are two miscellaneous special regulations that allow the issuance of permits for the use of cast nets or throw nets for taking live gizzard shad and alewife at Lake Arthur, Butler County, and Raystown Lake, Huntingdon County. The regulations limit the size of cast nets and throw nets to 10 feet in radius (20 feet in diameter) with a mesh size of at least 3/8 inch. The Commission issues between approximately 700 and 800 permits each year at Raystown Lake. The Commission estimates that it will issue less than 100 permits each year on Lake Arthur.

The Commission's regulations pertaining to inland waters, such as Raystown Lake and Lake Arthur, permit an angler to take, catch, kill or possess 50 gizzard shad or alewife on a daily basis. The Commission recently was contacted by a fishing guide on Raystown Lake who has requested that he and other guides be allowed to possess a daily creel of 100 fish instead of 50. Upon review of this matter, the Commission determined that it is appropriate to allow all holders of cast net permits on Raystown Lake and Lake Arthur to take, catch, kill or possess 100 gizzard shad and alewife (combined species) on a daily basis. This allowance will not adversely impact the resource.

#### E. Summary of Proposals

Instead of amending the miscellaneous special regulations in § 65.24 for Raystown Lake and Lake Arthur to allow permit holders to take, catch, kill or possess 100 gizzard shad and alewife (combined species) on a daily basis, the Commission proposes a new regulation pertaining to cast nets and throw nets. Proposed § 63.48 will address the broader issue of the Commission's issuance of permits for these types of nets and will eliminate the need for the miscellaneous special regulations on Raystown Lake and Lake Arthur in § 65.24.

Proposed § 63.48 provides that the Executive Director or a designee may issue permits for the use of cast nets or throw nets for the taking of gizzard shad 8 inches or less in length and alewife only. The proposed rulemaking further provides that the Executive Director will issue these permits in waters to be determined by the Executive Director. The Commission intends to issue a separate permit for each individual body of water to allow better management of the affected resources. At this time, the Commission intends to issue permits for the use of cast nets and throw nets at Lake Arthur and Raystown Lake only. Additional waters could be added at a later date.

A holder of this permit will be allowed to use a cast net or throw net no greater than 10 feet in radius (20 feet in diameter) with a mesh size of at least 3/8 inch. As previously stated, a holder also will be entitled to take, catch, kill or possess a daily creel limit of 100 gizzard shad and alewife (combined species). It will be unlawful to use cast nets or throw nets or to take, catch, kill or possess more than the daily creel limit of gizzard shad and alewife as set forth in § 61.1 (relating to Commonwealth inland waters) without the required permit.

The Commission proposes to add § 63.48 and to rescind portions of § 65.24 to read as set forth in Annex A.

#### F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements because proposed § 63.48 pertains to permits that the Commission currently issues under § 65.24.

#### 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. Under section 2902 of the code (relating to net permits), the Commission has the authority to issue net permits for a fee of \$10.

#### 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 by completing the form at [www.state.pa.us/Fish/regcomments](http://www.state.pa.us/Fish/regcomments). 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*

*(Editor's Note: Documents relating to the proposal in § 65.24 appear at 35 Pa.B. 5124 (September 17, 2005) and 35 Pa.B. 5261 (September 24, 2005).)*

**Fiscal Note:** 48A-176. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart B. FISHING**

**CHAPTER 63. GENERAL FISHING REGULATIONS**

**§ 63.48. Permit for the use of cast nets or throw nets.**

(a) The Executive Director or a designee may issue permits for the use of cast nets or throw nets for the taking of gizzard shad 8 inches or less in length and alewife only in waters to be determined by the Executive Director.

(b) In addition to other permit conditions that the Executive Director may require, the cast nets or throw nets shall be no greater than 10 feet in radius (20 feet in diameter) with a mesh size of at least 3/8 inch.

(c) Notwithstanding the provisions of § 61.1 (relating to Commonwealth inland waters), holders of permits for the use of cast nets or throw nets may take, catch, kill or possess a daily creel limit of 100 gizzard shad and alewife (combined species).

(d) A person may apply for a permit for the use of cast nets or throw nets by completing the form prescribed by the Commission. The applicant shall submit the completed form to the Commission along with the fee specified in section 2902 of the code (relating to net permits).

(e) It is unlawful to use cast nets or throw nets for the taking of gizzard shad and alewife or to take, catch, kill or possess more than the daily creel limit of gizzard shad and alewife as set forth in § 61.1 without the required permit. A permit for the use of cast nets or throw nets shall be carried so that it can be presented to an officer authorized to enforce the code.

**CHAPTER 65. SPECIAL FISHING REGULATIONS**

**§ 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>  |
|---------------|---|---|
| [ Butler ]    | [ Lake Arthur ]   | [ The Executive Director or a designee may issue permits for use of cast nets or throw nets for taking only gizzard shad and alewife. In addition to other permit conditions that the Executive Director may require, the permits shall be limited to cast nets or throw nets of no greater than 10 feet in radius (20 feet in diameter) with a mesh size of at least 3/8 inches. ]   |
| Huntingdon    | Raystown Lake (includes Raystown Branch from the Raystown Dam downstream to confluence with Juniata River). | Trout (all species)—no closed season. Creel limits: regular inland season—5. Day after Labor Day to opening day of next regular inland season—3 (combined species). Size limits: inland rules apply. Smelt may be taken from shore or by wading by means of dip nets not to exceed twenty inches in diameter or 20 inches square. The daily limit per person is the greater of 1 gallon of smelt by volume or 200 smelt by number. [ Executive Director or a designee may issue permits for use of cast nets or throw nets for taking only gizzard shad and alewife on Lake Raystown. In addition to other permit conditions that the Executive Director may require, the permits shall be limited to cast nets or throw nets of no greater than 10 feet in radius (20 feet in diameter) with a mesh size of at least 3/8 inches. ] |

[Pa.B. Doc. No. 05-1774. Filed for public inspection September 23, 2005, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 12—COMMERCE, TRADE AND LOCAL GOVERNMENT

DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT

[12 PA. CODE CH. 123]

### Community Revitalization Program

The Department of Community and Economic Development (Department) amends Chapter 123 (relating to community revitalization program) to read as set forth in Annex A. The statement of policy is amended under the authority of section 209 of Act 1A of 2005, known as the General Appropriation Act of 2005 (Appropriation Act).

#### Background

The Appropriation Act requires the Department to publish Community Revitalization Program (Program) guidelines in the *Pennsylvania Bulletin* prior to the spending of the 2005-2006 moneys designated for the Program. This amended statement of policy updates the existing Program guidelines published in 2004.

#### Amendments

Section 123.1 (relating to introduction) is amended to update the reference to the Appropriation Act and to the current fiscal year.

Section 123.3 (relating to eligibility) is amended to update the reference to the Appropriation Act and to the current fiscal year.

Section 123.4 (relating to program requirements and instructions) is amended to require a financial breakdown of any amounts appearing in the following budget categories "Contingency," "Indirect Costs," "Other" or "Working Capitol." This is in addition to the current requirement that applicants provide a specific explanation of these costs.

Section 123.5 (relating to application submission and approval procedure) is amended to update the reference to the Department's current website, the current fiscal year, the grant award cycles and the proposed award dates. This section also now requires, instead of encouraging, a disclaimer from an applicant with a religious affiliation that Department funds will not be used for religious purposes.

Section 123.6 (relating to procedures) is amended to update the reference to the current fiscal year and to add a requirement that all grant recipients be registered with the Commonwealth's Central Vendor Management Unit prior to receipt of their contract.

#### Fiscal Impact

The amended statement of policy has no fiscal impact on the Commonwealth, political subdivisions or the public.

#### Paperwork Requirements

Additional paperwork requirements are not imposed as a result of the amended statement of policy.

#### Contact Person

For further information regarding the amended statement of policy, contact Richard Guinan, Director, Operations, Department of Community and Economic Development, Commonwealth Keystone Building, 400 North Street, Fourth Floor, Harrisburg, PA 17120-0225, (717) 787-3402.

#### Findings

The Department finds that:

Delay in implementing the statement of policy will have a serious adverse impact on the public interest.

#### Order

The Department, acting under the authorizing statute, orders that:

(1) The statement of policy of the Department, 12 Pa. Code Chapter 123, is amended by amending §§ 123.1 and 123.3—123.6 to read as set forth in Annex A.

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

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

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

DENNIS YABLONSKY,  
*Secretary*

**Fiscal Note:** 4-83. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 12. COMMERCE, TRADE AND LOCAL GOVERNMENT

#### PART V. COMMUNITY AFFAIRS AND DEVELOPMENT

#### Subpart A. STRATEGIC PLANNING AND OPERATION

#### CHAPTER 123. COMMUNITY REVITALIZATION PROGRAM—STATEMENT OF POLICY

#### § 123.1. Introduction.

(a) The CRP provides grants for community revitalization and improvement projects throughout this Commonwealth. CRP funds may be used for projects that are in accordance with Act 1A of 2005. Eligible projects are defined in § 123.3(b) (relating to eligibility).

(b) Assistance from the CRP is in the form of grants from the Commonwealth to eligible applicants for projects which, in the judgment of the Department, comply with Act 1A of 2005, are in accordance with the program guidelines in this chapter and meet all Department Single Application for Assistance criteria found in the application.

(c) Applicants should be aware that applications for other Department programs may also be considered under the CRP. This creates a large pool of applications for a limited appropriation from the General Assembly. As such, not every application can or will be funded.

(d) 2005 CRP expenditures will be charged to the State fiscal year July 1, 2005, to June 30, 2006.

**§ 123.3. Eligibility.**

(a) *Eligible applicants.* The following applicants are eligible:

(1) General purpose units of local government, including, but not limited to, counties, cities, boroughs, townships and home rule municipalities.

(2) Municipal and redevelopment authorities and agencies.

(3) Industrial development authorities and agencies.

(4) Nonprofit corporations incorporated under the laws of the Commonwealth.

(5) Community organizations engaged in activities consistent with the program guidelines as determined by the Department.

(b) *Eligible projects.*

(1) CRP funds may be used for community revitalization and improvement projects that are consistent with Act 1A of 2005. Eligible projects include projects which must meet one or more of the following criteria:

(i) Improve the stability of the community.

(ii) Promote economic development.

(iii) Improve existing or develop new, or both, civic, cultural, recreational, industrial and other facilities.

(iv) Assist in business retention, expansion, creation or attraction.

(v) Promote the creation of jobs and employment opportunities.

(vi) Enhance the health, welfare and quality of life of citizens of this Commonwealth.

(2) Projects for the sole benefit of a for-profit entity are not eligible for program funding.

(c) *Guideline Compliance for Fiscal Year 2005-2006.* Projects that receive funding must meet one or more of the criteria listed in subsection (b).

**§ 123.4. Program requirements and instructions.**

The following requirements apply to CRP:

(1) Project applications shall be submitted using the Department's Single Application for Assistance. Applications are available from the Department's Customer Service Center, the Department's Regional Offices or the Department's website. Addresses and phone numbers are listed in § 123.5(a) (relating to application submission and approval procedure).

(2) The Department reserves the right to:

(i) Request additional information regarding proposed use of funds.

(ii) Verify non-Department funding sources.

(iii) Require explanation or revision of the project's budget.

(iv) Require clarification of the project's narrative.

(v) Consider an application ineligible in a specific funding round if the additional information requested is not received by the Department within 30 days of its request. The application may be considered in a subsequent round of the fiscal year, if the requested information is received by the Department by the established application deadlines.

(3) Incomplete applications may be rejected. An applicant shall follow the detailed instructions for completing

the Department's Single Application for Assistance when applying for CRP, especially, with regards to the completion of the Project Narrative, Project Budget and Profiles sections. The following excerpt from the Department's Single Application for Assistance provides the level of detail that the Department is seeking on a project.

A typewritten (or computer generated) Project Narrative must accompany the Single Application for Assistance. The narrative should provide a detailed and comprehensive description of the project. Applicants shall explain who they are and what they are going to do with the grant funds. The narrative must specifically address each of the cost items identified in the Project Budget section of the application. In general, the narrative should include:

- *Specific problems to be addressed or improvement to be financed.* Identify the problem that needs to be resolved. Include brief background information, including general purpose or mission, or both, of the organization.

- *Project description.* What do you plan to accomplish with this project and how do you plan to accomplish it?

- *Expected outcomes.* Examples of measurable outcomes include jobs created or retained, people trained, land or buildings acquired, park constructed, feet of road repaired, and the like.

- *Projected schedule and key milestones and dates.* A detailed project schedule must accompany the application, including key milestones and dates.

- *Documentation to support projected budget costs.* This documentation may consist of an itemized line-by-line listing of how you arrived at the specific budget items for the project, bids or cost quotations, contractor estimates, appraisals, engineer estimates. A specific explanation and financial breakdown is required for any amounts in a "Contingency," "Indirect Costs," "Other" or "Working Capital" budget category.

- Documentation of matching dollars such as commitment letters, receipts, and the like.

- *Religious disclaimer.* If an applicant has a religious affiliation, the applicant shall provide a disclaimer assuring that Department funds will not be used for religious purposes.

**§ 123.5. Application submission and approval procedure.**

(a) The application is available by calling the Customer Service Center, the Department's regional offices or at the Department's web site [www.newpa.com/programfinder.aspx](http://www.newpa.com/programfinder.aspx). Applications will be accepted throughout the fiscal year up to the March 30, 2006, submission deadline. Applications will be subject to § 123.7 (relating to limitations and penalties).

(1) Applications may be submitted by mail to the following address:

Department of Community and Economic Development  
Customer Service Center  
Commonwealth Keystone Building  
400 North Street, Fourth Floor  
Harrisburg, PA 17120-0225  
(800) 379-7448

(2) To expedite processing, submit the application by means of the Department's on-line Single Application for Assistance found at [www.newpa.com/programfinder.aspx](http://www.newpa.com/programfinder.aspx).

(3) Applicants should utilize the online submission of applications whenever possible.

(b) CRP grant awards will be made in three funding rounds during the fiscal year. The Department will grant approximately 33% of the program appropriation in each round. These percentages are targets. The Department will make every effort to allocate program funds in accordance with these targets, but is not bound to them. Applicants should not apply in each round, and should apply only once during the 2005-2006 Fiscal Year. Grant applications not funded in a round will be rolled into the next round for consideration.

(1) The first round consideration will include all applications received between July 1, 2005, and September 30, 2005.

(2) The second round will include applications received by December 30, 2005, and applications not approved in the first round.

(3) The third round will include applications received by March 30, 2006, and applications not approved in the first and second rounds.

(4) Targeted grant announcement dates, subject to change without notice at the discretion of the Department, are as follows:

- (i) November 2005 for the first round.
- (ii) February 2006 for the second round.
- (iii) May 2006 for the third round.

(c) Any CRP funds remaining after the third round may be awarded by the Department up to the lapsing of funds for the 2005-2006 fiscal year appropriation.

(d) Letters will not be sent to applicants after each funding round advising applicants that they have not been funded.

(e) Applicants that do not receive funding during any of the rounds will be notified during or after July 2006 to reapply during the next fiscal year.

(f) Follow up information as to the status of submitted grant applications may be obtained by contacting the Department's Customer Service Center. However, calls are not encouraged. The account manager letter is confirmation of receipt of the application. Please remember that the demand for this program is very high, and staff may not be familiar with each individual application. Applicant care in preparation of the application will assist the Department in processing the application.

(g) Applicants should not submit more than one application per fiscal year. Additional applications do not enhance opportunity for funding. The Department reserves the right to reject additional applications from the same applicant, without notice to the applicant.

(h) The Department reserves the right to reject, without notification, applications received after March 30, 2006, for the 2005-2006 fiscal year appropriation.

### § 123.6. Procedures.

(a) CRP grant award notifications will be made by letter. After the award letter has been mailed, the applicant will receive a contract document and a payment requisition form that must be signed by the grantee and returned to the Department for execution on behalf of the Commonwealth; provided, the applicant is registered with the Commonwealth's Central Vendor Management Unit and has obtained a vendor number. Applicants not registered with the Commonwealth's Central Vendor Manage-

ment Unit shall submit a completed Federal W-9 Form to the Department. Grants will not be awarded without a fully executed contract.

(b) The applicant shall maintain full and accurate records with respect to the project. The Department will have free access to these records including invoices of material and other relative data and records, as well as the right to inspect all project work. The applicant shall furnish upon request of the Department all data, reports, contracts, documents and other information relevant to the project.

(c) Approved grants in the amount of \$100,000 or more require the grantee to provide an audit of the grant by a certified public accountant, prepared at the expense of the grantee, in compliance with State law. The single audit performed for Federal audit purposes will not be accepted for auditing grants funded with State moneys.

(d) Approved grants under \$100,000 require the grantee to submit a detailed financial statement and a close out report of the use of State funds consistent with the contract. An audit is recommended, although not required.

(e) Funds will be disbursed according to the provisions in the contract between the applicant and the Department.

(f) Applications from grant recipients who did not fulfill their audit or close out requirements under previous contracts will not be considered and will be placed on hold until the audit or close out requirements are met.

(g) Applications not acted on favorably will be considered to have been denied and will not be considered for the 2006-2007 fiscal year.

[Pa.B. Doc. No. 05-1775. Filed for public inspection September 23, 2005, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 69]

[L-00051875]

### Litigation and Settlement Proceedings Involving Violations of the Public Utility Code and Commission Regulations

Public Meeting held  
August 11, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzingrilli; Terrance J. Fitzpatrick

*Proposed Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations; Doc. No. M-00051875*

#### Order

*By the Commission:*

#### A. Introduction

The Commission proposes to establish a policy statement that will address the factors/standards for evaluating litigated and settled cases involving violations of the Public Utility Code (Code) and Commission regulations.

The Commission currently evaluates litigated and settled cases involving such violations according to the standards established in *Rosi v. Bell Atlantic-Pennsylvania, Inc. and Sprint Communications Company, L.P.*, C-00992409 (Order entered March 16, 2000). The Commission initially adopted the standards in *Rosi* in order to determine the amount of civil penalties to be assessed in slamming cases, as well as to evaluate settlement agreements in slamming cases. See *Pennsylvania Pub. Util. Comm'n v. PEPCO Energy Serv.*, M-00001432 (Order entered Nov. 9, 2000).

*Rosi* was a litigated case, in which a hearing was held before an Administrative Law Judge (ALJ). The ALJ made determinations, including that Sprint Communications Company (Sprint) should pay a civil fine of \$64,000 for slamming. Sprint appealed as to the amount of the fine, and the Commission issued an order which set forth the following standards the Commission would apply when determining the amount of a civil penalty in slamming cases:

1. Whether the violation was intentional or negligent. If the violation is intentional, the Commission should start with the presumption that the penalty will be in the range of \$500 to \$1,000 per day. If the violation is negligent, the Commission should start with the presumption that the penalty will be in the range of zero dollars to \$500 per day. The precise penalty amount per day will be arrived at by applying the following additional standards, while recognizing that the Commission retains broad discretion in determining a total civil penalty amount that is reasonable on an individual case basis.
2. Whether the regulated entity promptly and voluntarily took steps to return the customer to the appropriate carrier and credited the customer's account.
3. Whether the regulated entity initiated procedures to prevent future slamming.
4. The number of customers affected and the duration of the violation.
5. Whether the penalty arises from a settlement or a litigated proceeding.
6. The compliance history of the regulated entity which committed the violation.
7. Whether the regulated entity cooperated with the Commission.
8. The amount necessary to deter future violations.
9. Past Commission decisions in similar situations.
10. Other relevant factors.

Subsequently, the Commission determined that all violations of the Code and the Commission's regulations would be subject to review under the standards set forth in *Rosi. Pennsylvania Pub. Util. Comm'n v. NCIC Operator Serv.*, M-00001440 (Order entered Dec. 21, 2000). In reference to the Commission's review under the *Rosi* standards, the *NCIC Operator Services* case states,

This review is conducted with the purpose of developing or, in cases of settlement agreements, reviewing the appropriate penalty to be applied for all types of violations for all categories of public utilities. Clearly, the factors we consider pursuant to our decision in *Rosi* are generic in nature and can be applied in all cases. The nature of the violation (intentional or negligent), impact (customers affected and duration), extent of cooperation by the regulated entity, and compliance history are, inter alia, examples of factors that can be reviewed for all types of violations for all types of utilities.

These factors, particularly the extent of cooperation by the regulated entity and measures taken to improve compliance, have been viewed as key mitigating factors under *Rosi*, and the Commission has examined such factors to determine whether settlement agreements are in the public interest.

## B. Policy Statement

The Commission finds that many of the *Rosi* standards work well in evaluating litigated and settled cases involving violations of the Code and the Commission's regulations. However, all of the *Rosi* standards do not apply equally well to all utility cases, particularly those that do not deal with slamming issues. This is due to the wide variety of matters that come before the Commission, including the Commission's Bureau of Consumer Services matters, Gas Safety Division matters, the Bureau of Transportation and Safety matters, and other complaint matters before the Commission. Moreover, strict compliance with the *Rosi* standards does not allow parties adequate flexibility in reaching settlements. As such, this proposed policy statement will set forth new factors/standards for evaluating litigated and settled cases involving violations of the Code and the Commission's regulations. The factors may be considered by the Commission in determining if a fine/civil penalty for violating a Commission order, regulation, or statute is appropriate, and if a proposed settlement for a violation is reasonable and approval of the settlement agreement is in the public interest.

### 1. Litigated Cases

In adjudicating litigated cases where the Commission must weigh the evidence, determine culpability and, where appropriate, assess a fine or other penalty, the Commission proposes in Annex A that its first factor will retain considerations regarding intentional or negligent conduct as it did in *Rosi*. In addition, the Commission will consider the seriousness of the conduct at issue. Under the Commission's proposal, when conduct of a serious nature is involved, such as property damage, personal injury, and willful fraud or misrepresentation, the conduct could warrant a higher/more significant penalty. When the conduct is less egregious, such as administrative filing/technical errors, it could warrant a lower/less significant penalty.

For its second factor, the Commission will consider the regulated entity's efforts to modify its internal practices/procedures in order to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision.

The rest of the factors the Commission will consider in its policy statement are those it has retained from *Rosi*, including the following: the number of customers affected and the duration of the violation, the compliance history of the regulated entity which committed the violation, whether the regulated entity cooperated with the Commission's investigation, the amount of the civil penalty necessary to deter future violations, past Commission decisions in similar situations, and other relevant factors.

### 2. Settled Cases

With regard to settled cases the parties should be afforded more flexibility in determining the amount of a fine, penalty, or other resolution. Though many of the *Rosi* standards may be taken into consideration, the standards will not be applied in such a restrictive fashion.

The first factor to be considered will focus solely on the seriousness of the conduct at issue. This includes a



determination of whether public safety and/or property damage are at issue. This factor is distinguished from that applied in litigated cases by the lack of a finding of intentional or negligent conduct on the part of the regulated entity.

The second factor, like that in litigated cases, focuses on the actions taken or proposed by the regulated entity to correct the conduct involved in the proceeding. Numerous other factors may also be taken into consideration in settled cases. These factors may include, but not be limited to, the number of customers affected, the duration of the incident, whether the regulated entity cooperated with the Commission's investigation, and other relevant factors.

We encourage settlements and intend to allow the parties flexibility in reaching amicable resolutions to complaints and other matters before us so long as the settlement is in the public interest. To this end the parties to a settlement should include in the settlement agreement a statement in support of settlement explaining how the settlement is in the public interest. The statement may be filed jointly by the parties or separately by each individual party. Accordingly, while some of the standards for settlements may reflect those to be applied in litigated cases, parties will be free to propose innovative provisions that address the issues at hand but which may not strictly adhere to specific guidelines. As always, our overriding concern in these matters is that any proposed agreement reflect the public interest.

All interested parties are invited to submit comments on the proposal set forth in Annex A. We propose to amend Chapter 69 of our regulations by adding 52 Pa. Code § 69.1201 as set forth in Annex A, which establishes a policy statement for litigated and settled proceedings involving violations of the Public Utility Code and Commission regulations. Accordingly, pursuant to section 501 of the Public Utility Code, 66 Pa.C.S. § 501, and the Commonwealth Documents Law, 45 P. S. §§ 1201 et seq., and regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.4, we amend the regulations at 52 Pa. Code Chapter 69 as previously noted and as set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. The proposed amendments to 52 Pa. Code Chapter 69, as set forth in Annex A, are issued for comment.
2. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.
3. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
4. Interested persons may submit an original and 15 copies of written comments to the Office of the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 within 30 days from the date this order is published in the *Pennsylvania Bulletin*.
5. A copy of this Order shall be posted on the Commission's website.
6. The contact person for this matter is Wayne T. Scott, Law Bureau, (717) 783-6150 (legal).

JAMES J. MCNULTY,  
*Secretary*

**Fiscal Note:** 57-241. No fiscal impact; (8) recommends adoption.

## Annex A

### TITLE 52. PUBLIC UTILITIES

#### PART I. PUBLIC UTILITY COMMISSION

##### Subpart C. FIXED SERVICE UTILITIES

#### CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

#### FACTORS AND STANDARDS FOR EVALUATING LITIGATED AND SETTLED PROCEEDINGS

#### § 69.1201. Factors and standards for evaluating litigated and settled proceedings involving violations of the Public Utility Code and Commission regulations.

The Commission will consider specific factors and standards in evaluating litigated and settled cases involving violations of 66 Pa.C.S. (relating to Public Utility Code) and this title. These factors and standards will be utilized by the Commission in determining if a fine for violating a Commission order, regulation or statute is appropriate, as well as if a proposed settlement for a violation is reasonable and approval of the settlement agreement is in the public interest. The factors and standards that will be considered by the Commission include the following:

(1) *Standards for litigated cases.*

(i) Whether the conduct at issue was deemed intentional or negligent in nature. When conduct has been deemed intentional, the conduct may result in a higher penalty.

(ii) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as property damage, personal injury, and willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.

(iii) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision.

(iv) The number of customers affected and the duration of the violation.

(v) The compliance history of the regulated entity which committed the violation.

(vi) Whether the regulated entity cooperated with the Commission's investigation.

(vii) The amount of the civil penalty or fine necessary to deter future violations.

(viii) Past Commission decisions in similar situations.

(ix) Other relevant factors.

(2) *Standards for settled cases.* Though the following standards may be taken into consideration in the evaluation of a proposed settlement, these standards, when applied, will not be applied in as strict a fashion as in a litigated proceeding. The parties in settled cases shall be afforded flexibility in reaching amicable resolutions to complaints and other matters so long as the settlement is

in the public interest. The parties to a settlement should include in the settlement agreement a statement in support of settlement explaining how the settlement is in the public interest. The statement may be filed jointly by the parties or separately by each individual party.

(i) Whether the conduct at issue was of a serious nature. When conduct of a serious nature is involved, such as property damage, personal injury, and willful fraud or misrepresentation, the conduct may warrant a higher penalty. When the conduct is less egregious, such as administrative filing or technical errors, it may warrant a lower penalty.

(ii) Whether the regulated entity made efforts to modify internal practices and procedures to address the conduct at issue and prevent similar conduct in the future. These modifications may include activities such as training and improving company techniques and supervision.

(iii) The number of customers affected and the duration of the violation.

(iv) The compliance history of the regulated entity which committed the violation.

(v) Whether the regulated entity cooperated with the Commission's investigation.

(vi) Other relevant factors.

[Pa.B. Doc. No. 05-1776. Filed for public inspection September 23, 2005, 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 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending September 13, 2005.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

| <i>Date</i> | <i>Name of Corporation</i>   | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 9-8-05      | Northwest Bancorp, Inc., Warren, PA<br>to acquire 100% of the voting shares<br>of Equinox Financial Corp., Pembroke<br>Pines, FL, under section 115 of the<br>Banking Code of 1965 | Warren          | Approved      |

##### Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Bank</i>   | <i>Location</i> | <i>Action</i> |
|-------------|---|-----------------|---------------|
| 9-8-05      | Northwest Savings Bank, Warren, PA<br>and Equinox Bank, F. S. B., Pembroke<br>Pines, FL<br>Surviving Institution—<br>Northwest Savings Bank, Warren                       | Warren          | Approved      |
| 9-9-05      | Beneficial Mutual Savings Bank,<br>Philadelphia, and Northwood Savings<br>Bank, Philadelphia<br>Surviving Institution—<br>Beneficial Mutual Savings Bank,<br>Philadelphia | Philadelphia    | Approved      |

##### Branch Applications

| <i>Date</i> | <i>Name of Bank</i>                                | <i>Location</i>   | <i>Action</i> |
|-------------|--|---|---------------|
| 9-6-05      | Reliance Savings Bank<br>Altoona<br>Blair County   | 1921 Pleasant Valley Boulevard<br>Altoona<br>Blair County | Opened        |
| 9-8-05      | Orrstown Bank<br>Shippensburg<br>Cumberland County | 308 Carolle Street<br>Greencastle<br>Franklin County      | Filed         |

#### SAVINGS INSTITUTIONS

No activity.

#### CREDIT UNIONS

##### Conversions to Community Charters

| <i>Date</i> | <i>Name of Credit Union</i>                            | <i>Location</i> | <i>Action</i> |
|-------------|--|-----------------|---------------|
| 9-7-05      | Diamond Credit Union<br>Pottstown<br>Montgomery County | Pottstown       | Filed         |

| <i>Date</i> | <i>Name of Credit Union</i>   | <i>Location</i> | <i>Action</i>                                |
|-------------|---|-----------------|--|
|             | Application represents proposed conversion from an occupational-based to a community credit union serving persons who live, work (or regularly conduct business), worship or attend school in and businesses and other legal entities located in Montgomery, Chester and Berks Counties in this Commonwealth as permitted under the Pennsylvania Credit Union Code. |                 | A. WILLIAM SCHENCK, III,<br><i>Secretary</i> |

[Pa.B. Doc. No. 05-1777. Filed for public inspection September 23, 2005, 9:00 a.m.]

**Maximum Lawful Rate of Interest for Residential Mortgages for the Month of October 2005**

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of October, 2005, is 6 3/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as his principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.39 to which was added 2.50 percentage points for a total of 6.89 that by law is rounded off to the nearest quarter at 6 3/4%.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 05-1778. Filed for public inspection September 23, 2005, 9:00 a.m.]

**DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT**

**Community Services Block Grant State Plan and Community Food and Nutrition Program State Plan; Public Hearing**

The Department of Community and Economic Development (Department) will hold a public hearing at 10 a.m. on Thursday, October 6, 2005, in Conference Room 4 West, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA. The purpose of this hearing is to receive comments on the Community Services Block Grant proposed State Plan to be submitted to the Department of Health and Human Services for Fiscal Years 2006 and 2007. Also included is the State Plan for the Community Food and Nutrition Program.

A copy of this State Plan may be obtained by contacting the Department of Community and Economic Development, Office of Community Services, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17102. For a copy of the plan or to testify at the hearing, persons may also contact Susan Butler, (717) 787-1984, subutler@state.pa.us. Plans may also be obtained by contracting the Department's regional offices.

Written comments may be submitted to JamesEtta Reed, Acting Director, Office of Community Services at the address listed previously until 5 p.m. on October 6, 2005.

Persons with a disability who wish to attend this hearing and require auxiliary aid, services or other accommodations to participate in the proceedings should contact Susan Butler to discuss how the Department can accommodate their needs.

DENNIS YABLONSKY,  
*Secretary*

[Pa.B. Doc. No. 05-1779. Filed for public inspection September 23, 2005, 9:00 a.m.]

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Applications, Actions and Special Notices

### APPLICATIONS

#### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

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

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

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

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

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

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

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

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

#### I. NPDES Renewal Applications

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

| <i>NPDES No.<br/>(Type)</i> | <i>Facility Name &amp;<br/>Address</i>                                   | <i>County &amp;<br/>Municipality</i> | <i>Stream Name<br/>(Watershed #)</i>  | <i>EPA Waived<br/>Y/N ?</i> |
|-----------------------------|--|--------------------------------------|---------------------------------------|-----------------------------|
| PA0061077                   | Lake Winola Municipal Authority<br>P. O. Box 59<br>Lake Winola, PA 18625 | Wyoming County<br>Overfield Township | Osterhout Creek<br>(Mill Run)<br>(4G) | Y                           |

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

| <i>NPDES No.<br/>(Type)</i> | <i>Facility Name &amp;<br/>Address</i>  | <i>County &amp;<br/>Municipality</i> | <i>Stream Name<br/>(Watershed#)</i> | <i>EPA Waived<br/>Y/N ?</i> |
|-----------------------------|---|--------------------------------------|-------------------------------------|-----------------------------|
| PA0115088                   | Benton Municipal Water and Sewer Authority<br>P. O. Box 516<br>Benton, PA 17814 | Columbia County<br>Benton Borough    | Fishing Creek<br>(5C)               | Y                           |
| PA0008915IW                 | Osram Sylvania Products, Inc.<br>1 Jackson Street<br>Wellsboro, PA 16901-1717   | Wellsboro Borough<br>Tioga County    | Charleston Creek<br>9-A             | Y                           |

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

| <i>NPDES No.<br/>(Type)</i> | <i>Facility Name &amp;<br/>Address</i>                                     | <i>County &amp;<br/>Municipality</i>   | <i>Stream Name<br/>(Watershed#)</i> | <i>EPA Waived<br/>Y/N ?</i> |
|-----------------------------|--|--|-------------------------------------|-----------------------------|
| PA0001872                   | Saint-Gobain Containers<br>One Glass Place<br>Port Allegany, PA 16743-0069 | Port Allegany Borough<br>McKean County | Allegheny River<br>16-C             | Y                           |
| PA0103934                   | The Well Restaurant<br>3686 Old State Road<br>Ridgway, PA 15853-7634       | Ridgway Township<br>Elk County         | Elk Creek<br>17-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.*

**PA0244015**, Industrial Waste, SIC 4941, **Northampton Bucks County Municipal Authority**, 111 Township Line Road, P. O. Box 653, Richboro, PA 18954-1550. This proposed facility is located in Northampton Township, **Bucks County**.

Description of Proposed Activity: Discharge of filter backwash water from manganese greensand filtration system.

The receiving stream, Springfield Lake (Ironworks Creek), is in the State Water Plan watershed 2F and is classified for WWF, aquatic life, water supply and recreation. The nearest downstream water supply intake for AQUA-PA is located on Neshaminy Creek.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0033 mgd.

| <i>Parameters</i>       | <i>Mass (lb/day)</i>                           |                          | <i>Concentration (mg/l)</i> |                          | <i>Instantaneous<br/>Maximum (mg/l)</i> |
|-------------------------|--|--------------------------|-----------------------------|--------------------------|---|
|                         | <i>Average<br/>Monthly</i>                     | <i>Maximum<br/>Daily</i> | <i>Average<br/>Monthly</i>  | <i>Maximum<br/>Daily</i> |   |
| Total Suspended Solids  |  |                          | 30                          | 60                       | 75                                      |
| Iron, Total             |  |                          | 2.0                         | 4.0                      | 5.0                                     |
| Aluminum, Total         |  |                          | 4.0                         | 8.0                      | 10                                      |
| Manganese, Total        |  |                          | 1.0                         | 2.0                      | 2.5                                     |
| Total Residual Chlorine |  |                          | 0.5                         |                          | 1.2                                     |
| pH                      | Within 6.0 and 9.0 standard units at all times |                          |                             |                          |   |

In addition to the effluent limits, the permit contains the following major special conditions:

1. Remedial Measures.
2. Acquire Necessary Property Rights.
3. Dry Stream Discharge.
4. BAT/BCT Reopen.
5. Change of Ownership.
6. Proper Sludge Disposal.
7. TMDL/WLA Analysis.
8. New Facilities No Discharge Reporting.
9. 2/month monitoring.
10. Laboratory Certification.

**PA0029441**, Sewage, SIC 4952, **Bucks County Water & Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976. This existing facility is located in Upper Dublin Township, **Montgomery County**.

Description of Proposed Activity: Issuance of an NPDES renewal permit for discharge of treated sewage effluent and stormwater to a UNT to Sandy Run. Permitted flow is increased from 1.0 mgd average annual flow to 1.1 mgd. The basis for the limits include consideration of the Wissahickon Total Maximum Daily Load dated October 2003 for the parameters CBOD<sub>5</sub>, NH<sub>3</sub>-N, Orthophosphate as P, Total Phosphorus, Dissolved Oxygen, and (Nitrite + Nitrate) as Nitrogen and the existing Total Oxygen Demand limits.

The copper limits are based on a site-specific criterion for copper, which was developed by means of the Water Effect Ratio (WER) process in accordance with Environmental Protection Agency's WER Guidance. The final recommended WER for Total Recoverable Copper is 2.47.

The receiving stream, a UNT to Sandy Run, is in the State Water Plan watershed 3F and is classified for trout stocking, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Philadelphia Water Department is located on the Schuylkill River and is approximately 13.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.1 mgd.

| <i>Parameters</i>                                   | <i>Average<br/>Monthly (mg/l)</i> | <i>Average<br/>Weekly (mg/l)</i> | <i>Maximum<br/>Daily (mg/l)</i> | <i>Instantaneous<br/>Maximum (mg/l)</i> |
|---|-----------------------------------|----------------------------------|---------------------------------|---|
| CBOD <sub>5</sub><br>(5-1 to 10-31)                 | 10                                | 15                               |                                 | 20                                      |
| (11-1 to 4-30)                                      | 20                                | 30                               |                                 | 40                                      |
| Total Suspended Solids                              | 30                                | 45                               |                                 | 60                                      |
| NH <sub>3</sub> -N<br>(5-1 to 10-31)                | 2.0                               |                                  |                                 | 4.0                                     |
| (11-1 to 4-30)                                      | 6.0                               |                                  |                                 | 12.0                                    |
| (NO <sub>2</sub> +NO <sub>3</sub> )-N               | Monitor                           |                                  |                                 | Monitor                                 |
| pH (Std. Units)                                     | 6.0, I-min.                       |                                  |                                 |   |
| Fecal Coliform (# col/100 ml)                       | 200                               |                                  |                                 | 9.0                                     |
| Total Residual Chlorine                             | 0.09                              |                                  |                                 |   |
| Dissolved Oxygen:                                   |                                   |                                  |                                 | 0.3                                     |
| (Issuance through Year 2)                           | 5.0, I-min.                       |                                  |                                 |   |
| (Year 3 through Expiration)                         | 7.0, I-min.                       |                                  |                                 |   |
| Orthophosphate as P:<br>(Issuance through Year 2)   | Monitor                           |                                  |                                 | Monitor                                 |
| (Year 3 through Expiration 4-01 to 7-31)            | 1.4                               |                                  |                                 | 2.8                                     |
| Total Phosphorus as P:<br>(Issuance through Year 2) | Monitor                           |                                  |                                 | Monitor                                 |
| (Year 3 through Expiration)                         | 2.0                               |                                  |                                 | 4.0                                     |
| Copper, Total                                       | 0.056                             |                                  | 0.087                           |   |

The proposed effluent limits for Stormwater Outfall 002 are based on a design flow of an average storm event.

| <i>Parameters</i>             | <i>Average<br/>Annual (mg/l)</i> | <i>Average<br/>Semi-Annual (mg/l)</i> | <i>Maximum<br/>Daily (mg/l)</i> | <i>Instantaneous<br/>Maximum (mg/l)</i> |
|-------------------------------|----------------------------------|---------------------------------------|---------------------------------|---|
| CBOD <sub>5</sub>             | Monitor                          |                                       | Monitor                         |   |
| COD                           | Monitor                          |                                       | Monitor                         |   |
| Oil and Grease                | Monitor                          |                                       | Monitor                         |   |
| pH                            | Monitor                          |                                       | Monitor                         |   |
| Total Suspended Solids        | Monitor                          |                                       | Monitor                         |   |
| Total Kjeldahl Nitrogen       | Monitor                          |                                       | Monitor                         |   |
| Total Phosphorus              | Monitor                          |                                       | Monitor                         |   |
| Iron, Dissolved               | Monitor                          |                                       | Monitor                         |   |
| Fecal Coliform (# col/100 ml) | Monitor                          |                                       | Monitor                         |   |

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Designation of Responsible Operator.
2. Definition of Average Weekly.
3. Remedial Measures if Public Nuisance.
4. No Stormwater to Sanitary Sewers.
5. Necessary Easements.
6. Small Stream Discharge.
7. Change in Ownership.
8. Specification of Test Method.
9. Proper Sludge Handling.
10. Chlorine Minimization.
11. TMDL Data Submission.
12. Whole Effluent Toxicity Testing with Renewal.
13. Instantaneous Maximum Limitations.
14. Stormwater Requirements.
15. SSO Language.

The EPA waiver is not in effect.

**PA0029530**, Sewage, **SIC 4952**, **Palisades School District**, 39 Thomas Free Drive, Kintnersville, PA 18930. This proposed facility is located in Nockamixon Township, **Bucks County**.

Description of Proposed Activity: Discharge of 21,500 gpd of treated sewage from Palisades High School into a UNT to Gallows Run.

The receiving stream, UNT to Gallows Run, is in the State Water Plan watershed 2D and is classified for CWF. The nearest downstream public water supply intake for NWRA PECO Limerick Station is located on Delaware River and is 17.5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 21,500 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>                |                        |                      | 25                          |                      | 50                                  |
| Total Suspended Solids           |                        |                      | 30                          |                      | 60                                  |
| Ammonia (as N)<br>(5-1 to 10-31) |                        |                      | 13                          |                      | 26                                  |
| (11-1 to 4-30)                   |                        |                      | 20                          |                      | 40                                  |
| Fecal Coliform                   |                        |                      | 200 #/100 ml                |                      |                                     |
| pH                               |                        |                      | 6-9 SU                      |                      |                                     |
| Dissolved Oxygen                 |                        |                      | 3.0 Minimum                 |                      |                                     |
| Total Residual Chlorine          |                        |                      | 0.5                         |                      | 1.2                                 |

The EPA waiver is in effect.

**PA0058017**, Sewage, SIC 5999, **Harrow Station, LLC**, 265 Frogtown Road, Kintnersville, PA 18930. This proposed facility is located in Nockamixon Township, **Bucks County**.

Description of Proposed Activity: Discharge of 3,820 gpd of treated sewage from treatment plant serving Harrow Station into UNT to Haycock Creek.

The receiving stream, a UNT to Haycock Creek, is in the State Water Plan watershed 2D—Three Mile Run and is classified for TSF. The nearest downstream public water supply intake for NWRA—PECO Limerick Station is located on Delaware River and is 14.25 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 3,820 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                                  |
| Suspended Solids              |                        |                      | 10  |                      | 20                                  |
| Ammonia as N<br>(5-1 to 4-30) |                        |                      | 1.5   |                      | 3.0                                 |
| (11-1 to 4-30)                |                        |                      | 3.0   |                      | 6.0                                 |
| Nitrate and Nitrite as N      |                        |                      | 10  |                      | 20                                  |
| Phosphorus                    |                        |                      | 0.5   |                      | 1.0                                 |
| Total Residual Chlorine       |                        |                      | Nondetectable   |                      |                                     |
| Fecal Coliform                |                        |                      | 200 #/100 ml  |                      |                                     |
| Dissolved Oxygen              |                        |                      | Minimum of 5.0 mg/l at all the times                      |                      |                                     |
| pH                            |                        |                      | Within limit of 6.0 to 9.0 standard unit at all the times |                      |                                     |

The EPA waiver is in effect.

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

**PA0062383**, Industrial, **3 Springs Water Company**, 1800 Pine Run Road, Laurel Run, PA 18702. This proposed facility is located in Laurel Run Borough, **Luzerne County**.

Description of Proposed Activity: Renewal of NPDES permit.

The receiving stream, UNT to Pine Creek, is in the State Water Plan watershed No. 5B and is classified for CWF. The nearest downstream public water supply intake for Danville Borough Water is located on Susquehanna River over 50 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0062.

| <i>Parameter</i> | <i>Mass (lb/day)</i>   |                      | <i>Concentration (mg/l)</i>            |                      |
|------------------|------------------------|----------------------|--|----------------------|
|                  | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i>                 | <i>Maximum Daily</i> |
| Flow             |                        |                      | Monitor and Report                     |                      |
| pH               |                        |                      | 6.0 to 9.0 Standard Units at all times |                      |

**PA0008885**, Industrial Waste, **Procter & Gamble Paper Products, Inc.**, P. O. Box 32, Mehoopany, PA 18629-0032. This proposed facility is located in Washington Township, **Wyoming County**.

Description of Proposed Activity: Application to renew an existing permit to discharge 7.2 mgd of treated industrial wastewater and stormwater associated with the industrial activities.



The receiving stream, Susquehanna River, is in watershed No. 7K and it is classified for WWF. The nearest downstream public water supply intake for Danville Water Supply is located on the Susquehanna River approximately 80 river miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 7.6 mgd.

| <i>Parameter</i>        | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |
|-------------------------|--|----------------------|-----------------------------|----------------------|
|                         | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> |
| CBOD <sub>5</sub>       | 10,000                                 | 18,800               |                             |                      |
| Total Suspended Solids  | 9,833                                  | 18,800               |                             |                      |
| pH                      | 6.0 to 9.0 Standard Units at all Times |                      |                             |                      |
| Total Residual Chlorine |  |                      | 0.9                         | 1.8                  |
| Ammonia-N               | Report                                 |                      | Report                      | XX                   |
| Kjeldahl-N              | Report                                 |                      | Report                      | XX                   |
| Nitrite-N               | Report                                 |                      | Report                      | XX                   |
| Nitrate-N               | Report                                 |                      | Report                      | XX                   |
| Total Nitrogen          | Report                                 | Report Annual Load   | Report                      | XX                   |
| Total Phosphorus        | Report                                 | Report Annual Load   | Report                      | XX                   |

The proposed effluent limits for Outfall 003—process area stormwater, Emergency Spill Basin Overflow:

| <i>Parameter</i> | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |
|------------------|--|----------------------|-----------------------------|----------------------|
|                  | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> |
| Color            |  |                      |                             | 75*                  |
| pH               | 6.0 to 9.0 Standard Units at all Times |                      |                             |                      |

\*Effluent exceeding 75 PT-CO units shall be discharged to the treatment facility at a rate up to 300 gpm. Stormwater flow beyond the pump capacity is exempt from this limitation.

Outfalls 002, 004, 006 and 007 are for uncontaminated stormwater only. There are no effluent limits for the discharges from these outfalls.

In addition to the effluent limits, the permit contains the following major special conditions:

1. Annual Biological River Survey.
2. Chemical Additions.

The EPA waiver is not in effect.

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

**PA0033332**, Industrial Waste, SIC, 3261, **Eljer Plumbingware, Inc.**, 1301 Eljer Way, Ford City, PA 16226. This application is for renewal of an NPDES permit to discharge treated process water from Ford City Plant in Ford City Borough, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, Allegheny River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Cadogan Township Water Works, located at river mile 39.3, about 3.0 miles below the discharge point.

*Outfalls 001—005, 007, 009, 010 and 011:* existing discharge, variable flow to the Allegheny River.

| <i>Parameter</i>   | <i>Mass (lb/day)</i>   |                      | <i>Concentration (mg/l)</i> |                      | <i>Instantaneous Maximum</i> |
|--|------------------------|----------------------|-----------------------------|----------------------|------------------------------|
|  | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> |                              |
| Discharge from these outfalls shall consist of uncontaminated stormwater runoff. |                        |                      |                             |                      |                              |

The EPA waiver is in effect.

*Outfalls 006 and 012:* existing discharge, variable flow to the Allegheny River.

| <i>Parameter</i>   | <i>Mass (lb/day)</i>   |                      | <i>Concentration (mg/l)</i> |                      | <i>Instantaneous Maximum</i> |
|--|------------------------|----------------------|-----------------------------|----------------------|------------------------------|
|  | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> |                              |
| Discharge from these outfalls shall consist of uncontaminated stormwater runoff. |                        |                      |                             |                      |                              |

Additionally, Outfalls 006 and 012 are authorized to discharge bowl test water (potable water).

*Outfall 008: existing discharge, design flow of 0.019 mgd*

| <i>Parameter</i> | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |                              |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
|                  | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd)       | Monitor and Report                     |                      |                             |                      |                              |
| Temperature (°F) |  |                      |                             | 110                  |                              |
| Oil and Grease   |  |                      |                             | 15                   | 30                           |
| pH               | not less than 6.0 nor greater than 9.0 |                      |                             |                      |                              |

*Outfall 008A: existing discharge, design flow of 0.006 mgd*

| <i>Parameter</i> | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |                              |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
|                  | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd)       | Monitor and Report                     |                      |                             |                      |                              |
| Suspended Solids |  |                      |                             | 30                   | 60                           |
| pH               | not less than 6.0 nor greater than 9.0 |                      |                             |                      |                              |

*Outfall 013: existing discharge, design flow of 0.011 mgd*

| <i>Parameter</i> | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |                              |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
|                  | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd)       | Monitor and Report                     |                      |                             |                      |                              |
| Temperature (°F) |  |                      |                             | 110                  |                              |
| Oil and Grease   |  |                      |                             | 15                   | 30                           |
| pH               | not less than 6.0 nor greater than 9.0 |                      |                             |                      |                              |

*Outfall 014: existing discharge, design flow of 0.0028 mgd*

| <i>Parameter</i> | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |                              |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
|                  | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd)       | Monitor and Report                     |                      |                             |                      |                              |
| Temperature (°F) |  |                      |                             | 110                  |                              |
| Oil and Grease   |  |                      |                             | 15                   | 30                           |
| pH               | not less than 6.0 nor greater than 9.0 |                      |                             |                      |                              |

**PA0252875**, Industrial Waste, SIC, 4911 and 4912, **Wellington Development—WVDT, LLC**, 1620 Locust Avenue, Fairmont, WV 26554. This application is for issuance of an NPDES permit to discharge treated process water, sewage and untreated stormwater from Greene Energy Resource Recovery Project in Cumberland Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, Monongahela River, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is Carmichaels Municipal Water Authority, located at Monongahela River, 3.0 miles below the discharge point.

*Outfall 101: discharge, design flow of 0.005 mgd.*

| <i>Parameter</i>                                    | <i>Mass (lb/day)</i>   |                      | <i>Concentration (mg/l)</i> |                      |                              |
|---|--|----------------------|-----------------------------|----------------------|------------------------------|
|   | <i>Average Monthly</i>   | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow  | 0.005  | Monitor and Report   |                             |                      |                              |
| CBOD <sub>5</sub>                                   |  |                      |                             | 25                   | 50                           |
| Suspended Solids                                    |  |                      |                             | 30                   | 60                           |
| Fecal Coliform<br>(5-1 to 9-30)<br>(10-1 1 to 4-30) | 200/100 ml as a geometric mean<br>2,000/100 ml as a geometric mean |                      |                             |                      |                              |
| Total Residual Chlorine                             |  |                      |                             | 1.4                  | 3.3                          |
| pH  | not less than 6.0 nor greater than 9.0                             |                      |                             |                      |                              |

The EPA waiver is not in effect.

*Internal Monitoring Point 201: new discharge, design flow of 0.1 mgd*

| <i>Parameter</i> | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |                              |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
|                  | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd)       | Monitor and Report                     |                      |                             |                      |                              |
| Suspended Solids |  |                      | 30                          |                      | 60                           |
| Oil and Grease   |  |                      | 15                          | 20                   | 30                           |
| pH               | not less than 6.0 nor greater than 9.0 |                      |                             |                      |                              |

*Internal Monitoring Point 301: new discharge, design flow of varied mgd*

| <i>Parameter</i> | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |                              |
|------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
|                  | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd)       | Monitor and Report                     |                      |                             |                      |                              |
| Suspended Solids |  |                      |                             |                      | 50                           |
| pH               | not less than 6.0 nor greater than 9.0 |                      |                             |                      |                              |

*Internal Monitoring Point 401: new discharge, design flow of varied mgd*

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

*Internal Monitoring Point Outfall 501: new discharge, design flow of 1.26 mgd*

| <i>Parameter</i>        | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |                              |
|-------------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
|                         | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd)              | Monitor and Report                     |                      |                             |                      |                              |
| Chromium                |  |                      | 0.2                         | 0.2                  |                              |
| Zinc                    |  |                      | 1.0                         | 1.0                  |                              |
| Free Available Chlorine |  |                      | 0.2                         |                      | 0.5                          |
| Total Residual Chlorine |  |                      | 0.5                         |                      | 1.0                          |
| pH                      | not less than 6.0 nor greater than 9.0 |                      |                             |                      |                              |

*Internal Monitoring Point 601: new discharge, design flow of varied mgd*

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

*Outfall 001: new discharge, design flow of 1.26 mgd*

| <i>Parameter</i>       | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |                              |
|------------------------|--|----------------------|-----------------------------|----------------------|------------------------------|
|                        | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Monthly</i>      | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Flow (mgd)             | Monitor and Report                     |                      |                             |                      |                              |
| Total Suspended Solids |  |                      | 30                          | 100                  |                              |
| Oil and Grease         |  |                      | 15                          | 20                   | 30                           |
| Temperature (°F)       |  |                      |                             |                      | 110                          |
| Total Dissolved Solids |  |                      | Monitor and Report          |                      |                              |
| Iron                   |  |                      | 2.0                         |                      | 4.0                          |
| Aluminum               |  |                      | 4.0                         |                      | 8.0                          |
| Manganese              |  |                      | 1.0                         |                      | 2.0                          |
| pH                     | not less than 6.0 nor greater than 9.0 |                      |                             |                      |                              |

*Outfall 002: new discharge, design flow of 0.1 mgd*

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

This discharge shall consist of intake screen backwash water only.  
Debris collected from the screen shall not be returned to the waterways.

*Internal Monitoring Point 103: new discharge, design flow of varied mgd*

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

|                  |  |  |  |  |    |
|------------------|--|--|--|--|----|
| Flow (mgd)       | Monitor and Report                     |  |  |  |    |
| Suspended Solids |  |  |  |  | 50 |
| Oil and Grease   |  |  |  |  |    |
| pH               | not less than 6.0 nor greater than 9.0 |  |  |  |    |

*Internal Monitoring Point 203: new discharge, design flow of varied mgd*

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

|                        |                    |  |                    |  |  |
|------------------------|--------------------|--|--------------------|--|--|
| Flow (mgd)             | Monitor and Report |  |                    |  |  |
| Total Suspended Solids |                    |  | Monitor and Report |  |  |
| Iron                   |                    |  | Monitor and Report |  |  |
| Aluminum               |                    |  | Monitor and Report |  |  |
| Manganese              |                    |  | Monitor and Report |  |  |
| pH                     | Monitor and Report |  |                    |  |  |

*Outfall 003: new discharge, design flow of varied mgd*

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

This discharge shall consist solely of those sources previously monitored at IMPs 103 and 203.

**PA0023159**, Sewage, **Moon Township Municipal Authority**, 1700 Beaver Grade Road, Suite 200, Moon Township, PA 15108-3193. This application is for renewal of an NPDES permit to discharge treated sewage from Crescent-South Heights STP in Crescent Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Ohio 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 Nova Chemicals Beaver Valley Plant (RMP 29.5).

*Outfall 001: existing discharge, design flow of 0.396 mgd.*

| <i>Parameter</i>                 | <i>Mass (lb/day)</i>                   |                      | <i>Concentration (mg/l)</i> |                      |
|----------------------------------|--|----------------------|-----------------------------|----------------------|
|                                  | <i>Average Monthly</i>                 | <i>Maximum Daily</i> | <i>Average Weekly</i>       | <i>Maximum Daily</i> |
| CBOD <sub>5</sub>                | 25                                     |                      | 38                          |                      |
| Suspended Solids                 | 30                                     |                      | 45                          |                      |
| Fecal Coliform<br>(5-1 to 10-31) | 200/100 ml as a geometric mean         |                      |                             |                      |
| (11-1 to 4-30)                   | 2,000/100 ml as a geometric mean       |                      |                             |                      |
| Total Residual Chlorine          | 1.4                                    |                      | 3.3                         |                      |
| pH                               | not less than 6.0 nor greater than 9.0 |                      |                             |                      |

The EPA waiver is in effect.

**PA0095729**, Sewage, **Eastern Orthodox Foundation**, P. O. Box 342, Penn Run, PA 15765-0342. This application is for renewal of an NPDES permit to discharge treated sewage from Eastern Orthodox Foundation Sewage Treatment Plant in Cherryhill Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Lake Margus and Yellow Creek, 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 Central Indiana County Water Authority on Yellow Creek.

*Outfall 001:* existing discharge, design flow of 0.018 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>       | 10                                     |                       |                      | 20                           |
| Suspended Solids        | 10                                     |                       |                      | 20                           |
| Ammonia Nitrogen        | 1.5                                    |                       |                      | 3.0                          |
| 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 | 1.4                                    |                       |                      | 3.3                          |
| Dissolved Oxygen        | not less than 5.0 mg/l                 |                       |                      |                              |
| pH                      | not less than 6.0 nor greater than 9.0 |                       |                      |                              |

The EPA waiver is in effect.

**PA0217131**, Sewerage, **Indiana County Municipal Services**, 827 Water Street, Indiana, PA 15701. This application is for renewal of an NPDES permit to discharge treated sewage from Rossiter STP in Canoe Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Canoe Creek, 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 Kittanning Borough Suburban Joint Water Authority.

*Outfall 001:* existing discharge, design flow of 0.098 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)    | 5.0                                    |                       |                      | 10.0                         |
| (11-1 to 4-30)    | 15.0                                   |                       |                      | 30.0                         |
| 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       |                       |                      |                              |
| 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.

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

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

**WQM Permit No. 1501401 A2**, Amendment Sewerage, **Penn Township**, 260 Lewis Road, P. O. Box 39, West Chester, PA 19390-0039. This proposed facility is located in Penn Township, **Chester County**.

Description of Action/Activity : Replacement of SBR Nos. 1 and 2 with a new BEEST system.

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

**WQM Permit No. 4505401**, Arrowhead Sewer Co., Inc., H. C. 88, Box 305, Pocono Lake, PA 18347. This proposed facility is located in Coolbaugh Township, **Monroe County**.

Description of Proposed Action/Activity: This project is for the construction of an upflow sludge blanket filtration plant to replace part of the existing WWTP.

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

**WQM Permit No. 4905403**, Sewerage, **McEwensville Municipal Authority**, P. O. Box 50, McEwensville, PA, 17749. This proposed facility is located in Delaware Township, **Northumberland County**.

Description of Proposed Action/Activity: Equipment upgrades to the existing wastewater treatment facility which include the modifications to the existing aeration system, the addition of floating attached growth bioreactors, the construction of new lagoon baffles, a plate settler with recycle pump and chlorine contact tank baffles.

**WQM Permit No. 1405407**, Sewerage, **Monte D. and Jack D. Whitehill**, 905 Upper Georges Valley Road, Spring Mills, PA 16875. This proposed facility is located in Potter Township, **Centre County**.

Description of Proposed Action/Activity: Permit application for the construction of a Small Flows Treatment Facility incorporating a peat filter for a single residence.

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

**WQM Permit No. 1005404**, Sewerage, **Linda L. Starr**, 400 Isle Road, Butler, PA 16001. This proposed facility is located in Middlesex Township, **Butler County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment system to serve the Starr Subdivision.

**WQM Permit No. 2005403**, Sewerage, **Bloomfield Township Sewage Authority**, 22978 Shreve Ridge Road, Union City, PA 16438. This proposed facility is located in Bloomfield Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for the installation, operation and maintenance of gravity sewer, force main, low pressure sewer and package grinder sewage pump station, upgrade of an existing sewage pump station (PS No. 1A) and abandonment of an existing pump station (PS No. 1).

**WQM Permit No. 2792401**, Sewerage Amendment No. 1, Jenks Township, P. O. Box 436, Marienville, PA 16239. This proposed facility is located in Jenks Township, **Forest County**.

Description of Proposed Action/Activity: This project is to replace an existing pump station known as the Pattison Avenue Pump Station which serves a portion of the Village of Marienville.

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

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

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

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

| <i>NPDES Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>County</i> | <i>Municipality</i>  | <i>Receiving Water/Use</i>      |
|-------------------------|--|---------------|----------------------|---------------------------------|
| PAI011505065            | G & D Developers<br>George Dulgerian Development<br>961 Wooten Road<br>Bryn Mawr, PA 19010               | Chester       | East Goshen Township | Ridley Creek<br>(HQ-TSF)        |
| PAI011505066            | Oxford Area School District<br>Oxford Middle School Expansion<br>125 Bell Tower Lane<br>Oxford, PA 19363 | Chester       | Oxford Borough       | Little Elk Creek<br>(HQ-TSF-MF) |
| PAI011505067            | Kazanjian Builders, Inc.<br>Dove Cote Subdivision<br>901 Glenbrook Avenue<br>Bryn Mawr, PA 19010         | Chester       | Willistown Township  | UNT Crum Creek<br>(HQ)          |
| PAI011505068            | M & N Contractors, Inc.<br>2050 Chataqua Trail Residence<br>4095 Ferry Road<br>Doylestown, PA 18901      | Chester       | Tredyffrin Township  | UNT Pickering Creek<br>(HQ-TSF) |

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

*Schuylkill County Conservation District: 1206 Ag. Center Drive, R. R. 5, Box 5810, Pottsville, PA 17901, (570) 622-3742.*

| <i>NPDES Permit No.</i> | <i>Applicant Name &amp; Address</i>                                    | <i>County</i> | <i>Municipality</i>                    | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|--|----------------------------|
| PAI025405002            | Locust Ridge Wind Farm, LLC<br>90 Weston Place<br>Shenandoah, PA 17976 | Schuylkill    | Mahanoy<br>and<br>East Union Townships | Davis Run<br>HQ-CWF        |

*Luzerne County Conservation District: Smith Pond Rd., Lehman, PA 18627-0250, (570) 674-7991.*

| <i>NPDES Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i>   |
|-------------------------|--|---------------|---------------------|--|
| PAI024005005            | John F. Connolly<br>Energy Unlimited, Inc.<br>100 Four Falls Corporate<br>Center, Suite 215<br>West Conshohocken, PA<br>19428-0818 | Luzerne       | Bear Creek Township | Big Wapwallopen Creek<br>CWF<br>Pine Creek<br>CWF<br>Tenmile Creek<br>HQ-CWF<br>Geneceda Creek<br>HQ-CWF |

*Lehigh County Conservation District: Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Rd., Allentown, PA 18104, (610) 391-9583.*

| <i>NPDES Permit No.</i> | <i>Applicant Name &amp; Address</i>   | <i>County</i> | <i>Municipality</i>     | <i>Receiving Water/Use</i>    |
|-------------------------|---|---------------|-------------------------|-------------------------------|
| PAI023905029            | Don Frederick<br>1611 Pond Rd., Ste. 201<br>Allentown, PA 18104                         | Lehigh        | Lower Macungie Township | Little Lehigh Creek<br>HQ-CWF |
| PAI023905030            | East Penn School Dist.<br>800 Pine St.<br>Emmaus, PA 18049                              | Lehigh        | Lower Macungie Township | Little Lehigh Creek<br>HQ-CWF |
| PAI023905031            | Alex Hornstein<br>Penn's View, Inc.<br>1150 S. Cedar Crest Blvd.<br>Allentown, PA 18103 | Lehigh        | Lynn Township           | School Creek<br>EV, CWF       |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i>    |
|-------------------------|--|---------------|---------------------|-------------------------------|
| PAI032105012            | Classic Communities<br>2151 Linglestown Road<br>Suite 300<br>Harrisburg, PA 17110                              | Cumberland    | Hampden Township    | Trindle Spring Run<br>HQ-CWF  |
| PAI032805010            | Greens at Greencastle, LP<br>5705 Industry Lane<br>Frederick, MD 21704   | Franklin      | Antrim Township     | Muddy Run<br>HQ/CWF           |
| PAI033605008            | Terra Gro, Inc.<br>106 Lynwood Drive<br>P. O. Box 790<br>Terre Hill, PA 17581-0790                             | Lancaster     | Salisbury Township  | UNT to Pequea Creek<br>HQ-CWF |
| PAI033105002            | Evergreen Farms, Inc.<br>3102 Evergreen Lane<br>Spruce Creek, PA 16683   | Huntingdon    | Franklin Township   | Spruce Creek<br>HQ-CWF        |
| PAI030505001            | Bedford Springs Hotel<br>Bedford Springs Company, LLC<br>5950 Brookshire Lane<br>Suite 990<br>Dallas, TX 75225 | Bedford       | Bedford Township    | Shobers Run<br>HQ/CWF         |

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

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

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

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

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

of comments received during the 30-day public comment period.

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

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

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

## SAFE DRINKING WATER

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

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

**Permit No. 3805506**, Public Water Supply.  
 Applicant **City of Lebanon Authority**  
 Municipality Swatara Township  
 County **Lebanon**  
 Responsible Official Johnathan R Beers, Public Works Director  
 400 South 8th Street  
 Lebanon, PA 17042  
 Type of Facility Public Water Supply  
 Consulting Engineer James C Elliot, P. E.  
 Gannett Fleming, Inc.  
 P. O. Box 67100  
 Harrisburg, PA 17106-7100  
 Application Received Date 8/29/2005  
 Description of Action Construction of two new clarifiers.

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

**Application No. 8742-T1-M1, Minor Amendment**  
 Applicant **Sykesville Sewer & Water Authority**  
 Township or Borough Sykesville Borough  
**Jefferson County**  
 Responsible Official Karen Pruzinsky, Authority Chairperson  
 Type of Facility PWS  
 Application Received Date 9/01/2005  
 Description of Action Proposal to repaint interior and exterior of existing 250,000 gallons water storage tank.

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

**Permit No. 9996434**, Public Water Supply.  
 Applicant **Creekside Springs, LLC**  
 Township or Borough Salineville, Ohio  
 Responsible Official Charles V. Woznick, President  
 Type of Facility Out-of-State Bottled Water System  
 Application Received Date September 8, 2005

Description of Action Applicant requesting a minor permit amendment for change of name and ownership for Alpine Natural Springs, Inc., located in Salineville, Ohio. Bottled water to be sold in this Commonwealth under the brand names Creekside Springs Spring Water, Creekside Springs Distilled Water and Alpine Natural Spring Water.

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

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

**Application No. 5688509-A2**, Minor Amendment.

Applicant **Meyersdale Municipal Authority**  
 236 Center Street  
 Meyersdale, PA 15552  
 Township or Borough Summit Township  
 Responsible Official Alan Miller, Chairperson  
 Meyersdale Municipal Authority  
 236 Center Street  
 Meyersdale, PA 15552  
 Type of Facility Water treatment plant  
 Consulting Engineer The EADS Group Inc.  
 450 Aberdeen Drive  
 Somerset, PA 15501  
 Application Received Date August 31, 2005  
 Description of Action Changing the pH adjustment chemical at the head end of the water filtration plant from caustic soda to sodium bicarbonate.

**LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**

**Under Act 2, 1995**

**Preamble 1**

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

Sections 302, 303, 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a



list of known or suspected contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. A person who demonstrates attainment of one, or a combination of the cleanup standards, or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under Sections 304(n)(1)(ii) and 305(c)(2) of the Act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the site(s) identified below, 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 below. During this comment period the municipality may request that the person identified below, 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, please contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

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

**Powelton Heights Site**, City of Philadelphia, **Philadelphia County**. Thomas G. Wilkes, Malcolm Pirnie, Inc., 1700 Market St., Suite 2740, Philadelphia, PA 19103 on behalf of David Hahn, 1260 Housing Dev. Corp., 2042-48 Arch St., 2nd Floor, Philadelphia, PA 19103 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted by chlorinated solvents. The intended future use of the property includes redevelopment as multi-unit townhomes for residential use.

**Heintz Corp. Prop.**, City of Philadelphia, **Philadelphia County**. Steven Coe, Brown Env. Svc. Corp., 301 S. State St., Suite N102, Newtown, PA 18940 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted with chlorinated solvents. The site will be developed for residential use.

**Welsh Res.**, Haverford Township, **Delaware County**. Pamela Franks, Lewis Env. Group, P. O. Box 639, Royersford, PA 19468 on behalf of Tracey Welsh, 2404 Hollis Rd., Havertown, PA 19083 has submitted a Notice of Intent to Remediate. Soil at the site was impacted with No. 2 fuel oil. The facility is currently a residential

property. A summary of the Notice of Intent to Remediate was reported to have been published in the *Journal Register* on July 27, 2005.

**Chatham Park Elem. School**, Haverford Township, **Delaware County**. Mark T. Smith, P. G., Spotts, Stevens & McCoy, Inc., 1047 N. Park Rd, P. O. Box 6307, Reading, PA 19610 on behalf of Rick Henny, Haverford Township School District, 2537 Haverford Rd., Ardmore, PA 19003 has submitted a Notice of Intent to Remediate. Soil at the site was impacted with No. 2 fuel oil.

**Harris Farm**, Lower Makefield Township, **Bucks County**. Geogg Goll, P. E., Princeton Hydro, LLC, 1108 Old York Rd., Suite 1, Ringoes, NJ 08551 on behalf of Aileen Schwartz, The Quaker Group, 1103 Laurel Oak Rd., Suite 105, Voorhees, NJ 08043 has submitted a Notice of Intent to Remediate. Soil at the site was impacted with MTBE, lead, arsenic and pesticides. The site is proposed to be developed into a 44 lot subdivisions. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier Times* on August 18, 2005

**Morrell Plaza**, City of Philadelphia, **Philadelphia County**. Paul Martino, Pennoni Assoc., Inc., 3001 Market St., Philadelphia, PA 19104 on behalf of Robert Gassel, Robert Gassel Co., P. O. Box 174, Wynnewood, PA 19096 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted with MTBE. The property is used as commercial plaza or mall. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on August 1, 2005.

**Subick Prop.**, Bristol Township, **Bucks County**. Joshua Orris, Delta Env. Consultants, 14000 Commerce Pkwy, Suite A, Mt. Laurel, NJ 08054 on behalf of Alma Subick, 2520 Green Ave., Bristol, PA 19007 has submitted a Notice of Intent to Remediate. Soil at the site was impacted with No. 2 fuel oil. The property's current and future use is residential. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier Times* on August 18, 2005.

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

**Suburban Heating Oil Partners**, City of Lancaster, **Lancaster County**. Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg PA 17110, on behalf of Esther M. Goropoulos, 101 Wood Lot Lane, Lancaster, PA 17601 and Suburban Heating Oil Partners, 5793 Widewaters Parkway, Suite 100, Syracuse, NY 13214, submitted a Notice of Intent to Remediate groundwater and site soils contaminated with petroleum products. Future use of the property will be as a commercial property. The applicant intends to document remediation to the Site-Specific Standard.

**Suburban Heating Oil Partners**, Chambersburg Borough, **Franklin County**. Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg, PA 17110, on behalf of Suburban Chambersburg Fifth Avenue Property, LLC, 5793 Widewaters Parkway, Suite 100, Syracuse, NY 13214, submitted a Notice of Intent to Remediate site soils and groundwater contaminated by petroleum products. Future use of the property will be as a commercial property. The applicant intends to document remediation to the Site-Specific Standard.

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

**The Buncher Company 43rd through 46th Street Property**, City of Pittsburgh, **Allegheny County**. Frank W. Benacquista, P. G., KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110 on behalf of Joseph M. Jackovic, The Buncher Company, 5600 Forward Avenue, Pittsburgh, PA 15217-0930 has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with lead, chromium and organics. This contamination is associated with fill imported from offsite for leveling the site in preparation for construction of a building. The remediator intends to meet the Site-Specific Standard by using engineering and institutional controls to eliminate pathways for exposure to the contaminants. Future planned use for the site is light industrial and commercial.

**Johnstown Festival Park (Former Central Oil House)**, City of Johnstown, **Cambria County**. Von Eric Fisher, KU Resources, Inc., 22 South Linden Street, Duquesne, PA 15110 on behalf of Richard Burkert, Johnstown Area Heritage Association, 201 Sixth Avenue, Johnstown, PA 15906 and Deborah Walter, Johnstown Redevelopment Authority, 401 Washington Street, Johnstown PA 15901 has submitted a Notice of Intent to Remediate site soils and groundwater contaminated with metals and VOCs. The proposed future use of the property will be a live music and festival venue (*Tribune-Democrat Johnstown* July 18, 2005).

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

**Ronald Gross Inc Site**, Winfield Township, **Butler County**. Timothy Ratvasky, ENSR Corporation, 444 Liberty Ave., Suite 700, Pittsburgh PA 15222 on behalf of Robert Peiffer, BCP Auto, 224 Brose Road, Cabot PA 16023 has submitted a Notice of Intent to Remediate soil and groundwater contaminated by Deisel Fuel. Property is currently used as an auto repair/service business. Public Notice of the NIR was published in the *Butler Eagle* August 30, 2005.

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

**Applications received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and 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. 100945. Community Refuse Services Inc.** (d/b/a Cumberland County Landfill) Hopewell and North Newton Townships, **Cumberland County**, submitted an application for a 67-acre landfill expansion, which was considered received on August 2, 2005, and administratively complete on August 31, 2005. Under the provisions of the Money Back Guarantee Program and the Local Municipal Involvement Process Policy, the host municipalities, applicant, and the Department of Environmental Protection (Department), has negotiated an application review timeline. The negotiated number of days in which the Department has to review the application and to render a decision is 530 days starting from August 2 (date of Local Municipal Involvement Process Meeting). The 530 days does not include time that the applicant uses to respond to review comments from the Department.

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.*

**Permit ID No. 101683. Boyd Roll-Off Services, Inc.**, 1200 Railroad Place, McKees Rocks, PA 15136-2572. Boyd Roll-Off Services, Inc., 1200 Railroad Street, Stowe Township, PA 15136-2572. Application for a municipal waste transfer station in Stowe Township, **Allegheny County** was received in the Regional Office on September 6, 2005.

**Permit Renewal Deemed Complete 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.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 301311. Eagle Environmental II, LP**, 9 Logan Blvd, Altoona, PA 16602, located in Chest Township, **Clearfield County**. The application for permit renewal was deemed complete by the Williamsport Regional Office on September 12, 2005.

Persons interested in reviewing the application may contact David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay service, (800) 654-5984.

## **AIR QUALITY**

### **PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS**

#### **NEW SOURCES AND MODIFICATIONS**

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

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

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

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the

objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

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

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

### PLAN APPROVALS

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

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

**06-05037F: McConway and Torley Corp.** (109 48th Street, Pittsburgh, PA 15201) for addition to the sand reclaim system and modification of the finishing department ductwork at their Kutztown Foundry in Kutztown Borough, **Berks County**.

**28-05005B: York Refrigeration—Frick** (100 CV Avenue, Waynesboro, PA 17268) for installation of a paint spray booth with dry filter system in their Waynesboro Borough, **Franklin County** plant.

**67-05014B: The York Group, Inc.** (2880 Blackbridge Road, York, PA 17402) for construction of a spray paint booth; the removal of one existing spray paint booth from the recuperative thermal oxidizer (RTO); the addition of another existing spray paint booth to the RTO; and an increase in the allowable facility VOC emissions at their casket manufacturing facility in Manchester Township, **York County**.

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

**47-00001C: PPL Montour LLC** (P. O. Box 128, Washingtonville, PA 17884) for construction of limestone and gypsum (scrubber sludge) handling facilities at their Montour Steam Electric Station in Derry Township, **Montour County**.

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

**10-293C: Quality Aggregates, Inc.** (201 Deer Road, Boyers, PA 16020) plan approval for change in sulfur content of diesel fuel used for power generation at their Boyers Plant, in the Township of Marion, **Butler County**.

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

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

**23-0003H: ConocoPhillips Co.** (4101 Post Road, Trainer, PA 19061-3812) for expansion of their first stage Isocracker unit from 21,500 barrels per day to 25,000 barrels per day and to upgrade an existing sour water flash drum and storage tank to reduce hydrogen sulfide emissions at their Trainer facility in Trainer Borough, **Delaware County**. This facility is a Title V facility. This modification will result in NOx emission increase of 18 ton per year and VOC emissions increase of less than 1 ton per year. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

**35-302-116: Keystone Sanitary Landfill, Inc.** (P. O. Box 249, Dunmore, PA 18512-0249) for modification of their existing boiler to fire landfill gas in Throop and Dunmore Boroughs, **Lackawanna County**. The boiler will be subject to NSPS Subpart Dc when firing natural gas/No. 2 oil. When firing landfill gas (methane), the boiler shall meet a destruction/removal efficiency of at least 98% (by weight) for total nonmethane organic compounds or to reduce NMOC concentration to 20 PPM as hexane by volume, dry basis at 3% O<sub>2</sub>, or less. The NOx emissions shall not exceed 30 ppm at 3% O<sub>2</sub>. The CO emissions shall not exceed 300 ppm at 3% O<sub>2</sub>. The company shall comply with 25 Pa. Code § 123.31 for malodorous emissions. The company shall comply with 25 Pa. Code § 123.41 for opacity. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. Monitoring and recordkeeping requirements will be contained in the Plan Approval.

**39-309-063: Lafarge North America, Inc.** (5160 Main Street, Whitehall, PA 18052) for utilization of plastic-derived fuel in the existing No. 2 cement kiln at their Whitehall Plant in Whitehall Township, **Lehigh County**. The facility currently has a Title V Operating Permit No. 39-00011. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

Plan Approval No. 39-309-063 is for the utilization of plastic-derived fuel (PDF) to be fired as a supplemental fuel in the No. 2 cement kiln along with the installation of a PDF fuel handling and feed system and associated fabric collectors. The cement kiln can be fired by either a combination of coke and bituminous coal; a combination of coke, bituminous coal and tire-derived fuel (TDF); or a combination of coke, bituminous coal, TDF and/or PDF. The emissions from the No. 2 cement kiln when fired by TDF and/or PDF will not exceed the following emission limits (unchanged from the current Title V operating permit):

| <i>Pollutant</i>    | <i>Lbs/Hour</i>          |
|---------------------|--------------------------|
| Arsenic             | 0.00151                  |
| Cadmium             | 0.00525                  |
| Hexavalent chromium | 0.00135                  |
| Lead                | 0.07                     |
| Mercury             | 0.00744                  |
| Nickel              | 0.0189                   |
| Zinc                | 0.38689                  |
| Total VOCs          | 5.4                      |
| SO <sub>2</sub>     | 362.0                    |
|                     | (3-hr Block Average)     |
| NOx (with TDF/PDF)  | 260.5                    |
|                     | (30-day Rolling Average) |
| NOx (no TDF/PDF)    | 297.7                    |
|                     | (30-day Rolling Average) |
| Particulates        | 14.8                     |

In addition to the emission limits listed in the table, the Plan Approval will contain the following emission limits for the No. 2 cement kiln when fired by TDF and/or PDF: HCl—2.2 lbs/hr; HCN—0.059 lbs/hr; and chlorine—0.077 lb/hr. The particulate emissions from each fabric collector associated with the PDF fuel handling and feed system will not exceed the best available technology standard of 0.02 grain/dscf.

The Plan Approval will contain additional recordkeeping, testing and operating restrictions designed to keep the facility operating within all applicable air quality requirements. The company will be required to continue to operate and maintain a Continuous Emission Monitoring System, which is certified by the Department, for opacity, SO<sub>2</sub> and NOx. In addition, the company is required to conduct annual stack testing for arsenic, cadmium, hexavalent chromium, lead, mercury, nickel, zinc, total VOCs, particulates, carbon monoxide, HCl, HCN and chlorine due to the kiln being fired by PDF and/or TDF.

Copies of the application, Department of Environmental Protection's (Department) analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department of Environmental Protection, Bethlehem District Office, 4530 Bath Pike, Bethlehem, PA 18017. Appointments for scheduling a review may be made by calling (610) 861-2070.

Persons wishing to provide the Department with additional information which they believe should be considered prior to the issuance of this permit may submit the information to the address shown in the preceding paragraph. Written comments must contain the following:

1. Name, address and telephone number of the person submitting the comments.
2. Identification of the proposed permit No. 39-309-063.
3. A concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing will be held for the purpose of receiving comments on the proposed air quality plan approval. The hearing will be held on October 27, 2005, at 7 p.m. at the Whitehall High School Auditorium, 3800 Mechanicsville Road, Whitehall, PA. Persons interested in commenting are invited to appear at the public hearing.

Persons interested in providing oral testimony should submit a written notice of their intent to Thomas A. DiLazaro, Hearing Chairperson, Department of Environmental Protection, Air Quality Program, Wilkes-Barre Regional Office, 2 Public Square, Wilkes-Barre, PA 18711-

0790. The Department will accept notices up to the day of the public hearing. Persons unable to attend the hearing may submit written testimony to the Department through November 7, 2005.

The written notice of intent to provide oral testimony should include the person's name, address, telephone number and a brief description as to the nature of the testimony. Individuals who submit a notice of intent to testify will be given priority on the agenda. If time permits, the Department will allow individuals who have not submitted a notice of intent to testify to present their comments.

The public hearing will be conducted according to the following procedures:

Oral testimony will be limited to 10 minutes for each individual. The Department requests that individuals present written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one individual to present testimony on their behalf at the hearing. To insure that all speakers have a fair and equal opportunity to present their testimony, relinquishing of time will be prohibited. Additional information pertaining to hearing procedures will be provided in an opening statement at the hearing on October 27, 2005.

Persons with a disability who wish to attend the hearing and require auxiliary aid, service or other accommodations should contact the Department at the Wilkes-Barre address or through the Pennsylvania AT&T relay service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

For additional information regarding this public notice, contact Thomas A. DiLazaro at (570) 826-2435 or write to the Department at the Wilkes-Barre address given previously.

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

**36-05017C: Conestoga Wood Specialties Corp.** (245 Reading Road, East Earl, PA 17519) for construction of a new coating booth and to enlarge an existing booth, in East Earl Township, **Lancaster County**. This Plan Approval has a potential to increase the facility VOC emissions by 15.7 tons per year. The facility's major sources of emissions include woodworking operations controlled by dust collectors and coating booths, which primarily emit VOCs. This Plan Approval will be incorporated into the facility's Title V operating permit number 36-05017 in accordance with 25 Pa. Code § 127.450 (Administrative Amendment). The Title V operating permit number 36-05017 will contain the emissions, monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within the applicable air quality requirements.

**ER-67-05009A: STI Capital Co.** (P. O. Box 85376, San Diego, CA 92186) for an Emission Reduction Credit approval for 8.75 TPY of NOx resulting from the shutdown of two natural gas-fired turbines at their York Cogeneration Facility in Springettsbury Township, **York County**.

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

**24-083H: Carbone of America Ind. Corp.** (215 Stackpole Street, St. Marys, PA 15857), for construction of four additional mixers as part of Source 404, two mills,

and a pulverizer in St. Marys City, **Elk County**. This installation will not result in NSR or PSD applicability. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- This source is subject to 25 Pa. Code §§ 123.1, 123.31 and 123.41.
- PM emissions shall not exceed 0.02 gr/dscf.
- Maintain records of the maintenance inspections and of pressure drop readings.
- Maintain and operate the source and control device in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

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

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

**46-00091: Sunoco Partners Marketing and Terminal LP** (3920 Sunset Lane, Willow Grove, PA 19090) for renewal of their Title V Operating Permit in Upper Moreland Township, **Montgomery County**. The initial permit was issued on July 19, 1999. The facility is a gasoline and fuel oil distribution station. As a result of potential emissions of VOCs, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa Code Chapter 127, Subchapter G. The facility is not subject to CAM (40 CFR Part 64) at this time. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

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

**31-05002: Owens Corning Huntingdon Plant** (1200 Susquehanna Avenue, Huntingdon, PA 16652-1946) for operation of their fiberglass mat plant in Huntingdon Borough, **Huntingdon County**. The facility is a major source that primarily emits HAPs and VOCs through the operation of the facility's three fiberglass mat production lines. The Title V operating permit will contain appropriate monitoring, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements. To limit HAP emissions, the facility has accepted a limitation on the number of bushings operated on each mat line. This is a renewal of their Title V operating permit.

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**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) 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.*

**09-00184: Doylestown Hospital** (595 West State Street, Doylestown PA, 18901) for operation of a hospital in Doylestown Township, **Bucks County**. The permit is for a non-Title V State-only facility. The major sources of air emissions are three boilers and four emergency generators. There are no control devices located at the facility. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within applicable air quality requirements.

**09-00101: WM Rowen Grant Funeral Home, Inc.—d/b/a Delaware Valley Crematory Co.** (659 Street Road, Southampton, PA 18966) for operation of a human crematorium in Upper South Hampton Township, **Bucks County**. The permit is for a non-Title V (State-only) facility. The major source of air emissions is one human crematorium rated at 0.716 mmBtu/hr primary combustion and 1.4 mmBtu/hr secondary combustion. 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.*

**36-03149: Crimson Fire** (1828 Freedom Road, Lancaster, PA 16001) for operation of a natural gas heated spray booth controlled by dry filters in East Lampeter Township, **Lancaster County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within applicable air quality requirements.

**38-03002: Plains LPG Services, LP** (Route 501 S, P. O. Box 486, Schafferstown, PA 17088) for operation of a propane processing, storage and truck loading/unloading facility in Heidelberg Township, **Lebanon County**. The facility wide (State-only) operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

**04-00719: Lehigh Cement Co.** (311 Water Street, Richmond, VA 23223) for operation of a cement terminal, where bulk cement is off-loaded from rail cars and stored in silos in Aliquippa, **Beaver County**.

**04-00490: Dominion Transmission, Inc.** (625 Liberty Avenue, Pittsburgh, PA 15222) for renewal of the Title V operating permit at Beaver Station in North Sewickley Township, **Beaver County**. The facility is a compressor station primarily used for transmission of natural gas. Sources include four internal combustion engines, an auxiliary generator and a small boiler. This permit contains conditions that will allow the provisions of a new RACT permit to take precedence over the Title V conditions if a new RACT permit is incorporated into the State Implementation Plan. The facility is a major stationary source due to its potential to emit NOx, CO and VOC.

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

**S05-004: Pearl Pressman Liberty** (5th and Poplar Streets, Philadelphia, PA 19123) for operation of a printing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include five printing presses and two No. 2 oil fired boilers each 1.125 mmBtu/hr or less.

The operating permit will be issued 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 AMS, 321 University Avenue, Philadelphia, PA 19104. For further information, contact Edward Wiener at (215) 685-9426.

Persons wishing to file protest or comments on the operating permit must submit the protest or comments within 30 days from the date of this notice. Protests or comments filed with 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, 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<br/>Average</i> | <i>Daily<br/>Maximum</i>        | <i>Instantaneous<br/>Maximum</i> |
|-------------------|---------------------------|---------------------------------|----------------------------------|
| Iron (total)      | 3.0 mg/l                  | 6.0 mg/l                        | 7.0 mg/l                         |
| Manganese (total) | 2.0 mg/l                  | 4.0 mg/l                        | 5.0 mg/l                         |
| Suspended solids  | 35 mg/l                   | 70 mg/l                         | 90 mg/l                          |
| pH*               |                           | greater than 6.0; less than 9.0 |                                  |

Alkalinity greater than acidity\*

\* The parameter is applicable at all times.

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

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

**11841603 and NPDES Permit No. PA0235377, AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), to revise the permit for the Portage Plant (known as the Sonman Preparation Facility) in Portage Township, **Cambria County** to change the op-

eration name and add acreage to construct a new plant and thickener, ponds, refuse belt extensions, and mine injections boreholes. Surface Acres Proposed 7.6. No additional discharges. Application received July 19, 2005.

**5673705 and NPDES Permit No. NA, Rosebud Mining Company** (301 Market Street, Kittanning, PA 16201), to transfer the permit for the Windber Mine No. 78 CRDA in Paint Township, **Somerset County** from Pristine Resources, Inc. No additional discharges. Application received August 5, 2005.

**56841328 and NPDES Permit No. PA0033677, Rosebud Mining Company** (301 Market Street, Kittanning, PA 16201), to transfer the permit for the Windber Mine No. 78 in Paint Township, **Somerset County** and Adams Township, **Cambria County** and related NPDES permit from Pristine Resources, Inc. and to revise the permit to perform mine rehabilitation activity. No additional discharges. Application received August 5, 2005.

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

**32000102 and NPDES No. PA0235296. Britt Energies, Inc.**, 2450 Philadelphia Street, Indiana, PA 15701, permit renewal for the continued operation and restoration of a bituminous surface-auger mine in White Township, **Indiana County**, affecting 105.3 acres. Receiving streams: Yellow Creek, UNT to Yellow Creek classified for the following uses: TSF, CWF. There are no potable water supply intakes within 10 miles downstream. Application received September 2, 2005.

**Permit No. 32000301 and NPDES Permit No. PA0235288, Penn Run Quarry**, 456 Weston Road, Penn Run, PA 15765, renewal of NPDES Permit, Cherryhill Township, **Indiana County**. Receiving stream: UNT to Penn Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received September 2, 2005.

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

**65020104 and NPDES Permit No. PA0250252. Robbie Coal and Fuel, Inc.** (1159 University Drive, Dunbar, PA 15431). Application received to revise the permit to include blasting at a bituminous surface mining site located in East Huntingdon Township, **Westmoreland County**, affecting 25.1 acres. Receiving streams: UNT to Buffalo Run, classified for the following use: WWF. There is no known public water supply within 10 miles downstream from the point of discharge. Application received: August 4, 2005.

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

**17050107 and NPDES No. PA0256269. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Commencement, operation and restoration of a bituminous surface mine located in Girard Township, **Clearfield County** affecting 210.2 acres. Receiving streams: UNTs to Little Surveyor Run and UNTs to Surveyor Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received: August 24, 2005.

**17950105 and NPDES Permit No. PA0220051. Hepburnia Coal Company** (P. O. Box I, Grampian, PA 16838). Permit renewal of an existing bituminous surface and auger mine in New Washington and Newburg Boroughs, Chest Township, **Clearfield County** affecting 185.3 acres. Receiving streams: UNTs to Chest Creek. Application received: May 25, 2005.

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

**40980101R. No. 1 Contracting Corp.** (49 S. Main Street, Ashley, PA 18706), renewal of an existing anthracite surface mine operation in Foster Township, **Luzerne County** affecting 1,425.0 acres, receiving stream: none. Application received September 1, 2005.

**40000201R. Northampton Fuel Supply Co., Inc.** (1 Horwith Drive, Northampton, PA 18067), renewal of an existing coal refuse reprocessing operation in Hanover Township, **Luzerne County** affecting 236.4 acres, receiving stream: none. Application received September 1, 2005.

**54850103R4 and NPDES Permit No. PA0614491. Michael Coal Company** (P. O. Box 11, Tremont, 17981), renewal of an existing anthracite surface mine operation Tremont and Frailey Townships, **Schuylkill County** affecting 217.6 acres, receiving stream: Lower Rausch Creek. Application received September 2, 2005.

**22050101 and NPDES Permit No. PA0224481. Meadowbrook Coal Co., Inc.** (6690 SR 209, Lykens, PA 17048), commencement, operation and restoration of an anthracite surface mine operation which will include fly ash disposal in Williams and Porter Townships, **Dauphin and Schuylkill Counties**, affecting 880.0 acres, receiving stream: Wiconisco Creek, classified for the following uses: CWF and WWF. Application received September 6, 2005.

#### *Coal Applications Returned*

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

**17050102 and NPDES Permit No. PA0256188. Whitetail Contracting** (P. O. Box 220, Woodland, PA 16881). Commencement, operation and restoration of a bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 18.5 acres. Receiving stream: Shimel Run classified for the following use: CWF. Application received: February 12, 2005. Application returned: May 17, 2005.

**179101024 and NPDES Permit No. PA0206725. TDK Coal Sales, Inc.** (P. O. Box 259, Brockway, PA 15824), major permit revision to temporarily relocate Township Road 356 from a starting point approximately 3,484 feet south of the intersection of T-356 and SR-3011 to a point 2,870 feet south of the starting point. The permit is located in Brady Township, **Clearfield County** and affects 393 acres. Receiving streams: Beech Run and UNT to Laurel Branch. Application received: March 24, 2005. Application withdrawn: August 29, 2005.

**17900143 and NPDES Permit No. PA0206458. TDK Coal Sales, Inc.** (P. O. Box 259, Brockway, PA 15824), major permit revisions to temporarily relocate Township Road 356 from a starting point approximately 3,484 feet south of the intersection of T-356 and SR-3011 to a point 2,870 feet south of the starting point. The application also includes a revision for a change in permit acreage from 342.5 to 344.7 acres. The permit is located in Penn Township, **Clearfield County**. Receiving streams: Irish Run and UNTs to Irish Run. Application received: March 24, 2005. Application withdrawn: August 29, 2005.

**17814000 and NPDES Permit No. PA0608769. TDK Coal Sales, Inc.** (P. O. Box 259, Brockway, PA 15824), major permit revision to temporarily relocate Township Road 356 from a starting point approximately 3,484 feet south of the intersection of T-356 and SR-3011 to a point 2,870 feet south of the starting point. The permit is located in Penn Township, **Clearfield County** and af-

fects 204.2 acres. Receiving streams: Irish Run and UNTs to Irish Run. Application received: March 24, 2005. Application withdrawn: August 29, 2005.

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

**40823001T. Great Valley Construction Services, Inc.,** (100 Baltimore Drive, 4th Floor, East Mountain Corporate Center, Wilkes-Barre, PA 18702), transfer of an existing anthracite surface mine operation in Jenkins Township, **Luzerne County** affecting 28.2 acres, receiving stream: none. Application received January 31, 2005. Application returned September 6, 2005.

**40793009R4. Kaminski Brothers, Inc.,** (c/o Great Valley Construction Services, Inc., 100 Baltimore Drive, 4th Floor, East Mountain Corporate Center, Wilkes-Barre, PA 18702), renewal of an existing anthracite surface mine operation in Jenkins Township, **Luzerne County** affecting 43.6 acres, receiving stream: none. Application received August 27, 2004. Application returned September 6, 2005.

**40793009T. Great Valley Construction Services, Inc.,** (100 Baltimore Drive, 4th Floor, East Mountain Corporate Center, Wilkes-Barre, PA 18702), transfer of an existing anthracite surface mine operation in Jenkins Township, **Luzerne County** affecting 43.6 acres, receiving stream: none. Application received January 31, 2005. Application returned September 6, 2005.

### FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

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

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

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

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E15-742. Chester County Conservation District,** 601 Westtown Road, Suite 240, West Chester, PA 19380-0990, Avondale Borough, **Chester County**, ACOE Philadelphia District.

To relocate a reach of Trout Run (CWF) by modifying the floodplain, constructing 725 linear feet of new channel, and placing fill in 840 feet of the existing channel. This project will impact approximately 0.058 acre of wetlands, which will be replaced by constructing 0.92 acre of wetlands along the proposed channel. The site is located approximately 300 feet southwest of the intersection of Gap Newport Pike (SR 0041) and Ellicott Road (West Grove PA-Del USGS Quadrangle N: 12.8 inches; W: 4.5 inches).

**E15-744. Chester County,** 14 E. Biddle Street, 1st Floor, West Chester, Pa 19380, West Caln and West Brandywine Townships, **Chester County**, ACOE Philadelphia District.

To remove the existing Chester County Bridge No. 283, and to construct and maintain a new bridge consisting of a 60-foot wide by 8.33-foot high waterways opening at the same location, across the West Branch of the Brandywine Creek (TSF-MF) and impacting 0.04 acre of wetland. The bridge carries Reid Road (T-445) over the creek and is located approximately 1/2 mile west of the intersection of Hibernia and Reid Roads; (Wagontown, PA USGS Quadrangle N: 0.3 inch; W: 10.75 inches).

**E51-215. EMI-PA, Inc.,** 2081 Stewart Avenue, Hatfield, PA 19440, Philadelphia City, **Philadelphia County**, ACOE Philadelphia District.

To modify, rehabilitate and stabilize Pier 2, along the Schuylkill River at Girard Point, associated with a transfer station for construction materials. The work will include removing portions of the collapsed structure, installing breasting/mooring structures, placing auxiliary steel H-piles and removing portions of low-deck to be replaced by high-deck structure all within the original footprint of the former dock. The project is located approximately 550 feet upstream of Girard Point Bridge along the northeastern bank of the Schuylkill River (Philadelphia, PA USGS Quadrangle N: 3.7 inches; W: 10.2 inches).

**E46-980. Department of Transportation, Engineering District 6-0,** 7000 Geerdes Blvd, King of Prussia, PA 19406, Upper Providence Township, **Montgomery County**, ACOE Philadelphia District.

SR0029/SR0113 Roadway Improvement Project

To widen SR 0029 and perform improvements along the route commencing at the eastbound SR 0422 interchange running north on SR 29 and terminating near the intersection of SR 29 and Mennonite Road. Proposed water obstruction and encroachment activities are as follows:

1. To extend and maintain a 30-inch diameter RCP enclosure which carries a UNT to Doe Run (TSF) under



SR 29. Length of extension is approximately 44 feet making the total length of the culvert 164 feet. Minor fill will be placed within the floodway to facilitate this extension.

2. To place and maintain fill within approximately 0.061 acre of wetland for roadway widening and for wetland mitigation on the western side of SR 29 to facilitate this extension.

The project will permanently impact approximately 45 linear feet of stream and 0.061 acre of wetland. The applicant proposes 0.158 acre of replacement wetlands. The project impact locations are situated near the SR 422 interchange with Collegeville Road/SR 29 in Upper Providence Township, Montgomery County (Collegeville PA, Quadrangle N: 9.96 inches; W: 14.78 inches).

**E15-743. Pulte Homes of PA, LP**, 1101 Northbrook Drive, Suite 2000, Trevoise, PA 19053, Charlestown Township, **Chester County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the proposed Deerfield Subdivision:

1) To relocate approximately a 340 linear-foot segment of intermittent headwater tributary to Pigeon Creek (HQ-TSF) starting at inlet R2A, rerouting through basin 1 and connecting at the culvert noted in item 4 below.

2) Place fill within 340 linear feet of a UNT of Pigeon Creek along Valley Hill Road (SR 1021).

3) To construct and maintain an on-stream nonjurisdictional dam as a stormwater management facility (basin 1) on the relocated stream channel. The applicant also requests an Environmental Assessment Approval for this activity.

4) To construct and maintain 28 linear feet of 19" by 30" elliptical culvert as a replacement structure for the existing culvert under Valley Hill Road (SR 1021).

5) To construct and maintain 68 linear feet of culvert within the relocated channel alignment, starting at inlet R2A routing through 8 linear feet, connect with inlet R2, routing through 60 linear feet of 36-inch RCP and terminating at outlet R1 within proposed stormwater basin 1.

The site is located on southwest corner of the intersection of the Valley Hill Road and Yellow Spring Road (Malvern, PA USGS Quadrangle N: 12.75 inches; W: 10.75 inches).

**E46-981. Limerick Township**, 646 West Ridge Pike, Limerick Township, **Montgomery County**, ACOE Philadelphia District, ACOE Philadelphia District.

#### Ashbrook Estates Pedestrian Bridge Project

To construct and maintain a triple span pedestrian footbridge across Mingo Creek (TSF). The 6-foot wide structure will have a total span of approximately 31' 6" and 2-foot underclearance. The approaches to the bridge will include fill within 0.032 acre of adjacent wetland. The project is located approximately 420 east and 150 feet south of the intersections of Broadleaf Circle and Royersford Road intersection in Limerick Township, Montgomery County (Phoenixville PA, Quadrangle N: 15.47 inches; W: 2.10 inches).

*Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**E48-362. Kemmerer Corporation**, 3220 Valley View Drive, Bath, PA 18014, in Lehigh and Moore Townships,

**Northampton County**, Untied States Army Corps of Engineers, Philadelphia District.

To place fill in approximately 0.22 acre of PEM wetlands for the purpose of constructing a road crossing to serve as access to Phase IV of Cottonwood Crest planned residential subdivision. The project is located approximately 1,500 feet east of the intersection of Murphy Road and South Cottonwood Road (Kunkletown, PA Quadrangle N: 2.8 inches; W: 14.6 inches).

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

**E08-429. Department of Transportation, Engineering District 3-0**, P. O. Box 218, Montoursville, PA 17754-0218. Bridge SR 1056, Sec. 004, in Litchfield Township, **Bradford County**, ACOE Baltimore District (Litchfield, PA Quadrangle N: 12.70 inches; W: 12.35 inches).

To remove the existing stone masonry arch culvert which has a normal span of 16 feet, an underclearance of 12.5 feet with a hydraulic opening of 144.36 square feet on an 86° skew with the roadway. To construct and maintain a concrete box culvert on the same alignment as the existing structure. The proposed culvert will be 20 feet wide with an underclearance of 8.5 feet and a hydraulic opening of 170 square feet, submerged 1 foot below the natural streambed on SR 1056, Section 004 about 1,500 feet east of the intersection of SR 1056 with SR 199. The project will not impact wetlands while impacting about 140 feet of waterway and 0.3 acre of earth disturbance. Satterlee Creek is a CWF stream.

**E41-554. Moreland Township Supervisors**, 1220 Moreland Township Road, Hollidaysburg, PA 16648. Water Obstruction and Encroachment Application for T-443 (Liedecker Road) Bridge Replacement, in Moreland Township, **Lycoming County**, ACOE Susquehanna River Basin District (Hughesville, PA Quadrangle N: 12.2 inches; W: 8.7 inches).

The applicant proposes to remove and existing steel pony truss bridge with a clear span of 68.25 feet and construct and maintain a prestressed concrete box beam bridge with a clear span of 83.5 feet and a minimum underclearance of 11.61 feet over Little Muncy Creek. The proposed project will directly affect approximately 85 linear feet of the Little Muncy Creek, which is classified as a CWF, with no wetland impacts proposed.

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

**E03-434. South Buffalo Township**, 384 Iron Bridge Road, Freeport, PA 16229. To construct an intake pipe in Buffalo Creek in South Buffalo Township, **Armstrong County**, Pittsburgh ACOE District (Freeport, PA Quadrangle N: 22.6 inches; W: 6.6 inches and Latitude: 40° 45' 19"—Longitude: 79° 40' 17"). The applicant proposes to construct and maintain approximately 35 LF of screened intake in Buffalo Creek (HQ-CWF). The proposed project is located approximately 1,700 feet downstream and south of the confluence of Cornplanter Run. The total project impact is 20 feet of submerged, screened intake.

**E65-878. Conemaugh Valley Conservancy**, 1334 Franklin Street, Johnstown, PA 15905. To construct a bridge in Derry Township, **Westmoreland County** and Burrell Township, Indiana County, Pittsburgh ACOE District (Blairsville, PA Quadrangle N: 13.4 inches; W: 7.2 inches and Latitude: 40° 27' 02"—Longitude: 79° 18' 07"). The applicant proposes to construct and maintain a

12.0-foot wide four span pedestrian bridge on existing piers in the Conemaugh River (WWF) having normal spans of 133.8 feet, 136.0 feet, 136.0 feet and 134.3 feet and minimum underclearances of 29.7 feet, 52.2 feet, 52.7 feet and 34.5 feet respectively as part of the West Penn Trail Project.

**E65-879. Texas Keystone, Inc.**, 1120 Route 119 North, Indiana, PA 15701. To construct a ford crossing in Fairfield Township, **Westmoreland County**, Pittsburgh ACOE District (Wilpen, PA Quadrangle N: 15.89 inches; W: 3.72 inches and Latitude: 40° 20' 15"—Longitude: 79° 9' 6"). The applicant proposes to remove the existing crossing and to construct and maintain a 10.0 foot wide ford crossing in Hypocrite Creek (TSF) for the purpose of providing access to a gas well. The project is located off of SR 1071, 1,400 feet east of its intersection with T-847.

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

**E10-412. Coal Hollow Road Slide**, Buffalo Township, **Butler County**, ACOE Pittsburgh District (Curtisville, PA Quadrangle N: 42° 43' 33"; W: 79° 45' 46").

To construct and maintain approximately 100 linear feet of soldier beam retaining wall with concrete lagging, the wall having a height ranging from 12.5 feet to 17.5 feet and located at a point along Sarver Run (HQ-TSF) and Coal Hollow Road approximately 0.3 mile west of the intersection of Coal Hollow Road (T-578) and SR 0356.

**E43-325. Country Fair, Inc., Country Fair Store No. 44**, Stream Enclosure Repair in Tributary to Black

Run, in Springfield Township, **Mercer County**, ACOE Pittsburgh District (Mercer, PA Quadrangle N: 41° 08' 35"; W: 80° 09' 10").

To modify, repair and maintain the existing 305-foot-long stream enclosure in a tributary to Black Run under the parking lot for the Country Fair convenience store and gas station along the south side of SR 208 immediately east of I-79. Modification and repair includes a new concrete junction structure between the upstream reinforced concrete box structure under SR 208, the installation of a smooth lining within the existing 305-foot-long, 11.35-foot-wide by 7.35-foot-high corrugated metal plate arch and an approximately 40 foot long rock apron at the structure outlet.

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D52-201. East Birchwood Lake Dam**. Birchwood Lakes Community Association, Inc., P. O. Box 222, Dingman's Ferry, PA 18328-0222. To modify, operate and maintain East Birchwood Lake Dam across a tributary to Dingmans Creek (HQ-CWF), for the purpose of restoring a recreational lake, which was lowered after the dam was damaged by Tropical Storm Ivan. Work includes construction of a new concrete labyrinth spillway weir and installation of dry hydrants (Edgemere, PA Quadrangle N: 0.07 inch, W: 4.6 inches) in Delaware Township, **Pike County**.

## ACTIONS

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

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

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

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

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the

*Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

### I. NPDES Renewal Permit Actions

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

| <i>NPDES No.<br/>(Type)</i> | <i>Facility Name &amp;<br/>Address</i>  | <i>County &amp;<br/>Municipality</i> | <i>Stream Name<br/>(Watershed #)</i>              | <i>EPA Waived<br/>Y/N ?</i> |
|-----------------------------|---|--------------------------------------|---|-----------------------------|
| PA0031364                   | Wallenpaupack Area School District<br>HC6, Box 6075<br>Hawley, PA 18428-9045  | Palmyra Township<br>Pike County      | Lake Wallenpaupack<br>HQ-CWF                      | Y                           |
| PA0060593<br>(Sewage)       | Little Washington Wastewater Company<br>d/b/a Suburban Wastewater Company<br>762 West Lancaster Avenue<br>Bryn Mawr, PA 19010 | Luzerne County<br>Rice Township      | Nuangola outlet to<br>Little Wapwallopen<br>Creek | Y                           |

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

| <i>NPDES No.<br/>(Type)</i> | <i>Facility Name &amp;<br/>Address</i>  | <i>County &amp;<br/>Municipality</i> | <i>Stream Name<br/>(Watershed#)</i> | <i>EPA Waived<br/>Y/N ?</i> |
|-----------------------------|---|--------------------------------------|-------------------------------------|-----------------------------|
| PA0228273                   | Locust Township Municipal Authority<br>Numidia Treatment Facility<br>1223A Numidia Drive<br>Catawissa, PA 17820 | Columbia County<br>Locust Township   | UNT to Roaring Creek<br>(5E)        | Y                           |
| PA0008222<br>IW             | Graymont (PA) Inc.<br>965 East College Avenue<br>Pleasant Gap, PA 16823   | Centre County<br>Spring Township     | Buffalo Run<br>9C                   | Y                           |

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

| <i>NPDES No.<br/>(Type)</i> | <i>Facility Name &amp;<br/>Address</i>   | <i>County &amp;<br/>Municipality</i>             | <i>Stream Name<br/>(Watershed #)</i> | <i>EPA Waived<br/>Y/N</i> |
|-----------------------------|--|--|--------------------------------------|---------------------------|
| PA0097233<br>Sewage         | South Versailles Township<br>P. O. Box 66<br>Coulter, PA 15028                         | Allegheny County<br>South Versailles<br>Township | Youghiogheny River                   | Y                         |
| PA00218561<br>Sewage        | Cambria County Commissioners<br>Courthouse<br>200 S. Center St.<br>Ebensburg, PA 15931 | Cambria County<br>Barr Township                  | Crooked Run                          | Y                         |

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

| <i>NPDES No.<br/>(Type)</i>  | <i>Facility Name &amp;<br/>Address</i>   | <i>County &amp;<br/>Municipality</i>   | <i>Stream Name<br/>(Watershed #)</i>                      | <i>EPA Waived<br/>Y/N ?</i> |
|------------------------------|--|--|---|-----------------------------|
| PA0030724                    | Pleasant Ridge Manor—West<br>8300 West Ridge Road<br>Girard, PA 16417                              | Fairview Township<br>Erie County       | Trout Run<br>15-TR  | Y                           |
| PA0103543                    | Pithole Museum<br>202 Museum Drive<br>Titusville, PA 16354-8902                                    | Cornplanter Township<br>Venango County | Dry/Intermittent<br>Tributary to Pithole<br>Creek<br>16-E | Y                           |
| PA0222062<br>Amendment No. 1 | Remington Steakhouse STP<br>Springfield Restaurant Group<br>1553 Perry Highway<br>Mercer, PA 16137 | Springfield Township<br>Mercer County  | UNT to Neshannock<br>Creek<br>20-A                        | Y                           |

| <i>NPDES No.<br/>(Type)</i> | <i>Facility Name &amp;<br/>Address</i>   | <i>County &amp;<br/>Municipality</i> | <i>Stream Name<br/>(Watershed #)</i>    | <i>EPA Waived<br/>Y/N ?</i> |
|-----------------------------|--|--------------------------------------|---|-----------------------------|
| PA0222704                   | Mowery Development No. 1<br>Treatment Facility Association<br>4493 Steger Road<br>Erie, PA 16510-5137                | Greene Township<br>Erie County       | UNT to Four Mile<br>Creek<br>15-FM      | Y                           |
| PA0239615                   | Hidden Acres, Walnut Square<br>and Wilson's Ridge<br>Developments<br>8037 Rowan Road<br>Cranberry Township, PA 16066 | Forward Township<br>Butler County    | UNT to<br>Connoquenessing Creek<br>20-C | Y                           |

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

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

**NPDES Permit No. PA0057720**, Industrial Waste, **Sunny Dell Foods, Inc.**, 214 South Mill Road, Kennett Square, PA 19348. This proposed facility is located in Kennett Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge into West Branch Red Clay Creek in Watershed 3I.

**NPDES Permit No. PA0052230**, Sewage, **Springhill Farm Wastewater Facility Association**, P. O. Box 756 Chadds Ford, PA 19317. This proposed facility is located in Concord Township, **Delaware County**.

Description of Proposed Action/Activity: Approval for an NPDES permit to discharge treated sewage in an UNT to West Branch of Chester Creek in Watershed 3G.

**NPDES Permit No. PA0024066**, Sewage, **West Grove Borough Authority**, P. O. Box 61, 117 Rosehill Avenue, West Grove, Pa 19390-0061. This proposed facility is located in London Grove Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge treated sewage in Middle Branch White Clay Creek in Watershed 3I.

**NPDES Permit No. PA0057657**, Sewage, **Kendal—Crosslands Communities**, P. O. Box 100, Kennett Square, PA 19348. This proposed facility is located in Kennett Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal of an NPDES permit to discharge treated sewage into Bennetts Run in Watershed 3H.

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

**NPDES Permit No. PAS602204**, Industrial Stormwater, **SR Used Parts**, 400 Daniels Road, Nazareth, PA 18064. This proposed facility is located in Bushkill Township, **Northampton County**.

Description of Proposed Action/Activity: Issuance of NPDES Industrial Stormwater Permit.

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

**NPDES Permit No. PA0205231**, Industrial Waste, **Azcon Corporation**, P. O. Box 7818, Pittsburgh, PA 15215. This proposed facility is located in Sharpsburg Borough, **Allegheny County**.

Description of Proposed Action/Activity: Individual NPDES permit authorizing discharge to receiving waters named the Allegheny River.

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

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

**WQM Permit No. 4605414**, Sewerage, **Upper Pottsgrove Township**, 1409 Farmington Avenue, Pottstown, PA 19464. This proposed facility is located in Upper Pottsgrove Township, **Montgomery County**.

Description of Action/Activity: Installation of a new 10-inch PVC sewer line and 6-inch force main.

**WQM Permit No. 4605415**, Sewerage, **Upper Pottsgrove Township**, 1409 Farmington Avenue, Pottstown, PA 19464. This proposed facility is located in Upper Pottsgrove Township, **Montgomery County**.

Description of Action/Activity: Installation of a new 18-inch PVC pipe.

**WQM Permit No. 1503409**, Sewerage, Amendment No. 3, **East Fallowfield Township**, 2264 Strasburg Road, East Fallowfield, PA 19320. This proposed facility is located in East Fallowfield Township, **Chester County**.

Description of Action/Activity: Increase operating capacity of Robin Cove Pump Station No. 2 from 139,401 gpd to 163,814 gpd.

**WQM Permit No. 1504414**, Sewerage, **Upper Uwchlan Township Municipal Authority**, 140 Pottstown Park, Chester Springs, PA 19425. This proposed facility is located in Upper Uwchlan Township, **Chester County**.

Description of Action/Activity: Construction of a 3,450 linear foot of 4-inch force main.

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

**WQM Permit No. 4805403**, Sewerage, **East Allen Township Municipal Authority**, 5340 Nor-Bath Boulevard, Northampton, PA 18067. This proposed facility is located in East Allen Township, **Northampton County**.

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

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

**WQM Permit No. 4905402**, Sewerage 4952, **Herndon Borough Jackson Township JMA**, P. O. Box 381, Herndon, PA 17830-0381. This proposed facility is located in Herndon Borough, **Northumberland County**.

Description of Proposed Action/Activity: Applicant is granted Water Quality Management Part II permit for the construction of a 0.060 mgd sequencing batch reactor wastewater treatment plant for the Borough of Herndon and adjacent parts of Jackson Township. This facility will consist of approximately 21,000 LF of 8-inch and 10-inch PVC gravity sewer, 2,400 LF of 1.25-inch to 4-inch force main sewer, 96 precast manholes and 4 pump stations.

**WQM Permit No. 4999403-T2**, Sewerage 4952, **David J. Bridi**, R. R. 3, Box 137A, Sunbury, PA 17801. This facility is located in Locust Township, **Columbia County**.

Description of Proposed Action/Activity: Transfer of a WQM Part II Permit for small flow sewage treatment facilities serving a single residence.

**WQM Permit No. 1405403**, Sewage 4952, **Paul S. and Leslie A. Roberts**, 265 Maurer Rd., Julian, PA 16844. This proposed facility is located in Huston Township, **Centre County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a single residence sewage plant. The sewage plant will be a septic tank, buried sand filter and chlorination.

**WQM Permit No. 1805403**, Sewerage Municipal, **Woodward Township Sewer Authority**, 86 Riverside Terrace, Lock Haven, PA 17745. This proposed facility is located in Woodward Township, **Clinton County**.

Description of Proposed Activity: Pipe bursting (approx. 1,552 feet) of a 16-inch interceptor line to an 18-inch line, and dig and replace (approx. 131 feet), including a suspended stream crossing of the same interceptor.

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

**WQM Permit No. WQG018403**, Sewerage, **William J. Renninger**, R. D. 1, Box 1438 Priest Hollow, Russell, Pa 16345. This proposed facility is located in Pine Grove Township, **Warren County**.

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

**WQM Permit No. 1605401**, Sewerage, **Shipperville Borough Sewage**, P. O. Box 244, Shipperville, PA. 16254-0244. This proposed facility is located in Elk Township, **Clarion County**.

Description of Proposed Action/Activity: This project is for the construction of a liquid chlorine disinfection system.

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

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

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

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

| <i>NPDES Permit No.</i> | <i>Applicant Name &amp; Address</i>   | <i>County</i> | <i>Municipality</i>      | <i>Receiving Water/Use</i>  |
|-------------------------|---|---------------|--------------------------|-----------------------------|
| PAI010905020            | Milford Acquisitions, Inc.<br>Streamview Subdivision<br>1590 Canary Road<br>Quakertown, PA 18951-3851 | Bucks         | Milford Township         | Unami Creek<br>(HQ-TSF)     |
| PAI011504062            | Chesterpoint Development, Inc<br>Oak Lane Subdivision<br>13 Quail Hill Lane<br>Downingtown, PA 19335  | Chester       | West Caln Township       | Birch Run<br>(HQ-TSF-MF)    |
| PAI011505023            | Golf Zone Realty, LLC<br>The Golf Zone<br>1020 Easton Road<br>Horsham, PA 19044                       | Chester       | West Brandywine Township | Indian Run<br>(HQ-CWF)      |
| PAI011505044            | Lance Taylor Contracting<br>2375 Whitehorse Road Dev.<br>940 Pinecroft Road<br>Berwyn, PA 19312       | Chester       | Easttown Township        | Crum Creek<br>(HQ-CWF)      |
| PAI011505052            | Peter Zimmerman<br>Zimmerman Pond Dredging<br>2363 Chester Springs Road<br>Chester Springs, PA 19425  | Chester       | West Vincent Township    | Pickering Creek<br>(HQ-TSF) |

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

| <i>NPDES Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>County</i> | <i>Municipality</i>                         | <i>Receiving Water/Use</i>                             |
|-------------------------|--|---------------|---|--|
| PAI023505002            | Hemingway Development, LP<br>2 Glenmaura National Blvd.<br>Moosic, PA 18507-1762                                 | Lackawanna    | Moosic Borough                              | Spring Brook<br>CWF<br>Stafford Meadow Brook<br>HQ-CWF |
| PAI025805002            | Lackawanna River Basin<br>Sewer Authority<br>P. O. Box 9068<br>Dickson City, PA 18519                            | Susquehanna   | Forest City Borough<br>and Clinton Township | Lackawanna River<br>HQ-CWF                             |
| PAI026404004            | Clemleddy Construction, Inc.<br>Rte. 6<br>Palmyra Professional Complex<br>P. O. Box 609<br>Hawley, PA 18428-0609 | Wayne         | Paupack Township                            | Wallenpaupack Creek<br>HQ-CWF                          |
| PAI024804022            | Nazareth Development, LLC<br>25 South Main St.<br>Nazareth, PA 18064   | Northampton   | Moore and Bushkill<br>Townships             | Bushkill Creek<br>HQ-CWF                               |

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

*Crawford Conservation District, Woodcock Creek Nature Center, 21742 German Road, Meadville, PA 16335, (814) 763-5269.*

| <i>NPDES Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--|---------------|---------------------|----------------------------|
| PAI062005001            | Conneaut Lake Area Youth<br>Soccer, Inc.<br>P. O. Box 508<br>Conneaut Lake, PA 16316 | Crawford      | Summerhill Township | Inlet Creek<br>HQ-WWF      |

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

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

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

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

*General Permit Type—PAG-2*

| <i>Facility Location &amp; Municipality</i>    | <i>Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>Receiving Water/Use</i>  | <i>Contact Office &amp; Phone No.</i>   |
|--|-------------------|--|---|---|
| East Pikeland Township<br>Chester County       | PAG2001504112     | Herbert Yentis<br>7300 City Line Avenue<br>Philadelphia, PA 19151  | French Creek<br>(TSF, MF)   | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Kennett Township<br>Chester County             | PAG2001505055     | Marsha Avery<br>P. O. Box 189<br>Kennett Square, PA<br>19428   | East Branch Red Clay<br>Creek<br>(CWF)                              | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| West Sadsbury Township<br>Chester County       | PAG2001505016     | World Tang SooDo Assoc.<br>709 Oregon Avenue<br>Philadelphia, PA 19148   | UNT Officers Run<br>(TSF, MF)                                       | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Caln Township<br>Chester County                | PAG2001505018     | Rouse/Chamberlin, LTD<br>500 Exton Commons<br>Exton, PA 19341  | Beaver Creek<br>(TSF, MF)   | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Westtown Township<br>Chester County            | PAG2001505075     | Westtown School<br>P. O. Box 1799<br>Westtown, PA 19395  | UNT East Branch<br>Chester Creek<br>(WWF)                           | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Pocopson Township<br>Chester County            | PAG2001505065     | County of Chester<br>Facilities Management<br>14 E. Biddle, St.<br>P. O. Box 2748<br>West Chester, PA 19380                            | Pocopson Creek<br>UNT East<br>Brandywine Creek<br>(TSF, MF/WWF, MF) | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| West Bradford Township<br>Chester County       | PAG2001505059     | Barbara Wanamaker<br>1133 Pottstown Pike<br>West Chester, PA 19380   | East Branch Brandywine<br>Creek<br>(WWF, MF)                        | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| City of Chester<br>Delaware County             | PAG2002305037     | Kimberly Clark<br>Front St. and Ave. of the<br>States<br>Chester, PA 19016   | Delaware River/Chester<br>Creek<br>(WWF, MF)                        | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Whitpain Township<br>Montgomery County         | PAG2004605031     | Montgomery County<br>Community College<br>340 DeKalb Pike<br>Blue Bell, PA 19422   | Stony Creek<br>(TSF)  | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Limerick Township<br>Montgomery County         | PAG20046030991    | Strategic Retail<br>Properties<br>Eckerd Pharmacy<br>P. O. Box 511<br>Wayne, PA 19087  | Landis Creek<br>(TSF)   | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Lower Pottsgrove Township<br>Montgomery County | PAG2004605105     | Buchert Ridge<br>Community, Inc.<br>2461 East High Street<br>Pottstown, PA 19464   | Sprogels Run<br>(WWF)   | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Limerick Township<br>Montgomery County         | PAG2004604103     | Heritage Building Group<br>Country Club Estates<br>2500 York Road<br>Jamison, PA 18929   | Mingo Creek<br>(WWF)  | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Hatfield Township<br>Montgomery County         | PAG2004605089     | Larry Rebelo, John<br>Marques<br>Lot 15 Line Lexington<br>Ind. Park<br>716 N Bethlehem Pike<br>Suite 303<br>Lower Gwynedd, PA<br>19002 | West Branch Neshaminy<br>Creek<br>(WWF, MF)                         | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |

## NOTICES

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| <i>Facility Location &amp; Municipality</i>                    | <i>Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>Receiving Water/Use</i> | <i>Contact Office &amp; Phone No.</i>   |
|--|-------------------|--|----------------------------|---|
| Upper Merion Township<br>Montgomery County                     | PAG2004605122     | Delcollo Realty Partnership, LP<br>225 S. Henderson Road<br>King of Prussia, PA 19406              | Schuylkill River (WWF)     | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Lansdale Borough<br>Montgomery County                          | PAG2004605122     | Pineville Lansdale Assoc, LP<br>1288 Valley Forge Road<br>Valley Forge, PA 19482                   | Neshaminy Creek (WWF)      | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Plymouth Township<br>Montgomery County                         | PAG2004605056     | PMC Properties, Inc.<br>Hill Subdivision<br>48th W. 7th Avenue<br>Conshohocken, PA 19428           | Schuylkill River (WWF)     | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Upper Providence Township<br>Montgomery County                 | PAG2004605032     | Christ's Church of the Valley<br>430 West Main Street<br>Collegeville, PA 19426                    | UNT Schuylkill River (CWF) | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Upper Moreland Township<br>Montgomery County                   | PAG2004605102     | Willow Grove Development<br>530 S. Second St.<br>Suite 511<br>Philadelphia, PA 19147               | Pennypack Creek (TSF, MF)  | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| City of Philadelphia<br>Philadelphia County                    | PAG2011505014     | Ernest Bock and Sons<br>New NE Community Center<br>2800 Southampton Road<br>Philadelphia, PA 19154 | Delaware River (WWF, MF)   | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401<br>(484) 250-5900 |
| Forty Fort Borough<br>Luzerne County                           | PAG2024005025     | David Koral<br>900 Rutter Ave.<br>Forty Fort, PA 18704   | Susquehanna River CWF      | Luzerne Co.<br>Cons. Dist.<br>(570) 674-7991  |
| Upper Saucon Township<br>Lehigh County                         | PAG2003905015     | Paul Chernay<br>7594 Chestnut Hill Church Rd.<br>Coopersburg, PA 18036                             | Saucon Creek CWF           | Lehigh Co.<br>Cons. Dist.<br>(610) 391-9583   |
| Whitehall Township<br>Lehigh County                            | PAG2003905016     | Edward Katchur<br>3023 Sequoia Dr.<br>Macungie, PA 18062   | Coplay Creek CWF           | Lehigh Co.<br>Cons. Dist.<br>(610) 391-9583   |
| Upper Saucon Township<br>Lehigh County                         | PAG2003905023     | Heritage Bldg. Group<br>2500 York Rd.<br>Jamison, PA 18929   | Saucon Creek CWF           | Lehigh Co.<br>Cons. Dist.<br>(610) 391-9583   |
| South Whitehall Township<br>Lehigh County                      | PAG2003905024     | Stephen Talbott<br>Commerce Bank<br>11000 Atrium Way<br>Mt. Laurel, NJ                             | Jordan Creek TSF, MF       | Lehigh Co.<br>Cons. Dist.<br>(610) 391-9583   |
| North Whitehall and South Whitehall Townships<br>Lehigh County | PAG2003905027     | Kolarik & Rocco<br>2288 Meadow Lane<br>Emmaus, PA 18049  | Coplay Creek CWF           | Lehigh Co.<br>Cons. Dist.<br>(610) 391-9583   |
| Mayfield Borough<br>Lackawanna County                          | PAG2003505020     | Tom Harris<br>889 Rt. 6<br>Mayfield, PA 18433  | Lackawanna River CWF       | Lackawanna Co.<br>Cons. Dist.<br>(570) 281-9495   |
| Hazleton City<br>Luzerne County                                | PAG2024005028     | Hazleton Area School Dist.<br>1515 West 23rd St.<br>Hazleton, PA 18202-1647                        | Black Creek CWF            | Luzerne Co.<br>Cons. Dist.<br>(570) 674-7991  |



| <i>Facility Location &amp; Municipality</i> | <i>Permit No.</i> | <i>Applicant Name &amp; Address</i>   | <i>Receiving Water/Use</i>               | <i>Contact Office &amp; Phone No.</i>  |
|---|-------------------|---|--|--|
| Greene Township<br>Franklin County          | PAG2002805046     | Bernard Washabough, II<br>Second State<br>Enterprises, Inc.<br>20 Spring Street<br>Chambersburg, PA 17201 | Phillaman Run<br>CWF                     | Franklin County<br>Conservation District<br>100 Sunset Boulevard<br>West<br>Chambersburg, PA 17201<br>(717) 264-8074, Ext. 5 |
| Washington<br>Township<br>Dauphin County    | PAG2002205052     | James Watson<br>Washington Township<br>Board of Supervisors<br>185 Manors Rd.<br>Elizabethville, PA 17023 | Wiconisco Creek<br>CWF                   | Dauphin County<br>Conservation District<br>1451 Peters Mountain Rd.<br>Dauphin, PA 17018<br>(717) 921-8100                   |
| City of Harrisburg<br>Dauphin County        | PAG2002205050     | Donald H. Irwin<br>Insite Development Co.<br>1943 Monterey St.<br>Mechanicsburg, PA 17055                 | Paxton Creek<br>WWF                      | Dauphin County<br>Conservation District<br>1451 Peters Mountain Rd.<br>Dauphin, PA 17018<br>(717) 921-8100                   |
| Swatara Township<br>Dauphin County          | PAG2002205044     | Michael C. Manning<br>1520 Slate Hill Rd.<br>Camp Hill, PA 17011  | Beaver Creek<br>WWF                      | Dauphin County<br>Conservation District<br>1451 Peters Mountain Rd.<br>Dauphin, PA 17018<br>(717) 921-8100                   |
| City of Harrisburg,<br>Dauphin County       | PAG2002205049     | City of Harrisburg<br>Office of City Engineers<br>123 Walnut St.<br>Harrisburg, PA<br>17101-1677          | Susquehanna River<br>WWF                 | Dauphin County<br>Conservation District<br>1451 Peters Mountain Rd.<br>Dauphin, PA 17018<br>(717) 921-8100                   |
| Manheim Township<br>Lancaster County        | PAG2003604114     | Manheim Township<br>School District<br>P. O. Box 5134<br>Lancaster, PA 17606                              | Landis Run<br>WWF                        | Lancaster County<br>Conservation District<br>1383 Arcadia Rd.<br>Room 6<br>Lancaster, PA 17601<br>(717) 299-5361, Ext. 5     |
| Rapho Township<br>Lancaster County          | PAG2003605040     | Liddon Associates<br>150 Arrowhead Dr.<br>Manheim, PA 17545   | UNT Chickies Creek<br>WWF                | Lancaster County<br>Conservation District<br>1383 Arcadia Rd.<br>Room 6<br>Lancaster, PA 17601<br>(717) 299-5361, Ext. 5     |
| Mount Joy<br>Township<br>Lancaster County   | PAG2003605051     | Dwight Wissler<br>1248 Wissler Lane<br>Mount Joy, PA 17552  | Little Chickies Creek<br>TSF             | Lancaster County<br>Conservation District<br>1383 Arcadia Rd.<br>Room 6<br>Lancaster, PA 17601<br>(717) 299-5361, Ext. 5     |
| Manheim Township<br>Lancaster County        | PAG2003605109     | High Properties Inc.<br>1853 William Penn Way<br>Lancaster, PA 17605                                      | UNT Conestoga River<br>WWF               | Lancaster County<br>Conservation District<br>1383 Arcadia Rd.<br>Room 6<br>Lancaster, PA 17601<br>(717) 299-5361, Ext. 5     |
| Christiana Borough<br>Lancaster County      | PAG2003605111     | Cochranville Mobile<br>Home Park<br>2984 Highpoint Rd.<br>Cochranville, PA 19330                          | East Branch Octoraro<br>Creek<br>TSF; MF | Lancaster County<br>Conservation District<br>1383 Arcadia Rd.<br>Room 6<br>Lancaster, PA 17601<br>(717) 299-5361, Ext. 5     |
| Brecknock<br>Township<br>Lancaster County   | PAG2003605112     | Martin Bros Builders<br>119 Furlow Rd.<br>Reinholds, PA<br>17569-9143                                     | Muddy Creek<br>WWF                       | Lancaster County<br>Conservation District<br>1383 Arcadia Rd.<br>Room 6<br>Lancaster, PA 17601<br>(717) 299-5361, Ext. 5     |

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| <i>Facility Location &amp; Municipality</i>   | <i>Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>Receiving Water/Use</i>                   | <i>Contact Office &amp; Phone No.</i>  |
|---|-------------------|--|--|--|
| Manheim Township<br>Lancaster County          | PAG2003605113     | HHH Properties<br>15 Meadow Lane<br>Lancaster, PA 17601  | Bachman Run<br>WWF                           | Lancaster County<br>Conservation District<br>1383 Arcadia Rd.<br>Room 6<br>Lancaster, PA 17601<br>(717) 299-5361, Ext. 5                     |
| Upper Leacock<br>Township<br>Lancaster County | PAG2003605114     | Sherman & Walton<br>180 Good Dr.<br>Lancaster, PA 17603  | UNT Conesotga River<br>WWF                   | Lancaster County<br>Conservation District<br>1383 Arcadia Rd.<br>Room 6<br>Lancaster, PA 17601<br>(717) 299-5361, Ext. 5                     |
| Berwick Township<br>Adams County              | PAG2000105012     | Joseph A. Myers<br>160 Ram Drive<br>Hanover, PA 17331  | UNT to South Branch<br>Conewago Creek<br>WWF | Adams County<br>Conservation District<br>670 Old Harrisburg Rd.<br>Suite 201<br>Gettysburg, PA 17325<br>(717) 334-0636                       |
| Bethel Township<br>Berks County               | PAG2000605075     | George Moyer<br>231 Frystown Road<br>Myerstown, PA 17067   | UNT to Swatara Creek<br>CWF                  | Berks County<br>Conservation District<br>1238 County Welfare<br>Road<br>P. O. Box 520<br>Leesport, PA 19533-0520<br>(610) 372-4657, Ext. 201 |
| Maidencreek<br>Township<br>Berks County       | PAG2000605065     | Larry Gardner<br>Larkin Associates<br>249 Homestead Road<br>Hillsborough, NJ 18844   | Willow Creek<br>CWF                          | Berks County<br>Conservation District<br>1238 County Welfare<br>Road<br>P. O. Box 520<br>Leesport, PA 19533-0520<br>(610) 372-4657, Ext. 201 |
| Warrington<br>Township<br>York County         | PAG2006705039     | Larry Ireland<br>Homecroft Devel Corp.<br>6111 Davis Rd.<br>Woodbine, MD 21797<br>(301) 829-0147                                 | Conewago Creek<br>WWF                        | York County Conservation<br>District<br>118 Pleasant Acres Road<br>York, PA 17402<br>(717) 840-7430  |
| Shrewsbury<br>Township<br>York County         | PAG2006705067     | Jon Myers<br>Myers & O'Neill<br>3 W. Main Street<br>New Freedom, PA 17349  | UNT SB Codorus Creek<br>WWF                  | York County Conservation<br>District<br>118 Pleasant Acres Road<br>York, PA 17402<br>(717) 840-7430  |
| New Freedom<br>Borough<br>York County         | PAG2006704071     | Koller Pointe<br>Keystone Custom Homes<br>214A Willow Valley<br>Lakes Drive<br>Willow Street, PA 17584                           | SM Codorus Creek<br>WWF                      | York County Conservation<br>District<br>118 Pleasant Acres Road<br>York, PA 17402<br>(717) 840-7430  |
| Manchester<br>Township<br>York County         | PAG2006705081     | Country Club West<br>Section E<br>Gary Waltersdorff<br>Richard H. Waltersdorff,<br>Inc.<br>1280 Garrison Drive<br>York, PA 17404 | UNT to Little Conewago<br>Creek<br>WWF       | York County Conservation<br>District<br>118 Pleasant Acres Road<br>York, PA 17402<br>(717) 840-7430  |
| Centre County<br>Benner Township              | PAG2001405013     | Carl Bankert<br>Fisherman's Paradise,<br>LLC<br>2121 Old Gatesburg<br>Road<br>Suite 200<br>State College, PA 16801               | UNT Spring Creek<br>CWF                      | Centre County<br>Conservation District<br>414 Holmes Ave.<br>Suite 4<br>Bellefonte, PA 16823<br>(814) 355-6817                               |

| <i>Facility Location &amp; Municipality</i>                      | <i>Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>Receiving Water/Use</i>         | <i>Contact Office &amp; Phone No.</i>  |
|--|-------------------|--|------------------------------------|--|
| Clearfield County<br>Clearfield Borough                          | PAG2001705012     | Clearfield Borough<br>6 South Front St.<br>Clearfield, PA 16830  | W. Br. Susquehanna<br>River<br>WWF | Clearfield County<br>Conservation District<br>650 Leonard St.<br>Clearfield, PA 16830<br>(814) 765-2629            |
| Montour County<br>Mahoning Township                              | PAG2004705004     | Geisinger System<br>Services<br>100 N. Academy Ave.<br>Danville, PA 17821                                      | UNT Mahoning Creek<br>CWF          | Montour County<br>Conservation District<br>112 Woodbine Lane<br>Suite 2<br>Danville, PA 17821<br>(570) 271-1140    |
| Tioga County<br>Morris Township                                  | PAG2005905007     | Babb Creek Watershed<br>Assoc.<br>35 Dartt Settlement Rd.<br>Wellsboro, PA 16901                               | UNT Wilson Creek<br>CWF            | Tioga County<br>Conservation District<br>50 Plaza Lane<br>Wellsboro, PA 16901<br>(570) 724-1801, Ext. 101          |
| Union County<br>East Buffalo<br>Township                         | PAG2006005007     | SEDA-COG<br>R. R. 1, Box 372<br>Lewisburg, PA 17837  | Turtle Creek<br>WWF                | Union County<br>Conservation District<br>88 Bull Run Crossing,<br>Suite 5<br>Lewisburg, PA 17837<br>(570) 523-8782 |
| Allegheny County<br>Robinson Township                            | PAR10A563-1       | Showcase Properties<br>202 Park West Drive<br>Pittsburgh, PA 15275   | Montour Run<br>(TSF)               | Allegheny County CD<br>(412) 241-7645  |
| Allegheny County<br>Marshall Township                            | PAG2000204037     | Slade Landscaping<br>Garden Center<br>P. O. Box 2095<br>Warrendale, PA 15086                                   | Brush Creek<br>(TSF)               | Allegheny County CD<br>(412) 241-7645  |
| Allegheny County<br>Kennedy Township                             | PAG2000205059     | Phillips Landfill & Slag,<br>Inc.<br>88 Beaer Grade Road<br>McKees Rocks, PA 15136                             | Ohio River<br>(WWF)                | Allegheny County CD<br>(412) 241-7645  |
| Allegheny County<br>Moon Township                                | PAG2000205065     | StoneMor Partners, LP<br>2700 Mt. Royal Blvd.<br>Glenshaw, PA 15116  | McCabe Run<br>(WWF)                | Allegheny County CD<br>(412) 241-7645  |
| Allegheny County<br>Pittsburgh and<br>Castle Shannon<br>Boroughs | PAG2000205066     | Department of<br>Transportation<br>45 Thoms Run Road<br>Bridgeville, PA 15017                                  | Saw Mill Run<br>(WWF)              | Allegheny County CD<br>(412) 241-7645  |
| Allegheny County<br>Bethel Park                                  | PAG2000205070     | St. Thomas Moore<br>126 Fort Couch Road<br>Pittsburgh, PA 15241  | Graeser's Run<br>(WWF)             | Allegheny County CD<br>(412) 241-7645  |
| Allegheny County<br>Plum Borough                                 | PAG2000205073     | Old Leechburg Assoc., LP<br>772 Pine Valley Drive<br>Pittsburgh, PA 15239                                      | Plum Creek<br>(WWF)                | Allegheny County CD<br>(412) 241-7645  |
| Allegheny County<br>Jefferson Hills<br>Borough                   | PAG2000205076     | Jefferson Regional<br>Medical Center<br>P. O.Box 18119<br>565 Coal Valley Road<br>Pittsburgh, PA<br>15236-0119 | Peters Creek<br>(TSF)              | Allegheny County CD<br>(412) 241-7645  |
| Allegheny County<br>McCandless<br>Township                       | PAG2000205078     | Paradise Development<br>Group<br>115 Federal Street<br>Suite 200<br>Pittsburgh, PA 15212                       | Pine Creek<br>(CWF)                | Allegheny County CD<br>(412) 241-7645  |
| Allegheny County<br>Pittsburgh                                   | PAG2000205080     | Pittsburgh Parking<br>Authority<br>232 Blvd. of the Allies<br>Pittsburgh, PA 15222                             | Allegheny River<br>(WWF)           | Allegheny County CD<br>(412) 241-7645  |

| <i>Facility Location &amp; Municipality</i> | <i>Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>Receiving Water/Use</i>                      | <i>Contact Office &amp; Phone No.</i>            |
|---|-------------------|--|---|--|
| Allegheny County South Fayette Township     | PAG2000205085     | South Fayette Township<br>515 Millers Run Road<br>Morgan, PA 15064   | Millers Run<br>(WWF)                            | Allegheny County CD<br>(412) 241-7645            |
| Allegheny County Pittsburgh                 | PAG2000205089     | The Childrens Home of Pittsburgh<br>5618 Kentucky Avenue<br>Pittsburgh, PA 15232   | Allegheny River<br>(WWF)                        | Allegheny County CD<br>(412) 241-7645            |
| Allegheny County South Fayette Township     | PAG2000205093     | Bursca 79 South Industrial Park Partners<br>800 Bursca Drive<br>Bridgeville, PA 15017  | Chartiers Creek<br>(WWF)                        | Allegheny County CD<br>(412) 241-7645            |
| Allegheny County Upper St. Clair Township   | PAG2000205094     | St. Clair Country Club<br>2300 Old Washington Road<br>Pittsburgh, PA 15241   | McLaughlin Run<br>(WWF)                         | Allegheny County CD<br>(412) 241-7645            |
| Allegheny County Monroeville                | PAG2000205100     | Allegheny County Department of Public Works<br>501 County Office Bldg.<br>542 Forbes Avenue<br>Pittsburgh, PA 15219                          | Piersons Run<br>(TSF)                           | Allegheny County CD<br>(412) 241-7645            |
| Beaver County Brighton Township             | PAG2000405015     | Dale Yackish<br>78 Tuscarawas Road<br>Beaver, PA 15009   | Hamilton Run<br>(WWF)                           | Beaver County CD<br>(724) 378-1701               |
| Beaver County Industry Borough              | PAG2000405017     | Duke Energy NGL Services<br>c/o Carl Calame<br>5718 Westheine<br>Suite 2000<br>Houston, TX 77057-5745  | UNT to Ohio River<br>(WWF)                      | Beaver County CD<br>(724) 378-1701               |
| Beaver County Big Beaver Borough            | PAG2000405019     | Robert Halpin<br>Westgate Ventures I, LLC<br>15 Salt Creek Lane<br>Hinsdale, IL 60521  | UNT to Beaver River<br>(WWF)                    | Beaver County CD<br>(724) 378-1701               |
| Washington County Peters Township           | PAR10W202         | Great Meadows, LP<br>420 Venetia Road<br>Venetia, PA 15367   | UNT of Peters Creek<br>(TSF)                    | Washington County CD<br>(724) 228-6774           |
| Washington County North Franklin Township   | PAR10W217         | Lewis and Cheryl Keith<br>2455 Park Avenue<br>Washington, PA 15301   | UNT of Chartiers Creek<br>(WWF)                 | Washington County CD<br>(724) 228-6774           |
| Washington County Cecil Township            | PAG2006305022     | Maple Leaf Homes<br>F. Lynn Foltz<br>P. O. Box 401<br>Bridgeville, PA 15017  | Chartiers Creek<br>(WWF)                        | Washington County CD<br>(724) 228-6774           |
| Washington County Peters Township           | PAG2006305029     | Catholic Cemeteries Association of the Diocese of Pittsburgh, Inc.<br>1443 Lincoln Highway<br>North Versailles, PA 15137                     | Brush Run<br>(WWF)                              | Washington County CD<br>(724) 228-6774           |
| City of Meadville Crawford County           | PAG2002005005     | Allegheny College North Quad Student Housing<br>Allegheny College<br>Kenneth Hanna<br>520 North Main Street<br>Box 28<br>Meadville, PA 16335 | Meadville Storm Sewer and French Creek<br>(WWF) | Crawford Conservation District<br>(814) 763-5269 |

| <i>Facility Location &amp; Municipality</i> | <i>Permit No.</i> | <i>Applicant Name &amp; Address</i>  | <i>Receiving Water/Use</i>                               | <i>Contact Office &amp; Phone No.</i>             |
|---|-------------------|--|--|---|
| Pinecreek Township<br>Jefferson County      | PAG2003305003     | Global Drilling Suppliers, Inc.<br>Mark Kuenning<br>12101 Centrol Place<br>Cincinnati, OH<br>45246-1704                        | Mill Creek<br>CWF  | Jefferson Conservation District<br>(814) 849-7463 |
| City of Hermitage<br>Mercer County          | PAG2004305002     | Pine Grove Mobile Home Park<br>347 North Perry Highway<br>Mercer, PA 16137   | Tributary Munnell Run<br>(TSF)                           | Mercer Conservation District<br>(724) 642-2242    |
| Hempfield Township<br>Mercer County         | PAG2004305009     | Aldi's, Inc.<br>6000 North Noah Drive<br>Saxonburg, PA 15056   | Sankey's Run<br>Tributary Little Shenango River<br>(TSF) | Mercer Conservation District<br>(724) 642-2242    |
| City of Hermitage<br>Mercer County          | PAG2004305010     | Walgreens, Greystone Group<br>Jeffrey Cossel<br>360 Corporate Circle<br>30050 Chagrin Blvd.<br>Pepper Pike, OH 44124           | UNT Pine Hollow Run<br>(WWF)                             | Mercer Conservation District<br>(724) 642-2242    |
| City of Hermitage<br>Mercer County          | PAG2004305011     | Joseph Sheetz Sheetz, Inc.<br>5700 Sixth Avenue<br>Altoona, PA 16602   | UNT Pine Hollow Run<br>(WWF)                             | Mercer Conservation District<br>(724) 642-2242    |
| City of Hermitage<br>Mercer County          | PAG2004305012     | Diversified Family Services Office<br>John Hudson<br>Hudson Group, Inc.<br>2450 Shenango Valley Freeway<br>Hermitage, PA 16148 | Golden Run<br>(WWF)                                      | Mercer Conservation District<br>(724) 642-2242    |

*General Permit Type—PAG-3*

| <i>Facility Location: Municipality &amp; County</i> | <i>Permit No.</i> | <i>Applicant Name &amp; Address</i>   | <i>Receiving Water/Use</i>                   | <i>Contact Office &amp; Phone No.</i>  |
|---|-------------------|---|--|--|
| Wilkes-Barre City<br>Luzerne County                 | PAR802229         | ABF Freight System, Inc.<br>P. O. Box 10048<br>Fort Smith, AR<br>72917-0048               | Solomon Creek to<br>Susquehanna River<br>CWF | DEP—NERO<br>Water Mgmt. Program<br>2 Public Square<br>Wilkes-Barre, PA<br>18711-2511<br>(570) 826-2511   |
| Lehigh Township<br>Northampton County               | PAR602233         | B.A.R.S.<br>324 Riverview Drive<br>Walnutport, PA 18088                                   | Lehigh River<br>TSF                          | DEP—NERO<br>Water Mgmt. Program<br>2 Public Square<br>Wilkes-Barre, PA<br>18711-2511<br>(570) 826-2511   |
| Berwick Borough<br>Columbia County                  | PAR214808         | Central Builders Supply Company<br>Island Park<br>P. O. Box 150<br>Sunbury, PA 17801-0152 | Storm Drain to<br>Susquehanna River<br>CWF   | Water Management<br>Program Manager<br>208 West Third Street<br>Williamsport, PA 17701<br>(570) 327-3664 |
| Point Township<br>Northumberland County             | PAR214810         | Central Builders Supply Company<br>Island Park<br>P. O. Box 152<br>Sunbury, PA 17801-0152 | UNT to Susquehanna<br>River<br>CWF           | Water Management<br>Program Manager<br>208 West Third Street<br>Williamsport, PA 17701<br>(570) 327-3664 |

| <i>Facility Location:<br/>Municipality &amp;<br/>County</i> | <i>Permit No.</i> | <i>Applicant Name &amp;<br/>Address</i>  | <i>Receiving<br/>Water/Use</i>                     | <i>Contact Office &amp;<br/>Phone No.</i>  |
|---|-------------------|--|--|--|
| Clearfield Borough<br>Clearfield County                     | PAR804856         | R. J. Corman Railroad<br>Co.<br>P. O. Box 751<br>Clearfield, PA 16830                  | Storm Drain to West<br>Branch Susquehanna<br>WWF   | Water Management<br>Program Manager<br>208 West Third Street<br>Williamsport, PA 17701<br>(570) 327-3664                                       |
| White Deer<br>Township<br>Union County                      | PAR204827         | New Columbia Joist<br>2093 Old Highway 15<br>New Columbia, PA 17856                    | UNT to Dog Run<br>WWF                              | Water Management<br>Program Manager<br>208 West Third Street<br>Williamsport, PA 17701<br>(570) 327-3664                                       |
| City of<br>Williamsport<br>Lycoming County                  | PAR604840         | Staiman Recycling<br>P. O. Box 1235<br>Williamsport, PA<br>17703-1235                  | Fox Hollow Run<br>WWF                              | Water Management<br>Program Manager<br>208 West Third Street<br>Williamsport, PA 17701<br>(570) 327-3664                                       |
| Union Township<br>Washington County                         | PAR606162         | C T Auto Recyclers<br>3751 Finley-Elrama Road<br>Finleyville, PA 15332                 | Peters Creek                                       | Southwest Regional<br>Office:<br>Water Management<br>Program Manager<br>400 Waterfront Drive<br>Pittsburgh, PA<br>15222-4745<br>(412) 442-4000 |
| Glenshaw Borough<br>Allegheny County                        | PAR216124         | Glenshaw Glass<br>Company, Inc.<br>1101 William Flynn<br>Highway<br>Glenshaw, PA 15166 | Pine Creek   | Southwest Regional<br>Office:<br>Water Management<br>Program Manager<br>400 Waterfront Drive<br>Pittsburgh, PA<br>15222-4745<br>(412) 442-4000 |
| City of Erie<br>Erie County                                 | PAR238332         | Lamson and Sessions<br>Company<br>25701 Science Park<br>Drive<br>Cleveland, OH 44122   | Tributaries to the West<br>Branch of Cascade Creek | DEP—NWRO<br>Water Management<br>230 Chestnut Street<br>Meadville, PA 16335-3481<br>(814) 332-6942  |
| Brookville Borough<br>Jefferson County                      | PAR228322         | Matson Lumber<br>Company<br>132 Main Street<br>Brookville, PA 15825                    | Sandy Lick Creek                                   | DEP—NWRO<br>Water Management<br>230 Chestnut Street<br>Meadville, PA 16335-3481<br>(814) 332-6942  |

*General Permit Type—PAG-4*

| <i>Facility Location:<br/>Municipality &amp;<br/>County</i> | <i>Permit No.</i> | <i>Applicant Name &amp;<br/>Address</i>                                | <i>Receiving<br/>Water/Use</i>            | <i>Contact Office &amp;<br/>Phone No.</i>   |
|---|-------------------|--|---|---|
| Buckingham<br>Township<br>Bucks County                      | PAG040035         | Richard M. Vaccaro<br>1496 Sugar Bottom Road<br>Furlong, PA 18925-140  | UNT to Neshaminy<br>Creek<br>Watershed 2F | Southeast Regional Office<br>2 East Main Street<br>Norristown, PA 19401   |
| Huston Township<br>Centre County                            | PAG045196         | Paul S. and Leslie A.<br>Roberts<br>265 Maurer Rd.<br>Julian, PA 16844 | UNT to Steel Hollow<br>CWF                | Water Management<br>Program Manager<br>208 West Third Street<br>Suite 101<br>Williamsport, PA 17701<br>(570) 327-3666 |
| Lower Augusta<br>Township<br>Northumberland<br>County       | PAG045077         | David J. Bridi<br>R. R. 3, Box 137A<br>Sunbury, PA 17801               | Boile Run<br>WWF                          | Water Management<br>Program<br>208 West Third Street<br>Williamsport, PA 17701<br>(570) 327-3664                      |

*Facility Location:*

| <i>Municipality &amp; County</i>         | <i>Permit No.</i> | <i>Applicant Name &amp; Address</i>                             | <i>Receiving Water/Use</i> | <i>Contact Office &amp; Phone No.</i>  |
|--|-------------------|---|----------------------------|--|
| Cambria County<br>Elder Township         | PAG046307         | James F. Yeager<br>105 Yeager Road<br>Hastings, PA 16646        | UNT of Brubaker Run        | Southwest Regional Office<br>Water Management<br>Program Manager<br>400 Waterfront Drive<br>Pittsburgh, PA<br>15222-4745<br>(412) 442-4000 |
| Waterford Township<br>Erie County        | PAG048367         | Steven M. McWilliams<br>1652 Cronin Road<br>Waterford, PA 16441 | UNT to Benson Run          | DEP—NWRO<br>Water Management<br>230 Chestnut Street<br>Meadville, PA 16335-3481<br>(814) 332-6942  |
| Otter Creek<br>Township<br>Mercer County | PAG048716         | James L. Powell<br>29 Hughey Road<br>Greenville, PA 16125       | Little Shenango River      | DEP—NWRO<br>Water Management<br>230 Chestnut Street<br>Meadville, PA 16335-3481<br>(814) 332-6942  |
| Pine Grove<br>Township<br>Warren County  | PAG049195         | William J. Renninger<br>R. D. 1, Box 1438<br>Russell, PA 16345  | Akeley Run                 | DEP—NWRO<br>Water Management<br>230 Chestnut Street<br>Meadville, PA 16335-3481<br>(814) 332-6942  |

## PUBLIC WATER SUPPLY (PWS) PERMITS

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

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

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

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

## SAFE DRINKING WATER

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

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

#### Permit No. M.A.—Construction Public Water Supply.

|                       |   |
|-----------------------|---|
| Applicant             | <b>Coudersport Borough Authority</b>  |
| Township or Borough   | Coudersport Borough   |
| County                | <b>Potter</b>   |
| Responsible Official  | Marlin A. Moore, Manager<br>Coudersport Borough Authority<br>201 South West Street<br>Coudersport, PA 16915 |
| Type of Facility      | Public Water<br>Supply—Construction   |
| Consulting Engineer   | Daniel Guss, P. E.<br>Uni-Tec Consulting Engineers,<br>Inc.<br>2007 Cato Drive<br>State College, PA 16801   |
| Permit Issued Date    | 9/9/2005  |
| Description of Action | Reconstruction of the east well.  |

#### Permit No. M.A.—Construction Public Water Supply.

|                      |  |
|----------------------|--|
| Applicant            | <b>Houtzdale Municipal Authority</b>   |
| Township or Borough  | Rush Township  |
| County               | <b>Centre</b>  |
| Responsible Official | John Gallagher, Manager<br>Houtzdale Municipal Authority<br>561 Kirk Street<br>Houtzdale, PA 16651 |

Type of Facility Public Water Supply—Construction  
 Consulting Engineer Michelle A. Klopf, P. E. Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801  
 Permit Issued Date 9/13/2005  
 Description of Action Construction of an additional raw water intake on Mountain Branch.

**Permit No. 5302501—Temporary Operation** Public Water Supply.

Applicant **Coudersport Borough Authority**  
 Township or Borough Coudersport Borough  
 County **Potter**  
 Responsible Official William Krog, Chairperson Coudersport Borough Authority 201 South West Street Coudersport, PA 16915

Type of Facility Public Water Supply—Temporary Operation  
 Consulting Engineer Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801  
 Permit Issued Date 9/12/2005  
 Description of Action Temporary Operation approves construction of East Well No. 2, the East Water Treatment Plant and the East Booster Pump Station and modification of existing East Well No. 1. This temporary operation permit will expire 90 days from the date of issuance.

**Permit No. M. A.—Operation** Public Water Supply.

Applicant **PA American Water Company**  
 Township or Borough Bradford Township  
 County **Clearfield**  
 Responsible Official William C. Kelvington Vice President Operations PA American Water Company 800 West Hersheypark Drive Hershey, PA 17033

Type of Facility Public Water Supply—Operation  
 Consulting Engineer Jason Stanton, P. E. PA American Water Company 300 Galley Road McMurray, PA 15317  
 Permit Issued Date 9/12/2005  
 Description of Action Operation of the Dale Water Booster Station.

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

**Permit No. 0205502**, Public Water Supply.  
 Applicant **Borough of Sewickley Water Authority**  
 P. O. Box 190  
 601 Thorn Street  
 Sewickley, PA 15143  
 Borough or Township Sewickley Borough  
 County **Allegheny**  
 Type of Facility Water treatment plant  
 Consulting Engineer KLH Engineers, Inc. 5173 Campbells Run Road Pittsburgh, PA 15205  
 Permit to Construct Issued September 6, 2005

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

**Permit No. 2590505-MA3, Minor Amendment**  
 Applicant **Millcreek Township Water Authority**  
 Borough or Township Millcreek Township  
 County **Erie**  
 Type of Facility PWS  
 Permit to Construct Issued 09/12/2005

**Permit No. 3007226-MA6, Minor Amendment**  
 Applicant **Zelienople Borough**  
 Borough or Township Zelienople Borough  
 County **Butler**  
 Type of Facility PWS  
 Permit to Construct Issued 09/13/2005

**Operations Permit** issued to: **Farmington Township**, P. O. Box 148, Leeper, PA 16233, PWSID #6160043, Farmington Township, **Clarion County**, on September 1, 2005, for the operation the finished water distribution facilities, as approved under Construction Permit No. 1602502. Farmington Township is a consecutive water supply system to PA American Water—Clarion District.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

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

*Plan Location:*

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|------------------------------------|---------------|
| Jefferson Borough          | P. O. Box 146 Codorus, PA 17311    | York          |



*Plan Description:* The approved plan provides for the construction of a public sewer collection and conveyance system and a wastewater treatment facility to serve Jefferson Borough and the surrounding areas in Codorus Township as defined in the Plan. The proposed wastewater treatment facility will have a design capacity of 0.272 mgd and will discharge to a UNT of Codorus Creek. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

| <i>Borough or Township</i> | <i>Borough or Township Address</i>              | <i>County</i> |
|----------------------------|---|---------------|
| Jackson Township           | 439 Roths Church Road<br>Spring Grove, PA 17362 | York          |

*Plan Description:* The approved plan provides for the construction of a public sewer collection and conveyance system to serve the Thomasville and Lincoln Estates areas (Proposal No. 3 on Table VI-2 in the Plan). The Plan also provides for the adoption and implementation of an onlot sewage disposal system management program. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

| <i>Borough or Township</i> | <i>Borough or Township Address</i>  | <i>County</i> |
|----------------------------|-------------------------------------|---------------|
| Franklin Township          | P. O. Box 309<br>Cashtown, PA 17310 | Adams         |

*Plan Description:* The approved plan provides for the construction of a public sewer collection and conveyance system, and a wastewater treatment facility to serve the Cashtown-McKnightstown area defined in the Plan. The proposed wastewater treatment facility will have a design capacity of 0.2 mgd and will discharge to a UNT of Marsh Creek. The Plan also provides for an onlot sewage disposal system management program and a preliminary hydrogeologic study requirement for new subdivision proposals. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

*Plan Location:*

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|------------------------------------|---------------|
| Bethel Township            | P. O. Box 24<br>Bethel, PA 19507   | Berks         |

*Plan Description:* The approved plans provide for the expansion of the proposed sewer service areas and the relocation of the wastewater treatment facilities for the Villages of Frystown and Bethel. The original approval for these sewer systems and wastewater treatment facilities was given June 14, 2001. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

### PREAMBLE 2

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

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

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

The Department has received the following plans and reports:

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

**Subick Prop.**, Bristol Township, **Bucks County**. Joshua Orris, Delta Env. Consultants, 14000 Commerce Pkwy, Suite A, Mt. Laurel, NJ 08054 on behalf of Alma Subick, 2520 Green Ave., Bristol, PA 19007 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Welsh Res.**, Haverford Township, **Delaware County**. Pamela Franks, Lewis Env. Group, P. O. Box 639, Royersford, PA 19468 on behalf of Tracey Welsh, 2404 Hollis Rd., Havertown, PA 19083 has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Morrell Plaza**, City of Philadelphia, **Philadelphia County**. Paul Martino, Pennoni Assoc., Inc., 3001 Market St., Philadelphia, PA 19104 on behalf of Robert Gassel, Robert Gassel Co., P. O. Box 174, Wynnewood, PA 19096 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with MTBE. The report is intended to document remediation of the site to meet the Background Health Standard.

**Ceton Court, LLC**, Marple Township, **Delaware County**. Henry Alexander, Conestoga-Rovers & Assoc., 559 W. Uwchlan Ave., Exton, PA 19341 on behalf of Cetron Court, LLC, 140 W. Eagle Rd., Havertown, PA 19083 has submitted a Final Report concerning remediation of site soil contaminated with lead and arsenic. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Darby Creek JT Auth Sewage Treatment Plant**, Darby Township, **Delaware County**. Edward R. Kashdan, P. E., Gannett Fleming, Inc., P. O. Box 80794, Valley Forge, PA 19484 on behalf of Charles Barton, Darby Creek Joint Auth., 100 E. Fifth St., P. O. Box 999, Chester, PA 19016 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with PCB, lead, heavy metals, PHC, PAH and pesticides. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**The Athenaeum of Philadelphia**, City of Philadelphia, **Philadelphia County**. Richard Sichler, Spotts, Stevens & McCoy, Inc., 1047 N. Park Rd., Reading, PA 19610 on behalf of Eileen Magee, The Athenaeum of Philadelphia, 219 S. Sixth St., Philadelphia, PA 9106 has submitted a Final Report concerning remediation of site soil 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.

**Riverfront Towers**, City of Philadelphia, **Philadelphia County**. Bruce W. Pringle, ST Hudson Eng., Inc., 840 Cooper St., Camden, NJ 08101 on behalf of Isle of Capri Assoc., LP 242 S. 17th St., Philadelphia, PA has submitted a Final Report concerning remediation of site soil contaminated with lead, heavy metals and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Fox Prop.**, Hatfield and Montgomery Townships, **Montgomery County**. Jamey A. Stynchula, P. G., Pennoni assoc., Inc., One Drexel Plaza, 3001 Market St., Philadelphia, PA 19104 on behalf of Stephen Klein, Firefox I LP, 1700 market St., Suite 2600, Philadelphia, PA 19103 has submitted a Final Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Background Health Standard.

**Ashland, Inc.**, Conshohocken Borough, **Montgomery County**. David J. Kistner, P. G., URS Corp., 335 Commerce Dr., Suite 300, Ft. Washington, PA 19034 on behalf of H. Morgan Smith, Colwell Prop., LLC, 201 E. Elm St., Conshohocken, PA 19428 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**French Creek Center/East**, Phoenixville Borough, **Chester County**. Charlene Drake, React Env., Professional Svc. Group, Inc., 6901 Kingsessing Ave., P. O. Box

33342, Philadelphia, PA 19142 on behalf of Phoenix Prop. Group, The Delta Org., Inc., 72 E. Swedesford Rd., Suite 214, Malvern, PA 19355 has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil, groundwater and surface water contaminated with PCBs, lead, heavy metals, BTEX, petroleum hydrocarbons, polycyclic aromatic hydrocarbons and solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Oliveras Prop.**, Oxford Borough, **Chester County**. Robert Kleinschmidt, Miller Env., Inc., 14 Hartman Run Rd., Morgantown, WV 26505 on behalf of Marcos Oliveras, 105 First Ave., Lincoln Univ., PA 19352 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

**Liberty Park Development Site**, City of Pittsburgh, **Allegheny County**. Joseph M. Harrick, Penn Environmental and Remediation, Inc., 359 Northgate Drive, Warrendale, PA 15066 (on behalf of John Coyne, P. E. Director of Engineering and Construction, Urban Redevelopment Authority of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15219) has submitted a Soils Cleanup Plan concerning remediation of site soils contaminated with metals including antimony, arsenic, boron, lead, thallium, silver, and PAH and site groundwater contaminant with perchloroethylene. The Soils Cleanup Plan is intended to document remediation of the site to meet the Site-Specific Standard.

**MacPlastics Facility (Former)**, Canonsburg Borough, **Washington County**. Robert King, AGES, Inc., 800 Old Pond Road, Suite 703, Bridgeville, PA 15017 (on behalf of Edward Kovacik, Canonsburg Renaissance Group, 169 East Pike Street, Canonsburg, PA 15317, and Kerry Fox, Redevelopment Authority of Washington County, 100 West Beau Street, Suite 603, Washington, PA 15301) has submitted a Baseline Environmental Report concerning remediation of site soil contaminated with PAHs, PCBs and inorganics by removing and disposing offsite all stored wastes, underground tanks and associated sediments and contaminated media. The Baseline Environmental Report is intended to document remediation of the site to meet the Special Industrial Area Requirements.

**BWXT Parks Township Site**, Parks Township, **Armstrong County**. Bruce E. Fishman, Ph.D. DABT, RBR Consulting, Inc., 650 Shady Drive, Beaver Falls, PA 15010 (on behalf of James R. Barrett, BWXT Technologies, Inc., Engineering and Technical Services, MC106, Mount Athos Road, Lynchburg, VA 24504-5447) has submitted a Remedial Investigation Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Levin Family Partnership, LP**, Borough of Monroeville, **Allegheny County**. Richard D. Dworek, Kirkpatrick & Lockhart LLP, Henry W. Oliver Building, 535 Smithfield Street, Pittsburgh, PA 15222-2312 (on behalf of Levin Family Partnership, LP, 301 Fitz Henry Road, Smithton, PA 15479) has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with lead, BTEX and PAHs. The Remedial Investigation Report is intended to document remediation of the site to meet the Site-Specific Standard.

**Westinghouse Facility (Former) Power Circuit Breaker Lot 1C**, Borough of Trafford, **Allegheny County**. Chad C. Coy, Cummings/Riter Consultants, Inc., 10 Duff Road, Suite 500, Pittsburgh, PA 15235 (on behalf of Viacom, Inc., 11 Stanwix Street, Pittsburgh, PA 15222) has submitted a Final Report concerning remediation of site soil contaminated with PCBs, lead, heavy metals, pesticides, solvents, BTEX, PAHS and cyanide. The Final Report is intended to document remediation of the site to meet the Site-Specific Standard.

**912 Fort Duquesne Boulevard**, City of Pittsburgh, **Allegheny County**. Wendy Noe, American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668-1848 (on behalf of Cheryl S. Willoughby, 912 Fort Duquesne Boulevard Associates, LP, c/o BGK Properties, 330 Garfield Street, Santa Fe, NM 87501, and Judy Wisniewski Property Holding Business Trust, c/o Legg Mason Real Estate Service, 1600 Market Street, Suite 1310 Philadelphia, PA 19103) has submitted a Final Report concerning remediation of site groundwater contaminated with petroleum hydrocarbons found beneath a 10 story office building and underground parking area. The report is intended to document remediation of the site to meet the Background Standard.

**Babe Charapp Ford, Inc., (Pro Bowl Ford, Inc.)**, City of McKeesport, **Allegheny County**. Gary Toplak, P. E., Toplak & Associates, 112 Pineview Road, Baden, PA 15005 (on behalf of Ronald M. Charapp, Eden Park Associates, LLC, P. O. Box 189, Freeport, PA 16229) has submitted a Final Report concerning remediation of site soil and groundwater contaminated with metals, VOCs and semivolatile organics. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Charapp Ford South, Inc. (South Village Ford, Inc.)** Peters Township, **Washington County**. Gary Toplak, P. E., Toplak & Associates, 112 Pineview Road, Baden, PA 15005 (on behalf of Gregory J. and Lois D. Heath, 101 Colony Circle, McMurray, PA 15317, and Ronald J. Charapp, Charapp Ford South, Inc., P. O. Box 189, Freeport, PA 16229) has submitted a Final Report concerning remediation of site soil contaminated with VOCs and semivolatile compounds (PAHs). The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Levin Family Partnership, LP**, Borough of Monroeville, **Allegheny County**. Richard D. Dworek, Kirkpatrick & Lockhart LLP, Henry W. Oliver Building, 535 Smithfield Street, Pittsburgh, PA 15222-2312 (on behalf of Levin Family Partnership, LP, 301 Fitz Henry Road, Smithton, PA 15479) has submitted a Remedial Investigation Report concerning remediation of site soil and groundwater contaminated with lead, BTEX, and PAHs. The report is intended to document remediation of the site to meet the Site-Specific Standard.

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

**Universal Motor Sales of Butler**, Butler Township, **Butler County**. Edward Dobson, Mountain Research, 825 25th Street, Altoon PA 16601 on behalf of Jean Wiles, c/o Louis A. Naugle Esq., Reed Smith LLP, 1024 Main Street Ext., SR 8, Butler PA 16001, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with arsenic, ethylbenzene, 1,2,4-trimethylbenzene and 1,3,5-trimethylbenzene. The reports are intended to document remediation of the site to meet Statewide Health 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.*

**Oliveras Prop.**, Oxford Borough, **Chester County**. Robert Kleinschmidt, Miller Env., Inc., 14 Hartman Run Rd., Morgantown, WV 26505 on behalf of Marcos

Oliveras, 105 First Ave., Lincoln Univ., PA 19352 has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 8, 2005.

**318 W. Lancaster Ave. Prop.**, Lower Merion Township, **Montgomery County**. Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004 on behalf of Andrew Talone, 318 W. Lancaster Ave. Corp., 202 Grouse Ln., Radnor, PA 19087 has submitted a Remedial Investigation, Risk Assessment Reports and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with No. 2 fuel oil. The Remedial Investigation, Risk Assessment Reports and Cleanup Plan were approved by the Department on August 22, 2005.

**Park West Town Ctr.**, City of Philadelphia, **Philadelphia County**. Jamey A. Stynchula, P. G., Pennoni Assoc., Inc., 3001 Market St., Philadelphia, PA 19104 on behalf of Colin Jones, The Goldenberg, Group, Inc. & WPFISI, 650 Pkwy., Suite 300, Blue Bell, PA 19422 has submitted a Workplan for a Remedial Investigation concerning the remediation of site soil and groundwater contaminated with organics and PCB. The Workplan for a Remedial Investigation was approved by the Department on August 23, 2005.

**Lawrence & Pattison Ave. Site**, City of Philadelphia, **Philadelphia County**. Raymond A. Scheinfeld, PG, Weston Solutions, Inc., One Penn Ctr., Suite 1690, 1617 John F. Kennedy Blvd., Philadelphia, PA 19103 on behalf of Ed Duffy, PIDC, Philadelphia, PA has submitted a Workplan for a Remedial Investigation concerning the remediation of site soil and groundwater contaminated with petroleum compounds. The Workplan for a Remedial Investigation was approved by the Department on August 18, 2005.

**Hygrade Foods Fac.**, City of Philadelphia, **Philadelphia County**. Joshua A. Orris, Delta Env. Consultants, Inc., 14000 Commerce Pkwy., Suite A, Mt. Laurel, NJ 08054 on behalf of Stacey Robinson, City of Philadelphia/ Intl Airport, Prop. Mgmt. & Bus. Dev. Unit has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with diesel fuel and No. 6 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on September 2, 2005.

**TJ Cope**, City of Philadelphia, **Philadelphia County**. Joseph Gorzoch, Earth Tech, Inc., 4 Neshaminy Interplex, Suite 300, Trevoise, PA 19053 on behalf of David Pliner, Allied Tube and Conduit, 11350 Norcom Rd., Philadelphia, PA 19154 has submitted a Final Report concerning the remediation of site soil contaminated with diesel fuel oil. The Final Report submitted within 90 days of the release-demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 9, 2005.

**Glasgow Prop.**, Montgomery Township, **Montgomery County**. Clorece K. Kulp, DelVal Soil & Env. Consultants, Inc., Sky Run II, Suite A1, 4050 Skyrton Dr., Doylestown, PA 18901 on behalf of Glasgow, Inc., Willow Grove Ave., & Limekiln Pike, Glenside, PA 19038 has submitted a Final Report concerning the remediation of site soil contaminated with PCB and inorganics. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 8, 2005.

**Oscar Mayer/Dupont Fac.**, City of Philadelphia, **Philadelphia County**. James A. Stynchula, PG, Pennoni Assoc., Inc., 3001 Market St., Suite 200, Philadelphia, PA 19104 on behalf of Jonathan Edelstein, PAID, 2600 Centre Sq., W. 1500 Market St., Philadelphia, PA 19102 has submitted a Cleanup Plan concerning the remediation of site soil contaminated with chlorinated solvents, Inorganics, other organics and PAH. The Cleanup Plan was approved by the Department on June 8, 2005.

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

**Bon-Ton Department Store No. 32**, Lower Paxton Township, **Dauphin County**. ARM Group, Inc., 1129 West Governor Road, Hershey, PA 17033, on behalf of Catalina Partners, LP, Route 22 and Colonial Road, Harrisburg, PA 17109 and Bon-Ton Department Stores, Inc., P. O.Box 2821, York, PA 17405, submitted a Final Report concerning remediation of site soils, groundwater and surface water contaminated with fuel oil. The final report demonstrated attainment of the residential Statewide Health standard, and was approved by the Department on September 9, 2005.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Dominion Resource Services, Harrison Compressor Station**, 1001 Pleasant Valley Road, Harrison Valley, PA 16927, Harrison Township, **Potter County** has submitted a Final Report concerning soils contaminated with ethylene glycol. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on September 7, 2005.

**PPL Lock Haven Substation**, West Allison Street, Lock Haven, PA 17745, Castanea Township, **Clinton County**, has submitted a Final Report concerning soils contaminated with PCB aroclor-1242. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on September 6, 2005.

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

**McCutcheon/Kirby Diesel Fuel Spill**, Whiteley Township, **Greene County**. Andrew Sokol, Taylor GeoServices, Inc., 938 Lincoln Avenue, Suite 203, Springfield, PA 19064 (on behalf of Joseph Szczur, Pennsylvania Department of Transportation, 825 North Gallatin Avenue, Uniontown, PA 15401. George Mason, 262 Fancy Street, Blanchester, Ohio 45107, and Jack Miller, McCutcheon Enterprises, Inc., 250 Park Road, Apollo, PA 15613) has submitted a Final Report concerning remediation of site soil and groundwater contaminated with diesel fuel. The site is currently undeveloped land adjacent to a highway (Interstate 79) where a diesel spill occurred during and environmental remediation project. The remediation was addressing a release of toluene from a tractor trailer accident that occurred in December 2004. The small diesel spill for which this Act 2 Final Report is being submitted occurred on February 11, 2005 during the fueling of construction equipment that was being used on the larger remediation project. The diesel spill was less than 25 gallons and cleanup measures were implemented within minutes of the spill. The impacted area was less than 3000 square feet and affected soils to a depth of 3 feet below ground surface. Impacts to shallow groundwater (3 to 5 ft. below ground) were identified near the spill area but no impacts were identified on surface water in Whiteley Creek that could be attributed to the

diesel spill. Remedial measures included the complete excavation of impacted soils and the containment of surface migration of fuel. The Final Report for this site was submitted to the Department within 90 days of the incident (2/11/25 date of release—5/10/05 date Final Report submitted). Therefore, no Notice of Intent to Remediate or public notifications are required. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on July 26, 2005.

**Blackbird Artists Lofts**, City of Pittsburgh **Allegheny County**. Jim Nairn, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 on behalf of Linda Metropulos, Artist and Cities, 100 43rd Street, Suite 110, Pittsburgh, PA 15201 has submitted a Final Report concerning the remediation of site soil contaminated with heavy metals, and semivolatle organic compounds. The site was determined to qualify for the Department's low-risk sites program, and the Final Report was based upon the judgment of a Pennsylvania licensed professional under whose seal the Final Report was submitted without technical review by Department staff. This site was afforded liability protection as outlined in chapter 5 of Act 2 in a letter dated May 10, 2005

#### DETERMINATION OF APPLICABILITY FOR MUNICIPAL WASTE GENERAL PERMITS

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

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**General Permit No. WMGM020SE002. Clean Metal LLC**, 21 High St., Elkins WV 26241. Facility, located in the City of Chester, **Delaware County**, processes ash residue from a resource recovery facility. The Department approved the determination of applicability on August 31, 2005.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Major Permit Modification issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 101217. Casella Waste Mgmt. Inc.**, 16 State Street, Montpelier, Vermont 05602, located Delmar Township, **Tioga County**. A major permit modification was issued for the acceptance of 3 wastestreams (glass waste, food processing waste and plant trash) at the Wellsboro Area Transfer Station by the Williamsport Regional Office on September 7, 2005.

Persons interested in reviewing the permit may contact David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

#### HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

**Draft permits issued, revised or withdrawn 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.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. PAD 010 154 045. Envirite of Pennsylvania, Inc.** 730 Vogelsong Road, York, PA 17404, City of York, **York County**. On October 22, 2002, the Department of Environmental Protection (Department) received an application for renewal of a commercial hazardous waste permit from Envirite of Pennsylvania, Inc. for the storage and treatment of various liquid, semi-solid and solid hazardous wastes. The Department has completed its review of the permit application and has issued a draft permit. As required by 25 Pa. Code § 270a.80(d)(2), the Department is providing this public notice.

Persons wishing to comment on the draft permit are invited to submit a statement to the Southcentral Regional Office within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address, and telephone number of the writer; and a concise statement to inform the Regional Office of the exact basis of any comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 45-day comment period and/or public hearing, the Department will make a final determination regarding the proposed permit action. Notice of this action will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

#### 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.**

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

**GP3-36-03156: Brubacher Excavating, Inc.** (825 Reading Road, P. O. Box 528, Bowmansville, PA 17507) on September 6, 2005, for a Portable Nonmetallic Mineral Processing Plant under GP3 in Earl Township, **Lancaster County**.

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

**GP-16-147: Cooltech Hydrocarbons LLC—Exotic Station** (Route 322 N, Clarion, PA 16214) on August 31, 2005, to operate a natural gas fired compressor engine in Elk Township, **Clarion County**.

**GP-16-146: Cooltech Hydrocarbons LLC—Marienville Station** (State Route 66, Leeper, PA 16233)

on August 31, 2005, to operate a natural gas fired compressor engine in Farmington Township, **Clarion County**.

**GP-33-169: Dominion Exploration and Production, Inc.—Hudson Station** (Magees Mills, Punxsutawney, PA 15767) on August 31, 2005, to operate a natural gas fired compressor engine in Punxsutawney, **Jefferson County**.

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

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

**09-0181: Oldcastle Precast Inc.—Building Systems Division** (1381 South Pennsylvania Avenue, Morrisville, PA 19067) on September 9, 2005, to operate a form release oil in their concrete casting process in Falls Township, **Bucks County**.

**15-0060C: SECCRA LDFL** (219 Street Road, West Grove, PA 19390) on September 12, 2005, to operate a landfill gas-to-energy system in London Grove Township, **Chester County**.

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

**28-05020B: T. B. Woods, Inc.** (440 North 5th Avenue, Chambersburg, PA 17201-1778) on September 6, 2005, to construct a pair of coreless furnaces controlled by a fabric collector at their iron foundry in Chambersburg Borough, **Franklin County**.

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

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

**46-0155: Sermatech International, Inc.** (155 South Limerick Road, Limerick, PA 19468) on September 9, 2005, to operate three paint spray booths in Limerick Township, **Montgomery County**.

**46-0155C: Sermatech International, Inc.** (155 South Limerick Road, Limerick, PA 19468) on September 9, 2005, to operate a binder mix tank in Limerick Township, **Montgomery County**.

**23-0038B: DELCORA** (100 East Fifth Street, P. O. Box 999, Chester, PA 19016) on September 12, 2005, to operate venturi scrubbers in City of Chester, **Delaware County**.

**46-0033B: Waste Management Disposal Services of PA Inc.** (1425 Sell Road, Pottstown, PA 19464) on September 12, 2005, to operate a landfill gas collection system in West Pottsgrove Township, **Montgomery County**.

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

**62-017J: United Refining** (Bradley and Dobson Streets, Warren PA 16365) on September 30, 2005, to modify plan approval 62-302-010A to reflect the CO emission limits based on stack tests rather than AP-42 emission factor estimates at their Warren Refinery in Warren, **Warren County**. The refinery is a Title V Facility.

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

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

**36-05005: Wellborn Holdings, Inc.** (215 Diller Avenue, New Holland, PA 17557-1611) on September 8, 2005, to operate their custom cabinetry plant in Earl Township, **Lancaster County**. This is a renewal of the Title V Operating Permit.

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

**33-00140: Dominion Transmission, Inc.** (88 Laska Road Punxsutawney, PA 15767) on September 1, 2005, to issue the Title V Amendment Operating Permit to operate the gas transmission and distribution facility in Perry Township, **Jefferson County**. As a result of potential emissions of NOx and VOC, the facility is not a major source, and is therefore not subject to Reasonable Available Control Technology. The issued amended Title V Operating Permit does not reflect any changes in air emission from the facility. The facility is subject to Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility is subject to Compliance Assurance Monitoring under 40 CFR Part 64.

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

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

**46-00157: Torque Traction Manufacturing Tech, Inc.** (125 South Keim Street, Pottstown, PA 19464) on September 8, 2005, to operate the manufactures systems/parts for the vehicle industry to the existing synthetic minor operating permit in Pottstown Borough, **Montgomery County**.

**15-00081: Johnson Matthey, Inc.** (1401 King Road, West Chester, PA 19380) on September 9, 2005, to operate their precious metals division to the existing natural minor operating permit in West Whiteland Township, **Chester County**.

**46-00235: North Penn High School** (400 Penn Street, Lansdale, PA 19446) on September 9, 2005, to operate air emission sources to the existing natural minor operating permit in Towamencin Township, **Montgomery County**.

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

**06-05008: SFS Intec, Inc.** (P. O. Box 6326, Wyomissing, PA 19610) on September 9, 2005, to operate their fastener manufacturing facility with surface coating op-

erations controlled by water based coatings and dry filters in Wyomissing Borough, **Berks County**.

**07-03017: CCK, Inc.—Juniata Packing Co.** (P. O. Box 276, Tyrone, PA 16686-0276) on September 6, 2005, to operate a meat processing plant at their facility in Snyder Township, **Blair County**.

**28-03045: Dominion Transmissions, Inc.** (445 West Main Street, Clarksburg, WV 26301-2843) on September 9, 2005, for two gas turbine driven compressors at their Chambersburg Compressor Station site in Hamilton Township, **Franklin County**.

**36-05137: B and S Woodcrafts, Inc.** (722 Truce Road, Quarryville, PA 17566-9733) on September 12, 2005, to operate two spray paint booths in Providence Township, **Lancaster County**.

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

**33-00133: HRI Inc.—Pine Creek Township** (State Route 830, Brookville, PA 15825) on September 7, 2005, for the Natural Minor Operating Permit to operate Asphalt Paving Mixtures and Blocks Plant in Pine Creek Township, **Jefferson County**.

**62-00087: Osram Sylvania Products Inc.—Warren Plant** (816 Lexington Avenue, Warren, PA 16365-2834) on September 7, 2005 for a Natural Minor Permit to operate a fabricated metal products plant in City of Warren, **Warren County**. The significant sources are two plastic plant natural gas boilers, one natural gas wire plant boiler, one specialty metals boiler, electroplating wire and connectors, sludge dryer, metal stamping, seven electric annealing furnaces and four degreaser units.

**10-00344: Fannie's Friends, Inc.** (352 Railroad Street, Evans City, PA 16033) on September 7, 2005, for a Natural Minor Permit to operate an animal crematorium in Evans City Borough, **Butler County**.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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

**23-00052: Crozer Chester Medical Center** (One Medical Center Boulevard Upland, PA 19013) on September 8, 2005, to incorporate three new sources into the State-Only Operating Permit in Upland Borough, **Delaware County**. These include: one boiler (3.1 mmBtu/hr), one No. 2 fuel oil fired emergency generator, and one natural gas fired emergency generator, all of which were exempt from plan approval. The permit includes 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.*

**06-05029: Reading Truck Body, Inc.** (P. O. Box 650, Reading, PA 17607-0650) on September 9, 2005, to modify two surface coating lines controlled by dry filters and low VOC coatings in the City of Reading, **Berks County**. This operating permit was administratively amended to incorporate plan approval 06-05029B. This is revision No. 1.

**21-05012: MH Technologies, LLC** (1 Mountain Street, Mount Holly Springs, PA 17065-1406) on September 8,

2005, to operate their electrical insulation paper production facility in Mt. Holly Springs Borough, **Cumberland County**. This operating permit was administratively amended to incorporate plan approval 21-05012A. This is revision No. 1.

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

**24-00012: Carbide Graphite Electrodes LLC** (800 Theresia Street, Saint Marys, PA 15857-1831) on August 31, 2005, for an Administrative Amendment of the Title V Operating Permit, to incorporate the conditions of Plan Approval No. 24012D in City of Saint Marys, **Elk County**.

**16-00124: People Natural Gas Co.** (5093 Truittsburg Road, Fairmount City, PA 16224) on August 31, 2005, for an Administrative Amendment of the Title V Operating Permit, to change the name of responsible official, permit contact, name of the company and mailing address in Redbank Township, **Clarion County**.

**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

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

**TVOP-15-00027: Johnson Matthey, Inc.—Catalytic Systems Division** (456 Devon Park Drive, Wayne, PA 19087) a facility located in Tredyffrin Township, **Delaware County**. The facility's major emission points include a variety of process equipment related to the production of catalytic converters for major automotive companies, which emits major levels of VOCs.

The facility has applied to have the following emissions, which will be the result of the installation of a process be considered de minimis:

Oven: VOC—less than 0.01 ton per year  
NOx—less than 0.06 ton per year

The emissions increases qualify as de minimis increases under 25 Pa. Code § 127.449.

The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility within all applicable air quality requirements.

## **ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

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

*Coal Permits Actions*

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

**56733702 and NPDES Permit No. PA0110035, Robindale Energy Services, Inc.** (224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920), to renew the permit for the Marmon Refuse Site in Jenner Township, **Somerset County** and related NPDES permit. No additional discharges. Permit issued August 26, 2005.

**56743705 and NPDES Permit No. NA, Pristine Resources, Inc.** (3250 Interstate Drive, Richfield, OH 44286), to transfer the permit for the Windber Mine No. 78 CRDA in Paint Township, **Somerset County** from Beth Energy Mines, Inc. No additional discharges. Permit issued August 26, 2005.

**56841328 and NPDES Permit No. PA0033677, Pristine Resources, Inc.** (3250 Interstate Drive, Richfield, OH 44286), to transfer the permit for the Windber Mine No. 78 in Paint Township, **Somerset County** from Beth Energy Mines, Inc. No additional discharges. Permit issued August 26, 2005.

**17941601 and NPDES Permit No. PA0215708, Forcey Coal, Inc.** (P. O. Box 225, Madera, PA 16661), to renew the permit for the Tipple Operation in Bigler Township, **Clearfield County** and related NPDES permit. No additional discharges. Permit issued August 29, 2005.

**11841301. NPDES Permit No. PA0001317, Pristine Resources, Inc.** (3250 Interstate Drive, Richfield, OH 44286), to transfer the permit for the Cambria Slope Mine No. 33 in Cambria Township, **Cambria County** from Beth Energy Mines, Inc. No additional discharges. Permit issued September 1, 2005.

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

**11940201 and NPDES No. PA0212831. AMFIRE Mining Company, LLC,** One Energy Place, Latrobe, PA 15650, permit renewal for reclamation only of a bituminous surface coal refuse reprocessing and coal ash beneficial use mine in Adams Township, **Cambria County**, affecting 76.9 acres. Receiving stream: UNT to South Fork of the Little Conemaugh River classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received June 16, 2005. Permit issued: September 8, 2005.

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

**65-04-07 and NPDES Permit No. PA0250660. Coal Loaders, Inc.** (P. O. Box 556, Ligonier, PA 15658). Government Financed Construction Contract issued for reclamation of approximately 16.1 acres of abandoned mine lands located in Derry Township, **Westmoreland County**. Receiving stream: UNT to Union Run. Application received: January 24, 2005. Contract issued: September 7, 2005.

**02-04-05 and NPDES Permit No. PA0250708. Newgate Development Corporation** (2201 Quicksilver Road, McDonald, PA 15057). Government Financed Construction Contract issued for reclamation of approximately 28 acres of abandoned mine lands located in North Fayette Township, **Allegheny County**. Receiving streams: UNT to North Branch Robinson Run. Application received: March 28, 2005. Contract issued: September 8, 2005.

**26990102 and NPDES Permit No. PA0202509. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in Springfield Township, **Fayette County**, affecting 370.0 acres. Receiving streams: UNTs to Rasler Run and to Rasler Run, and also to UNT to Richter Run and to Richter Run. Application received: June 22, 2005. Renewal issued: September 8, 2005.

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

**24673003 and NPDES Permit No. PA0119849. Tamburlin Bros. Coal Co., Inc.** (P. O. Box 1419, Clearfield, PA 16830). Renewal of an existing bituminous strip, auger and use of a coproduct operation in Fox Township, **Elk County** affecting 56.2 acres. Receiving stream: Limestone Run. Application received: April 11, 2005. Permit issued September 6, 2005.

*Noncoal Permits Actions*

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

**08050805. Kenneth Shedden** (R. R. 1, Box 99F, Leraysville, PA 18829). Commencement, operation and restoration of a small industrial minerals (bluestone) permit in Monore Township, **Bradford County** affecting 5.0 acres. Receiving stream: Kent Run to South Branch. Application received June 16, 2005. Permit issued August 23, 2005.

**ABANDONED MINE RECLAMATION**

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232, (814) 797-2706.*

|                  |   |
|------------------|---|
| Bond Forfeiture  | <b>CRF 003-101.1</b>  |
| Contract Awarded |   |
| Location         | Slippery Rock Township<br><b>Butler County</b>  |
| Description      | Act 181, Bond Forfeiture<br>Reclamation Project<br>Adobe Mining Co. (Branchton)<br>SMP No. 10890701 |
| Contractor       | Amerikohl Mining, Inc.<br>Butler, PA 16001  |
| Amount           | \$286,477.07  |
| Date of Award    | September 12, 2005  |

**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.**

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

**11054002. Industrial Liquidators, Inc.,** 169 Copperhead Road, Boswell, PA 15531. Demolition of abandoned steel mill (Franklin), Franklin Borough, **Cambria County**. Approximate duration 365 days. Permit issued September 8, 2005.

**32054004. Great Lakes Geophysical, Inc.,** P. O. Box 127, Williamsburg, MI 49690. Project—INDY-15 seismic



survey, Rayne Township, **Indiana County**. Approximate duration 6 months. Permit issued September 8, 2005.

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

**63054003. Great Lakes Geophysical, Inc.** (P. O. Box 127, Williamsburg, MI 49690). Blasting activity permit for construction, located in Cross Creek, Mt. Pleasant and Smith Townships, **Washington County**, with an expected duration of 180 days. Permit issued: September 6, 2005.

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

**61054004. Great Lakes Geophysical, Inc.** (P. O. Box 127, Williamsburg, MI 49690). Blasting activity permit for seismic activities related to oil and gas exploration in Oil Creek and Allegheny Townships, **Venango County**. This blasting activity permit will expire on March 6, 2006. Application received: August 30, 2005. Application Issued: September 7, 2005.

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

**21054160. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for North Middle Springs Estates in Southampton Township, **Cumberland County** with an expiration date of August 23, 2006. Permit issued September 6, 2005.

**28054150. Newville Construction Services, Inc.** (408 Mohawk Road, Newville, PA 17241), construction blasting for Heritage Estates in Greencastle Borough and Antrim Township, **Franklin County** with an expiration date of August 30, 2006. Permit issued September 6, 2005.

**28054153. R & M Excavating** (403 Hilltop Road, Newburg, PA 17240), construction blasting for Guilford Siloam Water Main in Greene Township, **Franklin County** with an expiration date of May 10, 2006. Permit issued September 6, 2005.

**36054148. Brubacher Excavating, Inc.** (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Patterson Dental Warehouse in Rapho Township, **Lancaster County** with an expiration date of December 31, 2006. Permit issued September 6, 2005.

**38054123. Brubacher Excavating, Inc.** (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Pine Ridge Village in Swatara Township, **Lebanon County** with an expiration date of December 31, 2006. Permit issued September 6, 2005.

**52054116. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Mt. Pocono Estates in Delaware, Dingman and Lehman Townships, **Pike County** with an expiration date of September 1, 2006. Permit issued September 6, 2005.

**67054132. M & J Explosives, Inc.** (P. O. Box 608, Carlisle, PA 17013), construction blasting for Taylor Estates in Windsor Township, **York County** with an expiration date of August 31, 2006. Permit issued September 6, 2005.

**67054133. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for a pool on Churchey Road in Fairview Township, **York County** with an expiration date of November 30, 2005. Permit issued September 6, 2005.

**67054134. Allan A. Myers, Inc.** (P. O. Box 98, Worcester, PA 19490), construction blasting for West Shore sewage treatment plant in Fairview Township, **York County** with an expiration date of December 31, 2006. Permit issued September 6, 2005.

**01054516. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Summit Ridge in Berwick Township, **Adams County** with an expiration date of September 30, 2006. Permit issued September 8, 2005.

**01054517. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Irish Meadows in Oxford Township, **Adams County** with an expiration date of September 30, 2006. Permit issued September 8, 2005.

**01054518. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Sunrise Development in Germany Township, **Adams County** with an expiration date of September 30, 2006. Permit issued September 8, 2005.

**09054109. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for project on Eagle Road in Upper Makefield Township, **Bucks County** with an expiration date of December 31, 2005. Permit issued September 8, 2005.

**28054151. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for the Eye Surgery Center in Chambersburg Borough, **Franklin County** with an expiration date of August 30, 2006. Permit issued September 8, 2005.

**28054152. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Letterkenny Sewer Extension in Greene Township, **Franklin County** with an expiration date of August 31, 2006. Permit issued September 8, 2005.

**40054120. Holbert Explosives, Inc.** (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for home in Dupont Borough, **Luzerne County** with an expiration date of December 1, 2005. Permit issued September 8, 2005.

**45054140. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Sanford Pasteur Lab in Pocono Township, **Monroe County** with an expiration date of September 1, 2006. Permit issued September 8, 2005.

**48054114. Austin Powder Company** (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Chrin Commerce Center in the City of Bethlehem, Tatamy Borough and Palmer Township, **Northampton County** with an expiration date of September 1, 2006. Permit issued September 8, 2005.

**510545101. Ed Wean Drilling & Blasting, Inc.** (112 Ravine Road, Stewartsville, NJ 08886), construction blasting for Chop Civic Center in the City of Philadelphia, **Philadelphia County** with an expiration date of September 6, 2006. Permit issued September 8, 2005.

**52054117. Holbert Explosives, Inc.** (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting for Columbia Gas Line in Delaware and Milford Townships, **Pike County** with an expiration date of September 1, 2006. Permit issued September 8, 2005.

**58054103. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for a home in

Harford Township, **Susquehanna County** with an expiration date of December 31, 2005. Permit issued September 8, 2005.

**21054162. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Scheiber Foods in Shippensburg Borough, **Cumberland County** with an expiration date of September 6, 2005. Permit issued September 9, 2005.

**67054135. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Stone Hill Development in York Township, **York County** with an expiration date of September 30, 2006. Permit issued September 9, 2005.

**67054136. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for North Ridge in Paradise Township, **York County** with an expiration date of September 30, 2006. Permit issued September 9, 2005.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

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

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

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

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

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

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

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E15-734. Department of Transportation**, 7000 Geerdes Boulevard, King of Prussia, PA 19406, East Whiteland and Tredyffrin Townships, **Chester County**, ACOE Philadelphia District

To widen, maintain, and reconstruct an approximately 6.7-mile segment of existing highway, U. S. Route 202, Section 300, from four lanes to six lanes. Work will occur in and along the Valley Creek Watershed (EV) and will extend from the southern end at the U. S. Routes 202 and 30 (Exton Bypass) Interchange (Malvern, PA, Quadrangle N: 6.3 inches, W: 12.0 inches) in East Whiteland Township to the northern end at Howellville Road and the Swedesford Road Interchange (Valley Forge, PA, Quadrangle N: 10.9 inches, W: 14.5 inches) in Tredyffrin Township, Chester County. The existing grass median will be replaced with a through lane and shoulder in each direction.

In addition, as part of the overall project, the activities will also incorporate two offsite intersection improvements, U. S. Route 202 and PA Route 29 interchange improvements, seven overhead/underpass bridge reconstructions, a Park-and-Ride lot construction, and construction of a 2.4-mile two-lane collector-distributor road (C-D) along the northbound side of U. S. Route 202 in the PA Route 29 interchange area.

The project includes provisions for the construction of replacement wetlands and stream restoration along Valley Creek and Little Valley Creek at Ecology Park and 84 Lumber.

The project has been divided into four design/construction Sections 310, 311, 320 and 330.

This permit is for Section 310 and is the first submission. The majority of the Section 310 work consists of:

- Reconstruction of the three overhead bridges as follows: Swedesford Road (SR 1002), Church Road (T-486), and Mill lane (T-488).

- A Park-and-Ride Lot at the intersection of Routes 322 and 30 in Caln Township.

- Two offsite (OS) intersection improvements.

- i. Phoenixville Pike and Planebrook and Swedesford Roads Intersection (OS-1)

- ii. Phoenixville Pike and SR 0401 Intersection (OS-2).

Authorized work under this permit will include the following activities:

1. To place fill and impact 0.09 acre of wetland "T" (PFO-EV) and an associated drainage channel discharging to Valley Creek (EV) to facilitate the construction of a proposed stormwater management facility, the widening of SR 0401 (Conestoga Road) on eastbound side and intersection improvement from station 217+00 to the

intersection of the SR 0401 and Moores Road. The work includes 0.019 acre of temporary wetland impacts.

2. To extend and maintain an existing 54-inch diameter reinforced concrete pipe that carries a UNT to Valley Creek (EV) under SR 0401 (Conestoga Road) east and west of Station 218+03. The culvert and appurtenant structures will be extended in-kind by approximately 25 feet at the upstream end and 14 feet at the downstream end to accommodate the widening of Conestoga Road.

3. To place fill and impact 0.002 acre of Wetland "3" (PEM-EV) to accommodate the widening of T-852 (Phoenixville Pike) east of Station 22+25.

4. To extend and maintain an existing 36-inch diameter corrugated metal pipe that carries a UNT to Valley Creek (EV) under T-852 (Phoenixville Pike) east of Station 23+83. The culvert and appurtenant structures will be extended in-kind by approximately 11 feet at the downstream end to accommodate the widening of Phoenixville Pike.

5. To extend and maintain an existing 36-inch reinforced concrete pipe that carries a UNT to Valley Creek (EV) under T-852 (Phoenixville Pike) at Station 21+50. The culvert and appurtenant structures will be extended in-kind by approximately 11 feet at downstream end to accommodate the widening of Phoenixville Pike.

6. To install and maintain temporary road crossings consisting of multiple thermoplastic pipes in and along Valley Creek (EV) and Little Valley Creek (EV), associated with the stream restoration at East Whiteland Ecology Park and at the 84 Lumber property.

7. To place fill in the 100-year floodplain of Valley Creek (EV) to facilitate the construction of a proposed stormwater mitigation berm located east of SR 0202 station 351+01.

8. Applicant proposes the following wetland mitigation and stream restoration for the entire project that will be constructed during Section 310:

A. To construct 0.60 acre of replacement wetlands on the 84 Lumber property situated along the Little Valley Creek.

B. To construct and maintain approximately 440 linear feet of stream restoration/stabilization in and along Little Valley Creek (EV) on the 84 Lumber property.

C. To construct and maintain approximately 930 linear feet of stream restoration/stabilization in and along Valley Creek (EV) and associated tributaries at Ecology Park south of U. S. 202.

D. To construct and maintain approximately 215 linear feet of stream restoration/stabilization in and along tributaries to Valley Creek (EV) parallel to SR 0401 at station 218+25.

The issuance of this permit also constitutes approval of a Water Quality Certification under Section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

**E67-783: TTMT, LLC**, 635 Magnolia Avenue, Red Lion, PA 17350 in Dallastown Borough, **York County**, ACOE Baltimore District.

To fill 0.026 acre of palustrine emergent/scrub shrub wetlands associated with a UNT to Mill Creek (WWF) for the purpose of constructing townhouses in York Township, York County (York, PA Quadrangle N: 5.8 inches; W: 3.15

inches). The amount of wetland impact is considered a de minimus impact of 0.026 acre and wetland mitigation is not required.

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

**E14-474. Houtzdale Municipal Authority**, 561 Kirk Street, P. O. Box 97, Houtzdale, PA 16651. Mountain Branch Upper Intake, in Rush Township, **Centre County**, ACOE Baltimore District (Houtzdale, PA Quadrangle N: 4.1 inches; W: 7.4 inches).

To: 1) construct and maintain two perforated public water supply intake pipes bedded in No. 4 stone 3 feet below the existing streambed for a distance of 100 feet parallel to the stream flow and attach them underground to the existing water main; 2) place and maintain 55 linear feet of R-5 rip rap on the left outside bank of the stream where the intake pipes exit the stream channel; and 3) place and temporarily maintain 120 linear feet of concrete barrier cofferdam to allow construction of the perforated intake in dry conditions, in Mountain Branch. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E18-397. Bryan Hicks**, 1105 Fifth Avenue, Jersey Shore, PA 17740. Bryan's New Garage, in Pine Creek Township, **Clinton County**, ACOE Baltimore District (Jersey Shore, PA Quadrangle N: 11.22 inches; W: 6.22 inches).

To remove an existing 16-foot by 20-foot wooden garage, then to construct and maintain a 20-foot by 48-foot metal sheeting sided pole-barn like garage with ten 1 square foot flood vents in the garage walls 1 foot above the ground to allow flood water to enter the garage since it is located in the right 100-year floodway of Pine Creek located 100 feet northwest of the intersection of 5th Avenue and T-461. This permit was issued under Section 105.13(e) "Small Projects."

**E60-171. Andrew P Wagner**, 2946 Johnson Mill Road, Lewisburg, PA 17837. Artesian Outlet, in Buffalo Township, **Union County**, ACOE Baltimore District (Lewisburg, PA Quadrangle N: 19.46 inches; W: 16.56 inches).

To construct and maintain a 3-foot by 5-foot concrete and rock splash pad on the left bank of Spruce Run Creek for the discharge of excess clean water from a private artesian well, by means of a 500 foot long 4-inch plastic pipe buried 3 feet deep in the left floodplain, located 620 feet east of the intersection of Stahl Lane and Johnson Mill Road in Buffalo Township, Union County. 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.*

**E02-1501. Mark Raymond**, 1013 Robinwood Drive, South Park, PA 15129. To construct two stormwater outfalls in South Park Township, **Allegheny County**, Pittsburgh ACOE District (Glassport, PA Quadrangle N: 13.9 inches; W: 15.5 inches and Latitude: 40° 19' 35.4"—Longitude: 79° 59' 11"). To construct and maintain two storm water outfalls to Lick Run (TSF) and to construct and maintain a building, parking lot and its associated fill within the right bank floodway of Lick Run for approximately 271 feet. The project is located along the east side of Brownsville Road approximately 1,200 lineal feet south of its intersection with Curry Hollow and Broughton Roads.

**E26-326. Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106. These activities are part of the construction of the Mon/Fayette Expressway, SR 43, Section 51 B (the project begins at Uniontown PA Quadrangle N: 9.7 inches; W: 16.9 inches; Latitude: 39° 55' 42"; Longitude: 79° 44' 44". Project ends at New Salem, PA Quadrangle N: 12.4 inches; W: 2.5 inches; Latitude: 39° 56' 36"; Longitude: 79° 46' 4") in Menallen and North Union Townships, **Fayette County**. To construct and maintain the following structures: 1) a 5-span bridge on north bound of SR 43, Station 207+24, across a UNT to Jennings Run (WWF) having spans of 175 feet, 216 feet, 250 feet, 216 feet, and 175 feet; 2) a 5-span bridge on the south bound of SR 43, Station 207+24, across said stream having spans of 176 feet, 207 feet, 240 feet, 207 feet, and 172; 3) 489 linear feet of channel relocation of a UNT to Jennings Run SR 43 Station 161+00; 4) a 4-span bridge on north bound of SR 43, Station 159+85 across Jennings Run and over Fan Hollow Road having spans of 130 feet, 180 feet, 220 feet, and 160 feet; 5) a 4-span bridge on south bound of SR 43, Station 159+85 across Jennings Run and over Fan Hollow Road having spans of 151 feet, 207 feet, 207 feet and 151 feet ; 6) a 628-foot long, 36-inch diameter pipe stream enclosure in a UNT to Jennings Run SR 43, Station 220+00; 7) a 392-foot long, 36-inch diameter pipe stream enclosure in a UNT to Jennings Run, SR 43, Station 177+00; 8) temporary roadway crossings at six locations; 9) the project will impact 0.34 acre of wetlands; 10) to compensate for wetland impacts for the entire 65 mile transportation improvement project 59 acres of wetlands will be constructed as part of this permit to compensate for the proposed 4.5 acres of wetland impacts for the entire project.

**E30-212. Emerald Coal Resources, LP**, 158 Portal Road, Waynesburg, PA 15370. To place fill in wetlands in Franklin Township, **Greene County**, Pittsburgh ACOE District (Waynesburg, PA Quadrangle N: 3.0 inches; W: 13.9 inches and Latitude: 39° 53' 29"—Longitude: 80° 13' 27"). To place and maintain fill in 0.25 acre of wetlands (PEM) as part of a proposed extension of a rail siding parallel to the existing Norfolk Southern Track along South Fork of Ten Mile Creek (HQ-WWF).

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

**E42-313. Dominion Transmission, Inc.**, 445 West Main Street, Clarksburg, WV 26301. Northeast Storage Pipeline TL-527, in Ceres Township and Eldred Township, **McKean County**, ACOE Pittsburgh District.

To construct and maintain a 20-inch natural gas pipeline within Ceres and Eldred Townships in McKean County beginning at the Potter/McKean County boundary (N: 41° 58' 19"; W: 78° 12' 23") traversing northwest to the Cattarugus County boundary in New York State (N: 41° 08' 58"; W: 78° 33' 34"). The impacts include 1.) 16.94 acres of temporary impacts to PEM/PSS/PFO/POW nonexceptional value wetlands including 51 crossings by pipeline; and 2.) 447 linear feet of temporary impacts to unnamed tributaries to Oswayo Creek (CWF), Champlin Hollow (CWF), Kings Run (CWF), Allegheny River (CWF), Indian Creek (CWF), Barden Brook (CWF); and to Horse Run (CWF), Oswayo Creek (WWF), Bell Run (CWF), Kings Run (CWF), Allegheny River (CWF), Indian Creek (CWF), North Branch Indian Creek (CWF) with 39 stream crossings by pipeline.

#### ENVIRONMENTAL ASSESSMENTS

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

**EA19-002CO. Nicholas Drobny**, 301 East Street, Bloomsburg, PA 17815-1846. Hemlock Township, **Columbia County**. ACOE Baltimore District.

Project proposes to construct two nonjurisdictional dams across a tributary to Little Fishing Creek (CWF) impacting approximately 310 linear feet of stream channel and a de minimus area of wetland (PEM) equal to 0.01 acre for recreation. The dams will be located approximately 350 feet northeast of the intersection of Reichard Drive and Ickler Drive (Millville, PA Quadrangle; N: 8.15", W: 0.45").

## SPECIAL NOTICES

### Project Proposals Received

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

**EGS No. 05001. Broad Top Township**, P. O. Box 57, Defiance, PA 16633. A water pollution abatement project is a planned to construct a passive abandoned mine drainage treatment system on the Dodson Brothers property located on the north and northeast edge of Finleyville, PA. Shreves Run is the receiving stream for this project. Project received June 20, 2005.

**EGS No. 11002. Clearfield Creek Watershed Association**, 216 Beldin Hollow Road, Ashville, PA 16613. A water pollution abatement project to construct a passive abandoned mine drainage treatment system on the Blair County Solid Waste Authority, Angels' Coal Trust; Alyce Hite, Dolores Puckey and Ronald Dodson properties located on north of highway PA 36 between Buckhorn and Ashville in the headwaters of Little Laurel Run. Project received August 16, 2005.

[Pa.B. Doc. No. 05-1780. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Participate). The "Current Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2005.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have questions or comments about a particular

document should call the contact person whose name and phone number is listed with each document.

#### *Final Guidance*

DEP ID: 257-3120-002. Title: Storage Tank Program Internal Policy on Inspections and On-Site Visits. Description: This document establishes uniform procedures for Storage Tank Program inspections. This includes information on preparation, performance and follow-up activities for third-party inspections, program staff inspections and staff onsite visits as well as procedures for identifying, tracking and resolving violations and related enforcement actions. The guidance document conforms to the Department's *Standards and Guidelines For Identifying, Tracking, and Resolving Violations*, which was issued on April 4, 2004. Notice of availability of the draft version of this document was published at 35 Pa.B. 2822 (May 7, 2005) under Document ID No. 257-3120-001. Comments were accepted on the document from May 7, 2005, through June 6, 2005. The Department did not receive any comments during the public comment period. Contact: Ed Karmilovich, Bureau of Waste Management at (717) 787-6239 or ekarmilovi@state.pa.us. Effective Date: September 24, 2005.

DEP ID: 255-4000-001. Title: Guidelines for the Storage Tank Cleanup Program—Identifying, Tracking and Resolving Violations for Storage Tanks (Corrective Action Process for Owners and Operators of Storage Tanks and Storage Tank Facilities and other Responsible Parties). Description: This document establishes guidance for the Storage Tank Program "Corrective Action Process for Owners and Operators of Storage Tanks and Storage Tank Facilities and other Responsible Parties." It includes procedures for release reporting, release confirmation and correction action requirements for owners and operators of storage tanks and storage tank facilities, as well as other responsible parties. The guidance document conforms to the Department's *Standards and Guidelines For Identifying, Tracking, and Resolving Violations*, which was issued on April 4, 2004. Notice of availability of the draft version of this document was published at 35 Pa.B. 2822 (May 7, 2005) under Document ID No. 257-4000-001. Comments were accepted on the document from May 7, 2005, through June 6, 2005. The Department did not receive any comments during the public comment period. Contact: Ed Karmilovich, Bureau of Waste Management at (717) 787-6239 or ekarmilovi@state.pa.us. Effective Date: September 24, 2005.

#### *Draft Technical Guidance*

DEP ID: 383-2125-109. Title: Modified Minor Permit Amendment for Repainting the Interior of a Potable Water Storage Tank. Description: This draft technical guidance document establishes procedures for public water supply systems to follow if they wish to obtain a modified minor permit amendment to repaint the interior of a potable water storage tank. Systems that do not wish to follow these procedures or do not meet the conditions set forth in the draft guidance will be subject to existing minor permit amendment processes. This draft guidance is issued under the authority of the Pennsylvania Safe Drinking Water Act (35 P.S. §§ 721.1—721.17) and 25 Pa. Code Chapter 109. Written Comments: Interested persons may submit written comments on this draft technical guidance document by October 24, 2005. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to Rod Nesmith, Department of Environmental Protection,

Rachel Carson State Office Building, 11th Floor, Harrisburg, PA 17105-8467 or rnesmith@state.pa.us. Effective Date: Upon publication of notice as final in the *Pennsylvania Bulletin*. Contact: Questions regarding the draft technical guidance document should be directed to Rod Nesmith, (717) 783-9719, rnesmith@state.pa.us.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 05-1781. Filed for public inspection September 23, 2005, 9:00 a.m.]

### **Sewage Advisory Committee Meeting Change**

The October 12, 2005, meeting of the Sewage Advisory Committee has been rescheduled and will now be held on October 5, 2005, at 10:30 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning this meeting should be directed to Jay Africa at (717) 787-8184 or jafrica@state.pa.us. The agenda and meeting materials for this meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at www.dep.state.pa.us (DEP Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Shuvonna Ballard or John McHale at (717) 787-8184 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 05-1782. Filed for public inspection September 23, 2005, 9:00 a.m.]

### **Technical Advisory Committee on Diesel-Powered Equipment Meeting Cancellation**

The Technical Advisory Committee on Diesel-Powered Equipment scheduled for Tuesday, October 18, 2005, has been cancelled. The next meeting is scheduled for Tuesday, January 17, 2006, at 10 a.m. in the Fayette County Health Center, 100 New Salem Road, Uniontown, PA.

Questions concerning the January 17, 2006, meeting should be directed to Allison Gaida at (724) 439-7289 or agaida@state.pa.us. The agenda and meeting materials for the January 17, 2006, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at www.dep.state.pa.us (DEP Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (724) 439-7289 or through the AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 05-1783. Filed for public inspection September 23, 2005, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Digestive Health Center of Indiana, P. C. for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Digestive Health Center of Indiana, P. C. has requested an exception to the requirements of 28 Pa. Code §§ 551.3 and 551.31 (relating to definitions; and licensure).

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

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

[Pa.B. Doc. No. 05-1784. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Application of Gettysburg Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Gettysburg 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 an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

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

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

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

[Pa.B. Doc. No. 05-1785. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Application of UPMC Passavant Cranberry for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that UPMC Passavant Cranberry has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards) which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 7.7.B2 (relating to post anesthesia care units).

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

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 05-1786. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Infant Hearing Screening Advisory Committee Meeting

The Infant Hearing Screening Advisory Committee, established under the Infant Hearing Education, Assessment, Reporting and Referral Act (11 P. S. §§ 876-1—876-9), will hold a public meeting on Wednesday, November 2, 2005, from 9:30 a.m. to 2:30 p.m. in 125N, Training Room C, Commonwealth Keystone Building, Commonwealth Avenue and Forster Streets, Harrisburg, PA.

For additional information, contact Arthur A. Florio, Public Health Program Administrator, Newborn Hearing Screening Program, Division of Newborn Disease Prevention and Identification, (717) 783-8143.

Persons with a disability who wish to attend the meeting and require auxiliary aid, service or other accom-

modation to do so should contact the Newborn Hearing Screening Program at (717) 783-8143 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services, (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

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

[Pa.B. Doc. No. 05-1787. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.18(e) (relating to management).

Transitional Care Center at Warren General  
2 Crescent Park West  
P. O. Box 68  
Warren, PA 16365

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.24(a) (relating to dining room).

Hospitality Care Center of Hermitage, Inc.  
3726 East State Street  
Hermitage, PA 16148

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.28(b) (relating to nurses' station).

Quincy United Methodist Home  
P. O. Box 217  
Quincy, PA 17247

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.36(h) (relating to bathing facilities).

HealthSouth Transitional Rehabilitation Unit  
1850 Normandie Drive  
York, PA 17404

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.67(k) (relating to electric requirements for existing and new construction).

Homestead Village, Inc.  
1800 Village Circle  
P. O. Box 3227  
Lancaster, PA 17604-3227

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who 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 V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 05-1788. Filed for public inspection September 23, 2005, 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, 2005, through December 31, 2005, 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            | \$2.19                         |
| 12 oz. Evaporated Milk   | \$1.13                         |
| 16 oz. Dry Milk  | \$5.22                         |
| 1 qt. Lactose Reduced Milk                                       | \$2.01                         |
| 1/2 gal. Kosher Milk   | \$2.84                         |
| 4 oz. Kosher Infant Juice  | \$0.69                         |
| 8 oz. Kosher Infant Cereal                                       | \$1.92                         |
| 1 doz. Grade A Large Eggs  | \$1.74                         |
| 1 lb. Fresh Carrots  | \$1.14                         |
| 14 to 16 oz. Canned Carrots                                      | \$1.14                         |
| 1 lb. Cheese   | \$6.12                         |
| 1 lb. Kosher Cheese  | \$8.32                         |
| 1 lb. Dry Beans or Peas  | \$1.63                         |
| 1 oz. Adult WIC Cereal   | \$0.39                         |
| 8 oz. Gerber Infant Cereal                                       | \$1.92                         |
| 15 to 18 oz. Peanut Butter                                       | \$2.50                         |
| 46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate | \$2.51                         |
| 6 oz. Cans Juice   | \$1.56                         |
| 6 to 6.5 oz. Chunk Light Tuna Packed in Water                    | \$1.09                         |
| 4 oz. Gerber Infant Juice  | \$0.69                         |
| 32 oz. Alimentum Advance Ready-to-Feed Formula                   | \$9.32                         |
| 16 oz. Alimentum Advance Powder Formula                          | \$26.82                        |
| 12.8 oz. EnfaCare LIPIL w/ Iron Powder Formula                   | \$13.21                        |
| 13 oz. Isomil Advance Concentrate Formula                        | \$4.70                         |
| 32 oz. Isomil Advance Ready-to-Feed Formula                      | \$5.80                         |
| 12.9 oz. Isomil Advance Powder Formula                           | \$14.42                        |
| 12.9 oz. Isomil 2 Advance Powder Formula                         | \$12.98                        |
| 13 oz. Isomil with Iron Concentrate Formula                      | \$4.36                         |
| 12.9 oz. Isomil with Iron Powder Formula                         | \$13.29                        |
| 32 oz. Isomil DF Ready-to-Feed Formula                           | \$6.07                         |
| 13 oz. Nutramigen Lipil Concentrate Formula                      | \$7.04                         |
| 32 oz. Nutramigen Lipil Ready-to-Feed Formula                    | \$8.87                         |
| 16 oz. Nutramigen Lipil Powder Formula                           | \$24.42                        |
| 8 oz. Pediasure Ready-to-Feed Formula                            | \$2.13                         |
| 8 oz. Pediasure with Fiber Ready-to-Feed Formula                 | \$2.23                         |
| 13 oz. Similac Advance Concentrate Formula                       | \$4.38                         |
| 32 oz. Similac Advance Ready-to-Feed Formula                     | \$6.20                         |
| 12.9 oz. Similac Advance Powder Formula                          | \$13.66                        |

| <i>Description</i>  | <i>Maximum Allowable Price</i> |
|---|--------------------------------|
| 12.9 oz. Similac 2 Advance Powder Formula                 | \$12.30                        |
| 13 oz. Similac with Iron Concentrate Formula              | \$4.07                         |
| 32 oz. Similac with Iron Ready-to-Feed Formula            | \$5.39                         |
| 12.9 oz. Similac with Iron Powder Formula                 | \$12.95                        |
| 13 oz. Similac Lactose Free Advance Concentrate Formula   | \$4.81                         |
| 32 oz. Similac Lactose Free Advance Ready-to-Feed Formula | \$5.92                         |
| 12.9 oz. Similac Lactose Free Advance Powder Formula      | \$14.74                        |
| 12.8 oz. Similac Neosure Advance Powder Formula           | \$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 any 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, Braille) should contact Chris Harr, Department of Health, Division of WIC, Room 604, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-1289 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service, (800) 654-5984.

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

[Pa.B. Doc. No. 05-1789. Filed for public inspection September 23, 2005, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Winning Combination Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Winning Combination.

2. *Price:* The price of a Pennsylvania Winning Combination instant lottery game ticket is \$3.

3. *Play Symbols:* Each Pennsylvania Winning Combination instant lottery game ticket will contain 6 "LOCK" areas, designated as "LOCK 1," "LOCK 2," "LOCK 3," "LOCK 4," "LOCK 5" and "LOCK 6." Each "LOCK" is played separately. There are 60 play symbols, which are the numbers 01 through 60. Each "LOCK" will contain 5 play symbols. Each ticket will also contain a "COMBINATION NUMBERS" area. The "COMBINATION NUMBERS" area will consist of 21 play symbols numbers in a 3 × 7 grid. The 21 play symbols that may be located in the "COMBINATION NUMBERS" area will be numbers ranging from 01 through 60.

4. *Prize Symbols:* The prize symbols and their captions located in the 6 prize areas are: \$3<sup>00</sup> (THR DOL), \$6<sup>00</sup> (SIX DOL), \$9<sup>00</sup> (NIN DOL), \$10<sup>00</sup> (TEN DOL), \$12\$ (TWELV), \$15\$ (FIFTN), \$20\$ (TWENTY), \$30\$ (THIRTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$150 (ONEHUNFTY), \$300 (THR HUN), \$1,000 (ONE THO), \$3,000 (THR THO) and \$60,000 (STY THO).

5. *Prizes:* The prizes that can be won in this game are \$3, \$6, \$9, \$10, \$12, \$15, \$20, \$30, \$50, \$100, \$150, \$300, \$1,000, \$3,000 and \$60,000. The player can win up to six times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Winning Combination instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$60,000 (STY THO) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$60,000.

(b) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$3,000 (THR THO) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$3,000.

(c) Holders of tickets upon which all five of the play symbols within a single "LOCK" match five of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$1,000 (ONE THO) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$3,000.

(d) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$1,000 (ONE THO) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which all five of the play symbols within a single "LOCK" match five of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$300 (THR HUN) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$900.

(f) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$300 (THR HUN) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$300.

(g) Holders of tickets upon which four of the play symbols within a single "LOCK" match four of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$150 (ONEHUNFTY) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$300.

(h) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$150 (ONEHUNFTY) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$150.

(i) Holders of tickets upon which all five of the play symbols within a single "LOCK" match five of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$50\$ (FIFTY) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$150.

(j) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$100 (ONE HUN) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$100.



(k) Holders of tickets upon which four of the play symbols within a single "LOCK" match four of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$50\$ (FIFTY) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$100.

(l) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$50\$ (FIFTY) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$50.

(m) Holders of tickets upon which four of the play symbols within a single "LOCK" match four of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$20\$ (TWENTY) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$40.

(n) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$30\$ (THIRTY) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$30.

(o) Holders of tickets upon which four of the play symbols within a single "LOCK" match four of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$15\$ (FIFTN) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$30.

(p) Holders of tickets upon which all five of the play symbols within a single "LOCK" match five of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$30.

(q) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$20\$ (TWENTY) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$20.

(r) Holders of tickets upon which four of the play symbols within a single "LOCK" match four of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$20.

(s) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$15\$ (FIFTN) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$15.

(t) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$12\$ (TWELV) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$12.

(u) Holders of tickets upon which four of the play symbols within a single "LOCK" match four of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$6<sup>00</sup> (SIX DOL) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$12.

(v) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$10.

(w) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$9<sup>00</sup> (NIN DOL) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$9.

(x) Holders of tickets upon which all five of the play symbols within a single "LOCK" match five of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$3<sup>00</sup> (THR DOL) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$9.

(y) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$6<sup>00</sup> (SIX DOL) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$6.

(z) Holders of tickets upon which four of the play symbols within a single "LOCK" match four of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$3<sup>00</sup> (THR DOL) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$6.

(aa) Holders of tickets upon which three of the play symbols within a single "LOCK" match three of the "COMBINATION NUMBERS" play symbols, and a prize symbol of \$3<sup>00</sup> (THR DOL) appears under that "LOCK," on a single ticket, shall be entitled to a prize of \$3.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

| <i>Match 3 Numbers Within a Single Lock, Win With Prize(s) of:</i> | <i>Win:</i> | <i>Approximate Odds of 1 In:</i> | <i>Approximate No. of Winners Per 6,000,000 Tickets</i> |
|--|-------------|----------------------------------|---|
| \$3  | \$3         | 10                               | 600,000   |
| \$3 x 2  | \$6         | 100                              | 60,000  |
| \$3 w/MATCH 4  | \$6         | 50                               | 120,000   |
| \$6  | \$6         | 100                              | 60,000  |
| \$3 w/MATCH 5  | \$9         | 50                               | 120,000   |
| \$3 x 3  | \$9         | 100                              | 60,000  |
| \$9  | \$9         | 100                              | 60,000  |
| \$10   | \$10        | 100                              | 60,000  |
| \$3 x 4  | \$12        | 333.33                           | 18,000  |
| \$6 w/MATCH 4  | \$12        | 250                              | 24,000  |
| \$12   | \$12        | 333.33                           | 18,000  |
| \$3 x 5  | \$15        | 200                              | 30,000  |
| \$15   | \$15        | 200                              | 30,000  |
| \$10 x 2   | \$20        | 333.33                           | 18,000  |
| \$10 w/MATCH 4   | \$20        | 250                              | 24,000  |
| \$20   | \$20        | 333.33                           | 18,000  |
| \$10 x 3   | \$30        | 1,200                            | 5,000   |
| \$15 x 2   | \$30        | 1,200                            | 5,000   |
| \$10 w/MATCH 5   | \$30        | 1,200                            | 5,000   |

Match 3 Numbers Within  
a Single Lock, Win With  
Prize(s) of:

Win:

Approximate Odds of 1 In:

Approximate No.  
of Winners Per  
6,000,000 Tickets

|                           |          |           |       |
|---------------------------|----------|-----------|-------|
| \$15 w/MATCH 4            | \$30     | 1,200     | 5,000 |
| \$30                      | \$30     | 1,200     | 5,000 |
| \$10 × 5                  | \$50     | 2,400     | 2,500 |
| \$10 w/MATCH 5 + \$20     | \$50     | 2,400     | 2,500 |
| \$15 × 2 + \$20           | \$50     | 2,400     | 2,500 |
| \$15 w/MATCH 4 + \$20     | \$50     | 2,400     | 2,500 |
| \$50                      | \$50     | 2,400     | 2,500 |
| \$10 w/MATCH 4 + \$20 × 4 | \$100    | 7,500     | 800   |
| \$20 w/MATCH 4 + \$15 × 4 | \$100    | 7,500     | 800   |
| \$20 w/MATCH 4 + \$20 × 3 | \$100    | 7,500     | 800   |
| \$50 × 2                  | \$100    | 7,500     | 800   |
| \$50 w/MATCH 4            | \$100    | 7,500     | 800   |
| \$100                     | \$100    | 7,500     | 800   |
| \$50 × 3                  | \$150    | 20,000    | 300   |
| \$50 w/MATCH 4 + \$50     | \$150    | 20,000    | 300   |
| \$50 w/MATCH 5            | \$150    | 20,000    | 300   |
| \$150                     | \$150    | 24,000    | 250   |
| \$50 × 6                  | \$300    | 60,000    | 100   |
| \$50 w/MATCH 5 +          | \$300    | 60,000    | 100   |
| \$50 w/MATCH 5            |          |           |       |
| \$100 × 3                 | \$300    | 60,000    | 100   |
| \$150 × 2                 | \$300    | 60,000    | 100   |
| \$150 w/MATCH 4           | \$300    | 60,000    | 100   |
| \$300                     | \$300    | 60,000    | 100   |
| \$300 w/MATCH 5 + \$100   | \$1,000  | 120,000   | 50    |
| \$300 × 3 + \$100         | \$1,000  | 120,000   | 50    |
| \$1,000                   | \$1,000  | 120,000   | 50    |
| \$1,000 w/MATCH 5         | \$3,000  | 240,000   | 25    |
| \$1,000 × 3               | \$3,000  | 240,000   | 25    |
| \$3,000                   | \$3,000  | 240,000   | 25    |
| \$60,000                  | \$60,000 | 1,200,000 | 5     |

MATCH 4 = Win double the prize shown under LOCK.  
MATCH 5 = Win triple the prize shown under LOCK.  
Only the highest prize won in each LOCK will be paid.

Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Winning Combination instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Winning Combination instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Winning Combination instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets

from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Winning Combination or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 05-1790. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Public Utility Realty Tax Act Surcharge Rate for the Tax Year Beginning January 1, 2006

The Secretary of Revenue is required under 72 P. S. § 8111-A(d) to publish the rate of the Public Utility Realty Tax Act (PURTA) surcharge in the form of a notice in the *Pennsylvania Bulletin* by October 1, 2003, and by each October 1 thereafter. The tax rate established in 72 P. S. § 8111-A(d) shall be imposed upon gross receipts taxes as provided in 72 P. S. § 8111-A(d) for the period beginning the next January 1.

The result of the PURTA surcharge calculation provided in 72 P. S. § 8111-A for the tax year beginning January 1,

2006, is zero mills. Therefore, no PURTA surcharge under 72 P. S. § 8111-A(d) will be imposed for the taxable period beginning January 1, 2006.

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 05-1791. Filed for public inspection September 23, 2005, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, September 8, 2005, and announced the following:

#### *Regulation Approved:*

Department of General Services #8-9 General Provisions; Device Type Approval and State Metrology Laboratory (amends 70 Pa. Code Chapters 2, 10 and 110)

#### Approval Order

Public Meeting held  
September 8, 2005

*Commissioners Voting:* Alvin C. Bush, Acting Chairperson; Arthur Coccodrilli; John F. Mizner, Esq.

*Department of General Services and Department of  
Agriculture—General Provisions; Device Type Approval  
and State Metrology Laboratory; Regulation No. 8-9*

On April 20, 2005, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of General Services and the Department of Agriculture. This rulemaking amends 70 Pa. Code Chapters 2, 10 and 110. The proposed regulation was published in the April 30, 2005 *Pennsylvania Bulletin*

| <i>Reg. No.</i> | <i>Agency/Title</i>  |
|-----------------|--|
| 2-143           | Department of Agriculture<br>CHEMSWEEP Pesticide Disposal Program<br>35 Pa.B. 3940 (July 16, 2005) |

### Department of Agriculture Regulation #2-143 (IRRC #2487)

#### CHEMSWEEP Pesticide Disposal Program September 14, 2005

We submit for your consideration the following comments on the proposed rulemaking published in the July 16, 2005 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)) directs the Department of Agriculture (Department) to respond to all comments received from us or any other source.

#### **1. Section 128b.1. Authority and purpose.—Clarity.**

Subsection (a) contains the following phrase in its second sentence: "...which is based upon the

with a 30-day public comment period. The final-form regulation was submitted to the Commission on August 5, 2005.

This regulation sets forth a fee schedule that the Department of General Services State Metrology Laboratory (Laboratory) will charge for metrology laboratory calibration evaluations. The Laboratory provides calibration and certification of measurements of mass, length, volume, and time. Anyone who sells, installs, services or repairs commercial weighing and measuring devices will be effected by this regulation.

We have determined this regulation is consistent with the statutory authority of the Department of General Services (3 Pa.C.S.A. § 4178) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 05-1792. Filed for public inspection September 23, 2005, 9:00 a.m.]

### 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>Close of the Public<br/>Comment Period</i> | <i>IRRC<br/>Comments Issued</i> |
|---|---------------------------------|
| 8/15/05                                       | 9/14/05                         |

Chemsweep pilot pesticide disposal program described in Chapter 128a (relating to Chemsweep pesticide disposal program—statement of policy) . . . ." The statement of policy in Chapter 128a was superseded by the existing regulations in Chapter 128b in 1993. Hence, Chapter 128a is obsolete and unnecessary. It is also our understanding that the Department will delete Chapter 128a since it has been replaced by the existing regulations. The proposed regulation deletes another existing reference to Chapter 128a in Section 128b.3(a). The reference to the other chapter in Section 128b.1(a) should also be deleted.

#### **2. Section 128b.2. Definitions.—Consistency with other regulations and statutes; Clarity.**

This section includes a definition of "person" which is similar to the statutory definition of "person" in the

Pennsylvania Pesticide Control Act (3 P. S. § 111.24(29)). The proposed regulation adds two new phrases that are not in the statutory definition. They are: "citizen of this Commonwealth" and "doing business in this Commonwealth." Section 128b.6(b) (relating to exclusions and eligibility of persons to participate) includes new language which reads: "Individuals, corporations, associations, or other forms of business entities *not located within this Commonwealth* are not eligible for participation in the Program." (Emphasis added) There are two concerns.

First, the two new substantive phrases in the definition of "person" are unnecessary since Section 128b.6(b) establishes the conditions for eligibility. We suggest that the definition of "person" in the proposed regulation should use the statutory definition at 3 P. S. § 111.24(29) via a reference, or by repeating it verbatim in the regulation.

Second, Section 128b.6(b) should use the word "person" and should not use words, such as "individuals, corporations, associations, or other forms of business entities," that are already included by the definition of the term "person." In addition, the substantive requirements for eligibility should be listed in Section 128b.6(b).

**3. Section 128b.3. Selection of participating counties.—Clarity.**

Subsection (b) reads: "In selecting the counties to participate in the Program during a particular fiscal year, the Department *may* consider . . ." (Emphasis added) This statement is followed by a short list of criteria that the Department considers in the selection process. In accordance with Section 6.8 of the *Pennsylvania Code & Bulletin Style Manual*, we suggest that the word "may" be replaced with the word "will."

**4. Section 128b.4. Limitation of the number of participating counties.—Reasonableness; Clarity.**

The new language in this section reads: "The number of eligible counties participating during a particular fiscal year may not exceed 21 except when emergency situations arise." It is our understanding that the maximum number of counties participating in the Program regularly exceeds 21 and may be as high as 40. The section should indicate that 21 is the minimum number of counties that the Department initially selects for participation in the Program each year.

**5. Section 128b.7. Preregistration application.—Reasonableness; Implementation procedure; Clarity.**

Subsection (b)(12) requires "verification that the applicant is eligible for participation in the Program." In the final-form regulation, this subsection should provide examples of what documents or information could be used by an applicant to provide "verification."

**6. Section 128b.8. Preregistration process.—Implementation procedures; Clarity.**

Subsection (c) states that the Department has the discretion to accept a preregistration application form submitted beyond the 90-day preregistration period. The final-form regulation should indicate whether an applicant may request an extension and, if so, when and how an applicant could make such a request.

**7. Section 128b.12. Program limitations.—Implementation procedure; Clarity.**

We have two concerns with this section. First, it states that the Department will accept 2,000 pounds of pesticide from a participant annually. It is our understanding that there is no charge to the participant for the first 2,000 pounds accepted by the Department. The final-form regulation should be amended to reflect this fact.

Second, the last sentence of this section reads: "The Department reserves the right to accept any excess pesticides or renegotiate acceptable poundage when deemed necessary by the Department." We recognize that the Department has the authority to exercise discretion, but the section should include the criteria that the Department will consider in determining whether to accept additional pounds of pesticide for disposal beyond the maximum of 2,000 pounds.

**8. Section 128b.14. Bid specifications.—Implementation procedures.**

Subsection (b)(3) states, in part, the following: "A contractor shall provide a written, detailed description of the procedures which *would* use in collection, packing, transportation and disposal of the pesticide inventory . . ." (Emphasis added) The use of the term "would" is problematic because it allows the contractor to deviate from the written, detailed description required with the bid specifications. We recommend that this term be changed to "shall." This would impose a requirement on the contractor to follow the plan submitted with the job specifications. If the Department decides to retain the term "would," the final regulation should address the process to be followed if the submitted plan differs from the actual plan.

**9. References to other laws or regulations.—Need; Clarity.**

Sections 128b.10(a), 128b.14(b)(4) and 128b.16 include general references to laws or regulations that apply to contractors. It is our understanding that contractors must comply with these other laws and regulations to maintain their licensure and permit status with the Department of Environmental Protection (DEP) and U. S. Environmental Protection Agency (EPA). As long as approval by DEP and EPA is required for pesticide disposal contractors, what is the need for these references to other laws and regulations in this proposed regulation?

JOHN R. MCGINLEY, Jr.,  
Chairperson

[Pa.B. Doc. No. 05-1793. Filed for public inspection September 23, 2005, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

The Independent Regulatory Review Commission (Commission) received the following regulation on the date indicated. To obtain the date and time of the meeting at which the Commission will consider this regulation, contact the Commission at (717) 783-5417 or visit its website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). To obtain a copy of the regulation, contact the promulgating agency.

|                   |  |                 |
|-------------------|--|-----------------|
| <i>Final-Form</i> |  |                 |
| <i>Reg. No.</i>   | <i>Agency/Title</i>  | <i>Received</i> |
| 16A-6316          | State Board of Psychology<br>Biennial Renewal Fee Increase | 9/12/05         |

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 05-1794. Filed for public inspection September 23, 2005, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Blue Cross of Northeastern Pennsylvania; 65 Special Community Rated Group; Rate Filing

Blue Cross of Northeastern Pennsylvania has filed rate filing No. 1141-BC65CG-1/1/2006 for approval increased rates for its community rated 65 Special program. The revised rates are to be effective from January 1, 2006, through June 30, 2006, and reflect an increase of 7.05% over the currently approved rates.

These rate adjustments will affect approximately 2,236 insureds in this Commonwealth and will generate approximately \$63,400 in additional premium during the rating period.

Unless formal administrative action is taken prior to December 6, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website: [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-1795. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Blue Cross of Northeastern Pennsylvania; 65 Special Experience Rated Group; Rate Filing

Blue Cross of Northeastern Pennsylvania has filed rate filing No. 1142-BC65ER-1/1/2006 for approval increased rates for its experience rated 65 Special program. The revised rates are to be effective from January 1, 2006, through December 31, 2006, and reflect an increase of 8.77% over the currently approved rates.

These rate adjustments will affect approximately 2,211 insureds in this Commonwealth and will generate approximately \$161,300 in additional premium annually.

Unless formal administrative action is taken prior to December 6, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website: [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-1796. Filed for public inspection September 23, 2005, 9:00 a.m.]

### United HealthCare Insurance Company; AARP Group Standardized Medicare Supplement Policy Forms No. G-36000-4, Plans A—L; Rate Filing

United HealthCare Insurance Company has filed for approval increased rates for its AARP group standardized Medicare supplement policy forms. The filing requests rate increases that vary by standardized benefit package and range from 4.0—12.5%.

These rate adjustments will affect approximately 90,056 insureds in this Commonwealth and will generate approximately \$15.4 million in additional premium annually. United HealthCare Insurance Company requests that the revised rates take effect on January 1, 2006. The requested rate adjustment percentages by standard plan are as follows:

|        |       |
|--------|-------|
| Plan A | 6.1%  |
| Plan B | 11.1% |
| Plan C | 10.7% |
| Plan D | 8.1%  |
| Plan E | 8.1%  |
| Plan F | 10.4% |
| Plan G | 8.9%  |
| Plan H | 4.0%  |
| Plan I | 5.6%  |
| Plan J | 12.5% |

Also included in the filing are reduced rates for insureds who choose to drop their prescription drug benefits. Plans H—J include prescription drug benefits which the insureds may eliminate from their coverage effective January 1, 2006, in exchange for a reduced premium rate. These rate reductions compared with the proposed rates including prescription drug coverage are as follows:

|        |        |
|--------|--------|
| Plan H | -31.1% |
| Plan I | -31.7% |
| Plan J | -40.9% |

The filing also includes proposed 2006 rates for Plans K and L, plans which have not yet been approved for sale in this Commonwealth.

Unless formal administrative action is taken prior to December 6, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website: [www.ins.state.pa.us](http://www.ins.state.pa.us). Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, [mgurgiolo@state.pa.us](mailto:mgurgiolo@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-1797. Filed for public inspection September 23, 2005, 9:00 a.m.]

**Updated Guidelines for Record Retention; No. 2005-09**

This notice supersedes Insurance Department (Department) Notice No. 2000-07 regarding the guidelines for retention of records by insurers and other entities subject to examination by the Department. This notice and accompanying Record Retention Guidelines (Guidelines) are intended to assist insurers and other examinees in establishing appropriate record retention procedures for purposes of examinations by the Department under Article IX of The Insurance Department Act of 1921 (40 P. S. §§ 323.1—323.8) (act).

The Department's general requirement is that all relevant records of transactions occurring since the conclusion of the last financial examination must be retained for 5 years from the date of the last financial examination or until the conclusion of a subsequent financial examination, whichever time is greater. The accompanying Guidelines supplement this general requirement by providing guidance in the establishment of appropriate retention periods for specific types of records.

Of course, the Guidelines are recommended minimum retention periods and do not affect any record retention requirements that may be in excess of the Guidelines, such as requirements imposed by the Internal Revenue Service, other regulatory agencies, statutes of limitation or other applicable laws or regulations. The Department recognizes the need for insurers to exercise discretion in establishing record retention requirements in accordance with advice of legal counsel and that insurers may determine that longer retention periods are necessary or advisable. In addition, under the authority in the act, the Department may require whatever additional records may be necessary to readily verify the financial condition of an insurer and ascertain whether the insurer has complied with the laws of this Commonwealth. For purposes of financial examinations, the Department will

permit foreign insurers to retain financial records either for the length of time specified in the Guidelines or for the length of time required for examination purposes in the insurers' home states.

With respect to the use of electronic paperless filing systems, 15 Pa.C.S. § 107 (relating to form of records) which applies to insurance corporations provides, in part:

Any records maintained by a corporation or other association in the regular course of its business including shareholder or membership records, books of account and minute books, may be kept on, or be in the form of, punch cards, magnetic storage media, photographs, microphotographs or any other information storage device if the records so kept can be converted into reasonable legible written form within a reasonable time.

Sections 903 and 904 of the act (40 P. S. §§ 323.3 and 323.4) require entities subject to the Department's examination to keep records in such manner as the Department may require in order to readily verify the examinee's financial condition and compliance with laws and to provide timely, convenient and free access to all records. Therefore, insurers are not prohibited from using paperless filing technology as long as their records are readily accessible and useable for examination purposes.

A paperless system should include adequate controls and be appropriately tested to identify and correct any deficiencies. Consideration should be given to the need to determine the validity or identify any alteration of certain documents, such as applications for insurance or death certificates and receipt dates. There must be an ability to produce usable hard copy, including entire approved form/rate filings with the Department's approval stamps.

Appropriate security systems should be maintained at record storage sites, as well as adequate protection from loss or damage by fire or other hazards. Sufficient visual terminals must be available to assure that examiners are not hampered by an inability to access data during the course of an examination.

Record retention is a matter in which an insurer's management must use prudent judgment, subject to applicable statutory requirements or restrictions. Questions concerning record retention may be directed to David DelBiondo, Director, Bureau of Financial Examinations, (717) 783-2142, with respect to financial examinations; or Dennis Shoop, Director of the Bureau of Enforcement, (717) 783-2627, with respect to market conduct examinations.

**Guidelines for Retention of Records**

| <i>Type of Record</i>   | <i>Retention Period</i>     |
|---|-----------------------------|
| Accounts Payable Ledgers and Schedules                          | 5 years*                    |
| Accounts Receivable Ledgers and Schedules                       | 5 years*                    |
| Advertisement Files (including Internet ads)                    | 5 years*                    |
| Agent Commission Schedules                                      | 5 years*                    |
| Agent Contracts   | 5 years*                    |
| Agent Discrepancies   | 5 years*                    |
| Agent Licensing Records (including effective/termination dates) | 5 years* (from termination) |

| <i>Type of Record</i>  | <i>Retention Period</i>                                  | <i>Type of Record</i>   | <i>Retention Period</i>   |
|--|--|---|---|
| Agent Terminations (including copies of notices to agents and Insurance Department)  | 5 years*   | Expense Analyses and Expense Allocation Schedules   | 5 years*  |
| Annual/Quarterly Statement Blank and Supporting Workpapers   | 5 years*   | Forms (approved by a State insurance department)  | 2 years (after claims can no longer be reported under the form)   |
| Bank Reconciliations   | 5 years*   | General and Subsidiary Ledgers and End-of-Year Trial Balances   | 5 years*  |
| Borrowed Money Documents   | 5 years* (after amount borrowed is paid off)             | Holding Company Registration Statements   | 5 years*  |
| Capital Stock and Bond Records (ledgers, transfer registers, stubs showing issues, record of interest coupons, opinions)   | Permanently  | Internal Audit Reports  | 5 years*  |
| Cash Books   | 5 years*   | Internal Insurance Records (current loss reports, claims, policies for insurance coverages purchased by the company for its own protection)     | Permanently   |
| CPA Annual Audit Reports and Management Letters  | Permanently  | Internal Reports (miscellaneous)  | 5 years*  |
| Charts of Accounts   | 5 years*   | Inventories of Furniture, Fixtures and Equipment  | 5 years* (after disposal)   |
| Checks (cancelled) (records of uncashed drafts or checks)  | 5 years*<br>7 years (or in accordance with escheat laws) | Investment Plan   | 5 years*  |
| Checks (cancelled for important payments, such as taxes, purchases of property, special contracts)   | Permanently  | Investment Records (buy and sell invoices, ledgers, journals, broker statements, custodial/trust account statements)                            | 5 years*  |
| Claims Files (loss reports, reported and paid claims files, including a complete chronological record)   | 5 years*   | Invoices from Vendors   | 5 years*  |
| Collateral Loans (closing documents, appraisals/valuation documents, payment history, collateral documents)  | 5 years* (after repayment)                               | Journals  | 5 years*  |
| Conflict of Interest Statements  | 5 years*   | Limited Partnership Interests (partnership agreement, partnership financial statements, records of distributions, equity valuation information) | 5 years* (after disposal)   |
| Consumer Complaints (including log of complaints and correspondence with state insurance department)   | 5 years*   | Litigation Records  | Permanently   |
| <i>Note: Failure to maintain a complete record of all complaints received during the preceding 4 years is a violation of the Unfair Insurance Practices Act (See 40 P. S. § 1171.5(11)).</i> |  | Minute Books of Directors and Stockholders (or Policyholders) and Committees (including by-laws and charter)                                    | Permanently   |
| Contracts and Leases   | 5 years* (after expiration)                              | Mortgage Loans (closing documents, appraisals, payment history, rent rolls)   | 5 years* (after repayment)  |
| Correspondence with Policyholders (routine)  | 5 years*   | Notes Receivable Ledgers and Schedules  | 5 years*  |
| Correspondence (general)   | 5 years*   | Other Invested Assets (all pertinent documents)   | 5 years* (after disposal)   |
| Correspondence (legal and important matters)   | Permanently  | Payroll Records and Summaries (including payments to pensioners and payroll deductions)   | 5 years*  |
| Correspondence with State Insurance Departments (other than correspondence regarding complaints)   | Permanently  | Petty Cash Vouchers   | 5 years*  |
| Duplicate Deposit Slips  | 5 years*   | Policy Issue Records (including underwriter's notes/notices, original applications, declaration pages, endorsements and selection forms)        | 2 years (after claims can no longer be reported under the policy) |
| Employee Personnel Records   | 5 years* (after termination)                             | Policy Termination Records (including documentation)  | 5 years*  |
|  |  | Policyholder Dividend Records   | 5 years*  |

| <i>Type of Record</i>  | <i>Retention Period</i>                       |
|--|---|
| Premium Notices and Refunds (including proof of refund within required time period)  | 5 years*                                      |
| Property Records (including appraisals, costs, depreciation reserves, end-of-year trial balances, depreciation schedules, titles, plans, deeds, mortgages and agreements of sale) (after no longer have an interest in the property) | 5 years*                                      |
| Rate filings (including all rates utilized during retention period)  | 5 years* (after replacement by latest filing) |
| Reinsurance Contracts (including records of settlements, trust accounts and letters of credit)   | 5 years*                                      |
| Reports of State Insurance Department Examinations (financial and market conduct)  | 5 years*                                      |
| Reserve Calculation Documentation (including actuarial opinion and supporting actuarial memorandum)  | 10 years                                      |
| SEC Filings  | 5 years*                                      |
| Subrogation and Salvage Records  | 5 years*                                      |
| Surrender Request  | 5 years*                                      |
| Tax Returns and Worksheets (including revenue agents' reports and other documents relating to determination of income tax liability)   | 12 years                                      |
| Unclaimed Property or Escheatable Funds/Assets   | 10 years                                      |
| Vouchers for Payments to Vendors, employees, etc. (including allowances and reimbursements of employees, officers, or other persons for travel and entertainment expenses)   | 5 years*                                      |

*Note:* "5 years\*" refers to 5 years from the date of the last financial examination by the domiciliary regulator or until the conclusion of a subsequent financial examination, whichever time is greater.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 05-1798. Filed for public inspection September 23, 2005, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board leases will expire:

Allegheny County, Wine & Spirits Shoppe #0295, Great Valley Shopping Center, 500 Lincoln Highway, North Versailles, PA 15137.

*Lease Expiration Date:* August 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,800 to 3,500 net useable square feet

of new or existing retail commercial space in a shopping center environment within a 1/2-mile radius of the intersection of U. S. Route 30 and SR 686 in North Versailles Township.

*Proposals due:* October 14, 2005, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Clarion County, Wine & Spirits Shoppe #1602, 452 Broad Street, New Bethlehem, PA 16242.

*Lease Expiration Date:* August 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,500 net useable square feet of new or existing retail commercial space in the Central Business District of New Bethlehem.

*Proposals due:* October 14, 2005, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Craig Johnson, (412) 565-5130

Jefferson County, Wine & Spirits Shoppe #3301, 160 Main Street, Brookville, PA 15825.

*Lease Expiration Date:* August 31, 2006

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 serving Brookville.

*Proposals due:* October 14, 2005, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** George Danis, (412) 565-5130

Erie County, Wine & Spirits Shoppe #2502, 105 West 18th Street Erie, PA 16501-2103.

*Lease Expiration Date:* April 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a shopping center environment within a 1/2-mile radius of the intersection of Peach Street and 18th Street, Erie.

*Proposals due:* October 14, 2005, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Bruce VanDyke, (412) 565-5130

Westmoreland County, Wine & Spirits Shoppe #6507, 613 West Main Street, Ligonier, PA 15658.

*Lease Expiration Date:* July 31, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,500 to 5,000 net useable square feet of new or existing retail commercial space serving the Town of Ligonier.



*Proposals due:* October 14, 2005, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** George Danis, (412) 565-5130

JONATHAN H. NEWMAN,  
*Chairperson*

[Pa.B. Doc. No. 05-1799. Filed for public inspection September 23, 2005, 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), enacted on March 20, 2002, will hold a meeting of the Authority's Board of Directors on Tuesday, October 11, 2005, at 10:30 a.m. at the Hilton Valley Forge, 251 West DeKalb Pike, Valley Forge, PA.

Individuals having 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. 05-1800. Filed for public inspection September 23, 2005, 9:00 a.m.]

## PENNSYLVANIA COUNCIL ON AGING

### Meeting Changes

The Pennsylvania Council on Aging (Council) meeting scheduled for September 27, 2005, at 1 p.m. has been rescheduled and will now be held on Wednesday, October 5, 2005, at 9 a.m. The meeting scheduled for December 6, 2005, at 1 p.m. has also been rescheduled and will now be held on Wednesday, December 7, 2005, at 9 a.m. Both meetings will be held at the Department of Aging, Fifth Floor Conference Room, 555 Walnut Street, Harrisburg, PA.

Persons with a disability who wish to attend the previously listed meetings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Michele Bell, Administrative Officer at (717) 783-1924 to discuss how the Council may best accommodate their needs.

DARLENE SAMPSON,  
*Executive Director*

[Pa.B. Doc. No. 05-1801. Filed for public inspection September 23, 2005, 9:00 a.m.]

## PENNSYLVANIA GAMING CONTROL BOARD

### Application Schedule

The Pennsylvania Gaming Control Board (Board), under the authority in 4 Pa.C.S. § 1306 (relating to order of initial license issuance) and 58 Pa. Code § 441.2 (relating to initial slot machine application deadlines), has adopted the following schedule for the acceptance of applications for permanent Category 1 licenses, Category 2 licenses and Category 3 licenses.

The application process for permanent Category 1 licenses, Category 2 licenses and Category 3 licenses shall begin on October 24, 2005, and close on December 30, 2005.

THOMAS A. DECKER,  
*Chairperson*

[Pa.B. Doc. No. 05-1802. Filed for public inspection September 23, 2005, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Chapter 14 Implementation; Doc. No. M-0004 1802F0002

Public Meeting held  
 September 9, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson, concurring and dissenting in part; Bill Shane; Kim Pizzingrilli; Terrence J. Fitzpatrick

### Second Implementation Order

*By the Commission*

On November 30, 2004, the Governor signed into law SB 677 that went into effect on December 14, 2004. The Act amended Title 66 by adding Chapter 14 (66 Pa.C.S. §§ 1401—1418), *Responsible Utility Customer Protection Act* (Act). The legislation is applicable to electric distribution companies, water distribution companies and larger natural gas distribution companies (those having an annual operating income in excess of \$6,000,000).<sup>1</sup> Steam and waste water utilities are not covered by Chapter 14.

Chapter 14 supersedes a number of Chapter 56 regulations, all ordinances of the City of Philadelphia and any other regulations that impose inconsistent requirements on the utilities. Chapter 14 expires on December 31, 2014, unless re-enacted. Two years after the effective date and every two years thereafter, the Commission must report to the General Assembly regarding the implementation and effectiveness of the Act. The Commission is directed to amend Chapter 56 and may promulgate regulations to administer and enforce Chapter 14.

Chapter 14 seeks to eliminate the opportunities for customers capable of paying to avoid paying their utility bills, and to provide utilities with the means to reduce

<sup>1</sup> Small natural gas companies may voluntarily "opt in" to Chapter 14. 66 Pa.C.S. § 1403.

their uncollectible accounts by modifying the procedures for delinquent account collections. The goal of these changes is to increase timely collections while ensuring that service is available to all customers based on equitable terms and conditions. 66 Pa.C.S. § 1402.

On January 28, 2005, the Commission issued a Secretarial Letter identifying general subject areas and encouraged interested parties to file written comments. In addition, on February 3, 2005, the Commission held a "Roundtable Forum" to address the implementation and application of Chapter 14.

Written comments were filed by the following interested parties: Energy Association of Pennsylvania (EAP), Office of Consumer Advocate (OCA), Philadelphia Gas Works (PGW), Community Legal Services (CLS), PECO Energy Company (PECO Energy), Pennsylvania Utility Law Project (PULP), Aqua Pennsylvania, Inc. (Aqua), Pennsylvania American Water, PPL Electric Utilities Corporation and PPL Gas Utilities Corporation, Pennsylvania Coalition Against Domestic Violence, Pennsylvania Apartment Association, Housing Alliance of Pennsylvania, and AARP.

Based upon our review of the comments filed by interested parties pursuant to our January 28, 2005 Secretarial Letter and the oral comments expressed at the Roundtable Forum, we issued an Implementation Order dated March 4, 2005 that addressed seven threshold issues. Although we considered these issues to be the most fundamental, we understood that this is an on-going process and that other implementation issues will need to be resolved in the future.

Therefore, by Secretarial Letter issued June 27, 2005, we informed interested parties of the next Chapter 14 Roundtable, July 1, 2005, and established agenda items for this meeting.

At this second Chapter 14 Roundtable, we again sought to engage in a discussion that promoted an exchange of ideas and views so that all interested parties will better understand differing positions and the rationales underlying them. Hopefully, all parties benefited again from a discussion of the interpretational issues inherent in the issue list relating to the implementation of Chapter 14. Moreover, the discussion should have continued to lay a solid foundation to enable the effective development of procedures, interim guidelines and subsequent regulations necessary to implement the new requirements of Chapter 14.

Written comments were again submitted by the EAP, OCA, PGW, CLS, PECO Energy, PULP, and Aqua. The comments were also intended to supplement oral representations at the July 1, 2005 Roundtable.

Another Roundtable discussion was held on July 21, 2005 to discuss PGW-Specific Chapter 14 issues. Written comments were filed by PGW, the OCA, CLS, and PULP. We shall also address these PGW-Specific issues in Section V of this Order. The resolution of the PGW-Specific issues should be considered in conjunction with the resolution of the Chapter 14 general utility issues appearing in the Section I, II, III and IV of this Order.

Before addressing the issues we will review some of the general comments submitted by the parties. PGW indicates that Chapter 14 has been tremendously beneficial to the Company and its customers as its revenue collection percentages have improved dramatically. The OCA notes that the number of terminations has increased markedly and fears that the tools to keep customers who have the ability to pay from evading utility payments, may have swept in customers who genuinely are not able to afford

service. The OCA believes that the health and safety of the public requires that the Commission ensure that the protections contained in Chapter 14 are fully implemented and enforced. Aqua submits that the Chapter 56 requirement of acting in "good faith" should still be the standard for how the customer and utility conduct themselves. PULP requests that the Commission keep in mind that the goal of Chapter 14 is to improve payment activities by customers who have the ability to pay but is not intended to provide undue burdens on low-income customers and increase terminations. Similarly, CLS emphasizes that it is a purpose of the General Assembly "to ensure that service remains available to all customers on reasonable terms and conditions." 66 Pa.C.S. § 1402(3). EAP believes that many of the participants at the Roundtable intended to "seek to continue provisions or opportunities to delay payment."

In reaching our dispositions herein, we have considered all the comments filed by the parties and, to the extent that we have not specifically referred to all the parties' comments on a particular issue, that omission does not mean the comments were not reviewed. Moreover, parties may have taken the same position on an issue and we shall not repeat their arguments. The areas we have identified for review and disposition are as follows:

- Section I—Termination/Reconnection
- Section II—Payment Arrangements (PARS)
- Section III—Applications—Deposits
- Section IV—Protection from Abuse (PFA)/Consumer Education
- Section V—PGW—Specific Issues

Finally, the general consensus of the parties is that we issue this Order as a tentative decision to allow for another round of comments. We shall decline to adopt that recommendation as time will not permit us to consider additional arguments. The winter termination period is not far off and notices must be completed, procedures must be in place and utility personnel must be trained before this period begins. Therefore, we must move this Chapter 14 implementation period along in an expeditious manner.

#### *I. TERMINATION/RECONNECTION*

##### *1. Policy for applying § 1406(e) to protect against erroneous winter terminations.*

EAP opposes regulations that would set forth a methodology for determining income level. EAP believes that the primary source of income level information will be the consumers themselves and it is the customer's responsibility to provide accurate information when requested and for determining eligibility for Customer Assistance Programs (CAP). EAP also believes that the content of winter termination notices should not change.

With respect to the income criteria to be used to determine eligibility for winter termination, PGW recommends use of the same criteria employed by the Department of Public Welfare (DPW) to calculate LIHEAP eligibility and also utilized by the Commission to determine CAP eligibility. PGW also believes that it will have income and household size information in its database so that it will know the category into which the delinquent customer falls. PGW will indicate in its termination notices that, depending on a customer's income or family composition, the customer may be exempt from winter termination without Commission approval.

PECO Energy limited termination for nonpayment under § 1406(e)<sup>2</sup> to Level 4 customers during the winter period of 2005. Currently, PECO Energy plans to limit terminations during the next winter period (12/1/05 to 3/31/06) to known Level 3 and Level 4 customers.

PECO Energy explains that it intends to continue educating its customers about Chapter 14 provisions and the importance of contacting the Company. However, PECO Energy asserts that it is the customer's responsibility to make PECO Energy aware of his or her income and eligibility for a payment agreement and documentation of income will be required to establish a customer's classification and participation in income-based provisions and programs, including termination avoidance.

According to the OCA, § 1406(e)(1) of Chapter 14 places an affirmative duty on utilities to positively ascertain whether a customer is at or below 250% of the Federal Poverty Level (FPL) prior to engaging in a winter termination, except when a customer falls within the provisions of § 1406(c)(1).<sup>3</sup> In other words, the OCA submits that a utility shall not engage in winter terminations prior to positively verifying the customer's income level. The OCA believes that the customer should have been given every opportunity to enter into a payment agreement, and termination should not be considered until the customer has deviated from the payment agreement, and in these cases the utility already has, or should have, income information that was used to create the original payment agreement.

The OCA emphasizes that the Commission must ensure that establishing whether a customer is within the protected income class is the responsibility of the utilities and it is not a defense for a utility to claim that it did not know the customer's income level before it terminated a customer during the winter months.

CLS argues that utilities terminating service during the winter period pursuant to § 1406(e) of Chapter 14 should submit to the Bureau of Consumer Services (BCS) for approval, a clear, comprehensive and detailed statement of the process which they will follow in order to screen for customers protected from winter termination under Chapter 14. According to CLS, the burden is clearly then on the utility to determine household income prior to sending a winter termination notice. CLS maintains that § 1406(e)(1) prohibits utilities from terminating service during the winter in most circumstances to customers whose adult household income is at or below 250% of the federal poverty level.

CLS urges the Commission to require inclusion of a simple form with monthly bills for customers to complete and return to the utility asserting their qualification for an exemption from winter termination through (1) low-income, (2) being a victim of abuse, or (3) for Philadelphia Gas Works customers, through one of the other exemptions listed in § 1406(e)(2).

CLS adds that the same form should solicit information about the customer's language preference and need for an

interpreter, as well as information about disabilities that may impede communication by written notice. Moreover, CLS submits this information should be solicited whenever a customer with a communication barrier does successfully make contact with the utility. Finally, CLS contends that this information should then be recorded so that winter heat will not be terminated without appropriate, accessible notification to the customer.

#### *Resolution*

We agree with EAP's comment that the primary source of income level information will be the consumers themselves. However, given the language at § 1406(e), it is appropriate to infer that this provision clearly places an obligation on the electric and gas utilities to implement procedures that attempt to identify accounts that are protected from termination during the winter period, not only prior to but also subsequent to the issuance of a notice. In this regard, PGW and other parties identify an important activity that must be part of an appropriate process to ascertain income to prevent erroneous winter termination in application of § 1406(e). Additionally, since water companies are not included under § 1406(e), they remain obligated to apply § 56.100 (winter termination procedures) when threatening termination to heat related water service between December 1 and March 31. We also clarify that § 56.100 is superseded by Chapter 14 to the extent that the termination steps set forth in § 56.100(1) and (2) are replaced by the termination steps at § 1406(b)(1)(i) through (iii).<sup>4</sup>

The important activity that PGW and other parties note is that all public utilities contain pertinent income and household size information in their data bases. Moreover, this information is routinely updated whenever the utility receives a contact from a delinquent customer seeking payment terms. The OCA reinforces this point with the comment that delinquent customers should have been given every opportunity to enter into a payment agreement, and termination should not be considered until the customer has deviated from the payment agreement, and in these cases the utility already has, or should have, income information that was used to create the original payment agreement.

To help avoid erroneous terminations, electric and gas utilities must use this income and household size information in their data bases to prevent the issuance of termination notices between November 21 and January 31 to households that fall into the income categories listed at § 1406(e)(1). These dates are important in light of § 1406(b)(1)(i) and 52 Pa. Code § 56.99 (Use of termination notice solely as collection device is prohibited). Section 1406(b)(1)(i) provides that a notice of termination shall remain effective for 60 days. Section 56.99, a section not superseded by Chapter 14, prohibits the use of termination notices "solely" as a collection device. From these two requirements, it follows that any notice issued between November 21 and January 31 to a household that the utility knows falls into the protected income

<sup>2</sup> Section 1406(e)(1) provides as follows: **(e) Winter Termination.**—(1) unless otherwise authorized by the Commission, after November 30 and before April 1, an electric distribution utility or natural gas distribution utility shall not terminate service to customers with household incomes at or below 250% of the federal poverty level except for customers whose actions conform to subsection (c)(1). The Commission shall not prohibit an electric distribution utility or natural gas distribution utility from terminating service in accordance with this section to customers with household incomes exceeding 250% of the federal poverty level.

<sup>3</sup> Section 1406 (c)(1) provides as follows: **(c) Grounds for immediate termination.**—(1) A public utility may immediately terminate service for any of the following actions by the customer: (i) Unauthorized use of the service delivered on or about the affected dwelling; (ii) Fraud or material misrepresentation of the customer's identity for the purpose of obtaining service; (iii) Tampering with meters or other public utility's equipment; (iv) Violating tariff provisions on file with the Commission so as to endanger the safety of a person or the integrity of the public utility's delivery system.

<sup>4</sup> Section 1406 (b)(1)(i) through (iv) provide as follows: **Notice of termination service.**—(1) Prior to terminating service under subsection (a), a public utility: (i) Shall provide written notice of the termination to the customer at least 10 days prior to the date of the proposed termination. The termination notice shall remain effective for 60 days. (ii) Shall attempt to contact the customer or occupant, either in person or by telephone, to provide notice of the proposed termination at least three days prior to the scheduled termination. Phone contact shall be deemed complete upon attempted calls on two separate days to the residence between the hours of 7 A.M. and 9 P.M. if the calls were made at various times each day. (iii) During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, the public utility shall, within 48 hours of the scheduled date of termination, post a notice of the proposed termination at the service location. (iv) After complying with paragraphs ii and iii, the public utility shall attempt to make personal contact with the customer or responsible adult at the time service is terminated. Termination of service shall not be delayed for failure to make personal contact.

categories listed at § 1406(e)(1) violates § 56.99 since termination is prohibited during the 60-day period that the notice is in effect and the notice therefore becomes “solely” a collection device. By way of further clarification, a notice issued no later than November 20 can be acted upon on November 30, the tenth day, and therefore has not been issued solely as a collection device. In such instances, if termination has not been effected within this 10-day period, the notice may be used during the remaining 50 days to qualify for LIHEAP pursuant to § 1406(g)<sup>5</sup>. On the other end of the time frame noted above, notices issued on or after February 1 may initially be used to qualify for LIHEAP, but may also be acted upon April 1, i.e., within the 60-day time frame established under § 1406(b)(1)(i).

There are two exceptions to the policy set forth above. The first exception noted by the OCA and other parties involves the application of § 1406(c)(1) relating to grounds for immediate termination. The second one noted by PGW involves instances in which the utility, pursuant to § 1406(e)(1), seeks specific Commission authorization to terminate a household that falls into the protected income categories listed at § 1406(e)(1). According to PGW, a utility may selectively apply § 56.100(2) and file a written request to terminate service if, at the conclusion of the notification process at § 1406(b)(1)(i) through (iii), a reasonable agreement cannot be reached between the utility and customer.

With respect to the contention by the OCA and CLS that the burden is on the utility to determine household size and income prior to sending a winter termination notice, we do not agree that Chapter 14 requires the electric and gas utilities, except for PGW which must verify household income in light of requirements at § 1406(e) pertaining exclusively to PGW, to make such determinations prior to issuing a winter termination notice. While we intend that the policies contained in the instant Order help ensure the identification of the overwhelming majority of households that fall into the protected income categories listed at § 1406(e)(1), we do not believe that Chapter 14 prohibits the issuance of a winter termination notice to a delinquent account for which the company doesn't know household size and income. However, in light of the prohibition against terminating service to households that fall into the protected income categories listed at § 1406(e)(1), a utility must not complete the process and physically terminate service to a delinquent account for which the company doesn't know household size and income unless it makes a diligent, good faith attempt to verify that the household does not fall into the protected income category by following the processes required by 66 Pa.C.S. §§ 1401 et seq. and 52 Pa. Code §§ 56.1 et seq. as well as the notice provisions outlined in this Order. We also note that Chapter 14 at § 1407(b)(1)<sup>6</sup> requires that erroneous terminations must be restored within 24 hours. Moreover, we remind utilities the Commission may authorize termination of service pursuant to § 1406(e)(1) in response to requests made pursuant to § 56.100. While we do not anticipate numer-

ous applications of § 56.100 by utilities, we recognize that utilities may wish to make such requests in regard to egregious situations.

Finally, we have reviewed CLS's recommendation that the Commission require inclusion of a simple form with monthly bills for customers to complete and return to the utility asserting their qualification for an exemption from winter termination due to (1) low-income status, (2) being a victim under protection from abuse order, or (3) for Philadelphia Gas Works customers, through one of the other exemptions listed in § 1406(e)(2). Although we encourage utilities to consider the use of such a form, we will not require its use at this time. While the use of a form of this nature may be useful in identifying some accounts with the qualifications noted above, as well as identifying language preference, the need for an interpreter, and information about disabilities that may impede communication by written notice, we are reluctant to require this approach without sufficient evidence that bill stuffers will be completed and returned. Instead, as noted throughout the instant Order, we believe there are more effective methods of securing and retaining this type of information in the utility's data base.

Given the serious repercussions that winter terminations could have to life and/or property, we shall put all utilities on notice that violations of the § 1406(e) winter termination provisions and the failure to restore service pursuant to § 1407(b)(1), will be subject to the civil penalties allowed under the Public Utility Code. 66 Pa.C.S. § 3301.

*2. Content of winter termination notices for application of § 1406(e).*

EAP believes that the content of winter termination notices should not change. PGW intends to add language to its winter termination notice to alert customers that depending upon their income or household makeup, PGW may require Commission authorization before terminating their service in the winter and that the customer needs to call PGW to discuss their status. PGW believes that such a notice fully complies with all applicable legal requirements. PGW agrees that a utility may not terminate service to a customer for fraud and material misrepresentation unless there is demonstrable evidence that “fraud” or a serious misrepresentation has occurred—a single bad check or a single omission on the application will not satisfy the requirements of the Act.

PECO Energy believes that its termination notice provides the customer with the amount needed to avoid termination, including, if applicable, any special agreement catch-up amount—the notice also provides the amount PECO Energy will require to restore service if termination occurs, including the account balance, a deposit, and a reconnection fee.

PECO Energy explains that it will continue to mail delinquency notices during the winter period to all customers, regardless of income level as the Company believes year-around collection activities aid the Company in managing the cyclical nature of delinquencies, where customers build up balances during the winter which become unmanageable. Moreover, under the provisions of the LIHEAP program, customers meeting income guidelines are eligible for grants during the winter period if they are in receipt of a delinquency notice.

The OCA submits that before utilities engage in winter terminations under § 1406(e)(1), the utilities must provide adequate notice to customers that details the customer's rights and the process a customer can use to

<sup>5</sup> Section 1406(g) proceeds as follows: **(g) Qualification for LIHEAP.**—A notice of termination to a customer of a public utility shall be sufficient proof of a crisis for a customer with the requisite income level to receive a LIHEAP Crisis Grant from the Department of Public Welfare or its designee.

<sup>6</sup> Section 1407(b) provides as follows: **(b) Timing.**—When service to a dwelling has been terminated and, provided the applicant has met all applicable conditions, the public utility shall reconnect service as follows:

- (1) Within 24 hours for erroneous terminations or upon receipt by the public utility of a valid medical certification.
- (2) Within 24 hours for terminations occurring after November 30 and before April 1.
- (3) Within three days for erroneous terminations requiring street or sidewalk digging.
- (4) Within three days from April 1 to November 30 for proper terminations.
- (5) Within seven days for proper terminations requiring street or sidewalk digging.

avoid termination. The OCA further submits that the best approach is for the Commission to create the form to ensure the uniformity and adequacy demanded by the occasion for its use.

The OCA submits that the notice form should include: the exact reason(s) for the proposed termination; clear instructions as to contact information for the proper person(s) at the utility the customer should speak with; contact information for those customers with disabilities or those customers needing translation assistance; the required documentation or information the customer must supply to avoid termination; the process a customer can use to resolve disputes as to the underlying reason for the proposed termination; information on the federal poverty guidelines by household size; and other available protections from termination such as being a victim under a Protection From Abuse Order.

The OCA submits that adequate notice will result in better protection for consumers and lower overall transaction costs for the utilities, which should far outweigh any front-end costs in using a more comprehensive form of notice. The OCA asserts that the Commission should create a well-constructed uniform notice form for all utilities to use and promulgate regulations as to its use. The OCA also submits that a separate notice form must be developed for PGW because of the additional requirements for termination and the means for avoiding termination by PGW customers as contained in 66 Pa.C.S. § 1406(e)(2).

CLS requests that the Commission require that utilities conducting winter terminations pursuant to Chapter 14 provide, in addition to satisfying existing requirements under Chapter 56, a termination notice which clearly informs the customer of the grounds on which termination may be prevented, and specific information on how to assert those grounds and prevent termination. CLS submits that the notice should include a chart listing the federal poverty level amounts by household size and must also clearly explain when and to whom this showing must be made, and include the existing medical certification language. Moreover, CLS maintains the notice must also provide information concerning the differences in procedures or requirements for reconnection of service for victims under Protection From Abuse Orders. CLS also contends that the Commission should clarify what termination date a utility may put on a notice.

CLS states that the Commission should also prohibit the sending of termination notices to individuals who are exempt from termination if the notice contains a termination date between December 1 and April 1, unless the utility actually seeks permission from the Commission to terminate service to that customer during the winter. 52 Pa. Code § 56.99.

In light of changing demographics in the Commonwealth, as well as federal civil rights law, CLS contends that notices and important forms, particularly those contemplating winter termination, must be made language accessible to individuals with Limited English Proficiency (LEP). Finally, the CLS maintains that notices must include a language accessible telephone number.

#### *Resolution*

With respect to the content of winter termination notices, we agree with the parties that recommend revisions to the standard 10-day notice before utilities engage in winter terminations under Section 1406(e). A revised notice will help prevent erroneous terminations by informing affected customers of the grounds on which

termination may be prevented, as well as providing specific information on how to assert those grounds. Moreover, we agree that the notice should be uniform to avoid confusion on the part of customers receiving two notices, one from their electric company and another from their gas utility.

In addition to the content requirements for termination notices at 52 Pa. Code § 56.2 relating to the definition of termination notice, the following information must be included in the notice used by electric and gas utilities when applying § 1406(e): information on the federal poverty guidelines by household size; the required documentation or information the customer must supply to avoid termination; information on the protection from termination for victims under a Protection From Abuse Order, and contact information for those customers with disabilities or those customers needing translation assistance.

To ensure that utilities provide adequate notice to customers that details the customer's rights and the process a customer can use to avoid termination before utilities engage in winter terminations under Section 1406(e), we invite all parties to submit sample 10-day, 48-hour, and post-termination notices to the Commission's Bureau of Consumer Services (BCS) within 20 days from the date of this Order. Similar to the process we used to design the customer notice required at § 1416, Commission staff will use the suggestions submitted by the interested parties to design three sets of notices, two sets for PGW (See PGW-Specific Issue #1), and another set for the other electric and gas utilities. When developing sample notices for Commission staff review, we request that parties incorporate the plain language guidelines at § 69.251 into their design. The notices developed by Commission staff will be disseminated for additional feedback from the parties before they are finalized. We anticipate a short turnaround on this process so that appropriate notices can be in place for the upcoming winter period.

*3. Standards for implementing § 1406(c)(1)(ii) ensure that appropriate proof of fraud is established before termination without notice is performed.*

EAP submits that regulatory intervention is not needed to implement § 1406(c)(1)(ii) as the statute is clear. Moreover, EAP explains that there is no support for the Commission sanctioning fraudulent actions or material misrepresentation, which apparently assumes that opposing parties are making this argument. As far as passing a bad check, EAP also believes that the statute is clear and regulations are not needed. Apparently, it is EAP's position that a bad check would be cause for termination under § 1406(c)(1)(ii) or § 1406(h).<sup>7</sup> Moreover, EAP declares that the practice of using bad checks to delay termination or restore service is over.

PGW believes that utilities are authorized to respond to a bad check with an immediate termination regardless of the time of year in which the termination takes place. First, if a check is dishonored after giving § 1406(h)(1) notices (10 days/attempted telephone contact), an immedi-

<sup>7</sup> Section 1406(h) provides as follows: **(h) Dishonorable tender of payment after receiving termination notice.**—(1) After a public utility has provided a written termination notice under Section 1406(b)(1)(i) (relating to termination of utility service) and attempted telephone contact as provided in Section 1406(b)(1)(i), termination of service may proceed without additional notice if:

(i) A customer tenders payment which is subsequently dishonored under 13 Pa.C.S. § 3502 (relating to dishonor); or  
 (ii) A customer tenders payment with an access device, as defined in 18 Pa.C.S. § 4106(d) (relating to access device fraud), which is unauthorized, revoked or canceled.  
 (2) The public utility shall not be required by the Commission to take any additional actions prior to the termination.

ate termination without further notice is authorized by Chapter 14. Moreover, PGW submits that if a customer tenders a bad check in the winter period, the same rules should apply because only customers already subject to termination are subject to § 1406(h). PGW reasons that a customer is only subject to a non-notice termination for tendering a check that is dishonored if he/she received a termination notice, and then received a 72 hour notice, and only then sought to stave off termination by using a bad check.

PGW believes this is a policy decision made by the General Assembly that if a customer uses a check to prevent termination the customer must be absolutely certain that there are sufficient funds to cover the amount for which it is drawn—or face immediate termination if the check bounces.

PGW raises another issue where a customer who is eligible for termination at the time the notices are sent but who might not be eligible (without Commission authorization) when the utility discovers the check has been dishonored. PGW submits that the utility should be able to immediately terminate service to the customer if there is evidence that the customer intentionally tendered a bad check.

PECO Energy says that it does not intend to terminate service without notice to any customer at or below 250% of the federal poverty level during the winter months for dishonorable tender of payment. Furthermore, for customers above 250% of the federal poverty level, PECO Energy states that these accounts will be subject to termination during the winter and will also be subject to termination for dishonorable tender of payment under § 1406(h). Moreover, if a safety issue exists which requires termination to protect public safety or the integrity of the utility delivery system, PECO Energy will terminate service regardless of the income level of the customer and regardless of the time of year.

The OCA recommends that the Commission promulgate regulations for the application of § 1406(c)(1)(i) as to what constitutes “fraud” or “material misrepresentation” before allowing utilities to engage in the extreme measure of terminating customers, in the winter, without prior notice. The OCA explains that allowing immediate termination without notice, particularly in the winter, is an extreme measure that has traditionally been reserved for only those situations where the safety of the system, employees, or other persons has been compromised. However, OCA points out that Chapter 14 allows immediate termination without notice for fraud or material misrepresentation—terms of art that the Commission has less experience with. According to the OCA, inadvertently bouncing a check is not fraud, and care must be taken that the drastic action of termination without notice does not occur without a proper basis. The OCA submits that it is reasonable for the Commission to promulgate regulations based on the well-established elements of common law fraud, or as an interim measure to publish a policy statement covering this area.

The OCA submits that where a utility has performed an immediate termination based on fraud or misrepresentation, there must be a procedure in place in which a customer can immediately challenge such a finding. The OCA suggests that the utility should be directed to file, within 24 hours of the termination, sufficient facts as to the basis for any such termination with BCS for an immediate assignment to an administrative law judge (ALJ) or a special agent—the customer involved should be granted an expedited/emergency review and immediate

restoration and reimbursement of reasonable customer costs should be ordered if the ALJ finds the utility’s proof is lacking or clearly in error.

#### *Resolution*

We disagree with the parties who argue that tendering a bad check or other type of dishonorable payment falls under the grounds for immediate termination without notice under § 1406(c)(1). If the actions set forth at § 1406(h) were intended to be included as grounds for immediate termination without notice, then § 1406(c)(1) would have incorporated § 1406(h) in its list of actions warranting immediate termination. Since these actions were not included as grounds for immediate termination without notice, we will not expand the list contained in § 1406(c)(1) by allowing immediate termination for actions covered under § 1406(h).

Furthermore, EAP’s assertion that the practice of using bad checks to delay termination or restore service is over warrants additional comment. We believe it appropriate to clarify that any alleged Commission acquiescence to this practice ended in 1978 when we promulgated § 56.94(2). This section of Chapter 56 provides that a utility does not have to accept payment by check to avoid termination from any customer who has tendered a bad check within 12 months. Thus, if EAP member companies were allowing such action since 1978, it was because they failed to properly apply § 56.94(2).

Finally, PGW has raised the issue of a customer who is eligible for termination at the time the notices are sent but who might not be eligible (without Commission authorization) when the utility discovers the check has been dishonored. Under these circumstances, we do not agree that the utility should be able to immediately terminate service to the customer without first obtaining Commission authorization as required by § 1406(e)(1). The utility must first request Commission authorization and the request should include any evidence it has that the customer intentionally tendered a bad check. The Commission then will review this information when determining whether to authorize the termination. Moreover, as noted in the previous paragraph, customers cannot repeatedly tender bad checks to avoid termination if the utility applies § 56.94(2) in appropriate instances.

#### *4. Application of § 1406(e) to rental units where the account is in the name of the landlord.*

CLS states that Chapter 14 does not authorize winter terminations to premises occupied by residential tenants protected by the Utility Service Tenants Rights Act (USTRA) statutes, 68 Pa.P. S. §§ 399.1 et seq.

#### *Resolution*

Chapter 14 at § 1418 addresses one of the two statutes relating to discontinuance of service to leased premises by conveying the intent that Chapter 14 shall not affect any rights or procedures under USTRA (P. L. 1255, No. 299). In light of this intent, and given the Commission’s longstanding policy (Secretarial Letter at Docket No. I-900002) that residential terminations not occur to landlord ratepayer accounts during the winter absent specific Commission authorization, we clarify that Chapter 14 does not authorize winter terminations to premises occupied by residential tenants protected by the USTRA statutes.

#### *5. What is the proper amount that must be paid to avoid termination? Is it the amount on the notice or is it the amount plus any intervening utility bills?*

EAP submits that a notice should inform the customer that to avoid termination the customer must pay the specified overdue amount plus amounts reflected in any subsequent, undisputed bills which become due before the actual date of termination. The notice should also describe all additional reconnection fees, deposits, and other costs that may arise if termination occurs. 52 Pa. Code § 56.2.

PGW submits that utilities have the option of including on the 10-day notice not only the current amount in arrears but also language indicating that avoidance of termination will require payment of any other undisputed, billed and delinquent charges outstanding prior to the actual date of termination. According to PGW, any restriction on its ability to demand payment of the entire outstanding balance would cause significant and unnecessary additional expense to the Company.

PECO Energy submits that the amount listed in the termination notice will be the amount required to avoid a pending termination. Since additional amounts may become delinquent after a termination notice is issued, a customer may be subject to collection immediately following the satisfaction of a termination notice. However, a sufficient notice of the subsequent delinquency will be provided prior to termination to allow the customer to satisfy the remaining delinquency and avoid termination.

Simply put, the OCA states that when a termination notice is issued, an arrearage amount should be listed on the notice and this is the amount that the customer is required to pay to stay the termination. Given that termination notices are now effective for 60 days, it is possible that additional arrearages could accrue, but the customer has been provided no notice of these additional arrearages or any opportunity to dispute these additional arrearages.

The OCA submits that the customer can only be required to pay the amount of the arrearages listed on the termination notice (assuming no dispute as to this amount) to stop a termination. In other words, a customer who pays the amount listed on the termination notice, or enters a payment agreement regarding that amount, has satisfied the requirements for resolving the termination notice.

The CLS position on this issue is that the notice of termination under § 1406(b)(1) does not authorize a utility to require a customer to pay more than the precise dollar amount(s) listed on the written termination notice in order to avoid termination.

CLS explains that this provision does not require a change in Chapter 56 since under Chapter 56, due process requires that a termination notice must provide an "itemized statement of accounts currently due, including any required deposit." The notice must also include a statement that a "specific reconnection fee will be required to have service restored, after it has been terminated, if a reconnection fee is a part of the tariff of the utility on file with the Commission." 52 Pa. Code § 56.2 (Definitions. Notice or termination notice).

#### *Resolution*

With respect to the amount required to avoid a pending termination, we agree with the comments of PECO Energy, OCA and CLS that the specified overdue amount listed on the notice is the amount that must be addressed to avoid termination of service. As noted by PECO Energy, any additional amounts that become delinquent after a termination notice is issued are subject to collection immediately following the satisfaction of a termina-

tion notice after sufficient notice of the subsequent delinquency is provided prior to termination to allow the customer to satisfy the remaining delinquency and avoid termination. However, if service is terminated, the post-termination notice may inform the affected customer of the total outstanding balance that must be addressed for reconnection of service pursuant to § 1407(c).

*6. Clarification as to whether winter terminations are authorized under § 1406(c)(1) or § 1406(e) when a utility receives a dishonorable tender of payment (§ 1406(h)).*

The OCA explains that under § 1406(h) a utility is permitted to terminate service, without further notice, for a dishonorable tender of payment by the customer after the customer received an initial termination notice. The OCA submits, however, that § 1406(h) does not permit termination in the winter without appropriate notice, and it does not permit termination in the winter of those customers who are not otherwise subject to winter termination.

More specifically, the OCA maintains that termination for dishonorable tender of payment under § 1406(h) cannot proceed in the winter for customers whose household income is at or below 250% of the FPL or who otherwise qualify for protection from winter termination. However, the OCA acknowledges that as to customers whose income is above 250% of the FPL, the winter termination for dishonorable tender of payment can proceed, but it must be done in accordance with the winter termination procedures contained in § 1406(b)(1)(iii) which provides as follows:

During the months of December through March, unless personal contact has been made with the customer or responsible adult by personally visiting the customer's residence, the public utility shall, within 48 hours of the scheduled date of termination, post a notice of the proposed termination at the service location.

Moreover, the OCA believes that this essential safety precaution is not overridden by § 1406(h), since this subsection of § 1406 does not discuss winter termination and is not a permitted reason for winter termination in the stated exceptions. In fact, the OCA reasons that while Chapter 14 does not allow the Commission to require additional actions regarding notice for winter termination, the basic winter termination notice does apply. The OCA explains that the Commission should clearly state that applicable notice procedures must be fully followed before any winter termination.

CLS believes that Chapter 14 does not authorize winter termination of service to residential households on the sole ground that the utility has received a bad check or a credit or debit card which has been invalidated. CLS states that a customer whose service may not be terminated in the winter period due to household income level, household composition, payment history or medical certification, as set forth in § 1406(e), may not be terminated for use of a bad check or credit/debit card.

The basis of CLS' position is that § 1406(h) sets forth procedures for termination of service to customers who have paid a utility bill by check or credit/debit card after receiving a termination notice. However, paying a utility with a check which is subsequently dishonored, or with a credit/debit card which is not valid is not one of the actions included in the four § 1406(c)(1) exceptions to the bar on winter terminations for lower income customers. Moreover, CLS emphasizes that the acts identified in

§ 1406(h) justifying termination without further notice are not in any way comparable to those set forth in § 1406(c)(1).

#### *Resolution*

We have previously concluded under Issue #3 that, if the actions set forth at § 1406(h) were intended to be included as grounds for immediate termination without notice, then § 1406(c)(1) would have incorporated § 1406(h) in its list of actions warranting immediate termination. Finding that dishonorable tender of payment is not included, we will not expand the list contained in § 1406(c)(1) by allowing immediate termination for actions covered under § 1406(h). We also note that § 1406(h) contains language that clearly shows that it is intended to be applied after a utility has provided notice of termination and the process is interrupted by a dishonorable payment. Finally, as also noted previously, § 56.94, combined with § 1406(h), clearly provides utilities with the tools it needs to prevent customers from using multiple bad checks to either repeatedly prevent termination or restore service.

With respect to whether winter terminations are authorized under § 1406(e) when a utility receives a dishonorable tender of payment (§ 1406(h)), we find the process for completing the termination depends on the household income. We agree with the OCA that, pursuant to § 1406(e)(1), before termination can occur to a household at or below the low-income categories listed at § 1406(e)(1), specific Commission authorization is required. However, for households that are above the protected low-income categories listed at § 1406(e)(1), the winter termination for dishonorable tender of payment can proceed, but must be performed in accordance with the winter termination procedures, including application of the 48-hour notice under § 1406(b)(1)(iii) if personal contact was not successful. In instances where all appropriate notices have been provided during the winter to a household whose income is above the protected low-income categories listed at § 1406(e)(1), termination may proceed without additional notice through application of § 1406(h). We remind utilities that there are instances where a dishonorable payment is not the fault of the customer and, in such instances, the utility must reconnect service in a timely manner pursuant to the applicable subsection at § 1407(b).

*7. Clarification as to the Chapter 56 medical certification provisions that apply for implementation of § 1406(f) and § 1406(e)(2)(iii).*

PGW contends that Chapter 14 supersedes all inconsistent requirements, including the inconsistent portions of the sections of Chapter 56 listed in Section 4 of the Act. According to PGW, § 1406 endorses the continuation of the Chapter's medical certification procedures, except for only one change relating to "nurse practitioners." Otherwise, § 1406 provides that "the medical certification procedures shall be implemented in accordance with Commission regulation," namely, existing Chapter 56 regulations. Therefore, Chapter 56 medical certification procedures remain in effect.

The OCA recommends that the Commission should direct all utilities to follow the existing Chapter 56 medical certification regulations, with the addition of a nurse practitioner as a person who can provide a medical certificate. Furthermore, the Commission can then undertake a timely review of its procedures and the requirements of Chapter 14 to determine if other changes are necessary.

CLS submits that the Commission should affirm that § 56.114 has been superseded as inconsistent with the absolute prohibition in Chapter 14 § 1406(f)<sup>8</sup> and § 1407(b)(1)<sup>9</sup> on termination or refusal to reconnect service to customers experiencing medical emergencies and does not, as some utilities claim, impose a maximum time limit on the duration of a medical certification of 90 days either for a single medical emergency, or for the lifetime of the customer. Furthermore, CLS states that the Commission should clearly distinguish that medical certificate payment arrangements are to be entered into by companies pursuant to the good faith negotiation process at § 56.97 and may be reviewed by the Commission in the event of a dispute concerning adherence to § 56.97. CLS also contends that companies should not be permitted to implement a medical certification process which impedes its legitimate use by creating undue burdens such as requiring physicians to use only a utility form, or requiring physicians to include information not spelled out in § 1406(f).

In promulgating policy regarding the implementation of the medical certification sections, CLS requests that the Commission adopt a policy whereby customers and their household members with chronic and terminal illness receiving service under a medical certification need not file medical certifications on a monthly basis, but may file such certificates every 6 months or annually.

#### *Resolution*

In regard to application of the medical certification procedures at 52 Pa. Code, §§ 56.111—56.118, we agree with the consensus of the parties that the most substantive change made in Chapter 14 to the Chapter 56 medical certification procedures is the addition at § 1406(f) of "nurse practitioner" as one of the types of professionals qualified to provide a medical certification. However, we do not agree with the consensus that other Chapter 56 medical certification requirements have not been superseded by Chapter 14. We note that Section 4 of Act 201 lists all but one of the Chapter 56 medical certification provisions as possibly containing requirements inconsistent with Chapter 14. To date, we have identified one provision that is clearly inconsistent with Chapter 14—§ 56.115.

In regard to § 56.115, Chapter 14 at § 1407(b)(1) requires utilities to restore service "within 24 hours" upon receipt of a medical certification whereas § 56.115 provides for restoration "before the end of the next working day." Given the language at § 1407(b)(1), utilities must revise their procedures to ensure that restorations upon receipt of a medical certification occur within 24 hours.

We are also aware that there are some interpretational issues relating to application of these Chapter 56 provisions. CLS raises several and we will address these in the instant order. More generally, as all parties develop more experience with the implementation of Chapter 14, it may be necessary to determine if other changes are necessary to ensure that the Chapter 56 medical certification provisions are not inconsistent with Chapter 14. We also anticipate that the Chapter 56 medical certification provisions will be thoroughly reviewed when the Commission amends Chapter 56 pursuant to Section 6 of Act 201.

<sup>8</sup> Section 1406(f) provides as follows: (f) **Medical certification.**—A public utility shall not terminate service to a premises when a licensed physician or nurse practitioner has certified that the customer or a member of the customer's household is seriously ill or afflicted with a medical condition that will be aggravated by cessation of service. The customer shall obtain a letter from a licensed physician verifying the condition and shall promptly forward it to the public utility. The medical certification procedure shall be implemented in accordance with Commission regulations.

<sup>9</sup> Section 1407(b) is cited on page 10.



With respect to CLS' assertion that Section 56.114 has been superseded as inconsistent with the absolute prohibition in Chapter 14 §§ 1406(f) and 1407(b)(1), we disagree. As specifically stated at § 1406(f), "The medical certification procedures shall be implemented in accordance with Commission regulations." Section 56.114 is one of those regulations and, therefore, the length of postponement and renewal standards remain in effect.

Regarding CLS' request that the Commission clearly distinguish that medical certificate payment arrangements are to be entered into by companies pursuant to § 56.97 and may be reviewed by the Commission in the event of a dispute concerning adherence to § 56.97, we agree that application of the good faith negotiation process at § 56.97(b) is the appropriate method for fulfillment of the customer's duty at § 56.116 to equitably arrange to make payment on all bills. Moreover, a customer may file a payment dispute about a utility's application of § 56.97(b) and the Commission is authorized under § 1405(a) to investigate such complaints.

Finally, concerning CLS' contention that companies should not be permitted to implement a medical certification process which impedes its legitimate use by creating undue burdens such as requiring physicians to use only a utility form, or requiring physicians to include information not spelled out in § 1406(f), Section 56.113 addresses these concerns. Section 56.113 sets forth the specific information that must be included in a medical certification. Utilities should limit their request for medical certification information to the information requirements at § 56.113. Moreover, as long as a physician or nurse practitioner provides the information at § 56.113(1) through (5) in written form, it constitutes a valid medical certification. With respect to the issue of requiring physicians to use only a utility form, Section 1406(f) indicates that a "letter" from the physician is all that is necessary. A utility may certainly provide a standard form to help ensure that complete information is provided by the physician or nurse practitioner, but failure on the part of a physician to use the form does not constitute a legitimate reason to reject a medical certification.

#### *8. Application of post-termination notice provision at § 1406(c)(2).*

Under § 1406(c)(1)(ii), CLS explains that Chapter 14 has added an additional ground for service termination without notice to those already existing under Chapter 56—that additional ground is termination for "fraud or material misrepresentation of the customer's identity for the purpose of obtaining service." CLS explains further that § 1406(c)(2)<sup>10</sup> requires that a utility make a good faith attempt to provide a post-termination notice in these circumstances "to the customer or a responsible person at the affected premises." CLS submits that termination without prior notice does not allow the customer accused of fraud or misrepresentation concerning identity to present the customer's side of the story before the utility has committed to a particular position and terminate service.

Therefore, there should be heightened post-termination protections where the post-termination notice should inform customers in detail of the alleged facts underlying the conclusion that fraud or material misrepresentation has been committed and customers terminated for fraud

<sup>10</sup> Section 1406(c)(2) provides as follows: (2) Upon termination, the public utility shall make a good faith attempt to provide a post termination notice to the customer or a responsible person at the affected premises, and, in the case of a single meter, multiunit dwelling, the public utility shall conspicuously post the notice at the dwelling, including in common areas when possible.

or misrepresentation should be provided the opportunity to take an expedited appeal to the Commission.

#### *Resolution*

With respect to the issue of providing a post-termination notice, we believe two clarifications will ensure proper implementation of the Chapter 14 requirements. First, the requirement at § 56.95 to provide post-termination notice subsequent to termination of service is not inconsistent with any provision under Chapter 14 and should continue to be provided since it is to the benefit of all parties that customers receive information relating to service restoration. Second, with respect to CLS' recommendation that there should be heightened post-termination protections where the post-termination notice should inform customers in detail of the alleged facts underlying the conclusion that fraud or material misrepresentation has been committed, we agree that the post-termination notice in such instances should provide adequate information about the reason why the utility terminated service without prior notice so that the customer or occupant understands why the utility terminated service. When parties submit their sample post-termination notices for Commission staff review (See Issue #2 above), we welcome any suggested wording for conveying the grounds at § 1406(c)(1), particularly subsection (ii) relating to fraud or material misrepresentation.

#### *9. Application of Section 1407 in terms of requiring any up-front payments to restore service.*

PGW agrees with EAP that there is nothing in Chapter 14 which precludes requiring an up-front payment as part of the amount a terminated customer needs to pay to be reinstated. PGW believes that existing BCS reconnection guidelines, which require up-front payments, continue to be in force since there is nothing in Chapter 14 which supersedes such requirements.

The OCA states that except for customers whose income exceeds 300% of the Federal Poverty Level (FPL) and have not experienced a "life event" or have defaulted on two or more payment agreements, no up-front payment can be required to restore service. 66 Pa.C.S. § 1407(c)(2)(i).<sup>11</sup> In addition, the OCA explains that for customers with incomes at or below 300% of the FPL, the utility may only require full payment of any reconnection fees and may also require repayment of the outstanding balance over 12 months or 24 months depending on income level. Finally, although the utility may require a deposit, the customer has up to 90 days to pay the deposit. 66 Pa.C.S. § 1404(h).

<sup>11</sup> Section 1407(c) provides as follows: (c) Payment to restore service.—(1) A public utility shall provide for and inform the applicant or customer of a location where the customer can make payment to restore service. (2) A public utility may require:

(i) Full payment of any outstanding balance incurred together with any reconnection fees by the customer or applicant prior to reconnection of service if the customer or applicant has an income exceeding 300% of the Federal Poverty Level or has defaulted on two or more payment agreements. If a customer or applicant with household income exceeding 300% of the Federal Poverty Level experiences a life event the customer shall be permitted a period of not more than three months to pay the outstanding balance required for reconnection. For purposes of this paragraph, a life event is: (a) A job loss that extended beyond nine months. (b) A serious illness that extended beyond nine months. (c) Death of the primary wage earner.

(ii) Full payment of any reconnection fees together with repayment over 12 months of any outstanding balance incurred by the customer or applicant, if the customer or applicant has an income exceeding 150% of the Federal Poverty Level but not greater than 300% of the Federal Poverty Level.

(iii) Full payment of any reconnection fees together with payment over 24 months of any outstanding balance incurred by the customer or applicant if the customer or applicant has an income not exceeding 150% of the Federal Poverty Level. A customer or applicant of a city natural gas distribution operation whose household income does not exceed 135% of the Federal Poverty Level shall be reinstated pursuant to this subsection only if the customer or applicant enrolls in the customer assistance program of the city natural gas distribution operation except that this requirement shall not apply if the financial benefits to such customer or applicant are greater if served outside of that assistance program.

The OCA submits that the utility, however, is not authorized to charge any additional up-front payment in order to permit reconnection. The OCA argues that Chapter 14 does not authorize an up-front payment over and above the reconnection fee, deposit, and payment balance installments specified in the Act.

According to PECO Energy, § 1407 provides ample guidance regarding what may be required by a utility to restore service and, where payment arrangements are permitted, there is value to the customer in requiring a larger initial payment and reducing the arrears to be paid over the remainder of the payment period - customers will be less likely to default on a payment agreement with lower monthly payments and, therefore, less likely to be subject to the more stringent restoration requirements for customers who have defaulted on two or more agreements.

CLS argues that Chapter 14 has provided utilities with the right to demand as a condition of restoration the full amount of the reconnection fee and a deposit equal to 1/6 of the annual bill as a condition of restoration of service. In addition, CLS points out that § 1407 authorizes utilities to require that customers with household incomes exceeding 150% FPL make equal monthly payments sufficient to pay the outstanding balance over twelve months - customers with household income of 150% FPL and below may be required to pay the outstanding balance in equal monthly payments over 24 months.

#### *Resolution*

With respect to the application of Section 1407(c) in terms of requiring any up-front payments to restore service, we agree with PGW and EAP that there is nothing in Chapter 14 which precludes requiring an up-front payment, but disagree that the up-front payment may be any amount that the utility decides is appropriate. We believe the payment requirements at § 1407(c) are clear, and vary depending on household size and income, and whether or not a customer has broken prior agreements.

If a customer or applicant's household income exceeds 300% of the FPL and the customer is **not** experiencing a "life event," a utility may, pursuant to § 1407(c)(2)(i), require an up-front payment as high as the amount of the total outstanding balance.

If a customer or applicant's household income exceeds 300% of the FPL and the customer *is* experiencing a "life event," a utility may, pursuant to § 1407(c)(2)(i), require an up-front payment in the amount of one-third of the total outstanding balance, with the second payment due the second month, and the final payment due the third month.

If a customer or applicant's household income exceeds 150% of the FPL but is not greater than 300% of the FPL, a utility may, pursuant to § 1407(c)(2)(ii), require an up-front payment in the amount of one-twelfth of the total outstanding balance, with the second payment due the second month, and subsequent payments of one-twelfth due each succeeding month until the final payment of one-twelfth due on month 12.

If a customer or applicant's household income does not exceed 150% of the FPL, a utility may, pursuant to § 1407(c)(2)(iii), require an up-front payment in the amount of one-twenty fourth of the total outstanding balance, with the second payment due the second month, and subsequent payments of one-twenty fourth due each succeeding month until the final payment of one-twenty fourth due on month 24.

We believe the clarifications noted above reflect adherence to the language at § 1407(c), as well as the apparent intent that customers with differing circumstances require different time frames to make payments. With respect to PGW's assertion that the pre-Chapter 14 BCS reconnection guidelines, which require up-front payments, continue to be in force, we disagree. The pre-Chapter 14 BCS guidelines that PGW refers to were based on waiving security deposits in most instances for customers at or below 300% of the FPL. Regarding PECO's contention that there is value to the customer in requiring a larger initial payment because it reduces the arrears to be paid over the remainder of the payment period, we see little value in lowering subsequent monthly payments if a customer can't afford a large initial up-front payment, plus a reconnection fee, plus 50% of a deposit. Utilities should help reduce the amount of monthly payments by adhering to the policy expressed at § 1402(3) and increasing timely collections. If a utility increases timely collections, the outstanding amount will be lower and this, in turn, will result in lower monthly payments when applying the formulas at § 1407(c).

*10. Clarification as to whether CAP-related disputes require "stays" on termination pending resolution.*

PGW supports EAP's position that complaints filed by CAP customers which complain only about the customer's ability to pay, or which request a "new" payment agreement should not be accepted.

The OCA agrees that Chapter 14 does not permit payment agreements for CAP customers who are behind on their bills, but submits that Chapter 14 does not deny a CAP customer the right to raise other issues or questions.

According to the OCA, customers being served through CAPs may have disputes regarding their service or their participation in the CAP that go beyond questions of payment agreements and CAP customers must be permitted to raise these issues before the Commission and stay of termination should be ordered until the dispute is resolved.

CLS argues that there is no basis in Chapter 14 for excluding CAP participants from the protection of the stay when those participants file informal and formal complaints with the Commission concerning matters which the Commission may decide. CLS maintains that § 1405(c) only bars the Commission from negotiating or approving "payment agreements" for CAP participants as "Customer Assistance Program rates shall be timely paid and shall not be the subject of payment agreements negotiated or approved by the Commission." However, CLS states nothing in this provision bars the Commission from reviewing many CAP-related matters, including but not limited to, billing disputes where participants claim they have not received credit for payments made, have received high bills due to meter or meter reading problems, have been charged a CAP rate which is not the appropriate one for a household with their income or type of service, or that the CAP rate charged to them does not meet the Commission's affordability standards when applied to them.

Finally, CLS submits that there is no basis for the contention that Chapter 14 limits the applicability of the automatic stay for matters that the Commission may consider - the Act contains no language which alters the Chapter 56 rule that the filing of an informal complaint operates as a stay of termination pending resolution of the complaint. 52 Pa. Code §§ 56.141(2); 56.174(3).

### Resolution

All parties agree that Chapter 14 at § 1405(c) prohibits the Commission from establishing payment agreements for customers participating in a company CAP. Some parties correctly note that CAP participants can seek Commission intervention for other legitimate reasons such as the following: complaints about the accuracy of meter readings; allegations that the customer's CAP budget was inappropriately increased; allegations that the customer has been charged a CAP rate which is not the appropriate one for a household with their income or type of service; allegations that the customer was improperly removed from CAP or that CAP eligibility was denied; allegations that the customer has not been credited for all payments made, and complaints about the utility's application of payments including application of energy assistance grants.

These are disputes that are unrelated to the prohibition at § 1405 (c) that the Commission not establish a payment agreement for CAP participants. Therefore, utilities are required to apply § 56.141 in response to such disputes, i.e., utilities must place a "stay" on termination activity pending completion of the dispute pursuant to § 56.141(2). Moreover, pursuant to § 56.141(2), the complainant retains the obligation to pay undisputed amounts pending resolution of the dispute.

### II. Payment Arrangements (PARS)

#### 1. Clarification of Commission standards regarding the amount of any up-front payment in the application of § 1405 (Payment agreements).

Sections 1405(a) and (b) provide the rules regarding payment agreements. Section 1405(b), in particular, specified the length of time that payment agreements can extend for customers with various income levels. The OCA notes that § 1405(a) and (b) are silent on the issue of providing an up-front payment on the outstanding balance as part of a payment agreement. Moreover, the definition of payment agreement also does not include an up-front payment of the outstanding balance.

### Resolution

In regard to the amount of any up-front payment a utility may require in the application of § 1405(a), the Chapter 14 Implementation Order entered March 4, 2005, at M-00041802F0002, addressed this issue. That Order clarified that § 56.97(b) is not inconsistent with Chapter 14 and therefore remains fully in effect (Chapter 14 Implementation Order, p.14). We also noted that the obligations relating to negotiating payment agreements imposed by § 56.97(b) are general and flexible in nature and do not impose strict formulas or payment terms requirements. This flexibility translates into the ability on the part of utilities to require up-front payments if a utility, after considering all appropriate factors, believes an up-front payment is appropriate.

With respect to the Commission's obligations under § 1405 when making payment agreements, we note that the BCS, with the concurrence of the Commission, established internal procedures pursuant to § 56.211 to implement the directions at § 1405(b) for establishing payment agreements. These procedures do not require up-front payments because application of the formulas under § 1405(b) often result in payment terms that will be difficult enough for the customer to maintain without imposing any additional requirements such as up-front payments. Depending on the size of the outstanding balance, many customers, particularly those whose household income falls below 250% of the FPL, will be required

to pay a significant percentage of their gross monthly income to keep the mandated agreement. Many of these households are ineligible for participation in a CAP, as well as ineligible for federal energy assistance grants because their income is greater than 135% of the FPL. Application of the formulas at § 1405(b) may result in some customers paying as much as 20% of their gross monthly income each month to keep the terms of a § 1405(b) agreement. By comparison, the US Department of Housing and Urban Development (HUD) in its *Energy Desk Book of HUD Programs* reports on page 3 that a median income household has an average energy burden of 4% of gross monthly income (<http://www.huduser.org/Publications/PDF/energybook.pdf>). Clearly, the payment terms that must be established pursuant to application of § 1405(b)(2) will, in most instances, be well beyond the 4% average reported by HUD, and will be difficult enough for the customer to maintain without imposing any additional requirements such as up-front payments. Since our intent is to respond to payment agreement requests by making the most reasonable payment terms within the limits established by Chapter 14 to ensure that utilities receive payment for service rendered, we hereby clarify that we will not impose up-front payments in the Commission's application of § 1405(b).

2. Clarification of § 1405(d) as to whether a payment agreement counts as a "second or subsequent" payment agreement if the customer or applicant had previously made all payments due under the previous agreement(s).

The OCA submits that the § 1405(d)<sup>12</sup> prohibition against the Commission ordering a second or subsequent payment agreement if a customer has defaulted on a previous payment agreement does not address or apply to a customer who has satisfied some prior payment agreement. The OCA submits that reliance on § 1405(d) to deny a customer a payment agreement simply because at some time, years or even decades earlier, the customer has entered into and paid off a prior payment agreement is completely without merit. According to the OCA, § 1405(d) applies only to a situation where a payment agreement has been defaulted on.

The OCA explains that § 1405(d) is intended to apply to a situation where the customer has a current payment agreement on an outstanding balance and is in default on that payment agreement - it is illogical and indeed inconceivable that the intent of this section was to limit a customer to one payment agreement per lifetime. The OCA contends that where previous payment agreements are completed and the outstanding balance is wholly unrelated to the balance on which the utility now seeks a payment agreement, § 1405(d) does not, and cannot serve as a bar.

EAP contends that the statute is clear and that if a customer has timely paid all payments under a payment agreement, another payment agreement afterward on a new delinquency may be established by the Commission through application of § 1405(b). PGW, Aqua, and PECO Energy express opinions that essentially mirror EAP's comments.

### Resolution

We agree with the consensus of the parties and clarify that where previous payment agreements are completed as a result of the customer making payments sufficient to

<sup>12</sup> Section 1405(d) provided as follows: **Number of Payment Agreements.**—Absent a change in income, the Commission shall not establish or order a public utility to establish a second or subsequent payment agreement if a customer has defaulted on a previous payment agreement. A public utility may, at its discretion, enter into a second or subsequent payment agreement with a customer.

retire the outstanding balance that was the subject of the agreement, and this prior outstanding balance is wholly unrelated to the balance on which the customer now seeks a payment agreement, this request for payment terms is properly viewed as a request for an initial agreement.

3. *Clarification as to whether a customer payment sufficient to catch-up on the terms of a payment agreement restores that payment agreement, thereby eliminating termination grounds for failure to comply with the material terms of a payment agreement.*

PGW concurs with EAP arguing that, as a matter of law, § 1406(a)(2) gives utilities the right to terminate a customer even if he/she “cures” a payment agreement violation or catches-up in his/her payments. However, PGW, in its discretion, presently intends to permit a customer to “cure” a payment agreement violation and to refrain from termination activity in such an instance.

CLS states that Chapter 14 has not abrogated the absolute right of a customer who has defaulted under a payment agreement to avoid termination by curing the default prior to termination.

#### *Resolution*

While we agree with PGW and EAP that Section 1406(a)(2) lists “failure to comply with the material terms of a payment agreement” as authorized grounds for termination, we do not agree that the customer cannot eliminate this ground for termination by paying an amount sufficient to catch-up on the terms of a payment agreement. As stated publicly several times by EAP, as well as in its written comments, the last resort of a utility is to terminate service. EAP also notes that “utilities would prefer to work with their customers to collect payment, than to become embroiled in complaint procedures.” We agree and clarify that, while a utility has every right to initiate the termination process and to terminate service if necessary for failure to comply with the material terms of a payment agreement, an available method for eliminating the grounds for termination is to pay an amount sufficient to catch-up on the terms of a payment agreement. Clearly, once the catch-up payment is made, authorized grounds for termination no longer exist.

4. *Clarification of the appropriate application of LIHEAP CASH and CRISIS grants to CAP accounts.*

PULP submits that, at a minimum, elemental due process requires review by the Commission in each case in which an individual, after consulting with the utility, disputes how a LIHEAP payment was applied. Furthermore, any customer, including those participating in a CAP, should be able to question whether the payment was properly applied pursuant to the relevant rules and procedures governing the application of LIHEAP payments. More to the point, PULP believes that any attempt by the utility industry to designate itself as the sole, absolute, and infallible arbiter regarding the application of LIHEAP grants should be clearly denied. Moreover, CAP customers obtain a number of due process rights concerning their eligibility into the program and a utility’s actions, in applying each of the program design elements enumerated in the CAP Policy Statement, are subject to Commission review.

PULP asserts that the posting and application of the manner in which LIHEAP benefits are treated in CAP situations is not subject to one single, absolute and simple rule. PULP believes that contrary to the general policy, a LIHEAP grant may and should be used to reduce

a customer’s current CAP payment if the CAP minimum payment is calculated to exceed 17% of the household’s income. 52 Pa. Code § 69.265(9)(ii). In such a situation, PULP explains that the customer and the utility may disagree about any of a number of factors such as the calculation of household income or the placement of the customer in the correct CAP tier. PULP submits that in each of these situations, as well as others, it is necessary to maintain a policy of Commission review.

CLS contends that the Commission in each case in which an individual disputes how a LIHEAP payment was applied should determine whether or not the payment was properly applied pursuant to the relevant rules and procedures governing application of LIHEAP payments by that utility.

EAP submits that the Commission has determined that the appropriate use of energy assistance funds is to apply those dollars in the following sequence: (1) to reduce any arrearage; (2) to pay the current bill; (3) to reduce a monthly bill; and, (4) to be applied as a credit toward future bills. *Leslie Smith v. Columbia*, C-00946118 (Order entered August 17, 1995). EAP also submits that LIHEAP crisis grants are applied to eliminating the crisis caused by the termination notice.

#### *Resolution*

With respect to the issue of the appropriate application of LIHEAP CASH and CRISIS grants to CAP accounts, PULP correctly notes that the Commission’s CAP Policy Statement at § 69.265(9) provides guidance on how LIHEAP grants are to be applied to CAP accounts. These guidelines provide that a LIHEAP grant may be used to reduce a customer’s current CAP payment if the CAP minimum payment is calculated to exceed 17% of the household’s income, as well as used to reduce the amount of CAP credits that a utility applies to a customer’s account. Moreover, some utility universal service plans allow for additional methods of application of LIHEAP grants. EAP correctly points out that the DPW’s regulations relating to LIHEAP provide that LIHEAP crisis grants must be used to resolve a home heating emergency. 55 Pa. Code §§ 601.61–601.62.

As a point of clarification, the *Smith* decision provides policy guidance for application of energy assistance to accounts of customers who are not participating in CAP, while the CAP Policy Statement provides guidance for application of energy assistance grants to CAP customers. Questions about the proper application of LIHEAP or other energy assistance grants are legitimate disputes that are unrelated to the prohibition at § 1405(c) that the Commission not establish a payment agreement for CAP participants. Therefore, as with any other CAP-related dispute, utilities are required to apply § 56.151 in response to disputes about proper application of energy assistance. The Commission has jurisdiction to investigate the subject of the dispute, and utilities must place a “stay” on termination activity pending completion of the dispute pursuant to § 56.141(2). Moreover, pursuant to § 56.141(2), the complainant retains the obligation to pay undisputed amounts pending resolution of the dispute.

#### *III. Applications—Deposits*

1. *Clarification whether a “user without contract” who was not an occupant at the location when an arrearage accumulated is responsible to pay for prior service.*

PGW agrees with EAP that the burden of establishing a move-in date rests with the user who has failed to contact the utility and has assumed the “user without a contract” status. PECO Energy states that the new

occupant should not be held responsible for the prior service if proper documentation, such as a deed or lease, is provided showing that he or she was not an occupant at the time the arrearage accrued. Aqua stresses that there is an obligation on the customer moving out and the customer moving into the premises to notify the utility.

CLS sees the issue as whether a “user without contract” may be required to pay the outstanding balance for service received by the prior tenant/customer at the account premises. CLS states that the answer should be negative because there is no basis under Chapter 14 or prior regulations for requiring a tenant who was not an occupant to assume responsibility for service received by the previous tenant/customer prior to his taking possession of the account premises.

#### *Resolution*

Regarding this issue, both Chapter 56 and Chapter 14 provide ample guidance on how to handle situations where a prior ratepayer vacates a premise without notifying the utility, and a new occupant moves in and also fails to contact the utility. Chapter 56 at § 56.16(a), a section not superseded by Chapter 14, provides that, in the absence of a notification by a customer that service should be discontinued under an account in the customer’s name, the utility may hold the customer responsible for services rendered.

Chapter 14 at § 1407(d) and (e)<sup>13</sup> allow a utility to hold a person liable for any outstanding balance or portion of an outstanding balance if the person resided at the property during the time the outstanding balance accrued and for the time the person resided there. In light of these requirements, a utility should determine the move-in date for the new occupant through application of § 1407(e). Once this determination is made, the utility should prorate any outstanding balance so that the prior ratepayer is responsible for the portion of the outstanding charges that accrued up to the date on which the new occupant began residing at the premises.

*2. Clarification whether Chapter 14 authorizes a utility to include all adult occupants on bill as customer of record.*

CLS states that Chapter 14 does not authorize utilities to require that all adult occupants in a household be included on a bill as a general condition of providing service to the household. Rather, Chapter 14 preserves the distinction contained in Chapter 56 between the customer of record, who is “primarily responsible” for the bill, and other adult occupants who, under certain circumstances, may be held secondarily liable and added to the bill when the utility has been unable to obtain payment from the customer of record. CLS submits that to interpret Chapter 14 to allow a utility to require that all adult occupants be included on the bill as a condition of service would produce unjust results. PECO Energy states that, while Chapter 14 does not require all adult occupants to be named as the customer of record, it does permit the utility to secure the names of all adult occupants at the time of application.

EAP and PGW contend that Chapter 14 entitles a utility to consider all adult occupants of a service location

as applicants and to include them all as customers on the account or bill as a condition of service.

#### *Resolution*

With respect to this issue, a utility should consider the person who applies for service as the customer of record. If the applicant requests that other names also be placed on the bill, a utility should verify the legitimacy of this request with the other parties. We agree with PECO Energy and CLS that Chapter 14 does not authorize utilities to require that all adult occupants in a household be included on a bill as a general condition of providing service to the household. However, we believe that the definitions of “applicant” and “customer” at § 1403 allow utilities, at their discretion, to require all adult occupants whose name appears on a mortgage, deed or lease to be listed on the bill as ratepayers of record. We also note that Chapter 14 permits a utility to secure the names of all adult occupants at the time of application in the event the utility finds it necessary to apply the provisions at § 1407(d) and (e).

#### *IV. Protection from Abuse (PFA)/Consumer Education*

##### *1. Protections/obligations applicable to a PFA pursuant to § 1417.*

The OCA notes that there was agreement at the July 1st Roundtable that the issues raised by the Pennsylvania Coalition Against Domestic Violence (PCADV) need to be addressed in a comprehensive manner. The OCA summarizes the key concerns as follows: the notice must be adequate and there must be appropriate confidentiality; a screening process is needed to adequately identify victims of domestic violence, and an appropriate referral process, with specially trained customer service representatives, needs to be in place. Aqua supports a process involving continuing dialogue. EAP welcomes the discussion with PCADV and other parties and recognizes the need to address confidentiality issues, as well as the need to communicate the effect of § 1417 so that victims understand the process. CLS acknowledges that Chapter 14 does not require utilities to provide protections for victims of domestic violence who are not “under a protection from abuse order.” However, CLS advocates that utilities voluntarily provide broader protections similar to those provided by other institutions such as the Department of Public Welfare since some victims of domestic violence are unable to get a PFA order for fear of provoking retaliation.

#### *Resolution*

With respect to the issue of the application of § 1417, the Commission fully supports the ongoing discussions occurring between the parties, and note that Commission staff have and will continue to participate in these discussions. In regard to the information about § 1417 that should be contained in notices, we invite parties to suggest specific language in the sample notices requested in the instant order. The Commission will also review and make appropriate revisions to the following documents to ensure they include information about the PFA protections under § 1417: the Informal Complaint Form on the Commission’s web site; the Commissions’ Formal Complaint Form; the Chapter 14 “Fact Sheet,” and the “Rights and Responsibilities” summary. With respect to the issues of confidentiality, screening to identify victims of domestic violence and an appropriate referral process, we encourage parties to include these issues in the ongoing discussions and attempt to reach resolutions satisfactory to all parties.

<sup>13</sup> Section 1407(d) and (e) provides as follows: **(d) Payment of outstanding balance at premises.**—A public utility may also require the payment of any outstanding balance or portion of an outstanding balance if the applicant resided at the property for which service is requested during the time the outstanding balance accrued and for the time the applicant resided there. **(e) Approval.**—A public utility may establish that an applicant previously resided at a property for which residential service is requested through the use of mortgage, deed or lease information, a commercially available consumer credit reporting service or other methods approved as valid by the Commission.

*2. Chapter 14 and customers with Limited English Proficiency (LEP) or disabilities.*

CLS urges the Commission to establish regulations to ensure that LEP customers and individuals with disabilities receive effective communications. In regard to LEP customers, CLS maintains that language access is not only a good business practice but also argues that since utilities receive LIHEAP funds, it is required pursuant to the requirements of Title VI of the Civil Rights Act of 1964. In support of this position, CLS points out census data that indicates significant populations in Pennsylvania who speak English "less than well." With respect to individuals with disabilities, CLS suggests that the Commission and utilities consult with appropriate advocacy groups and offers to assist in identifying such groups. PGW references its prior written comments and essentially maintains that PGW and other utilities already take sufficient steps to communicate with LEP customers.

*Resolution*

Chapter 14 is silent in regard to the issues involving customers with LEP or disabilities. Chapter 56 at § 56.201, a section not inconsistent with Chapter 14, addresses the LEP issue to a limited extent. We anticipate further consideration of the issues raised by CLS when the Commission, pursuant to § 1418, Section 6 amends the provisions of Chapter 56 to comply with the provisions of Chapter 14. Prior to the rulemaking to amend Chapter 56, we encourage parties to engage in discussions to determine if agreement can be reached on appropriate steps to communicate with LEP customers and customers with disabilities.

*3. Consumer Education and Chapter 14.*

An underlying theme of comments by the OCA, PULP, and CLS is that customers need additional information to fully understand the effects of Chapter 14 on utility collection practices, particularly during the winter period.

*Resolution*

We agree that there needs to be ongoing consumer education to help ensure that residential customers understand the new rules of the road. Utilities should begin the education process at the time of application by securing additional information about all of the adult occupants and explaining why this information is needed. Furthermore, revised winter termination notices should contain information to help customers determine whether they fall under the low-income protected categories. Utilities also will be conveying appropriate information about the new law when applying § 56.97 to contacts it receives from customers under threat of termination. Additionally, the Commission's Office of Communications will design material to continue the process of educating consumers about Chapter 14.

It is incumbent upon the Commission and the utilities to work together with consumer advocates and community based organizations to develop appropriate consumer education outreach programs to ensure that customers are fully aware of their rights under Chapter 14. For example, the Commission's annual 'Prepare Now' campaign has successfully educated consumers on important utility issues that affect them. There are many methods for educating the consumer including, bill stuffers, newspaper publications and participation at consumer educational events. Therefore, we direct utilities to work with the Commission's Office of Communications to coordinate any additional educational efforts it plans to undertake to ensure that its customers understand the new rules of the road.

*V. PGW—Specific Issues*

*1. Contents of winter termination notices. What information from § 1406(e)(1) and § 1406(e)(2) should be included on the notices? What information should be required in order to inform customers how to prevent termination? Also applies to 48-hour notices required under § 1406(b)(1)(iii).*

PGW plans to add general language to its winter collection notices indicating that a customer may be exempt from winter termination depending upon the customer's income or family status and that the customer should contact the Company to find out whether they qualify for these exemptions. PGW emphasizes that absolutely nothing about Chapter 14 compels the Commission to alter the existing, Commission-approved 10-day notice. Moreover, PGW asserts that no other legal requirement, including due process, mandates the listing of every exemption or defense to termination.

PGW notes that the United States Supreme Court has held that due process requirements are fulfilled in the utility context by the chance for the customer to present his complaint to a designated employee of the company and the discussion with the company representative constitutes the only "hearing" required by due process. *Memphis Light, Gas and Water Div. v. Craft*, 436 U. S. 1, 14, 18-19 (1978). PGW submits that the typical 10-day termination notice plainly satisfies and has satisfied this requirement for some time and nothing about the enactment of Chapter 14 alters that fact or requires a change in either the content or process for issuing the notice.

Moreover, citing *Anderson v. White*, 888 F.2d 985, 993 (3rd Cir. 1989), PGW argues that notices of exemptions are unnecessary in pre-deprivation notices because those receiving notice are afforded time to consult an attorney or take other steps to avoid the deprivation. PGW explains that the termination notice informs customers to contact the utility.

PGW also requests Commission guidance on its plan to pursue winter termination, where warranted and upon Commission authorization, of customers at or below 150% of the FPL. Despite the claims of PULP, CLS and other parties to the contrary, PGW believes that it retains this pre-Chapter 14 authority for terminating this level of customers. According to PGW, nothing about the continued application of Section 56.100 (Commission authorization to terminate heating customers during winter) for customers below 150% of FPL (or 250% for other utilities) is inconsistent with the provisions of Chapter 14.

PGW explains that customers in the 150% FPL and below category may be eligible for LIHEAP CRISIS grants if they are in imminent threat of termination. Furthermore, based upon Section 56.100, PGW has, in the past, forwarded termination notices to delinquent customers in this income category so that they might be eligible to receive the additional grant. PGW proposes to continue to send such notices assuming that DPW leaves open the potential of obtaining a CRISIS grant prior to February 1.

PGW explains that DPW's previous policy was that termination notices sent prior to February 1 did not qualify a customer for a CRISIS grant because the customer was not in imminent threat of termination. However, PGW submits that with the passage of Chapter 14, and, in particular § 1406(g), PGW is urging DPW to alter its present policy and make customers eligible for LIHEAP CRISIS grants based upon termination notices received from December 1 onward.

In order to permit customers to be eligible for CRISIS grants in the December and January period, PGW proposes to utilize the following procedure for customers who are known to fall into the 150% of the FPL and below category:

a) PGW will continue to send termination notices to all delinquent customers in the 150% of FPL and below category, a process that is authorized by Section 56.100. Note that all such customers are theoretically eligible for termination (with PUC permission) because, under Section 56.100, while the PUC's Bureau of Consumer Services (BCS) has promulgated informal policy guidelines concerning shut-offs under that section, any of those restrictions may be waived by the PUC upon request.

b) This notice will indicate that the customer should contact the Company regarding the potential termination depending upon family status and income (the same notice that customers in other income categories will receive).

c) PGW will prioritize the potential terminations in this income category. PGW shall place at the end of the priority list (i.e., the last to be terminated) customers with children and seniors in the household, as well as customers who meet any of the other criteria listed in the BCS winter termination policy statement.

d) PGW shall request PUC permission to terminate customers starting with customers who do not fall into any of these categories. At the top of the list (i.e., first to be requested for termination) will be non-exempt customers whose payment histories or other activities justifies immediate winter termination.

PGW argues that the process of sending customers a termination notice in this context will actually assist those customers, the Company, and its other paying customers. According to PGW, without such notices this coming winter, an estimated 7,000 PGW customers may be denied the benefit of an estimated \$2.1 million of CRISIS grant monies that would be utilized to reduce their arrearages.

The OCA states that winter termination notices must contain adequate information to enable a customer to understand the reasons for the termination, the protections to which the customer may be entitled, the process available to stop the termination and their rights in this situation. The OCA expressed its concern that the limited content proposed by PGW for winter termination notices does not meet the constitutional requirements of due process because the customer will lack the necessary information to meaningfully respond to the proposed termination.

According to the OCA, once PGW has determined that a customer who falls between 150-250% of the FPL has not paid at least 50% of their charges for the last two (2) months, and does not meet any of the exceptions listed in § 1406(e)(2)(i)–(iv), then PGW may choose to provide a written termination notice to that customer pursuant to § 1406(b)(1)(i). The OCA disagrees that a PGW notice that includes the proposed termination date and includes instructions for contacting the PGW comports with due process. The OCA cites as support for its position *Mullane v. Central Hanover Bank & Trust Co.* 339 U. S. 306, 314 (1950), where the Court held that due process requires “notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. The notice must be of such nature as reasonably to convey the required information.” 339 U. S. 306, 314.

The OCA submits that part of this required information must include the reason(s) for the proposed termination, and the list of built-in safeguards provided by the General Assembly, as contained in § 1406(e)(2)(i)–(iv). The OCA asserts that this situation, proposing to terminate a customer's utility service in the winter, demands greater precautions than PGW is currently proposing to take.

The OCA also cites *Goldberg v. Kelly*, 397 U. S. 254 (1970) where the Court held that the importance of the need, continued receipt of welfare benefits, demanded a higher level of due process protections. The OCA submits that there is no greater need within the context of utility law, than the continued receipt of utility service to heat one's home in the winter.

Therefore, the OCA submits that requiring PGW to include the statutory exceptions to termination, and the reason(s) for the proposed termination, along with any necessary supporting financial calculations is just and reasonable in light of the significant property interest resting on the other side of the scale.

The OCA also cites *Mathews v. Eldridge*, 424 U. S. 319, 335 (1976) where the Court determined what level of due process must be afforded to an individual requires an examination of the following three factors:

First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.

The OCA submits that all these factors weigh in favor of finding that additional safeguards are warranted.

Finally, the OCA relies on *Finberg v. Sullivan*, 634 F.2d 50 (3rd Cir. 1980) stating that the Third Circuit reasoned that the Federal and Pennsylvania laws relating to exemption of certain property from garnishment were designed to protect a debtor and that these protections may not be widely known to laypersons. Therefore, the OCA submits that the Court further reasoned that the burden on the state, through its rules of procedure, was not great if it had to supply this small amount of additional information about Social Security benefits not being subject to garnishment, or attachment, or exemption. According to the OCA, Chapter 14's provisions contained within §§ 1406(e)(2)(i)–(iv) were intended by the General Assembly to protect low-income consumers from winter terminations and the statutory language contained in Chapter 14 is not widely known or understood by laypersons.

The OCA argues that the PGW's proposed winter termination notices will not adequately apprise its customers of the conduct that is the basis for the termination, nor will the notices provide the level of detail needed for a customer to prepare a defense. Citing *Harrington v. Department of Transportation, Bureau of Driver Licensing*, 763 A.2d 386 (Pa. 2000), the OCA contends that the formal notice itself must provide the details of exactly what conduct forms the basis for the termination and must inform the customer that they cannot be terminated if they fall below the statutory income levels, or meet other exceptions under the law. The OCA submits that the winter termination notices as described by PGW do not meet this standard, and are inadequate to reasonably inform its customers because the financial information

and calculations, the statutory exceptions to winter termination and the customer's rights are not included on the notice.

CLS /PULP submit that PGW's winter termination notices (both the 10-day and 48 hour) should contain all of the following information:

- Information already mandated pursuant to Chapter 56 regarding the proposed termination, including the termination date, and the procedure for disputing the termination;

- The medical emergency notice mandated by PUC;

- Language to the effect that, "If you are a victim of domestic violence who has a Protection from Abuse order, there are some additional protections available to you. If you want us to consider whether these protections apply to you, please let us know";

- The household's service will not be cut off if the income of the adult members of the household is below 150% of the federal poverty guidelines, with a chart to show the amount for the most common household sizes; and

- The household's service will not be cut off if the income of the adult members of the household is between 150% and 250% of the federal poverty guidelines, with a chart to show the amount for the most common household sizes, and:

- anyone in the household is aged 65 or over; or

- anyone in the household is aged 12 or younger; or

- the household has paid at least 50% of its last two months' charges, with a statement of that amount, how much PGW believes the household has paid, and how much remains to be paid to avoid shutoff; or

- the household has paid at least 15% of the income of the adults in the household for the past two months, with a statement of how much PGW believes this amount to be, how much PGW believes the household has paid, and how much the household must pay to avoid shutoff.

CLS/PULP supports inclusion of this information arguing that the only reliable way to ensure that customers learn of the exemptions is to mandate that PGW inform customers of the exemptions in writing at the time that the information matters most, that is, in the termination notice itself.

CLS/PULP asserts that the Federal Third Circuit Court of Appeals has held that due process requires that notice of commonly-available exemptions is required where such notice "can prevent serious, undue hardship for [an individual] whose lack of information otherwise would cause delay or neglect in filing a claim of exemption." *Finberg v. Sullivan*, 634 F.2d 50, 62 (3rd Cir. 1980). According to CLS/PULP, the Court held that due process requires that the notice of attachment of a bank account of a judgment creditor inform the debtor of statutory exemptions. According to CLS/PULP, the exemptions provided in § 1406(e)(2) to low-income PGW customers are similarly obscure, and hence required to be provided on PGW's termination notices. Furthermore, CLS/PULP argue that the exemptions in § 1406(e)(2) for households with adult income between 150% and 250% of the federal poverty guidelines and containing elderly or child members, or who have paid over half of their past two months' bills, or who have paid over 15% of their past two months' adult household income are not obvious. Moreover, CLS/

PULP submits that the 10-days advance notice given prior to termination is not necessarily adequate time to seek counsel.

CLS/PULP states that the Commission and PGW cannot rely on PGW staff to inform customers of these exemptions over the phone. Finally, CLS/PULP provided a proposed attachment to PGW's existing termination notices, offering a simple check-box form to enable customers to assert an exemption.

#### *Resolution*

We note that this issue has been resolved in section I.2. and we find no basis for making an exception for PGW. Here, however, the commenting parties have cited cases and raised arguments on procedural due process. Given the importance that the parties appear to give to this matter, we shall address the due process aspects of this issue.

Essentially, PGW has argued that listing every exemption or defense to termination is not required as a matter of law. According to PGW's analysis of the law, the requirements of due process have been applied to municipal utilities and that the chance for a customer to present his or her complaint to a company employee, satisfies due process. *Memphis Light, Gas and Water Div.*, 436 U. S. 1, 14, 16, 18-19. PGW submits that the 10-day termination notice plainly satisfies and has satisfied this requirement for some time. At the same time that we agree that the 10-day termination notice has historically satisfied the due process notice requirement, we believe that the change in settled law, i.e. the § 56.100 prohibition against winter terminations, warrants added precaution such as listing the exemptions. The prohibition against winter termination has been in effect since 1983. Therefore, Pennsylvania utility consumers have for over twenty years relied on Commission regulation which restricted terminations of utility service from December 1 to April 1.<sup>14</sup> We agree with the OCA that the statutory exemptions contained in § 1406(e)(2)(i)–(iv) that are intended by the General Assembly to protect low-income customers from winter terminations could not be widely known—it is recently enacted legislation and difficult to understand by lay persons because of its complex subject matter. The Third Circuit Court of Appeals in *Finberg*, 634 F.2d 50, 62, cited by the OCA and CLS/PULP, found lack of knowledge of the garnishment exemption for social security benefits to be relevant in determining that due process requires notice to the judgement debtor of statutory exemptions to garnishment.

Given the tragic consequences that may result from termination of heat-related utility service, and the reliance that some utility customers may have had on the prior regulation, which restricted winter terminations, we find that due process requires the content of the termination notice to include more than the proposed termination date and instructions for contacting PGW. In other words, the level of due process when termination occurs in the winter requires more such as the list of exemptions. Moreover, we agree with the OCA that the continued receipt of utility service during the winter outweighs any additional costs that may or may not be incurred by PGW in adding the additional information on the notice.

Based on this compelling need for utility service when the weather turns cold, we agree that "constitutional procedural due process is a flexible concept, and thus,

<sup>14</sup> Of course, § 56.100 has always allowed utilities to petition the Commission for authority to terminate during the winter—although utilities have rarely filed such petitions.



implicates procedural protections as each particular situation demands.” *Chester Water Auth. v. Pennsylvania Public Utility Commission*, 868 A.2d 384, 391 (Pa. 2005). Here, heat-related utility service is absolutely necessary to protect life and property and the procedural due process and notice required under the circumstances are, therefore, influenced by the harm that may be suffered and the importance of the need. *Kelly*, 397 U.S. 254, 262-263.

Previously, in Section I (2) of this Order, we stated that all utilities subject to Chapter 14 have the opportunity to submit sample winter termination notices for our review. We noted that we anticipated receiving two sets of PGW notices. The second set of PGW termination notices (10 day, 48-hour and post termination) are the notices the Company will utilize in the winter in instances where the customer’s household income exceeds 150% of the federal poverty level but does not exceed 250% of the federal poverty level, and starting January 1, has not paid at least 50% of his charges for each of the prior two months. This set of notices should also be provided to the Commission’s BCS within 20 days of the date this Order is entered.

As noted above, unlike the other electric and gas distribution utilities, PGW is allowed at § 1406(e)(2) to terminate service during the winter period to a customer whose household income falls between 150% and 250% of the federal poverty level. At § 1406(e)(3), however, the General Assembly requires PGW to provide notice to the Commission on the day the 10-day notice is sent to customers whose household income exceeds 150% of the federal poverty level but does not exceed 250% when that notice is sent after November 30 and before April 1. Therefore, to comply with the provisions at § 1406(e) that are exclusive to PGW, it is evident that PGW must determine household income prior to the issuance of any termination notices in the winter months. Without determining household income PGW could commit numerous violations of Chapter 14 by providing customers with the incorrect notice or by failing to provide notice to the Commission at the time the 10-day notice is issued. It is not feasible to allow PGW to provide this Commission with all the notices it issues during the winter months. Such a practice would flood the Commission with notices, the majority of which would not require Commission review. The General Assembly has placed the burden of determining household income on PGW and we see no benefit in transferring that responsibility to the Commission.

We agree with the OCA and CLS/PULP that this notice must contain all the available methods of avoiding the termination found at § 1406(e)(2)(i)-(iv). A customer facing termination should be informed of the statutory provisions and protections that may prevent the termination. We also agree with the legal precedent and arguments put forth by the OCA and CLS/PULP to support our conclusion. It is reasonable, especially during the winter months, that this vital information be provided to those customers who should not be terminated for reasons identified by the General Assembly.

With regard to PGW’s request for Commission guidance on its plan to pursue winter termination with Commission authorization of customer’s at or below 150% of the poverty level, we have stated previously that utilities retain the authority to obtain Commission authorization to terminate a household that falls into a protected income category. However, between November 21 and January 31, in those instances where PGW is in possession

of information that indicates the household income is at or below 150% of the poverty level, the Company should only begin the termination process if it intends to pursue termination to the end, i.e., to actually seek Commission authorization to terminate pursuant to § 56.100 if the customer fails to take actions that eliminate the grounds for termination.

Finally, relative to the CLS/PULP recommendation that PGW provide a attachment to the termination notice that the customer may complete to assert an exemption we reiterate our position that we believe there are more effective methods of a customer supplying and a utility maintaining this information.

*2. Commission rule to ensure proper application of § 1406(e)(2). Clarification of whether PGW can terminate customers whose income is less than 250% FPL if the “Commission rules” referred to in § 1406(e)(2) do not yet exist. Winter termination screening process by PGW to ensure protection against erroneous winter terminations in application of § 1406(e)(2). Clarification of opportunity to prevent termination by tendering payment of either 50% of the monthly charges for the prior two months or 15% of the adult household member’s income for the past two months.*

First noting that these issues have mostly been addressed in its comments to Issue 1, the OCA believes that PGW’s representatives stated that the utility will not send winter termination notices to its customers that fall between 150–250% of the FPL if PGW knows that the customer fits into one of the exemptions found in § 1406(e)(2)(i)–(iii). Moreover, the OCA contends that PGW’s representatives stated that the utility will take reasonable steps to identify those customers who should not be sent a winter termination notice based on the criteria listed above. The OCA agrees with PGW’s position on this issue and suggests that PGW develop a process to update financial and personal data about its customers.

CLS/PULP notes that § 1406(e)(2) provides that a PGW customer with adult household members’ income between 150%–250% of the FPL may be terminated for non-payment in the winter period unless the customer has proven “in accordance with Commission rules” that his household contains one or more persons who are 65 years of age or over or one or more persons 12 years of age or younger. CLS/PULP states that this section of the Chapter 14 specifically requires a rulemaking before implementation. Although conceding that Section 6 of Chapter 14 generally provides that promulgation of regulations to administer and enforce Chapter 14 shall not delay implementation, Section 6 must be read in conjunction with the explicit language of § 1406(e)(2)(i)(ii), and (iii), which unlike most sections of Chapter 14, require actions “in accordance with Commission rules.” Therefore, until such Commission rules exist, CLS/PULP believes that there can be no winter terminations for non-payment of PGW customers whose adult household members’ income is 250% of the federal poverty guidelines or less.

CLS/PULP argues that the legislature’s clear intent here was to protect the elderly and young children, who are at particularly high risk of harm or injury as a result of loss of heat in the winter, by requiring the Commission to have rules in place prior to permitting PGW to act on winter terminations under § 1406(e).

CLS/PULP argues further that PGW should be required to undertake several steps to screen for customers exempted from winter termination by § 1406(e)(2). CLS/

PULP emphasizes that it is PGW's obligation to identify household income. CLS/PULP argues that the Commission should explicitly require PGW (and all utilities governed by Chapter 14) to exclude children's income before determining whether the customer may be terminated in the winter.

CLS/PULP maintains that PGW should identify household income using information already gathered at the application stage or in setting payment arrangements; CLS/PULP suggests that PGW should use its existing data sources to identify households exempt from winter termination and PGW should ensure that it is as simple as possible for customers to inform PGW that they fit within an exemption. With that in mind, CLS/PULP proposed that customers be given several opportunities to do so, that are identified in its comments on pages 11-12.

#### *Resolution*

As we stated in PGW-Specific issue #1, winter terminations will be permitted for customers whose income is less than 250% of the FPL. The Commission already has rules in place, in the case of PGW, in those instances where the utility is petitioning the Commission for permission to terminate a customer whose income is less than 150% of the poverty level. It is important to emphasize that from November 21 to January 31, PGW should only issue notices to this group of customers if it intends to follow through with the termination by petitioning the Commission if the customer fails to eliminate the grounds for termination.

PGW will be permitted to provide notice and terminate those customers between 150% and 250% of the poverty level during the winter. Similar to the responsibility shared by the other utilities, terminations in this customer category may not occur until PGW has confirmed that the household is not protected from termination pursuant to § 1406 (e)(2)(i)–(iv). While we are permitting these terminations we wish to emphasize that we are keeping our options open as to additional rules that may result from the upcoming rulemaking.

Finally, regarding the customer's opportunity to prevent termination by tendering payment of either 50% of the monthly charges for the prior two months or 15% of the adult household member's income for the past two months, it is our opinion that this matter can best be addressed through the information supplied on the termination notice. Therefore we encourage the interested parties to address this matter in the sample notices that will be presented to the Commission as a result of this Order. However, PGW is prohibited from terminating a customer when the customer has made payments in accord with the aforementioned amounts and is in the protected category.

*3. Development of easily understood rules and regulations pursuant to § 1406(e)(2)(i) and (ii). Include a form with monthly bills for affected customers to complete and return to PGW.*

CLS/PULP states that it is pleased to learn at the July 21, 2005 Roundtable that PGW plans to routinely accept customers' statements that a household contains a child aged 12 or younger, or an individual aged 65 or older, unless it has reason to suspect the customer's assertions, and it may also verify age in a random sample of cases.

PGW urges the Commission to reject any bill insert plan to capture customer information as this would be discriminatory and there is no evidence that exists as to the effectiveness of such inserts, and the Company has no

ability to absorb the costs of producing, reviewing, and cataloging the inserts and any information obtained there in.

#### *Resolution*

The Commission's shares the CLS/PULP view that PGW's plan to routinely accept customer statements that a household contains a child 12 or younger, or an individual aged 65 or over, unless it has reason to suspect the assertions, is a positive action by the utility. We also have no objection to random checks by reviewing a sample of these assertions.

As stated previously, we believe there are more effective ways of PGW obtaining information from customers that may exempt them from termination than by requiring the utility to include a form with monthly bills that the customer may complete and return to the Company. While PGW is free to initiate such a practice we shall not require it.

*4. Clarification as to whether existing Chapter 56 medical certifications will continue to apply in the absence of "Commission rules" as referred to in § 1406(e)(2)(iii) and § 1406(f).*

The OCA notes that PGW's representatives commented at the July 21st Roundtable that PGW will honor the Chapter 56 medical certification procedures and will add a nurse practitioner to those able to execute a medical certificate.

CLS/PULP states that existing regulations concerning medical certifications, to the extent not inconsistent or limiting the absolute mandate articulated in § 1406(f), § 1407(b)(1) and § 1406(e)(2)(iii) are therefore still valid. However, CLS/PULP submits that the Commission should affirm that § 56.114 does not, as some utilities claim, impose a maximum time limit on the duration of a medical certification of 90 days either for a single medical emergency, or for the lifetime of the customer. CLS/PULP explains that as long as customers continue to make equitable payments in accord with § 56.97 or § 56.116, they should be entitled to receive continued utility service.

CLS/PULP suggests that the Commission adopt a policy whereby customers and their household members with chronic and terminal illness receiving service under a medical certification need not file medical certifications on a monthly basis, but may file such certificates every 6 months or annually.

#### *Resolution*

As addressed earlier in Section I(7) of this Order, we do not believe that most of our existing medical certification procedures are inconsistent with Chapter 14. Our interpretation of § 1406(f) applies to all utilities and need not be repeated here.

In regard to the PGW-Specific issue of § 1406(e)(2)(iii) and the requirement that PGW accept a medical certification to defer termination during the winter, it is obvious that PGW is aware of this obligation and does not contest it. PGW shall continue to accept medical certifications in accordance with existing Commission medical certification procedures, at any time of the year. We understand that PGW has been working with BCS to assure that PGW's procedures comply with Commission procedures. We encourage the Company and BCS to continue these efforts.

All other requests and recommendations for improvement of the medical certification procedure will be considered in a future rulemaking proceeding.

5. *Clarification of whether PGW can request an up-front payment (other than the reconnection fee) from a customer who is restoring service by enrolling in the Customer Responsibility Program (CRP) in accordance with § 1407(c)(2)(iii).*

The OCA contends that § 1407(c) explicitly sets forth the payment that may be required to restore service; namely, that for customers with incomes at or below 300% of the FPL, the utility may only require full payment of any reconnection fees along with repayment of the outstanding balance over 12 or 24 months, depending on income level. According to the OCA, there is no authority to suggest that the utility may also require an up-front payment toward the balance.

PGW states that for customers who are enrolling in CRP for a second time, the Company requires payment of the catch-up amount owed under the previous CRP account in addition to the reconnection fee.

CLS/PULP requests that the Commission clearly state that PGW is not allowed under Chapter 14 to request an up-front payment (other than the reconnection fee) from a customer who is restoring service by enrollment in CRP in accordance with § 1407(c)(2)(iii), even if the customer has defaulted on two or more payment agreements.

#### *Resolution*

For restoration of service, it is clear that § 1407(c) allows a public utility to demand full payment of any outstanding balance from a customer or applicant whose income exceeds 300% of the federal poverty level or from a customer or applicant who has defaulted on two or more payment agreements.

Although reasonable minds can disagree over the proper interpretation of § 1407(c)(2)(iii), we believe that the General Assembly intended to provide additional protections to a PGW customer whose income is less than 135% of the federal poverty level. In addition, according to the Declaration of Policy as stated in § 1402(3), the General Assembly intended to “ensure that service remains available to all customers on reasonable terms and conditions.” Therefore, we interpret § 1407(c)(2)(iii) to mean that a customer who enrolls in CRP for the first time may have service restored upon payment of the Company’s reconnection fee, regardless of the number of prior broken payment agreements—no payment toward the outstanding balance is required. Once in the CRP program, the customer’s monthly payment will be determined by the requirements of the program rather than paying the outstanding balance over 24 months. We also interpret § 1407(c)(2)(iii) to mean that any payments required by CRP customers must be the most beneficial to the customer, whether the payments are for restoration of service or for catching up missed payments. The customer must always receive the most beneficial payment treatment.

6. *Section 1414(c) authorizes PGW to refuse to provide service to an applicant if the applicant has a pending lien unless the applicant enters into a payment arrangement for the amount of the lien balance. Should the Commission require PGW to provide pre-lien notices to the property owner which give detailed information concerning the basis for the claim, and which inform the property owner of the right to dispute the bill with the company, and, if necessary, the Commission? Should PGW postpone filing the lien pending resolution of the disputes?*

CLS/PULP submits that in implementing Chapter 14, the Commission must establish procedures which require that prior to filing the lien, PGW must provide the

customer with a written lien notice, an opportunity to dispute the validity and/or amount of the lien with the Company, and, if necessary, an appeal to the Commission. CLS/PULP explains further that in cases where a customer disputes the amount or validity of the lien, due process requires that PGW be prohibited from filing the lien until the disputed matter has been finally resolved either through the utility company dispute processes, or when an appeal is filed, after resolution by the Commission.

CLS/PULP recognizes that § 1414<sup>15</sup> expressly confers on PGW the power to impose statutory liens for gas service on property to which unpaid gas service had been provided. Moreover, § 1414(a) authorizes PGW to obtain liens not only against the property of customers for unpaid gas bills provided to the property, but also against landlord-owned properties for unpaid gas service provided to tenant customers in individually metered units.

Citing § 1414(c), CLS/PULP reasons that PGW can require an applicant for service to pay or arrange to pay an outstanding lien as a condition of service. According to CLS/PULP, the inclusion of PGW’s lien power in the Public Utility Code renders the pre-lien process an integral part of a collection process within the jurisdiction of the Commission. CLS/PULP submits that taking of a lien against a customer’s real property, like termination of utility service by a municipally-owned utility, is a constitutionally recognizable deprivation of property requiring due process protection.

Given the significant impact on customers and applicants of the exercise of this lien power, CLS/PULP submits that there must be appropriate safeguards to assure that PGW customers have adequate warning to take steps necessary and proper to prevent inaccurate or erroneous liens from being filed against their property. The basis for this concern is that the establishment of the requested due process protections prior to the filing of the lien is particularly important because the Commission does not have jurisdiction over a statutory lien arising from unpaid gas service, once the lien has been filed. *Strowder v. Philadelphia Gas Works*, C-20028036 (December 30, 2002), 2002 WL 32069511 (Pa. P.U.C.). CLS/PULP submit that a customer who contests the validity or amount of a lien once it has been filed, must file a petition with the Common Pleas Court.

CLS/PULP states that the notice should contain: an itemized statement of the amount which PGW intends to lien, indicating the time periods during which the allegedly unpaid charges accrued and the amount of charges, if any, associated with the filing of the lien; the date on or after which the lien will be filed unless payment in full is received, the grounds for the lien are otherwise eliminated, a settlement or payment agreement is entered or a

<sup>15</sup> Section 1414 provides as follows:

(a) **General rule.**—A city natural gas distribution operation furnishing gas service to a property is entitled to impose or assess a municipal claim against the property and file as liens of record claims for unpaid natural gas distribution service and other related costs, including natural gas supply, in the court of common pleas of the county in which the property is situated or, if the claim for the unpaid natural gas distribution service does not exceed the maximum amount over which the municipal court of Philadelphia has jurisdiction, in the municipal court of Philadelphia, pursuant to sections 3 and 9 of the Act of May 16, 1923 (P. L. 207, No. 153), referred to as the municipal claim and tax lien law, and Chapter 22 (relating to natural gas competition). (b) **Residential Field Visit Charge.**—A city natural gas distribution operation is authorized to charge a minimum fee of \$10 for each instance in which its representative is required to visit the residence of a customer in the process of attempting to complete required service termination steps. (c) **Refusal of Service.**—The Commission shall permit a city natural gas distribution operation to refuse to provide service to an applicant if the applicant has a pending lien or civil judgment by the city natural gas distribution operation outstanding against the applicant or against property owned in whole or in part by the applicant unless the applicant enters into a payment arrangement for the payment of the amount associated with the lien or judgment that remains outstanding at the time of the application.

dispute is filed with PGW or the Commission; a statement that the customer should immediately contact PGW to attempt to resolve the matter, including the address and telephone number where questions may be answered and payment and settlement agreements entered into with the utility; and also include an appropriate notice informing the customer of appeal rights to the Commission.

The OCA has expressed several concerns relative to the lien and judgment process and, in particular, the subsequent payment arrangements between PGW and its customers to satisfy such liens or judgments. Specifically, the OCA submits that (1) PGW should develop and submit to the Commission a process whereby the lien or judgment payments received are periodically reported to the relevant Prothonotary office to facilitate an accurate picture of the amount of the lien or judgment outstanding; (2) PGW should include in this process what escrow and audit procedures PGW has in place to properly account for the lien or judgment payments; and, (3) the procedure regarding termination of a customer who has a payment agreement based on a lien or judgment should be thoroughly reviewed since the lien or judgment secures the arrearage that is the basis of the termination.

Finally, the OCA explains that PGW may place a lien on the customer's real property to secure its interest in the arrearages pursuant to § 1414(a) and § 1414(c) provides for PGW and the customer to enter into a payment arrangement to resolve the balance on the lien. The OCA submits that the relationship between termination for a default in the payment arrangement when the underlying debt is already secured by the customer's real property may present a different situation that requires further review.

PGW responds by asserting that the Commission simply has no jurisdiction over PGW's imposition or assessment of a lien on the property of its customers for unpaid natural gas distribution service charges and other related costs. PGW submits that its lien policies should not cause concern as the customer can dispute the bill, and, if he or she does, the Company voluntarily stays the imposition of the lien. Further, PGW explains that if the customer disputes the bill after the lien has been imposed, and the Commission ultimately reduces the amount owed, then the Company confirmed that the lien would be appropriately adjusted.

#### *Resolution*

Historically, our policy on collection efforts has been based on Supreme Court precedent that we have no authority to preclude the utility from exercising its legal right to commence suit in local court to collect the delinquent accounts receivable nor in any other way effect the jurisdiction of the Court of Common Pleas. *Bell Telephone Co. of Pa. v. Philadelphia Warwick Co.*, 355 Pa. 637, 50 A.2d 684 (1947). The Commission has lacked authority to prohibit a utility from instituting civil collection action or to in any way preclude a local court from exercising its statutory jurisdiction vis-à-vis civil remedies available to the creditor utility.

The Commission used this position in rejecting a PGW tariff provision that allowed the Company to deny service to a customer who failed to enter into a payment arrangement for an outstanding lien or judgment. The Commission felt this was an improper mingling of jurisdictional and non-jurisdictional utility debts, and that

civil collection amounts and utility bills should be kept separate. *Compliance Tariff of Philadelphia Gas Works in Response to the Commission Restructuring Order as Modified on Reconsideration*, M-00021612 (Order entered October 10, 2003) at 5.

Now, Chapter 14 clearly authorizes PGW, and only PGW, to refuse to provide service to an applicant who has a pending lien or judgment unless the applicant enters into a payment arrangement covering the amount of the lien or judgment. It is clear that the General Assembly sought to give PGW an additional collection tool to assist the Company in improving its overall collection rates. Even more significant, it appears, is that the General Assembly placing this authority under the Public Utility Code puts the full power and authority of Commission jurisdiction over the lien process, 66 Pa.C.S. § 501, and the accessibility of the Commission's formal complaint procedures to PGW customers who have a dispute with the lien process. 66 Pa.C.S. § 701; 52 Pa. Code §§ 56.140—56.181. However, we do not believe that an implementation order is the proper vehicle to disseminate our conclusions on the scope of our jurisdiction over lien-related issues. We shall address lien provisions through two methods: (1) approval of filed tariff supplements and, (2) cases brought before the Office of Administrative Law Judge via formal complaints. In this manner, we shall address these issues on a case-by-case basis.

Based on our position here, we must deny CLS/PULP's request for the Commission to establish procedures governing notice requirements, dispute rights, or appeal rights prior to the initiation of the lien or judgment process. We believe that such a procedure is premature; *Therefore,*

#### *It Is Ordered That:*

1. This Second Implementation Order is hereby approved as being in the public interest.

2. This Order be served on the Office of Consumer Advocate, the Office of Small Business Advocate, and all jurisdictional water, natural gas and electric utilities, including those parties who submitted comments on these issues.

3. All jurisdictional utilities are hereby invited to submit sample 10-day, 48-hour, and post-termination notices to the Commission's BCS within twenty (20) days of entry of this Order. When developing sample notices for Commission staff review, we request that parties incorporate the plain language guidelines at § 69.251 into their design.

4. The second set of PGW termination notices (10-day, 48-hour and post-termination) that the Company will utilize in the winter in instances where the customer's household income exceeds 150% of the federal poverty level but does not exceed 250% of the federal poverty level, and starting January 1, has not paid at least 50% of his charges for each of the prior two months shall be provided to the Commission's BCS within twenty (20) days of entry of this Order.

5. That this Order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-1803. Filed for public inspection September 23, 2005, 9:00 a.m.]

## Continuation of Fuel Cost Recovery Surcharge; S. P. 28208

Public Meeting held  
September 9, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson;  
James H. Cawley, Vice Chairperson; Bill Shane; Kim  
Pizzingrilli; Terrance J. Fitzpatrick

### Order

*By the Commission*

The Pennsylvania Public Utility Commission (Commission) by its Fuel Cost Recovery Surcharge Order at Special Permission Number 28208, adopted June 10, 2004, authorized call or demand, paratransit and airport transfer carriers under the jurisdiction of this Commission to adjust rates and fares to offset unanticipated fuel expenditures. All call or demand carriers were authorized to collect a fuel surcharge of thirty cents (\$.30) per trip for each paying passenger, and all paratransit and airport transfer carriers were authorized to collect a fuel surcharge of seventy cents (\$.70) per trip for each paying passenger in addition to tariff rates. The fuel surcharge was effective on June 14, 2004, and was scheduled to terminate on June 12, 2005.

At its Public Meeting of June 2, 2005 the Commission approved an extension of the temporary fuel surcharge until June 12, 2006. The Commission also required the Bureau of Transportation and Safety to investigate the merits of the fuel surcharge on a quarterly basis.

At the time of approval of the initial fuel surcharge, the average retail cost of regular gasoline was \$2 per gallon.<sup>1</sup> Throughout the first year of the fuel surcharge the price of gasoline fluctuated as the average price reached a high of \$2.22 and a low of \$1.84, but the average price of gasoline for that one year period was \$2.00. Since \$2 per gallon was the price upon which the fuel surcharge had been based, the amounts of the fuel surcharge remained unchanged.

In the three months following the order extending the fuel surcharge, gasoline prices have risen substantially. The continued increase in the price of crude oil as well as high seasonal demands have resulted in greater price increases. Additionally, prices became extremely volatile in the aftermath of Hurricane Katrina. The average cost of regular unleaded gasoline for the week ending September 5, 2005 is \$3.29, which is an increase of 64% over the \$2.00 used at the beginning of the fuel surcharge.

In consideration of future prospects for retail gasoline prices, the Energy Information Administration of the Department of Energy was consulted. Analysts believe that prices at the pump will eventually decrease. Refineries in the Gulf of Mexico are being repaired and personnel are returning. Authorization has been given to release the nation's petroleum reserves to help alleviate the shortages. The price of crude has also stabilized.

Historically, gasoline prices have frequently fluctuated, but the industry has experienced unprecedented increases. The purpose of the fuel surcharge was to afford call or demand, paratransit, and airport transfer carriers under the jurisdiction of this Commission the opportunity to adjust rates and fares to offset unanticipated fuel expenditures.

<sup>1</sup> This information was provided by the Energy Information Administration of the Department of Energy.

Data gathered by the staff of the Bureau of Transportation and Safety in the course of its investigation reveals that the transportation industry's fuel costs are no longer being offset by the fuel surcharge. In its determinations staff utilized the same criteria used in the original order of June 10, 2004: Average trip length of 6.8 miles for call or demand carriers and 13.61 miles for paratransit and airport transfer carriers, average miles per gallon per vehicle provided of 15.04 for call or demand carriers and 13.01 for paratransit and airport transfer carriers, and the Department of Energy's report of retail on-highway gasoline prices for the Central Atlantic Region. The average fuel cost of a trip was calculated by dividing the average trip length (6.8 miles for call or demand and 13.61 paratransit and airport transfer) by the average miles per gallon per vehicle (15.04 for call or demand and 13.01 for paratransit and airport transfer). The results were multiplied by the fuel price.

#### *Cost Per Trip Basis—Call and Demand*

| <i>Date</i>        | <i>Retail Gas Cost</i> | <i>Avg. Fuel Cost/Trip</i> |
|--------------------|------------------------|----------------------------|
| 2002               | \$1.35                 | \$ .61                     |
| 2004               | \$2.00                 | \$ .90                     |
| Week Ending 9/5/05 | \$3.29                 | \$1.49                     |

#### *Cost Per Trip Basis—Paratransit/Airport Transfer*

| <i>Date</i>        | <i>Retail Gas Cost</i> | <i>Avg. Fuel Cost/Trip</i> |
|--------------------|------------------------|----------------------------|
| 2002               | \$1.35                 | \$1.41                     |
| 2004               | \$2.00                 | \$2.09                     |
| Week Ending 9/5/05 | \$3.29                 | \$3.44                     |

At the time of the inception of the fuel surcharge, the changes in average cost per trip were \$.29 for call or demand and \$.68 for paratransit and airport transfer. These amounts were the basis for the respective fuel surcharges granted to those types of carriers. Throughout the first year of the fuel surcharge there was no significant deviation from the average cost of fuel per trip. In the first three months following the extension of the fuel surcharge, these amounts have increased substantially. In addition, in the week following Hurricane Katrina's onslaught the severe increase in the cost of gasoline has resulted in increases of 144% for the average cost of fuel per trip for both classes of transportation.

In light of this information, we believe it is appropriate to adjust the amounts for the fuel surcharge accordingly. We will permit call or demand carriers to increase the fuel surcharge from \$.30 per trip for each paying passenger to \$.90 per trip for each paying passenger, and paratransit carriers and airport transfer carriers to increase the fuel surcharge from \$.70 per trip for each paying passenger to \$2.00 per trip for each paying passenger.

We also recognize that the price of fuel will continue in a state of flux in the future months. Fuel prices could fall as dramatically as they have risen and we have an obligation to ensure fairness to those who are paying for the services of the carriers. In order to make certain that the public is not being charged a greater amount than necessary the temporary fuel surcharge under Special Permission No. 28208 will be evaluated on a monthly basis until further notice.

After due consideration, we have determined that fuel costs have increased substantially. Based upon the evidence available, we are of the opinion that the passenger motor carrier industry continues to have a need for the

fuel surcharge, as well as an increase to permit the recovery of unanticipated fuel expenditures; *Therefore, It Is Ordered That:*

1. The fuel surcharge established at Special Permission No. 28208 be continued.

2. Call or demand carriers rendering transportation service under the jurisdiction of the PA Public Utility Commission may increase the charge from \$.30 per trip for each paying passenger to \$.90 per trip for each paying passenger.

3. Paratransit carriers and airport transfer carriers rendering transportation service under the jurisdiction of the PA Public Utility Commission may increase the charge from \$.70 per trip for each paying passenger to \$2.00 per trip for each paying passenger.

4. The increases be approved to become effective immediately.

5. The approved increases will be reviewed on a monthly basis beginning with the Public Meeting of September 29, 2005.

6. Call or demand motor carriers shall notify the public by placing the attached notice in all vehicles, which shall read: "The PA Public Utility Commission has authorized a fuel surcharge under Special Permission No. 28208. The surcharge has been increased to \$.90 per trip for each paying passenger and is effective on September 9, 2005. The fuel surcharge shall terminate on June 12, 2006."

7. Paratransit and airport transfer motor carriers shall notify the public by placing the attached notice in all vehicles, which shall read: "The PA Public Utility Commission has authorized a fuel surcharge under Special Permission No. 28208. The surcharge has been increased to \$2.00 per trip for each paying passenger and is effective on September 12, 2005. The fuel surcharge shall terminate on June 12, 2006."

8. The Secretary of this Commission shall duly certify this order and deposit same with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-1804. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Rescission Order

Public Meeting held  
September 9, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzigrilli; Terrance J. Fitzpatrick

*Pennsylvania Public Utility Commission, Law Bureau  
Prosecutory Staff v. One Voice Communications, Inc.  
(2004.0267); Doc. No. C-20044038; A-311051*

### Rescission Order

*By the Commission:*

On December 14, 2004, Law Bureau Prosecutory Staff filed a Formal Complaint against One Voice (Respondent), a non-facilities based reseller of toll service carrier certificated at A-310499, for failure to file its 2003 Annual Report. Subsequently, on July 20, 2005, the Commission entered a Default Order that sustained the complaint and

cancelled Respondent's certificate. The notice of the Default Order was published in the *Pennsylvania Bulletin* on August 6, 2005 at 35 Pa.B. 4517 with a 20-day comment period.

On August 26, 2005, subsequent to the entry of the Default Order, Respondent filed its 2003 Annual Report along with a request to have the Default Order rescinded. Respondent attached the \$250 late-filing fee with its request. In its request, Respondent stated that the report was not filed as a result of changing accounting firms. Respondent also stated all reports on a going forward basis should be timely filed. A review of Commission records shows that Respondent has also filed its 2004 Annual Report in compliance with Commission regulations.

Because Respondent has now filed its delinquent annual report and paid the late-filing fee, we will grant Respondent's request for rescission. However, we caution Respondent that all future Annual Reports must be timely filed and all Commission correspondence must be answered in a timely manner. The Commission hereby puts One Voice and the rest of the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate; *Therefore,*

*It Is Ordered That:*

1. The Default Order entered July 20, 2005 at this docket against One Voice Communications, Inc. is hereby rescinded.

2. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-1805. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Rescission Order

Public Meeting held  
September 9, 2005

*Commissioners Present:* Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; Bill Shane; Kim Pizzigrilli; Terrance J. Fitzpatrick

*Pennsylvania Public Utility Commission Law Bureau  
Prosecutory Staff v. Winstar of Pennsylvania, LLC  
(2004.0267); Doc. No. C-20044008; A-311171*

### Rescission Order

*By the Commission:*

On December 6, 2004, Law Bureau Prosecutory Staff filed a Formal Complaint against Winstar of Pennsylvania, LLC (Winstar), a telecommunications utility certificated at A-311171, for failure to file its 2003 Annual Report. Subsequently, on July 22, 2005, the Commission entered a Default Order that sustained the complaint and cancelled Winstar's certificate. Notice of the Default Order was published August 6, 2005 at 35 Pa.B. 4534 with a 20-day comment period.

The July 22, 2005 Default Order incorrectly stated that it was issued as a result of Respondent's failure to file its 2003 Annual Report. A review of Commission records

reveal that Respondent actually filed its 2003 Annual Report on June 8, 2004. However, at that time, a section of the report was not filled out completely and the report was therefore not accepted by Commission staff. As a result, the previously captioned Complaint and Default Order were issued. In this instance, it appears that no public benefit would inure from requiring Winstar to pay the late-filing fee.

Because Respondent has now filed the remaining section of its annual report within the 20-day comment period stated in the *Pennsylvania Bulletin*, and it is report is now deemed complete, we find it appropriate to rescind the Default Order. However, we caution Respondent that all future Annual Reports must be timely and completely filed and all Commission correspondence must be answered in a timely manner. The Commission hereby puts Winstar of Pennsylvania, LLC and the rest of the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate; *Therefore*,

*It Is Ordered That:*

1. The Default Order entered July 22, 2005 against Winstar of Pennsylvania, LLC at this docket is hereby rescinded.

2. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-1806. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by October 17, 2005. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

**Application of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under the application.**

**A-00122082. Elizabeth Township Area Emergency Medical Services Corporation** (P. O. Box 539, Buena Vista, Allegheny County, PA 15018) a nonprofit corporation of the Commonwealth—persons, in paratransit service, in vehicles equipped for wheelchairs, from points in the Counties of Westmoreland, Washington and Allegheny, to points in Pennsylvania and return.

### Complaint

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Travel with Comfort Inc.,*  
P. O. Box 23105, Philadelphia, PA 19124;  
Doc. No. A-00115561C

### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Travel With Comfort, Inc., respondent, maintains its principal place of business at P. O. Box 23105, Philadelphia, Pennsylvania 19124.

2. The respondent filed an application for paratransit authority at Application Docket No. A-00115561, on January 20, 1999, which was dismissed on September 27, 1999. On May 19, 1999, respondent was granted a certificate of public convenience at Application Docket No. A-00115561, F.2, for group and party 16+ authority. Said certificate was cancelled on February 18, 2003. That respondent was issued a certificate of public convenience by this Commission on July 8, 2003, at Application Docket No. A-00115561, F.3 for group and party 16+ authority.

3. That respondent's operating rights were suspended on October 14, 2003, for failure to maintain evidence of insurance on file with this Commission.

4. That respondent, on November 30, 2004, at approximately 10:12 a.m., at Lisburn Road, Lower Allen Township, Cumberland County, Pennsylvania, permitted a certain 2000 Ford van bearing Pennsylvania License No. FLS9808, Vehicle Identification No. 1FTSS34L4YH-818647, to be operated. At that time, David D. Beck, a duly authorized officer of this Commission, found said unmarked vehicle to be holding out to transport passenger's shuttle service for compensation. Additionally, the respondent is advertising under the name "Pennsylvania Shuttle" at the Camp Hill prison offering shuttle service in Pennsylvania. Respondent's authority from this Commission is limited to group and party 16+ authority, in vehicles which carry 16 or more passengers including the driver.

5. That respondent, by operating its vehicle while under suspension for failing to maintain evidence of insurance on each of its vehicles used in providing service authorized by this Commission, violated 66 Pa.C.S. § 501(c) in that it failed to observe, obey and comply with a Commission regulation or order, and the terms and conditions thereof. Penalty is \$1,000.00 and cancellation of its certificate of public convenience.

6. That respondent by failing to have the proper name or registered insignia and the proper number of the certificate of public convenience identification markings on each side of the vehicle, violated 52 Pa. Code § 29.71(a). The penalty is \$50.00.

7. That respondent, by failing to include in its advertisement, its proper name and certificate number issued by this Commission, violated 52 Pa. Code § 21.2. The penalty is \$50.00.

8. That respondent, by offering service of a different nature than that authorized by this Commission, violated 66 Pa.C.S. § 1102(a)(1)(i). The penalty is \$250.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Travel With Comfort, Inc., the sum of one thousand, three hundred fifty dollars (\$1,350.00) for the illegal activity described in this complaint and requests that the Commission revoke Travel With Comfort, Inc.'s, certificate of public convenience at A-00115561, F.3.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement  
Motor Carrier Services & Enforcement Division  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: \_\_\_\_\_  
Wendy J. Keezel

#### NOTICE

A. You must file an answer within twenty (20) days of the date of service of this complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this complaint. Your answer must be verified and the original and three (3) copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty (20) days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. You may elect not to contest this complaint by paying the fine proposed in this Complaint by certified check or money order. Payment must be made to the Commonwealth of Pennsylvania and should be forwarded to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment and receipt of the evidence of insurance from your insurer, the Complaint shall be closed. ACORD CERTIFICATES OF INSURANCE AND FAXED FORM E'S AND H'S ARE UNACCEPTABLE AS EVIDENCE OF INSURANCE.

D. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the cancellation of your Certificate of Public Convenience.

E. If you file an Answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional fine set forth above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1168.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 05-1807. Filed for public inspection September 23, 2005, 9:00 a.m.]

#### Wastewater Service

**A-230005F2000. Gwynmont Farms Utility Corporation.** Application of Gwynmont Farms Utility Corporation for approval of the abandonment or discontinuance of wastewater service to the public in this Commonwealth and to cancel its certificate of public convenience as a wastewater provider in this Commonwealth.

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 11, 2005. 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:* Gwynmont Farms Utility Corporation

*Through and By Counsel:* James P. Melia, Esquire, Kirkpatrick & Lockhart Nicholson Graham LLP, 17 North Second Street, 18th Floor, Harrisburg, PA 17101-1507

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 05-1808. Filed for public inspection September 23, 2005, 9:00 a.m.]

#### Water Service

**A-210067F2000 and A-210122. Twin Lakes Water Services, LLC and Twin Lakes Water Company.** Joint application of Twin Lakes Water Services, LLC and Twin Lakes Water Company for approval of: 1) the transfer by sale, lease or other device of all of the property and rights of Twin Lakes Water Company to Twin Lakes Water Services, LLC; 2) the right of Twin Lakes Water Services, LLC to begin to offer, render, furnish or supply water service to the public in Sagamore Estates, Shohola Township, Pike County; and 3) the right of Twin Lakes Water Company to abandon its certificate of public convenience as a water supplier in this Commonwealth.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utili-



ties). 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 11, 2005. 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:* Twin Lakes Water Services, LLC and Twin Lakes Water Company

*Through and By Counsel:* James P. Melia, Esquire, Kirkpatrick & Lockhart, Nicholson Graham LLP, 240 North Third Street, Harrisburg, PA 17101-1507

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 05-1809. Filed for public inspection September 23, 2005, 9:00 a.m.]

## PHILADELPHIA REGIONAL PORT AUTHORITY

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #05-043.7, Restoration of Five (5) Rail Switches, Packer Avenue Marine Terminal (PAMT) until 3 p.m. on Thursday, October 20, 2005. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available October 4, 2005. Additional information and project listings may be found at [www.philaport.com](http://www.philaport.com). The cost of the bid document is \$35 (includes 7% Pennsylvania Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations. Bidders must provide to the Procurement Department, in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn: Procurement Department.

A mandatory prebid job site meeting will be held at 11 a.m. on October 13, 2005, at PAMT, Columbus Boulevard Service Road at South Gate, 1/2 mile south of Walt Whitman Bridge, Philadelphia, PA 19148.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 05-1810. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #05-075.7, Rail Track Maintenance & Quarterly Inspections at PAMT, P98SA, P84S, P82S, P80S, P80SA, P78S, P78SA, P38-40S & TMT until 2 p.m. on Thursday, October 20, 2005. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available October 4, 2005. Additional information and project listings may be found at [www.philaport.com](http://www.philaport.com). The cost of the bid document is \$35 (includes 7% Pennsylvania Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations.

Bidders must provide to the Procurement Department, in writing, the names of individuals that will be attending prebid meetings. This information is needed 24 hours prior to the meeting. Fax to (215) 426-6800, Attn: Procurement Department.

A mandatory prebid job site meeting will be held at 10 a.m. on October 13, 2005, at the Tioga Administration Building, 3460 North Delaware Avenue, 2nd Floor, Philadelphia, PA 19134.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 05-1811. Filed for public inspection September 23, 2005, 9:00 a.m.]

### Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept faxed bids for Project #05-094.P, Trash Removal, until 2 p.m. on Thursday, October 6, 2005. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available September 27, 2005. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,  
*Executive Director*

[Pa.B. Doc. No. 05-1812. Filed for public inspection September 23, 2005, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

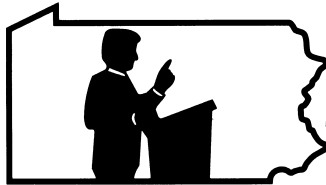
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:  
 The payment date specified in the contract.  
 30 days after the later of the receipt of a proper invoice or receipt of goods or services.  
 The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
 PA Department of Community and Economic Development  
 374 Forum Building  
 Harrisburg, PA 17120  
 800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
 Location: Harrisburg, Pa.  
 Duration: 12/1/93-12/30/93  
 Contact: Procurement Division 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:)  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

#### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.  
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

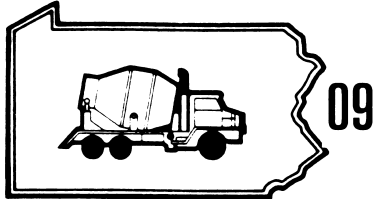
## DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at [www.patreasury.org](http://www.patreasury.org).

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania Treasury Department  
 201 Finance Building  
 Harrisburg, PA 17120  
 Phone: (717) 787-2990 or 1-800-252-4700  
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,  
*State Treasurer*

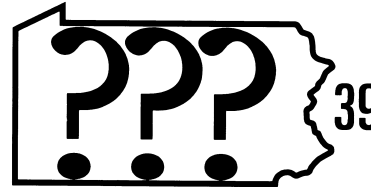
## SERVICES



### Construction & Construction Maintenance

**CN00016229** Services to deliver, paver-place and roll approximately 4,000 tons of limestone driving surface rock aggregate on 4 Mile Road in Forest District 9, Pine Township, Clearfield County. Interested vendors must be registered with the Commonwealth and have a registered vendor number. To register and obtain number, call 1-866-775-2868. BID OPENING: 9/20/05, 2 pm.

**Department:** Conservation and Natural Resources  
**Location:** DCNR Forest District 9, 4 Mile Road, Pine Township  
**Duration:** Contract shall commence upon execution and receipt of purchase order and terminate October 28, 2005.  
**Contact:** Naomi Rudisill, (717) 783-0749

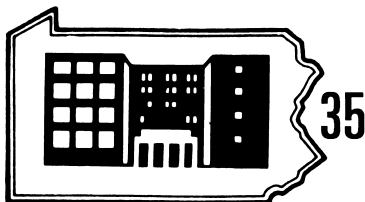


### Miscellaneous

**05-200-3187** Request for Proposals to provide the Pennsylvania Turnpike Commission with a Toll Ticket Production Verifier to pre-qualify vendors capable of supplying magnetic toll tickets in accordance with PTC specifications, including testing and monitoring ticket production. The RFP can be viewed at [www.paturndpike.com](http://www.paturndpike.com) under Doing Business with PTC. Closing date for receipt of proposals is October 12, 2005.

**Department:** Turnpike Commission  
**Location:** PTC Administration Building, Middletown, PA  
**Duration:** Five years  
**Contact:** Richard DiPiero, 717-939-9551, 5690

[Pa.B. Doc. No. 05-1813. Filed for public inspection September 23, 2005, 9:00 a.m.]



### Real Estate Services

**93896** LEASE OFFICE/CLINIC SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Health with 7,545 useable square feet of office/clinic space in Westmoreland County, PA located within a five-mile radius of the intersection of Route 130 & Route 119, Greensburg, PA. Downtown locations will be considered. For more information on SFP #93896 which is due on 11/7/05 visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) to download an SFP document or call (717) 787-4396.

**Department:** Health  
**Location:** 505 North Office Building, Harrisburg, PA 17125  
**Contact:** John Hocker, (717) 787-4396

**93894** LEASE OFFICE/CLINIC SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Health with 2,959 useable square feet of office/clinic space in Lawrence County, PA, located within the City Limits of New Castle. Downtown locations will be considered. For more information on SFP #93894 which is due on 11/14/05 visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) to download an SFP package or call (717) 787-4396.

**Department:** Health  
**Location:** 505 North Office Building, Harrisburg, PA 17125  
**Contact:** John Hocker, (717) 787-4396

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## DESCRIPTION OF LEGEND

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- |  |   |
|--|---|
| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
|--|---|

JAMES P. CREEDON,  
*Secretary*

United States Postal Service

**Statement of Ownership, Management, and Circulation**

|   |  |  |  |   |   |
|---|--|--|--|---|---|
| 1. Publication Title<br><b>Pennsylvania Bulletin</b>  |  | 2. Publication Number<br>0 1 6 2 - 2 1 3 7   |  |   | 3. Filing Date<br>09/20/05              |
| 4. Issue Frequency<br>Weekly  |  | 5. Number of Issues Published Annually<br>52 |  |   | 6. Annual Subscription Price<br>\$82.00 |
| 7. Complete Mailing Address of Known Office of Publication (Not printer) (Street, city, county, state, and ZIP+4)<br>Legislative Reference Bureau<br>641 Main Capitol Building<br>Harrisburg, Dauphin County, PA 17120-0033 |  |  |  | Contact Person<br>Mary Jane Phelps<br>Telephone<br>717-783-1530 |   |
| 8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer)<br>Legislative Reference Bureau<br>641 Main Capitol Building<br>Harrisburg, PA 17120-0033                                 |  |  |  |   |   |
| 9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank)   |  |  |  |   |   |
| Publisher (Name and complete mailing address)<br>Mary Jane Phelps, Director<br>Pennsylvania Bulletin<br>Legislative Reference Bureau, Harrisburg, PA 17120-0033   |  |  |  |   |   |
| Editor (Name and complete mailing address)<br>Barbara Furjanic, Pennsylvania Bulletin<br>Legislative Reference Bureau<br>Harrisburg, PA 17120-0033  |  |  |  |   |   |
| Managing Editor (Name and complete mailing address)   |  |  |  |   |   |

None

10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)

| Full Name                    | Complete Mailing Address     |
|------------------------------|------------------------------|
| Commonwealth of Pennsylvania | Commonwealth of Pennsylvania |
| Legislative Reference Bureau | Legislative Reference Bureau |
| 641 Main Capitol Building    | 641 Main Capitol Building    |
| Harrisburg, PA 17120-0033    | Harrisburg, PA 17120-0033    |

11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box  None

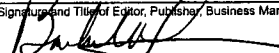
| Full Name | Complete Mailing Address |
|-----------|--------------------------|
|           |                          |

12. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one)  
 The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes:  
 Has Not Changed During Preceding 12 Months  
 Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)

|   |  |
|---|--|
| 13. Publication Title<br><b>Pennsylvania Bulletin</b> | 14. Issue Date for Circulation Data Below<br><b>September 17, 2005</b> |
|---|--|

| 15. Extent and Nature of Circulation  |  | Average No. Copies Each Issue During Preceding 12 Months | No. Copies of Single Issue Published Nearest to Filing Date |
|---|--|--|---|
| a. Total Number of Copies (Net press run)                                       |  | 6252   | 6037  |
| b. Paid and/or Requested Circulation  | (1) Paid/Requested Outside-County Mail Subscriptions Stated on Form 3541. (Include advertiser's proof and exchange copies) | 5970   | 5755  |
|   | (2) Paid In-County Subscriptions Stated on Form 3541 (Include advertiser's proof and exchange copies)                      | 0  | 0   |
|   | (3) Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Non-USPS Paid Distribution                | 0  | 0   |
|   | (4) Other Classes Mailed Through the USPS  | 0  | 0   |
| c. Total Paid and/or Requested Circulation (Sum of 15b. (1), (2), (3), and (4)) |  | 5970   | 5755  |
| d. Free Distribution by Mail (Samples, complimentary, and other free)           | (1) Outside-County as Stated on Form 3541  | 0  | 0   |
|   | (2) In-County as Stated on Form 3541   | 0  | 0   |
|   | (3) Other Classes Mailed Through the USPS  | 0  | 0   |
| e. Free Distribution Outside the Mail (Carriers or other means)                 |  | 0  | 0   |
| f. Total Free Distribution (Sum of 15d. and 15e.)                               |  | 0  | 0   |
| g. Total Distribution (Sum of 15c. and 15f.)                                    |  | 5970   | 5755  |
| h. Copies not Distributed   |  | 282  | 282   |
| i. Total (Sum of 15g. and h.)   |  | 6252   | 6037  |
| j. Percent Paid and/or Requested Circulation (15c. divided by 15g. times 100)   |  | 100  | 100   |

16. Publication of Statement of Ownership  September 24, 2005  Publication required. Will be printed in the issue of this publication.  Publication not required.

17. Signature and Title of Editor, Publisher, Business Manager, or Owner  
 Editor  
 Date: **Sept 19, 2005**

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).