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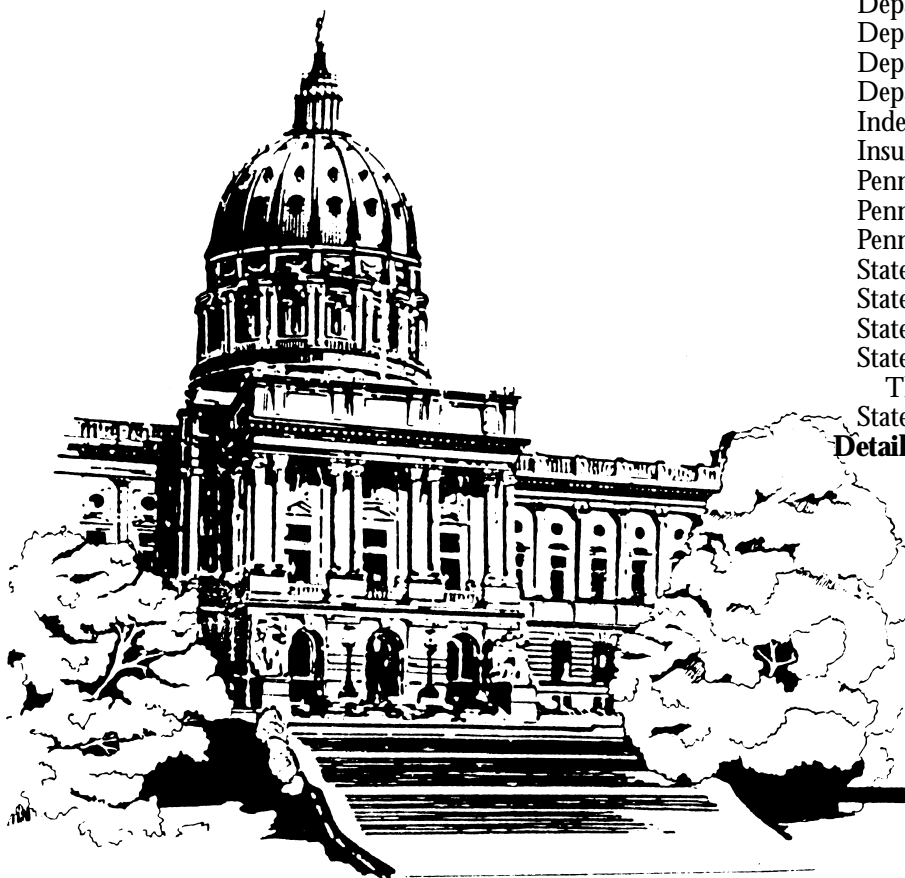
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**Latest Pennsylvania Code Reporter
(Master Transmittal Sheet):**

No. 371, October 2005

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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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THE GOVERNOR

GOVERNOR'S OFFICE

[EXECUTIVE ORDER NO. 2005-07]

Fuel Conservation Program

September 2, 2005

Whereas, Hurricane Katrina has caused devastation to the people and resources of the states of Alabama, Mississippi, and Louisiana including disruption in the production and refinement of petroleum in the Gulf of Mexico; and

Whereas, gasoline prices have reached an all time high across the country and there is a concern that shortages in liquid fuels might occur; and

Whereas, the Commonwealth is a significant consumer of liquid fuel products for transportation, heating, cooling, and other needs; and

Whereas, reducing Commonwealth consumption will reduce the overall demand for liquid fuels, which will help to reduce the risk of fuel shortages and alleviate price increases due to excess demand for limited supply.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by the virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws of the Commonwealth, do hereby instruct all Commonwealth agencies, boards, and commissions under the jurisdiction of the Governor to establish and follow a Fuel Conservation Program.

1. Fuel Conservation Program. The lead member of each agency, board, and commission shall refine existing or establish a new fuel conservation program to take effect immediately and be in effect for at least the next 30 days at which time the situation will be reviewed. It is possible that the fuel conservation program will be in effect for an extended amount of time.

2. Goals. The goals of each Fuel Conservation Program will be to:

- a. substantially reduce the amount of fuel consumed by Commonwealth agencies to help alleviate the threat of a fuel shortage;
- b. set forth necessary plans and actions to ensure the preservation of liquid fuels; and
- c. establish communication with external stakeholders, organizations, and all levels of government regarding the issue.

3. Components of a Fuel Conservation Program. A fuel conservation program shall consist of the following components:

- a. The use of video and tele-conferencing should be explored for all Commonwealth meetings where travel would normally be used.
- b. All discretionary travel should be eliminated for the next 30 days. If travel is required to a meeting, car pools or public transportation should be utilized.
- c. The use of Sports Utility Vehicles (SUVs), vans, and large trucks should be done with discretion.

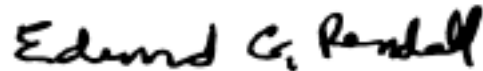
d. Each agency should carefully monitor their vehicle usage plans or guidelines particularly to vehicle idling, maintenance, tire pressure, driving suggestions, and other fuel conservation measures. In addition, each agency fleet manager should ensure that they are following the maintenance procedures for their vehicles to optimize fuel consumption. Whenever possible, fleet vehicles should be fueled at Commonwealth-owned garages.

4. Agency Responsibilities. The following agencies shall have the following specific responsibilities:

a. Department of General Services (DGS) shall review the heating, cooling, and other energy conservation measures for each Commonwealth building and ensure efficient energy use. DGS shall provide instructions per fleet usage and shall work with all agencies regarding the creation of fuel conservation programs for their fleet. DGS shall also limit the use of pool vehicles, especially SUVs, trucks, and vans. Finally, DGS shall review all grounds maintenance activities such as lawn care, leaf blowing, etc. to ensure maximum fuel efficiency and delay, where possible, routine grounds activities that involve the expending of liquid fuels.

b. Department of Environmental Protection (DEP) shall develop outreach programs for the public and local governments regarding their own fuel conservation programs. Additionally, DEP shall closely monitor the fuel situation across the country and provide a daily status briefing for the Governor.

5. **Duration.** This Executive Order shall take effect immediately and shall remain in effect for 30 days unless revised or rescinded.



Governor

Fiscal Note: GOV 05-08. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 05-1846. Filed for public inspection October 7, 2005, 9:00 a.m.]

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 19]

Promulgation of Rule 1905; No. 276 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And Now, this 20th day of September, 2005, it is ordered that pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania, Pennsylvania Rule of Judicial Administration No. 1905 is promulgated in the following form.

Whereas prior distribution and publication of these amendments would otherwise be required, it has been determined that immediate promulgation is required in the interests of justice and efficient administration.

This order shall be processed in accordance with Pennsylvania Rule of Judicial Administration No. 103(b) and shall be effective immediately.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 19. MISCELLANEOUS ADMINISTRATIVE PROVISIONS

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

Rule 1905. Investment Advisory Board.

(a) *General.* There is hereby established the Investment Advisory Board ("Board"), which shall consist of seven members. The Supreme Court shall appoint four (4) members. The Disciplinary Board of the Supreme Court, the Pennsylvania Lawyers Fund for Client Security and the Pennsylvania Continuing Legal Education Board ("the program boards") shall each appoint one (1) member to serve on the Board. The Court Administrator shall serve as an ex officio member to the Board. All members of the Board shall serve at the pleasure of the Supreme Court. The Board shall annually designate its chair.

(b) *Qualifications.* All appointees to the Board shall possess knowledge and expertise in finance and the management of public sector investment funds. If no current program board member is professionally qualified or able to serve on the Board, the program board will appoint a prior Board member or a non-program board member with the requisite expertise.

(c) *Responsibilities.* The Board shall provide recommendations to the Supreme Court with regard to the development and implementation of an investment policy for the program boards that will maximize investment yields while minimizing risk. In addition, the Board shall provide oversight and monitoring of the activity of the investment portfolios. On an annual basis, the Board shall provide the Supreme Court with a review of its

activities and appropriate recommendations for further action.

(d) *Procedure.* All actions of the Board shall be determined by majority vote. The Court Administrator of Pennsylvania will have no voting power except in the case of a tie.

(e) *Administrative.* The Administrative Office of Pennsylvania Courts shall provide necessary administrative assistance to the Board and shall pay the cost thereof as well as the necessary travel and other expenses of the members of the Board, all staff and any representative of the Supreme Court. The AOPC shall be reimbursed by the program boards for their pro rata share of necessary travel and other expenses.

(f) *Immunity.* Members of the Board, its staff and any other representative of the Supreme Court to the Board shall be immune from civil suit for any conduct in the course of their official duties.

Comment

In 2001, the Supreme Court asked the Administrative Office of Pennsylvania Courts to review the investment activities of the Court's three affiliated boards (the Disciplinary Board, Pennsylvania Lawyers Fund for Client Security and the Pennsylvania Continuing Legal Education Board) and to make recommendations for the improved investment stability, performance, operation and cost efficiencies of the boards' investments. Following collection of information and consultation with investment advisors, the AOPC recommended the formation of an Investment Advisory Board to assist the Supreme Court in its oversight and consolidation of investment portfolios that would enhance returns and reduce investment fees.

[Pa.B. Doc. No. 05-1847. Filed for public inspection October 7, 2005, 9:00 a.m.]

Title 255—LOCAL COURT RULES

NORTHAMPTON COUNTY

Administrative Order 2005-3—Arrest Procedures in Delinquency Cases: Designation of Issuing Authorities; Misc. 7-2005

Order of Court

And Now, this 21st day of September, 2005, pursuant of Rule 210(A) of the Pennsylvania Rules of Juvenile Court Procedures, the following are hereby designated as issuing authorities for arrest warrants for juveniles in delinquency cases:

1. Any judge of the Court of Common Pleas—Third Judicial District (Northampton County); and
2. Any magisterial district judge of the Third Judicial District (Northampton County).

Further, it is hereby ordered that when the Northampton County Government Center is closed, applications under Rule 210 shall be submitted to the "on duty" magisterial district judge.

This order is effective October 1, 2005.

By the Court

ROBERT A. FREEDBERG,
President Judge

[Pa.B. Doc. No. 05-1848. Filed for public inspection October 7, 2005, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension

Notice is hereby given that Kathleen Scott Chasar having been suspended from the practice of law in the State of New Jersey for a period of three months by Order of the Supreme Court of New Jersey dated February 24, 2005, the Supreme Court of Pennsylvania issued an Order dated September 26, 2005, suspending Kathleen Scott Chasar from the practice of law in this Commonwealth for a period of three months, effective October 26, 2005. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Com-

monwealth 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. 05-1849. Filed for public inspection October 7, 2005, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Francine S. Gritz, a/k/a Francine R. Solomon, having been suspended from the practice of law in the State of Delaware for a period of six months by Opinion and Order of the Supreme Court of Delaware decided March 1, 2005, the Supreme Court of Pennsylvania issued an Order dated September 26, 2005, suspending Francine S. Gritz, a/k/a Francine R. Solomon, from the practice of law in this Commonwealth for a period of six months, effective October 26, 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. 05-1850. Filed for public inspection October 7, 2005, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Commencement of Mercury Rulemaking Public Involvement Plan

On August 9, 2004, Citizens for Pennsylvania's Future (PennFuture) filed a petition with the Environmental Quality Board (Board) on behalf of various organizations "requesting action to reduce the high emissions of mercury to the air from Pennsylvania's electric utilities." The petitioners requested a mercury control level of at least 90% or 3.00 mg/MW-hr per electric generating unit with compliance by December 15, 2007.

The Department of Environmental Protection (Department) on August 15, 2005, recommended to the Board that a PA-specific mercury regulation be developed with significant public involvement. The rulemaking process would: (1) examine mercury emission reduction strategies for electric generating units; (2) encourage the burning of cleaner coal of this Commonwealth and discourage fuel switching; and (3) consider capacity and reliability concerns for delivery of power over the grid. By a 16-3 vote, the Board approved the Department's recommendation to develop a "State-specific" mercury emission control regulation. The motion was amended as follows: "During the development of its regulatory proposal, the Department will confer with various stakeholders including, but not limited to, the Pennsylvania Chamber of Business and Industry, Pennsylvania Chemical Industry Council, Associated Petroleum Industries of Pennsylvania, Pennsylvania Manufacturers Association, Industrial Energy Users of Pennsylvania, Electric Power Generation Association, Pennsylvania Coal Association, United Mine Workers of America, Air Quality Technical Advisory Committee, Citizens Advisory Council, the petitioners and other representatives of the potentially regulated community."

Purpose of Public Involvement:

The Mercury Rulemaking Public Involvement process is being initiated to consult with a diverse group of public and private sector individuals, including representatives of the petitioners, industry and trade associations. The primary objectives of the public involvement process are to:

- 1) Discuss key information relevant to a "State-specific" mercury regulation.
- 2) Obtain recommendations on the technical aspects of the proposed rulemaking, including control levels, testing, monitoring, recordkeeping and reporting and compliance schedules.

It is important to discuss the available background information on mercury emissions, deposition and control technology as well as the costs and benefits of the regulation. To this end, the Department will hold a series of meetings with the Mercury Rule Workgroup (Workgroup) including representatives of the Air Quality Technical Advisory Committee (AQTAC) and the Citizens Advisory Council (CAC) to discuss information and issues relevant to the development of Pennsylvania's mercury rulemaking. The first part of the Workgroup process will involve discussion of available background information on

mercury emissions, deposition and control technology as well as the costs and benefits of the regulation. The second part of this process will address issues related to the development of the proposed mercury rulemaking.

Public Involvement Meetings

Beginning in October 2005, the AQTAC and the CAC will jointly host several Workgroup meetings, on behalf of the Department, to facilitate discussions and stakeholder perspectives concerning the mercury rulemaking process. The meetings will provide a forum for the discussion of the Workgroup's perspectives and other topics of interest including mercury emissions, transport and deposition, global/local impacts, hot spots, speciation, control equipment, electric system reliability, costs and benefits, compliance timeframes and any other topics germane to the mercury rulemaking process. The Department's Air Quality staff will attend the Workgroup meetings to review available data and issues of concern. In addition, the staff will seek the input of the Workgroup during the development of the draft regulation. An independent record of the meetings will be made to allow the Department staff to focus on the discussion and regulation development.

The first Workgroup meeting will be held on October 14, 2005, from 9 a.m. to 3 p.m. in Room 105 of the Rachel Carson State Office Building, 400 Market Street, Harrisburg. Additional meetings will be scheduled at the October 14 meeting. Materials related to the mercury petition and rulemaking process, including a list of Workgroup participants and notices of Workgroup meetings, will be posted on the Department's mercury webpage at www.dep.state.pa.us, (Keyword: "mercury rule") for availability to the general public. Meeting notices will also be published in the Department's *Daily Update*, which can be accessed at www.depesf.state.pa.us/news/site/default.asp.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-1851. Filed for public inspection October 7, 2005, 9:00 a.m.]

STATE BOARD OF MEDICINE

[49 PA. CODE CH. 18]

Respiratory Care Continuing Education

The State Board of Medicine (Board) proposes to amend §§ 18.302 and 18.309 (relating to definitions; and renewal of certification) and add §§ 18.309a and 18.309b (relating to requirement of continuing education; and approved educational programs) to read as set forth in Annex A.

A. *Effective Date*

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*. The completion of continuing education hours will be required to renew a certification as a respiratory care practitioner beginning with the January 1, 2007, biennial renewal.

B. *Statutory Authority*

The proposed rulemaking implements the act of July 2, 2004 (No. 55, P. L. 484) (Act 55), which directs the Board

to adopt, promulgate and enforce regulations that establish requirements for continuing education to be met by individuals holding certification as respiratory care practitioners in this Commonwealth.

Disciplinary procedures for failure to comply would be addressed by way of amendments to § 16.61 (relating to unprofessional and immoral conduct) which will be proposed in the future as a part of the regulatory package for the implementation of the act of December 10, 2001 (No. 92, P. L. 859), which authorizes the Board to promulgate regulations that define the certification, circumstances and protocol under which a certified athletic trainer may perform athletic training services and define the supervision and personal direction required by the standards of acceptable medical practice embraced by the medical doctor community in this Commonwealth.

C. *Background and Purpose*

Act 55, which became effective August 31, 2004, amended the Medical Practice Act of 1985 (act) (63 P. S. §§ 422.1—422.51a) by adding section 36.1(f) of the act (63 P. S. § 436.1(f)) to provide for the continuing education of respiratory care practitioners. The Board now proposes these amendments to establish requirements for continuing education for respiratory care practitioners.

D. *Description of Proposed Rulemaking*

Section 18.302 would be amended to set forth acronyms used in the proposed amendments for Nationally recognized organizations that provide and certify courses and programs in respiratory therapy.

Section 18.309 would be amended to reflect the requirement for continuing education in § 18.309a.

Section 18.309a would set forth the requirement of continuing education. This section requires attendance at and completion of 20 credit hours each biennial cycle for renewal or reactivation of licensure. There is also provision for exemptions and waivers. Section 18.309b would designate Nationally recognized providers of respiratory care training as the approved providers for and certifiers of the continuing education credits.

E. *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking will have no quantifiable adverse fiscal impact on the Commonwealth or its political subdivisions.

F. *Sunset Date*

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

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act, (71 P. S. § 745.5(a)), on September 26, 2005, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

General Assembly, and the Governor of comments, recommendations or objections raised.

H. *Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Sabina I. Howell, Board Counsel, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of the proposed rulemaking in the *Pennsylvania Bulletin*.

CHARLES D. HUMMER, Jr., M.D.,
Chairperson

Fiscal Note: 16A-4921. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 18. STATE BOARD OF MEDICINE

Subchapter F. RESPIRATORY CARE PRACTITIONERS

§ 18.302. Definitions.

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

AARC—American Association for Respiratory Care, an organization which provides and approves continuing professional development programs.

AMA—American Medical Association, an organization which provides and approves continuing professional development programs.

AOA—American Osteopathic Association, an organization which provides and approves continuing professional development programs.

* * * * *

CSRT—Canadian Society of Respiratory Therapists, an organization which provides and approves continuing professional development programs.

* * * * *

§ 18.309. Renewal of certification.

* * * * *

(c) To retain the right to engage in practice, the certificateholder shall renew certification in the manner prescribed by the Board, **complete the continuing education requirement as set forth in § 18.309a (relating to requirement of continuing education)** and pay the required fee prior to the expiration of the next biennium.

* * * * *

§ 18.309a. Requirement of continuing education.

The following continuing education requirements shall be completed each biennial cycle, commencing with the biennial period ending December 31, 2006:

(1) An applicant for biennial renewal or reactivation of certification is required to complete, during the 2 years preceding the application for renewal or reactivation, a minimum of 20 hours of continuing education as set forth in section 36.1(f)(2) of the act (63 P. S. § 422.36.1(f)).

(2) A certificateholder is exempt from the continuing education requirement for the first biennial renewal period subsequent to initial certification.

(3) The Board may waive the requirements of continuing education in cases of serious illness, or other demonstrated hardship or military service. It shall be the duty of each certificateholder who seeks a waiver to notify the Board in writing and request the waiver prior to the end of the renewal period. The Board will grant, deny or grant in part the request for waiver and will send the certificateholder written notification of its approval or denial in whole or in part of the request. A certificateholder who requests a waiver may not practice as a respiratory care practitioner after the expiration of the certificateholder's current certificate until the Board grants the waiver request.

(4) A licensee shall maintain the information and documentation supporting completion of the hours of continuing education required, or the waiver granted, for at least 2 years from the commencement of the biennial renewal period to which the continuing education or waiver applies.

§ 18.309b. Approved educational courses.

(a) The Board approves respiratory care continuing education programs designated for professional development credits by the AARC, the AMA, the AOA and the CSRT. The courses, locations and instructors provided by these organizations for continuing education in respiratory care are deemed approved by the Board. Qualifying AMA continuing education programs shall be in AMA PRA Category I as defined in § 16.1 (relating to definitions) and qualifying AOA continuing education programs shall be in Category 1A and 1B.

(b) Advanced course work in respiratory care successfully completed at a degree-granting institution of higher education approved by the United States Department of Education which offers academic credits is also approved for continuing education credit by the Board. Proof of completion of the academic credits shall be submitted to the Board for determination of number of credits completed.

(c) The Board will not accept courses of study which do not relate to the clinical aspects of respiratory care, such as studies in office management and financial procedures.

[Pa.B. Doc. No. 05-1852. Filed for public inspection October 7, 2005, 9:00 a.m.]

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Fees for Approval of Nursing Education Programs

The State Board of Nursing (Board) proposes to amend §§ 21.5, 21.147 and 21.253 (relating to fees) to read as set forth in Annex A. The proposed rulemaking will update the fees charged for the approval of nursing education programs.

Effective Date

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

Statutory Authority

The proposed rulemaking is authorized under section 11.2 of the Professional Nursing Law (RN act) (63 P. S. § 221.2) and section 17.5 of the Practical Nurse Law (PN act) (63 P. S. § 667.5).

Background and Need for the Proposed Rulemaking

The Board provides various services to licensees, applicants and nursing schools for which fees are charged. Section 6.1 of the RN act (63 P. S. § 216.1), regarding approval of professional nursing education programs, section 9 of the PN act (63 P. S. § 659), regarding approval of practical nursing education programs, and section 8.1 of the RN act (63 P. S. § 218.1), regarding qualifications for certified registered nurse practitioners (CRNPs), approved programs of education, require the Board to approve nursing education programs. Under this statutory authority, the Board has promulgated regulations detailing the requirements of approved programs of nursing education in §§ 21.31–21.126 and 21.161–21.234. The Board anticipates the promulgation of a final-form rulemaking regarding the approval of CRNP education programs later this year. See 34 Pa.B. 4890 (September 4, 2004).

The Board reviews nursing educational programs with the assistance of its nursing education advisors, who are individuals with a minimum of a master's degree in nursing in accordance with section 2.1(i) of the RN act (63 P. S. § 212.1(i)). The procedure for reviewing an application for approval of a new nursing education program requires that the Board staff conduct an in-depth review and analysis of the application, including review of the budget, curriculum, faculty and clinical experiences. In addition, Board staff conducts a site survey and reviews the physical facilities, such as classroom space, library holdings and nursing equipment. The amended fees associated with this approval process are directly tied to the administrative cost of reviewing and analyzing the application and surveying the program.

In 1991, the Board established fees for the approval of professional and practical nursing education programs at 21 Pa.B. 5521 (November 30, 1991). The fees were amended in 1993, to their current levels of \$475 for professional and practical nursing education programs. See 23 Pa.B. 5634 (November 27, 1993). The Board charges CRNP programs seeking approval the same fee.

Since 1993, the time expended by the Board staff to review each program has increased dramatically. Many of the proposals from the past 2 years to develop nursing education programs at the professional and practical nurse level have come from individuals with little or no background in nursing education. This is due in part to the recent need for new nursing education programs, which is directly related to the need to educate more nurses because of the nursing shortage. The inexperience of the new program developers has led to greatly increased involvement of the nursing education advisors in planning curriculum and clinical experiences, and overseeing the creation of facilities for nursing education programs. It has become common for the Board staff to review and offer advice on multiple draft proposals before the proposals are ready to be presented to the Board.

The Board sets fees, other than biennial renewal fees that support the general operations of the Board, based on the actual cost of providing services. The Office of Revenue conducted a study of the average services provided to nursing education programs seeking Board approval and determined that the fee for approval of

professional and practical nursing education programs should be set at \$935 and the fee for approval of CRNP education programs should be set at \$735. Previously, CRNP education programs were charged the same as professional nursing education programs under § 21.5. To keep all provisions related to CRNPs in Subchapter C of the Board's regulations, the Board will place the fee for CRNP program approval in § 21.253.

Description of Proposed Amendments

The proposed amendments would raise the fee for approval of professional and practical nursing education programs from \$475 to \$935. The proposed rulemaking would raise the fee for approval of CRNP education programs from \$475 to \$735.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking would increase the fee for approval of professional and practical nursing education programs by \$460. From 1993 to 2004, the Board has approved approximately 13 new professional nursing programs and 12 new practical nursing programs. If the numbers are consistent for the next 11-year time period, the overall increase will be \$11,500 or \$1,045 per year. The proposed rulemaking would increase the fee for CRNP nursing education programs by \$260. The Board has approved 30 CRNP nursing education programs since 1993 and anticipates only a handful of new CRNP programs over the next 11 years. The Board will realize savings to its general operating budget by having the fee for the service of approving nursing education programs accurately reflect the cost of the service provided. There is no fiscal impact on the Commonwealth from the proposed rulemaking.

The proposed rulemaking will not create or reduce paperwork requirements for nursing education programs seeking approval or for the Board. There are no paperwork requirements on the Commonwealth regarding the approval of nursing education programs.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 26, 2005, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Ann Steffanic, Board Administrator,

State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

JANET HUNTER SHIELDS, MSN, CRNP, CNS,
Chairperson

Fiscal Note: 16A-5127. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 21. STATE BOARD OF NURSING

Subchapter A. REGISTERED NURSES

GENERAL PROVISIONS

§ 21.5. Fees.

(a) The following fees are charged by the Board:

	* * * * *
Application for approval of new nursing program.....	§ [475] 935
	* * * * *

**Subchapter B. PRACTICAL NURSES
GENERAL PROVISIONS**

§ 21.147. Fees.

(a) The following fees are charged by the Board:

	* * * * *
Application for approval of new nursing program.....	§ [475] 935
	* * * * *

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS

GENERAL PROVISIONS

§ 21.253. Fees.

The following fees are charged by the Board:

	* * * * *
Application for approval of new nursing program.....	\$735
	* * * * *

**STATE BOARD OF
OSTEOPATHIC MEDICINE**

[49 PA. CODE CH. 25]

Respiratory Therapists

The State Board of Osteopathic Medicine (Board) proposes to amend §§ 25.502 and 25.509 (relating to definitions; and renewal of certification) and add §§ 25.509a and 25.509b (relating to requirement of continuing education; and approved educational programs) to read as set forth in Annex A.

A. *Effective Date*

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

B. *Statutory Authority*

The proposed rulemaking implements the act of July 2, 2004 (No. 56, P. L. 486) (Act 56), which directs the Board to adopt, promulgate and enforce regulations that establish requirements for continuing education to be met by individuals holding certification as respiratory therapists in this Commonwealth.

C. *Background and Purpose*

Act 56, which became effective August 31, 2004, amended the Osteopathic Medical Practice Act (act) (63 P. S. §§ 271.1—271.18) by adding section 10.2(f) of the act (63 P. S. § 271.10b(f)) to provide for the continuing education of respiratory therapists. The Board now proposes these regulations to establish requirements for completion of continuing education for the practice of respiratory therapists.

D. *Description of Proposed Rulemaking*

Section 25.502 would be amended to provide definitions relevant to the continuing education requirements.

Section 25.509 would be amended to require certificateholders to comply with continuing education requirements to renew their certificates. Section 25.509a would be added to set forth the requirement that an applicant for biennial renewal or reactivation of certification shall complete 20 credit hours of continuing education during the previous biennial renewal period. In addition, this section provides for exemption from the continuing education requirement for the first biennial renewal period after initial certification and provides for waiver of the requirements in cases of serious illness, undue hardship or military service.

Section 25.509b would provide that the Board approves respiratory care continuing education programs designated for professional development credits by the American Association of Respiratory Care, the American Medical Association (AMA), the American Osteopathic Association (AOA) and the Canadian Society of Respiratory Therapists. AMA programs must be in AMA PRA Category I credits and qualifying AOA continuing education programs must be in Category I-A or I-B credits, as defined in § 25.1 (relating to definitions). Subsection (b) would provide that advanced course work in respiratory care successfully completed at a degree-granting institution of higher education approved by the United States Department of Education which offers academic credits would also be approved for continuing education credit by the Board. Subsection (c) would notify certificate holders that the Board will not accept courses of study which do not relate to the actual provision of respiratory care. Examples of unacceptable courses are those in office management and finances.

E. *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking would have a fiscal and paperwork impact on the Commonwealth in that the Board would incur costs related to reviewing and approving continuing education courses for respiratory care practitioners.

F. *Sunset Date*

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

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 26, 2005, the Board submitted a copy of this proposed rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

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

H. *Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Beth Sender Michlovitz, Counsel, State Board of Osteopathic Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

OLIVER C. BULLOCK, D.O.,
Chairperson

Fiscal Note: 16A-5317. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 25. STATE BOARD OF OSTEOPATHIC MEDICINE

Subchapter K. RESPIRATORY CARE PRACTITIONERS

§ 25.502. Definitions.

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

AARC—American Association for Respiratory Care, an organization which provides continuing professional development programs.

AMA—American Medical Association, an organization which provides continuing professional development programs.

AOA—American Osteopathic Association, an organization which provides continuing professional development programs.

* * * * *

CRST—Canadian Society of Respiratory Therapists, an organization which provides continuing professional development programs.

* * * * *

§ 25.509. **Renewal of certification.**

* * * * *

(c) To retain the right to engage in practice, the certificateholder shall renew certification in the manner prescribed by the Board [and], pay the required fee and comply with the continuing education requirement of § 25.509a (relating to requirement of continuing education), prior to the expiration of the [next] current biennium.

* * * * *

§ 25.509a. **Requirement of continuing education.**

(a) Commencing with the biennial period beginning November 1, 2008, an applicant for biennial renewal or reactivation of certification is required to complete, during the 2 years preceding renewal or reactivation, a minimum of 20 hours of continuing education as set forth in section 10.2 of the act (63 P. S. § 271.10b).

(b) A certificateholder is exempt from the continuing education requirement for the first biennial renewal period subsequent to initial certification.

(c) The Board may waive the requirements of continuing education in cases of serious illness, undue hardship or military service. It shall be the duty of each certificateholder who seeks a waiver to notify the Board in writing and request the waiver prior to the end of the renewal period. The Board will grant, deny or grant in part the request for waiver and will send the certificateholder written notification of its approval or denial of the waiver request. A certificateholder who requests a waiver may not practice as a respiratory care practitioner after the expiration of the certificateholder's current certificate until the Board grants the waiver request.

(d) A certificateholder shall maintain the information and documentation concerning compliance with the continuing education requirement or the waiver granted for at least 2 years.

§ 25.509b. **Approved educational programs.**

(a) The Board approves respiratory care continuing education programs designated for professional development credits by the AARC, the AMA, the AOA and the CSRT.

(1) Qualifying AMA continuing education programs shall be in AMA PRA Category I credits, as defined in § 25.1 (relating to definitions).

(2) Qualifying AOA continuing education programs shall be in Category I-A or I-B credits, as defined in § 25.1.

(b) Advanced course work in respiratory care successfully completed at a degree-granting institution of higher education approved by the United States Department of Education which offers academic credits are also approved for continuing education credit by the Board.

(c) The Board will not accept courses of study which do not relate to the actual provision of respiratory care. Examples of unacceptable courses are those in office management and financial procedures.

[Pa.B. Doc. No. 05-1854. Filed for public inspection October 7, 2005, 9:00 a.m.]

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[49 PA. CODE CHS. 48 AND 49]

Child Abuse Reporting Requirements

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) proposes to add §§ 48.51—48.57 and 49.51—49.57 to read as set forth in Annex A. The proposed regulations relate to child abuse reporting requirements pertaining to licensed marriage and family therapists and licensed professional counselors.

Effective Date

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

Statutory Authority

The Board is authorized to adopt regulations necessary for the administration of its enabling statute under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (63 P. S. § 1906(2)) and 23 Pa.C.S. Chapter 63 (relating to Child Protective Services Law) (CPSL), specifically sections 6311(b) and 6383(b)(2) of the CPSL (relating to persons required to report suspected child abuse; and education and training).

Sunset Date

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

Background and Purpose

The proposed regulations are responsive to the statutory mandate of section 6383(b)(2) of the CPSL, which requires that each licensing board with jurisdiction over professional licensees identified as mandated reporters of child abuse promulgate regulations on the responsibilities of mandated reporters. The mandated reporters enumerated in section 6311(b) of the CPSL include mental health professionals. The Board has fulfilled its rulemaking responsibilities pertaining to licensed social workers. With the enactment of the act of December 21, 1998 (No. 136, P. L. 1017), which created the new licensure classifications of marriage and family therapists and professional counselors, the Board now intends to promulgate similar reporting provisions for licensed marriage and family therapists and professional counselors.

The child abuse reporting requirements proposed by these regulations are, with few exceptions, recapitulations of the statutory requirements imposed upon persons required to report suspected child abuse under the CPSL. Following is a description of the proposed rulemaking.

§§ 48.51 and 49.51. Definitions relating to child abuse reporting requirements.

Definitions are proposed in §§ 48.51 and 49.51 for the following words and phrases used throughout the regulations: "child abuse," "ChildLine," "individual residing in the same home as the child," "perpetrator," "person responsible for the child's welfare," "recent acts or omis-

sions," "serious mental injury," "serious physical injury" and "sexual abuse or exploitation." With the exception of the definition of "ChildLine" which is tailored after the Department of Public Welfare's definition found in 55 Pa. Code § 3490.4 (relating to definitions), the proposed definitions provided for the terms are those contained in section 6303 of the CPSL (relating to definitions).

§§ 48.52 and 49.52. Suspected child abuse—mandated reporting requirements.

Proposed §§ 48.52 and 49.52 announce mandatory reporting requirements for persons required to report suspected child abuse under section 6311 of the CPSL. Subsection (a) states the general rule that licensed marriage and family therapists and licensed professional counselors who come into contact with children shall make a report of suspected child abuse. Subsection (b) states the reporting requirements under section 6311(c) of the CPSL for licensed marriage and family therapists and professional counselors who are staff members of a medical or other public or private institution, school, facility or agency. Subsections (c) and (d), respectively, state the procedures for reporting child abuse as required under section 6313 of the CPSL (relating to reporting procedure). Proposed subsection (c) instructs licensees that reports of suspected child abuse shall be made immediately by telephone to ChildLine, and in writing within 48 hours after the oral report, to the appropriate county children and youth social service agency.

§§ 48.53 and 49.53. Photographs, medical tests and X-rays of child subject to report.

Under section 6314 of the CPSL (relating to photographs, medical tests and X-rays of child subject to report), persons or officials who are required to report cases of suspected child abuse are permitted to take photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Proposed §§ 48.53 and 49.53 advises licensed marriage and family therapists and professional counselors of this information and of other relevant information which shall be forwarded to the appropriate county children and youth social service agency concurrently with the written report or as soon thereafter as possible.

§§ 48.54 and 49.54. Suspected death as a result of child abuse—mandated reporting requirement.

Section 6317 of the CPSL (relating to mandatory reporting and postmortem investigation of deaths) provides that a person or official required to report cases of suspected child abuse who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the appropriate coroner. Proposed §§ 48.54 and 49.54 advise licensed marriage and family therapists and professional counselors of this statutory mandate.

§§ 48.55 and 49.55. Immunity from liability.

Proposed §§ 48.55 and 49.55 advise licensed marriage and family therapists and professional counselors that under section 6318 of the CPSL (relating to immunity from liability), those who participate in good faith in the making of a report of suspected child abuse, cooperating with an investigation, testifying in a proceeding or taking photographs, shall have immunity from civil and criminal liability that might result by reason of the licensed marriage and family therapist's or professional counselor's actions. The proposed sections also inform licensed marriage and family therapists and licensed professional counselors that under section 6318 of the CPSL, the good

faith of the licensed marriage and family therapist or licensed professional counselor will be presumed for the purpose of any civil or criminal proceeding. The Board also proposes in §§ 48.55 and 49.55 to extend the good faith presumption to disciplinary proceedings against a licensed marriage and family therapist or licensed professional counselor that results by reason of the licensed marriage and family therapist's or professional counselor's actions in participating in good faith in the making of a report of suspected child abuse.

§§ 48.56 and 49.56. Confidentiality—waived.

Section 6383(b)(2) of the CPSL requires that the regulations promulgated by licensing boards having jurisdiction over professional licensees identified as mandated reporters "shall clarify that the provisions of this chapter take precedence over any professional standard that might otherwise apply in order to protect children from abuse." Sections 48.56 and 49.56 propose to address this statutory mandate by clarifying that the child abuse reporting requirements announced in these chapters take precedence over any client confidentiality, ethical principle or professional standard that might otherwise apply.

§§ 48.57 and 49.57. Noncompliance.

Proposed §§ 48.57 and 49.57 advise licensed marriage and family therapists and licensed professional counselors of the consequences of noncompliance with the child abuse reporting requirements of §§ 48.52—48.54 and §§ 49.52—49.54 (relating to suspected child abuse-mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse-mandated reporting requirement). As proposed, licensed marriage and family therapists and licensed professional counselors are advised under subsection (a) that a willful failure to comply with the reporting requirements will result in disciplinary action under section 11 of the act (63 P. S. § 1911). Subsection (b) advises licensed marriage and family therapists and professional counselors of the criminal penalties available under section 6319 of the CPSL (relating to penalties for failure to report), for the same willful noncompliance with the reporting requirements.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no fiscal impact on the Commonwealth or its political subdivisions. As mandated reporters, licensed marriage and family therapists and professional counselors may incur additional paperwork in complying with the child abuse reporting requirements announced by these proposed regulations.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 26, 2005, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis form to the Independent Regulatory Review Commission (IRRC), and to the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recom-

mendations or objections shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations and objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Sandra Matter, Administrative Assistant, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

RONALD E. HAYS,
Chairperson

Fiscal Note: 16A-6910. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

Chapter 48. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF MARRIAGE AND FAMILY THERAPISTS

CHILD ABUSE REPORTING REQUIREMENTS

§ 48.51. Definitions relating to child abuse reporting requirements.

The following words and terms, when used in this section and §§ 48.52—48.57 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

Child abuse—The term includes any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate medical care, which endangers a child's life or development or impairs the child's functioning.

ChildLine—An organizational unit of the Department of Public Welfare, which operates a 24-hour a day State-wide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.

Perpetrator—A person who has committed child abuse and is a parent of the child, a person responsible for the

welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.

Person responsible for the child's welfare—

(i) A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

(ii) The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.

Recent acts or omissions—Acts or omissions committed within 2 years of the date of the report to the Department of Public Welfare or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist including the refusal of appropriate treatment, that does one or more of the following:

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.

(ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

Serious physical injury—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.

Sexual abuse or exploitation—The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.

§ 48.52. Suspected child abuse—mandated reporting requirements.

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensed marriage and family therapists who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Licensed marriage and family therapists who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the licensed marriage and family therapist, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d).

(c) *Reporting procedure.* Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.

(2) *Written reports.* Written reports shall be made within 48 hours after the oral report is made by telephone. Written reports shall be made on forms available from a county children and youth social service agency.

(d) *Written reports.* Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available:

(1) The names and addresses of the child and the parents or other person responsible for the care of the child, if known.

(2) Where the suspected abuse occurred.

(3) The age and sex of the subjects of the report.

(4) The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or siblings of the child.

(5) The name and relationship of the persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by those persons.

(6) Family composition.

(7) The source of the report.

(8) The person making the report and where that person can be reached.

(9) The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.

(10) Other information which the Department of Public Welfare may require by regulation.

§ 48.53. Photographs, medical tests and X-rays of child subject to report.

A licensed marriage and family therapist may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

§ 48.54. Suspected death as a result of child abuse—mandated reporting requirement.

A licensed marriage and family therapist who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the coroner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner of the county where the injuries were sustained.

§ 48.55. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability), a licensed marriage and family therapist who participates in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or

the taking of photographs shall have immunity from civil and criminal liability that might result by reason of the licensed marriage and family therapist's actions. For the purpose of any civil or criminal proceeding, the good faith of the licensed marriage and family therapist shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a licensed marriage and family therapist's actions in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs.

§ 48.56. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 48.52—48.54 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply.

§ 48.57. Noncompliance.

(a) *Disciplinary action.* A licensed marriage and family therapist who willfully fails to comply with the reporting requirements in §§ 48.52—48.54 (relating to suspected child abuse mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 11 of the act (63 P. S. § 1911).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a licensed marriage and family therapist who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF PROFESSIONAL COUNSELORS

CHILD ABUSE REPORTING REQUIREMENTS

§ 49.51. Definitions relating to child abuse reporting requirements.

The following words and terms, when used in this section and §§ 48.52—48.57 (relating to child abuse reporting requirements), have the following meanings, unless the context clearly indicates otherwise:

Child abuse—A term meaning any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the failure to provide the essentials of life, including adequate

medical care, which endangers a child's life or development or impairs the child's functioning.

ChildLine—An organizational unit of the Department of Public Welfare, which operates a 24-hour a day State-wide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.

Perpetrator—A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child's parent.

Person responsible for the child's welfare—

(i) A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

(ii) The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.

Recent acts or omissions—Acts or omissions committed within 2 years of the date of the report to the Department of Public Welfare or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist including the refusal of appropriate treatment, that does one or more of the following:

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened.

(ii) Seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

Serious physical injury—An injury that causes a child severe pain or significantly impairs a child's physical functioning, either temporarily or permanently.

Sexual abuse or exploitation—The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.

§ 49.52. Suspected child abuse—mandated reporting requirements.

(a) *General rule.* Under 23 Pa.C.S. § 6311 (relating to persons required to report suspected child abuse), licensed professional counselors who, in the course of their employment, occupation or practice of their profession, come into contact with children shall report or cause a report to be made to the Department of Public Welfare when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse.

(b) *Staff members of public or private agencies, institutions and facilities.* Licensed professional counselors who are staff members of a medical or other public or private institution, school, facility or agency, and who, in the

course of their employment, occupation or practice of their profession, come into contact with children shall immediately notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge when they have reasonable cause to suspect on the basis of their professional or other training or experience, that a child coming before them in their professional or official capacity is a victim of child abuse. Upon notification by the licensed professional counselor, the person in charge or the designated agent shall assume the responsibility and have the legal obligation to report or cause a report to be made in accordance with subsections (a), (c) and (d).

(c) *Reporting procedure.* Reports of suspected child abuse shall be made by telephone and by written report.

(1) *Oral reports.* Oral reports of suspected child abuse shall be made immediately by telephone to ChildLine, (800) 932-0313.

(2) *Written reports.* Written reports shall be made within 48 hours after the oral report is made by telephone. Written reports shall be made on forms available from a county children and youth social service agency.

(d) *Written reports.* Written reports shall be made in the manner and on forms prescribed by the Department of Public Welfare. The following information shall be included in the written reports, if available:

(1) The names and addresses of the child and the parents or other person responsible for the care of the child, if known.

(2) Where the suspected abuse occurred.

(3) The age and sex of the subjects of the report.

(4) The nature and extent of the suspected child abuse including any evidence of prior abuse to the child or siblings of the child.

(5) The name and relationship of the persons responsible for causing the suspected abuse, if known, and any evidence of prior abuse by those persons.

(6) Family composition.

(7) The source of the report.

(8) The person making the report and where that person can be reached.

(9) The actions taken by the reporting source, including the taking of photographs and X-rays, removal or keeping of the child or notifying the medical examiner or coroner.

(10) Other information which the Department of Public Welfare may require by regulation.

§ 49.53. Photographs, medical tests and X-rays of child subject to report.

A licensed professional counselor may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county children and youth social service agency at the time the written report is sent or as soon thereafter as possible. The county children and youth social service agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request.

§ 49.54. Suspected death as a result of child abuse—mandated reporting requirement.

A licensed professional counselor who has reasonable cause to suspect that a child died as a result of child

abuse shall report that suspicion to the coroner of the county where death occurred or, in the case where the child is transported to another county for medical treatment, to the coroner of the county where the injuries were sustained.

§ 49.55. Immunity from liability.

Under 23 Pa.C.S. § 6318 (relating to immunity from liability), a licensed professional counselor who participates in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs shall have immunity from civil and criminal liability that might result by reason of the licensed professional counselor's actions. For the purpose of any civil or criminal proceeding, the good faith of the licensed professional counselor shall be presumed. The Board will uphold the same good faith presumption in any disciplinary proceeding that might result by reason of a licensed professional counselor's actions in participating in good faith in the making of a report, cooperating with an investigation, testifying in a proceeding arising out of an instance of suspected child abuse or the taking of photographs

§ 49.56. Confidentiality—waived.

To protect children from abuse, the reporting requirements of §§ 49.52—49.54 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) take precedence over the provisions of any client confidentiality, ethical principle or professional standard that might otherwise apply.

§ 49.57. Noncompliance.

(a) *Disciplinary action.* A licensed professional counselor who willfully fails to comply with the reporting requirements in §§ 49.52—49.54 (relating to suspected child abuse—mandated reporting requirements; photographs, medical tests and X-rays of child subject to report; and suspected death as a result of child abuse—mandated reporting requirement) will be subject to disciplinary action under section 11 of the act (63 P. S. § 1911).

(b) *Criminal penalties.* Under 23 Pa.C.S. § 6319 (relating to penalties for failure to report), a licensed professional counselor who is required to report a case of suspected child abuse who willfully fails to do so commits a summary offense for the first violation and a misdemeanor of the third degree for a second or subsequent violation.

[Pa.B. Doc. No. 05-1855. Filed for public inspection October 7, 2005, 9:00 a.m.]

**[49 PA. CODE CHS. 47 AND 49]
Licensure Technical Amendments**

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) proposes to amend §§ 47.1, 47.1a, 47.11, 47.12a and 49.1 to read as set forth in Annex A. The proposed rulemaking makes editorial changes, corrects outdated provisions and clarifies the Board's position that graduates of social work programs that are in candidacy for accreditation may apply for licensure once the program obtains accreditation.

Effective Date

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

Statutory Authority

The proposed rulemaking is authorized under section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P. S. § 1906(2)) and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3(a)).

Background and Purpose

Section 7(a) of the act (63 P. S. § 1907(a)) requires that an applicant for social work license submit proof that, among other things, the applicant has received a master's degree from an accredited school of social work or social welfare or a doctoral degree in social work. The Board has been made aware that the Council on Social Work Education (CSWE) accredits social work programs rather than schools. Accordingly, the Board proposes to amend the definition of "accredited school" in § 47.1 (relating to definitions) to mean a graduate program in social work or social welfare accredited by the CSWE.

Section 47.1a (relating to qualifications for supervisors) provides three options for becoming qualified as a supervisor. Paragraph (3) allows an individual to qualify, until January 1, 2006, by, among other things, holding a license to practice as a social worker in this Commonwealth. The Board has received comments from individual applicants indicating that this requirement is overly restrictive in that it prevents an applicant who obtained supervisory experience in another state from using that experience to qualify for licensure in this Commonwealth. The Board, therefore, proposes to amend this provision to delete the requirement that a supervisor, under § 47.1a(3)(iii), hold a license in this Commonwealth.

The Board was recently informed that the Association of Social Work Boards (ASWB) is changing the name of its social work licensure examination from the "intermediate" level examination to the "master's" level examination and is changing its examination for a provisional license from the "basic" level examination to the "bachelor's" level examination. Accordingly, the Board proposes to change the names of these examinations in § 47.11(a) and (b) (relating to licensure examination).

Section 7(d)(2)(ii) of the act requires an applicant for clinical social work license to hold a license as a social worker. The Board is aware that many applicants for social work licensure are applying only because holding the license is a prerequisite for becoming licensed as a clinical social worker. These applicants have asked whether they might be permitted to complete the clinical social work examination rather than the social work license examination. Because the Board recognizes that the clinical social work examination is an "umbrella" examination which encompasses social work as well as clinical social work knowledge, the Board is proposing to amend § 47.11(a) to give applicants for social work licenses the option of completing the ASWB master's level examination or the ASWB clinical level examination.

Section 47.12a(a) (relating to licensed social worker) requires that an applicant for licensure as a social worker have, among other things, a master's degree in social work or social welfare from a school which was an accredited school on the date the degree was awarded or a doctoral degree in social work. The Board has received numerous communications from a member of the public

involved in social work education who has raised the concern that the Board is licensing graduates of social work programs that are in candidacy for accreditation but have not yet obtained accreditation. The Board is aware that the process for a program to obtain accreditation is sometimes lengthy and a program can remain on "in candidacy" status for some time. The Board is also aware that once a program obtains full accreditation, the accreditation reverts back to the graduating classes of students who were admitted during or after the program was granted candidacy. The Board recognizes that if it were to fail to license graduates of programs that were in candidacy for accreditation, it would result in the failure to establish new social work programs because students would not attend programs unless they were already fully accredited. Accordingly, the Board is proposing to amend § 47.12a(2) to provide notice that beginning 2 years after the effective date of this amendment an applicant for licensure must have received a master's degree in social work or social welfare from a program which was an accredited program on the date the degree was awarded or a doctoral degree in social work. In addition, students who graduate from social work or social welfare master's degree programs that are in candidacy for accreditation at the time of their graduation may apply for licensure once the program obtains accreditation.

The Board is proposing to delete the definition in § 49.1 (relating to definitions) of "CACREP" because the acronym is not referred to elsewhere in the regulations and the Board mistakenly included this definition in its regulations.

Fiscal Impact and Paperwork Requirements

The proposed rulemaking will have no fiscal impact and imposes no additional paperwork requirements on the Board or its licensees.

The proposed rulemaking should not impose any legal, accounting or reporting requirements on the regulated community.

Predraft Comments

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and regulated population. The Board solicited predraft input on this proposed rulemaking from licensees, professional associations and educational programs. The Board received approximately five comments to the draft. The Board considered these comments in developing proposed rulemaking.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 26, 2005, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC), and the Chairpersons of the Senate Consumer Protection and Professional Licensure Committee and the House Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)), IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to publication of the final-form

rulemaking, by the Board, the General Assembly, and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding the proposed rulemaking to Sandra Matter, Administrative Assistant, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-699, Technical Licensure Amendments, when submitting comments.

RONALD HAYS,
Chairperson

Fiscal Note: 16A-699. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

GENERAL PROVISIONS

§ 47.1. Definitions.

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

* * * * *

Accredited school—A graduate [**school**] **program in social work or social welfare** accredited by the Council on Social Work Education.

* * * * *

§ 47.1a. Qualifications for supervisors.

To qualify as a supervisor, an individual shall meet one of the following criteria:

* * * * *

(3) Until January 1, 2006, the following criteria:

* * * * *

(iii) Hold a license to practice as a social worker in this Commonwealth **or in another state.**

LICENSURE

§ 47.11. Licensure examination.

(a) The examination required as a prerequisite to original licensure as a licensed social worker is the Association of Social Work Boards' (ASWB) (formerly known as the American Association of State Social Work Boards' (AASSWB)) [**intermediate**] **master's level examination or the ASWB clinical level examination.**

(b) The examination required as a prerequisite to being granted a license to hold oneself out as a social worker with a provisional license is the ASWB (formerly known as AASSWB) [**basic**] **bachelor's level examination.**

* * * * *

§ 47.12a. Licensed social worker.

(a) To be issued a license to hold oneself out as a licensed social worker, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

* * * * *

(2) [Received] Beginning _____ (Editor's Note: The blank refers to a date 2 years after the effective date of adoption of this proposed rulemaking.), **received** a master's degree in social work or social welfare from a school which was an accredited school on the date the degree was awarded or a doctoral degree in social work. **Students who graduate from social work or social welfare master's degree programs that are in candidacy for accreditation at the time of their graduation may apply for licensure once the program obtains accreditation.**

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CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF PROFESSIONAL COUNSELORS

GENERAL PROVISIONS

§ 49.1. Definitions.

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

* * * * *

[**CACREP—Council for Accreditation of Counseling and Related Programs.**]

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[Pa.B. Doc. No. 05-1856. Filed for public inspection October 7, 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 27, 2005.

BANKING INSTITUTIONS

Conversions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-23-05	The Manor National Bank Manor Westmoreland County <i>To:</i> Manor Bank Manor Westmoreland County	43 Race Street Manor Westmoreland County	Filed
	Application represents a conversion from a National bank to a State-chartered commercial bank.		

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-20-05	CommunityBanks, Millersburg, and PennRock Financial Advisors, N. A., Blue Ball Surviving Institution— CommunityBanks, Millersburg	Millersburg	Filed
9-27-05	Clearfield Bank & Trust Company Clearfield Clearfield County Purchase of assets/assumption of liabilities of six branch offices of First Commonwealth Bank, Indiana Located at: 729 Main Street Sexton Bedford County 101 High Street Williamsburg Blair County Ames Plaza Route 22 Huntingdon Huntingdon County 501 Penn Street Huntingdon Huntingdon County 16 West Shirley Street Mount Union Huntingdon County Ashman Street Three Springs Huntingdon County	Clearfield	Approved
9-27-05	Fulton Bank Lancaster Lancaster County	Lancaster	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
	Purchase of assets/assumption of liabilities of one branch of Susquehanna Bank PA, Lititz Located at: 2305 Susquehanna Trail North York York County		

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-19-05	Ambler Savings Bank Ambler Montgomery County	438 West Ridge Pike Limerick Montgomery County	Opened
9-23-05	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Circa Centre 2929 Arch Street Philadelphia Philadelphia County	Filed
9-26-05	Bucks County Bank Doylestown Bucks County	2084 Street Road Bensalem Bucks County	Opened
9-27-05	CommunityBanks Millersburg Dauphin County	Village at Sprenkle Drive 1802 Folkemer Circle Manchester Township York County (Limited Service Facility)	Approved
9-27-05	Berkshire Bank Wyomissing Berks County	350 East Bellevue Avenue Muhlenberg Township Berks County	Approved
9-27-05	Keystone Nazareth Bank and Trust Company Bethlehem Northampton County	211 Best Avenue Walnutport Lehigh County	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-17-05	S & T Bank Indiana Indiana County	<i>Into:</i> 628-630 Broad Street New Bethlehem Clarion County <i>From:</i> 363 Broad Street New Bethlehem Clarion County	Effective
9-23-05	Northwest Savings Bank Warren Warren County	<i>To:</i> 70 West Columbus Avenue Corry Erie County <i>From:</i> 150 North Center Street Corry Erie County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-23-05	Northwest Savings Bank Warren Warren County	1073 Park Avenue Meadville Crawford County (Drive-Up Facility)	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,
Secretary

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Consolidated Plan Public Meeting

The Department of Community and Economic Development (Department) proposes to adopt the Commonwealth's Action Plan for Federal Fiscal Year (FFY) 2006 (Plan) and the program year that starts on January 1, 2006. The 2006 Plan is an update of the Commonwealth's Consolidated Plan for FFY 2004-2008 (Consolidated Plan). The Plan discussed herein is the second annual update of the Consolidated Plan submitted by the Commonwealth.

The Plan updates documents that have been previously submitted to the United States Department of Housing and Urban Development (HUD). These documents include the nonhousing community development plan and any changes that the Department may have implemented concerning the four programs administered by the Commonwealth. The programs administered by the Department are the Community Development Block Grant, the Home Investment Partnerships (HOME) and the Emergency Shelter Grant programs. The Department of Health administers the Housing Opportunities for Persons with AIDS program.

This summary is designed to provide an opportunity to citizens, local governmental officials and interested organizations of this Commonwealth to comment about the Plan. Written comments should be submitted to Karen Overly Smith, Center for Community Building, Department of Community and Economic Development, 400 North Street, 4th Floor, Commonwealth Keystone Building, Harrisburg, PA 17120-0225. Written comments must be received by October 28, 2005, to be included in the Plan.

Public Meeting

The public meeting will be conducted electronically by means of the Internet. The format will be more accessible in that persons who wish to make a comment or discuss policy may participate directly from their personal computer or from a computer location at their public library. Access to the discussion by means of the Internet will occur between 10 a.m. and 1 p.m. on October 27, 2005. This more widely available personal computer access will replace the usual public meeting.

Individuals or organizations may give testimony or comments by means of the Internet. Comments will be accepted about topics related to community development, housing, the content of the Plan and the process by which the public input is gathered. The Commonwealth encourages public participation in this process.

Persons who want to participate must register in advance online by means of the Internet. Contact Karen Overly Smith at (717) 214-5340 to receive registration instructions for the Internet meeting at least 24 hours prior to the meeting date. Internet public meeting access will be open from 10 a.m. to 1 p.m. on October 27, 2005. During the meeting, if support is required, call (717) 214-5340.

Purpose

The Plan is the second update to the 5-year Consolidated Plan. This Plan will describe how the programs will

be administered in 2006. HUD must approve this Plan for the Commonwealth and organizations within the State to receive funding under most HUD housing and community development programs. Applicants for funding from Federal housing programs must obtain certification that their proposed use of HUD assistance will be consistent with the applicable Plan for the area. The Consolidated Plan creates a unified strategy for housing and community development programs as well as the necessary linkages for building successful neighborhoods and communities.

The Plan will have a major impact on the types, location and number of affordable housing units generated and preserved in this Commonwealth as well as the infrastructure and public facilities, services and other economic and community development initiatives that communities in this Commonwealth will undertake.

Content

The Consolidated Plan will be updated by means of this document. Updates include a revised set of the priorities for funding housing programs and a process change for distributing the HOME funds with a greater involvement of the Pennsylvania Housing Finance Agency (PHFA).

Public Review

The Consolidated Plan is available on Internet website or in hardcopy for public comment October 1, 2005, through November 8, 2005, at the following locations:

1. County Offices.
2. Department Regional Offices:

Southeast Regional Office, 908 State Office Building, Broad and Spring Garden Streets, Philadelphia, PA 19130, (215) 560-2256.

Northeast Regional Office, 409 Lackawanna Avenue, 3rd Floor, Oppenheim Building, Scranton, PA 18503.

Northcentral and Southcentral Regional Offices, 4th Floor, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120, (717) 720-7302.

Southwest Regional Office, 413 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222, (412) 565-5002.

Northwest Regional Office, 1200 Lovell Place Apartments, Erie, PA 16503, (814) 871-4241.

3. 27 District Libraries:

B. F. Jones Memorial Library, Aliquippa
Allentown Public Library, Allentown
Centre County Library, Bellefonte
Bethlehem Area Public Library, Bethlehem
Conococheague District Library, Chambersburg
Clarion District Library, Clarion
Bucks County Free Library, Doylestown
Easton Area Public Library, Easton
Erie County Library, Erie
Dauphin County Library, Harrisburg
Cambria County Library, Johnstown
Lancaster County Library, Lancaster
Delaware County Library, Brookhaven
Monessen Public Library, Monessen
New Castle Public Library, New Castle
Montgomery County-Norristown Public Library,
Norristown
Free Library of Philadelphia, Philadelphia
Carnegie Library of Pittsburgh, Pittsburgh
Pottsville Free Public Library, Pottsville
Reading Public Library, Reading
Scranton Public Library, Scranton

Warren Public Library, Warren
 Citizen's Library, Washington
 Chester County Library, Exton
 Osterhout Free Library, Wilkes-Barre
 James V. Brown Library, Williamsport
 Martin Memorial Library, York

4. Audio Cassette copies of the Consolidated Plan can be obtained by contacting the Tri-County Branch of the Pennsylvania Association of the Blind, Patricia Summers, Coordinator, Harrisburg Area Radio Reading Services,

1800 North Second Street, Harrisburg, PA 17102, (717) 238-2531.

5. The Draft Plan can be viewed at www.newpa.com. The Plan will be made available again at these same locations following HUD approval.

DENNIS YABLONSKY,
Secretary

[Pa.B. Doc. No. 05-1858. Filed for public inspection October 7, 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. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0060984	Benton Hills Corporation P. O. Box 69 Benton Hills, PA 18602-0069	Benton Township Lackawanna County	UNT to South Branch of Tunkhannock Creek TSF (4F)	Y

Renewal includes Chesapeake Bay Tributary Nutrient Reduction Strategy monitoring.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0086487 (IW)	PPG Industries, Inc. 400 Park Drive Carlisle, PA 17013-9271	Cumberland County South Middleton Township	UNT to Yellow Breeches Creek/7-E	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0041645	Department of Transportation— Rest Area Site "L" Bureau of Design P. O. Box 3060 Harrisburg, PA 17105-3060	Springfield Township Erie County	UNT to Turkey Creek 15-TR	Y
PA0023931	Cambridge Area Joint Authority 161 Carringer Street Cambridge Springs, PA 16403	Cambridge Springs Borough Crawford County	French Creek 16-A	Y
PA0105368	East Resources, Inc. Lawry Seep Separator P. O. Box 5519 Vienna, WV 26105	McKean County Foster Township	Foster Brook 16-C	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.

PA0058947, IW, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Proposed Activity: Manufacturing of concrete mixtures from raw materials stored onsite. Raw materials are combined with cement and concrete admixtures to produce the finished product which is then loaded into trucks for off-site delivery.

The receiving stream, Wooden Bridge Run to the Pennypack Creek, is in the State Water Plan Watershed 3J and is classified for trout stocking and migratory fishes. There are no downstream public water supply intake.

The proposed effluent limits for Outfalls 001 and 002 are based on an average stormwater flow.

<i>Parameters</i>	<i>Concentration (mg/l)</i>		
	<i>Average Annual</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids (issuance through year 2) (year 3 through expiration)	Monitor and Report 50	Monitor and Report 100	Monitor and Report 100
pH (STD) (issuance through year 2) (year 3 through expiration)	Monitor and Report	Monitor and Report within limits of 6 to 9 std units at all times	Monitor and Report
Oil and Grease	Monitor and Report	Monitor and Report	Monitor and Report

In addition to the effluent limits, the permit contains the following major special conditions: Requirement applicable to stormwater outfalls.

PA0058955, IW, SIC 3273, **JDM Materials Company**, 851 County Line Road, Huntingdon Valley, PA 19006. This proposed facility is located in City of Philadelphia, **Philadelphia County**.

Description of Proposed Activity: Manufacturing of concrete mixtures from raw materials stored onsite. Raw materials are combined with cement and concrete admixtures to produce the finished product which is then loaded into trucks for off-site delivery.

The receiving stream, Schuylkill River, is in the State Water Plan Watershed 3J and is classified for WWF and migratory fishes. There are no downstream public water supply intake.

The proposed effluent limits for Outfall 001 are based on an average stormwater flow.

<i>Parameters</i>	<i>Concentration (mg/l)</i>		
	<i>Average Annual</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids (issuance through year 2) (year 3 through expiration)	Monitor and Report 50	Monitor and Report 100	Monitor and Report 100
pH (STD) (issuance through year 2) (year 3 through expiration)	Monitor and Report	Monitor and Report within limits of 6 to 9 std units at all times	Monitor and Report
Oil and Grease	Monitor and Report	Monitor and Report	Monitor and Report

In addition to the effluent limits, the permit contains the following major special conditions: Requirement applicable to stormwater outfalls.

PA0243990, Industrial Waste, **Delbar Products, Inc.**, 7th and Spruce Streets, Perkasio, PA 18944. This proposed facility is located in Perkasio Borough, **Bucks County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit to discharge contaminated groundwater and stormwater runoff from the above referenced site to a UNT to East Branch Perkiomen Creek.

The receiving stream, UNT to East Branch Perkiomen Creek, is in the State Water Plan watershed 3E- Perkiomen and is classified for trout stocking fishery, aquatic life, water supply and recreation.

The proposed effluent limits for Monitoring Point 102 are applicable to a monthly average flow of 1,700 gpd:

<i>Parameters</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 (mg/l)</i>
pH (STD Units)			6.0 (min)	0.030	9.0 (max)
Trichloroethylene (TCE)			0.015		0.038

In addition to the effluent limits, the permit contains the following major special conditions:

1. Discharge must not cause nuisance or health hazard.
2. Stormwater outfall monitoring twice per year.

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

PA-0065056, Industrial, **Mobil Pipeline Company**, Room CCM 15, 1545 Route 22 East, Annandale, NJ 08801. This proposed facility is located in South Whitehall Township, **Lehigh County**.

The receiving stream, UNT to Jordan Creek, is in the State Water Plan Watershed No. 2C and is classified for HQ-CWF. The nearest downstream public water supply intake for City of Allentown is located on Lehigh River over 5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.144.

<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	
Benzene			0.001	0.0025
Total BTEX			0.1	0.25
Toluene			Monitor and Report	Monitor and Report
Ethylbenzene			Monitor and Report	Monitor and Report
Xylenes, Total			Monitor and Report	Monitor and Report
MTBE			Monitor and Report	Monitor and Report
pH (Standard Units)			between 6.0 to 9.0	
Oil and Grease			15.0	30.0
Iron, Dissolved				7.0
Total Suspended Solids			30.0	75.0

PA-0064378, Industrial, **Horsehead Corporation**, 300 Frankfort Road, Monaca, PA 15061. This proposed facility is located in Palmerton Borough, **Carbon County**.

Description of Proposed Activity: Issuance of an NPDES Permit.

The receiving stream, Aquashicola Creek, is in the State Water Plan Watershed No. 2B and is classified for TSF. The nearest downstream public water supply intake for Northampton Borough Water Authority is located on Lehigh River approximately 27 miles below the point of discharge.

The proposed effluent limits are as follows:

Outfalls 004, 005, 015, 019, 022.

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily
Total Suspended Solids			20.0	30.0
Oil and Grease			15.0	30.0 (Max.)
Cadmium			0.10	0.20
Lead			0.35	0.70
Zinc			1.20	2.40
pH	6.0 to 9.0 standard units at all times			

In addition to the effluent limits, the permit contains the special conditions regarding Outfall 019.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

Application No. PA 0247847, Sewage, Rodger Petrone, 4076 Market Street, Camp Hill, PA 17011. This facility is located in Carroll Township, **York County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, Yellow Breeches Creek, is in Watershed 7-E, and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for United Water Company is located on the Yellow Breeches Creek, approximately 12.6 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0005 mgd are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25		50
Total Suspended Solids	30		60
Total Residual Chlorine	Monitor and Report		
pH	Upon Request		
Fecal Coliform	200/100 ml as a geometric average		
(5-1 to 9-30)	100,000/100 ml as a geometric average		
(10-1 to 4-30)			

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

Application No. PA 0014672, Industrial Waste, SIC Codes 3691 and 3341, **Exide Technologies**, P. O. Box 14294, Reading, PA 19612-4294. This facility is located in Muhlenberg Township, **Berks County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated industrial waste.

The receiving streams, Bernhart Creek and the Schuylkill River are in Watershed 3-C, and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Pottstown Water Company located on the Schuylkill River, approximately 22 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.25 mgd are:

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
pH	from 6.0 to 9.0 inclusive				
Total Suspended Solids	3.002	6.004	1.440	2.880	3.600
Total Copper	0.238	0.476	0.114	0.228	0.285
Total Lead	0.266	0.532	0.128	0.256	0.320
Total Iron	0.148	0.296	0.071	0.142	0.177
Total Antimony	1.621	3.242	0.777	1.554	1.942
Total Arsenic	0.935	1.870	0.449	0.898	2.245
Total Zinc	0.789	1.578	0.378	0.756	0.945
NH-N	12	24	5.00	10	12

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
CBOD ₅	1.835	3.670	0.880	1.760	2.200
Oil and Grease	1.418	2.836	0.680	1.360	1.700
Total Dissolved Solids	11,209	20,000	6,000	7,500	7,500
Manhole Inspection in Outfall Line	XXX	XXX	XXX	XXX	XXX

Interim: The proposed effluent limits for Outfall 002 based on a design flow of 0.327 mgd are:

Discharge ⁽²⁾ Parameter	Discharge Limitations					Monitoring Requirements		
	Mass Units (lbs/day) ⁽³⁾		Concentrations (mg/l)			(5)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Inst. ⁽⁴⁾ Maximum	Monitoring Frequency	Sample Type	
Flow (mgd)	Monitor and Report	Monitor and Report	XXX	XXX	XXX	Continued	Measured	
pH (S.U.)			from 6.0 to 9.0 inclusive				1/day	Grab
Total Suspended Solids	81	162	30	60	75	1/week	24 hour comp	
Total Aluminum	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX	1/week	24 hour comp	
Total Antimony	0.273	0.545	0.100	0.200	0.250	1/week	24 hour comp	
Total Arsenic	0.420	0.840	0.154	0.308	0.385	1/week	24 hour comp	
Total Cadmium	0.074	0.147	0.027	0.054	0.068	1/week	24 hour comp	
Chromium, VI	0.087	0.174	0.032	0.064	0.080	1/week	24 hour comp	
Total Copper	0.221	0.442	0.081	0.162	0.203	1/week	24 hour comp	
Total Lead	10	20	3.690	7.380	9.225	1/week	24 hour comp	
Total Iron	12	24	4.631	9.262	11	1/week	24 hour comp	
Total Zinc	1.012	2.024	0.371	0.742	0.927	1/week	comp	
Total Dissolved Solids	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX	1/week	Grab	
TUa	XXX	XXX	XXX	3.09	XXX	Quarterly	(7)	
Oil and Grease	41	82	15	30	30	1/week	Grab	

Final: The proposed effluent limits for Outfall 002 based on a design flow of 0.327 mgd are:

Discharge ⁽²⁾ Parameter	Discharge Limitations					Monitoring Requirements		
	Mass Units (lbs/day) ⁽³⁾		Concentrations (mg/l)			(5)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Inst. ⁽⁴⁾ Maximum	Monitoring Frequency	Sample Type	
Flow (mgd)	Monitor and Report	Monitor and Report	XXX	XXX	XXX	Continued	Meter	
pH (S.U.)			from 6.0 to 9.0 inclusive				1/day	Grab
Total Suspended Solids	81	162	30	60	75	1/week	24 hour comp	
Total Aluminum	4.047	8.094	1.484	2.968	3.710	1/week	24 hour comp	
Total Antimony	0.117	0.234	0.043	0.086	0.107	1/week	24 hour comp	
Total Arsenic	0.420	0.840	0.154	0.308	0.385	1/week	24 hour comp	
Total Cadmium	0.003	0.006	0.001	0.002	0.002	1/week	24 hour comp	
Chromium, VI	0.087	0.174	0.032	0.064	0.080	1/week	24 hour comp	
Total Copper	0.123	0.246	0.045	0.090	0.112	1/week	24 hour comp	
Total Lead	0.052	0.104	0.019	0.038	0.047	1/week	24 hour comp	

Discharge ⁽²⁾ Parameter	Discharge Limitations				Monitoring Requirements		
	Mass Units (lbs/day) ⁽³⁾		Concentrations (mg/l)		(5)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Inst. ⁽⁴⁾ Maximum	Monitoring Frequency	Sample Type
Total Iron	12	24	4.631	9.262	11	1/week	24 hour comp Grab
Total Zinc	1.012	2.024	0.371	0.742	0.927	1/week	Grab
Total Dissolved Solids	2,727	5,454	1,000	2,000	2,000	1/week	24-hour comp (7)
TUa	XXX	XXX	XXX	3.09	XXX	Quarterly	(7)
Oil and Grease	41	82	15	30	30	1/week	Grab

Persons may make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is in effect.

Permit No. PA 0037141, Industrial Wastewater, SIC Code 0921, **Fish and Boat Commission (Huntsdale Fish Hatchery)**, 450 Robinson Lane, Bellefonte, PA 16823-9620. This facility is located in Penn Township, **Cumberland County**.

Description of proposed action/activity: The applicant wishes to renew an NPDES permit for existing discharges of treated industrial waste (Outfalls 001 and 002) and sewage (Outfall 003).

The receiving streams, Yellow Breeches Creek and a UNT, are in Watershed 7-E, and classified for HQ-CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is United Water Company located on the Yellow Breeches Creek, approximately 33.3 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 13.824 mgd during January 1 through April 30 are:

Parameter	Mass (lb)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Monthly Average	Daily Maximum	Monthly Average	Maximum Daily	Instantaneous Maximum
Flow (mgd)	XXX	XXX	Report	Report	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	from 6.0 to 9.0 inclusive		
D.O.	XXX	XXX	XXX	XXX	minimum of 6.5 mg/l at all times		
CBOD ₅	XXX	XXX	346	692	3.0	6.0	7.5
Total Suspended Solids	Report	Report	403	807	3.5	7.0	8.7
Total Phosphorus	Report	Report	230	461	2.0	4.0	5.0
NH ₃ -N	XXX	Report	161	323	1.4	2.8	3.5
Interim Formaldehyde	XXX	XXX	Report	Report	Report	Report	XXX
Final Formaldehyde	XXX	XXX	81	161	0.70	1.40	1.75
Total PCB	XXX	XXX	2.12 × 10 ⁻⁵	4.24 × 10 ⁻⁵	1.84 × 10 ⁻⁷	3.68 × 10 ⁻⁷	4.6 × 10 ⁻⁷
Total Nitrogen	Report	Report	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen as N	XXX	Report	XXX	XXX	Report	XXX	XXX
NO ₂ -NO ₃ as N	XXX	Report	XXX	XXX	Report	XXX	XXX
Particulate Organic Carbon	Report	Report	Report	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 001 based on a design flow of 11.232 mgd during May 1 through August 31 are:

Parameter	Mass (lb)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Monthly Average	Daily Maximum	Monthly Average	Maximum Daily	Instantaneous Maximum
Flow (mgd)	XXX	XXX	Report	Report	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	from 6.0 to 9.0 inclusive		
D.O.	XXX	XXX	XXX	XXX	minimum of 6.5 mg/l at all times		
CBOD ₅	XXX	XXX	281	562	3.0	6.0	7.5
Total Suspended Solids	Report	Report	328	656	3.5	7.0	8.7
Total Phosphorus	Report	Report	187	374	2.0	4.0	5.0
NH ₃ -N	XXX	Report	131	262	1.4	2.8	3.5
Interim Formaldehyde	XXX	XXX	Report	Report	Report	Report	XXX
Final Formaldehyde	XXX	XXX	71	142	0.76	1.52	1.90
Total PCB	XXX	XXX	2.03 × 10 ⁻⁵	4.06 × 10 ⁻⁵	2.17 × 10 ⁻⁷	4.34 × 10 ⁻⁷	5.24 × 10 ⁻⁷
Total Nitrogen	Report	Report	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen as N	XXX	Report	XXX	XXX	Report	XXX	XXX

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Parameter	Mass (lb)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Monthly Average	Daily Maximum	Monthly Average	Maximum Daily	Instantaneous Maximum
NO ₂ -NO ₃ as N	XXX	Report	XXX	XXX	Report	XXX	XXX
Particulate Organic Carbon	Report	Report	Report	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 001 based on a design flow of 12.384 mgd during September 1 through December 31 are:

Parameter	Mass (lb)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Monthly Average	Daily Maximum	Monthly Average	Maximum Daily	Instantaneous Maximum
Flow (mgd)	XXX	XXX	Report	Report	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	from 6.0 to 9.0 inclusive		
D.O.	XXX	XXX	XXX	XXX	minimum of 6.5 mg/l at all times		
CBOD ₅	XXX	XXX	310	619	3.0	6.0	7.5
Total Suspended Solids	Report	Report	361	723	3.5	7.0	8.7
Total Phosphorus	Report	Report	206	413	2.0	4.0	5.0
NH ₃ -N	XXX	Report	182	289	1.4	2.8	3.5
Interim Formaldehyde	XXX	XXX	Report	Report	Report	Report	XXX
Final Formaldehyde	XXX	XXX	75	150	0.73	1.46	1.82
Total PCB	XXX	XXX	2.06×10^{-5}	4.13×10^{-5}	2.0×10^{-7}	4.0×10^{-7}	5.0×10^{-7}
Total Nitrogen	Report	Report	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen as N	XXX	Report	XXX	XXX	Report	XXX	XXX
NO ₂ -NO ₃ as N	XXX	Report	XXX	XXX	Report	XXX	XXX
Particulate Organic Carbon	Report	Report	Report	XXX	Report	XXX	XXX

The proposed effluent limits for Outfall 002 based on a design flow of 0.576 mgd during April 1 through September 30 are:

Parameter	Mass (lb)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Monthly Average	Daily Maximum	Monthly Average	Maximum Daily	Instantaneous Maximum
Flow (mgd)	XXX	XXX	Report	Report	XXX	XXX	XXX
pH (S.U.)	XXX	XXX	XXX	XXX	from 6.0 to 9.0 inclusive		
D.O.	XXX	XXX	XXX	XXX	minimum of 7.0 mg/l at all times		
CBOD ₅	XXX	XXX	14.4	28.8	3.0	6.0	7.5
Total Suspended Solids	Report	Report	16.8	33.6	3.5	7.0	8.7
Total Phosphorus	Report	Report	9.6	19.2	2.0	4.0	5.0
NH ₃ -N	XXX	Report	2.9	5.7	0.60	1.20	1.50
Total Nitrogen	Report	Report	XXX	XXX	Report	XXX	XXX
Total Kjeldahl Nitrogen as N	XXX	Report	XXX	XXX	Report	XXX	XXX
NO ₂ -NO ₃ as N	XXX	Report	XXX	XXX	Report	XXX	XXX
Particulate Organic Carbon	Report	Report	Report	XXX	Report	XXX	XXX
Chloramine-T	If applied, report chemical usage on chemical reporting forms.						
Hydrogen Peroxide	If applied, report chemical usage on chemical reporting forms.						
Professional Lysol Brand No-Rinse Sanitizer	If applied, report chemical usage on chemical reporting forms.						

The proposed effluent limits for Outfall 003 for a design flow of 0.0015 mgd are:

Parameter	Monthly Average (mg/l)	Weekly Average (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	20	XXX	40
Total Suspended Solids	20	XXX	40
Total Phosphorus	2.0	XXX	4.0
Total Residual Chlorine	Report	XXX	XXX
Dissolved Oxygen	minimum of 5.0 at all times		
pH	from 6.0 to 9.0 inclusive		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	2,000/100 ml as a geometric average		

In addition to the effluent limits, the permit contains the following major special conditions:

- Part C II—WQBEL at or below detection limit.

- Part C III—PCB biological monitoring.
- Part C IV—Requirements for toxics are briefly listed as:
 1. Water quality based effluent goals for PCBs.
 2. Requirements to submit the first phase of a toxics reduction evaluation within 18 months of permit effective date.
 3. Conditions for future permit modifications.
 4. Procedures for granting time extensions to achieve final water quality based effluent limitations.
 5. Procedures for demonstrating alternative site-specific bioassay based effluent limitations.
 6. Procedures for demonstrating alternative method detection limits.
- Part C V—Affirmative defense provisions.
- Part C VI—Therapeutic chemical use requirements.
- Part C VII—BMP implementation to install and maintain liner and baffles in existing polishing pond and install high capacity microscreen or microfilter.
 - Part C VIII—Schedule of BMP compliance and limits on biomass production if construction schedules are not maintained.
 - Part C IX—Total Suspended Solids annual loading effluent limitations of 65,348 or 66,263 pounds/year.
 - Part C X—Production cap until BMPs are operating in compliance with TSS annual loading limit.
 - Part C XI—Schedule for improvements to sewage treatment facility.

The applicant may submit a Social or Economic Justification for use of florfenicol, a therapeutic chemical. If the Department of Environmental Protection (Department) approves use of florfenicol, the permit will be amended to include florfenicol as a therapeutic chemical following the public notice requirements for major amendments/permit issuance.

Persons may make an appointment to review the Department’s files on this case by calling the file review coordinator at (717) 705-4732.

The EPA waiver is not in effect.

Northcentral Regional Office: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (507) 327-0530.

NPDES Permit No. PA0040835, Industrial Wastewater (SIC code 0921), **Fish and Boat Commission, Bellefonte State Fish Hatchery**, 1150 Spring Creek Road, Bellefonte, PA 16823-8458. This facility is located in Benner Township, Centre County.

Description of Proposed Action/Activity: The applicant wishes to renew a NPDES permit (PA0040835) for two discharges (Outfall 001 and Outfall 002) of treated industrial wastewater generated at the Bellefonte State Fish Hatchery.

The receiving stream, Spring Creek, is in the State Water Plan watershed 9C and is classified for HQ-CW, water supply, recreation and fish consumption. The nearest downstream public water supply intake is located on the West Branch Susquehanna River near Milton. The discharge is not expected to affect the water supply.

The proposed effluent limits for Discharge 001, based on a design flow of 3.168 mgd, are:

Parameter	Mass (lbs)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum (mg/l)
Flow (mgd)			Report	Report			
PH (S.U.)					within range 6.0 to 9.0		
D.O.					Report	Report	
CBOD ₅			132	264	5.0	10.0	12.5
TSS	Report	Report	158	317	6.0	12.0	15.0
Dissolved P			7.9	15.6	0.3	0.6	0.75
Total P	Report	Report			Report		
NH ₃ -N		Report	18.5	37.0	0.7	1.4	2.1
Formaldehyde			26.4	52.8	1.0	2.0	2.5
Total N	Report	Report			Report		
Kjeldahl N		Report			Report		
NO ₂ /NO ₃ N		Report			Report		
Particulate Org Carbon	Report	Report	Report		Report		

The proposed effluent limits for Discharge 002, based on a design flow of 3.888 mgd are:

Parameter	Mass (lbs)		Mass (lb/day)		Concentration (mg/l)		
	Total Annual	Total Monthly	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum (mg/l)
Flow (mgd)			Report	Report			
PH (S.U.)					within range 6.0 to 9.0		
D.O.					Report	Report	
CBOD ₅			162	324	5.0	10.0	12.5
TSS	Report	Report	194	389	6.0	12.0	15.0
Dissolved P			9.7	19.5	0.3	0.6	0.75
Total P	Report	Report			Report		
NH ₃ -N		Report	22.7	45.4	0.7	1.4	2.1
Formaldehyde			32.4	64.9	1.0	2.0	2.5
Total N	Report	Report			Report		
Kjeldahl N		Report			Report		
NO ₂ /NO ₃ -N		Report			Report		
Particulate Org Carbon	Report	Report	Report		Report		

In addition to the effluent limits, the permit contains the following major special conditions:

Part C I. Solids Management.

Part C II. Affirmative Defense Provisions.

Part C III. Therapeutic Chemical Use Requirements.

Part C IV. BMP Implementation to maintain liner and baffles in existing polishing pond and install high capacity microscreen or microfilter units.

Part C V. Schedule of Compliance and limits on biomass production if schedules are not maintained.

Part C VI. Allowable Annual TSS Effluent Loading—49,430 pounds per year.

The applicant may submit a Social or Economic Justification for use of florfenicol, a therapeutic chemical. If the Department of Environmental Protection (Department) approves the use of florfenicol, the permit will be amended to include florfenicol as a therapeutic chemical following the public notice requirements for major amendments/permit issuance.

Persons may make an appointment to review the Department's files on this case by calling the File Review Coordinator at (507) 327-3693.

The EPA waiver is not in effect.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745 (412) 442-4000.

PA0252808, Industrial Waste, SIC, 4911, **Robinson Power Company, LLC**, P. O. Box 127, Burgettstown, PA 15021. This application is for issuance of an NPDES permit to discharge treated process water, sewage and stormwater from a power plant in Robinson Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, UNT of Little Raccoon Run, classified as a WWFF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is NOVA Chemical Company, located at Monaca, 38.5 miles below the discharge point.

Outfall 001: new discharge, design flow of 1.39 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30	100	
Oil and Grease			15	20	30
Free Available Chlorine			0.2	0.5	
Total Residual Chlorine			0.02	0.04	0.045
Chromium			0.2	0.2	
Zinc			0.077	0.154	0.173
Temperature (°F)					
(1-1 to 2-29)					35.2
(3-1 to 3-31)					40.6

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
April 1 to April 15					47.6
April 16 to April 30					53.6
May 1 to May 15					58.4
May 16 to May 31					62.7
June 1 to June 15					67.5
June 16 to June 30					71.5
July 1 to July 31					75.3
August 1 to August 31					74.3
September 1 to September 15					71.2
September 16 to September 30					65.2
October 1 to October 15					60.2
October 16 to October 31					54.2
November 1 to November 15					48.2
November 16 to November 30					42.2
December 1 to December 31					37.2
pH	not less than 6.0 nor greater than 9.0				

Outfall 101: new discharge, design flow of 0.0034 mgd

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (mgd)	Monitor and Report				
TSS			30		60
CBOD ₅			25		50
Fecal Coliform (#/100 ml)					
(5-1 to 9-30)			200		1,000
(10-1 to 4-30)			2,000		
Total Residual Chlorine			0.5		1.0
pH	not less than 6.0 nor greater than 9.0				

Outfall 201: new discharge.

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

The EPA waiver is not effect.

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

PA0239631, Sewage. Monroe Township, 17956 Route 68, Sligo, PA 16255. This proposed facility is located in Monroe Township, Clarion County.

Description of Proposed Activity: Renewal of an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the PA American Water Company in Parker located on the Allegheny River approximately 28 miles below point of discharge.

The receiving stream, the Brush Run, is in watershed 17-B and classified for CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.08 mgd.

Parameters	Loadings		Concentrations		
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX				
CBOD ₅	16	24	25	40	50
Total Suspended Solids	20	30	30	45	60

<i>Parameters</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Average Weekly (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform (5-1 to 9-30)			200/100 ml		1,000/100 ml
(10-1 to 4-30)			2,000/100ml		10,000/100ml
Total Residual Chlorine			0.5		1.2
Ammonia-Nitrogen (5-1 to 10-31)	5.5		8.5		17
pH			6.0 to 9.0 standard units at all times		

The EPA waiver is in effect.

PA0005304, Industrial Waste. **United Refining Company**, 15 Bradley Street, Warren, PA 16365. This proposed facility is located in Warren, **Warren County**.

Description of Proposed Activity: from an existing and expanded discharge of treated industrial waste and stormwater.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is the Emlenton Water Company and the Allegheny River and Glade Run located approximately 96 miles below point of discharge.

The receiving streams, the Allegheny River and Glade Run, are in watershed 16-B and classified for: WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.844 mgd.

<i>Parameters</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX	XX			
TSS**	515	810	XX	XX	180
BOD5**	645	1,165	XX	XX	225
Chemical Oxygen Demand**	4,520	8,710	XX	XX	1,605
Ammonia-Nitrogen	350	775	XX	XX	125
Sulfide	3	7.5	XX	XX	1.2
Total Chromium**	2.8	8.2	XX	XX	0.99
Hexavalent Chromium**	0.23	0.52	XX	XX	0.082
Phenolic Compounds (4AAP)**	2.4	8.7	XX	XX	0.85
Oil and Grease**	185	350	XX	XX	65
Spectrus NX 1103	2.75		0.39		0.98
Spectrus OX 1200	5		0.71		1.8
Ferric Chloride	630		90		225
pH			within 6 to 9 std. units at all times		

The proposed effluent limits for Outfall 001 with coker based on a design flow of 1.32 mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (mgd)	XX	XX			
TSS**	605	945	XX	XX	135
BOD5**	755	1,360	XX	XX	170
Chemical Oxygen Demand**	5,280	10,180	XX	XX	1,195
Ammonia-Nitrogen	410	905	XX	XX	90
Sulfide	3.5	8.5	XX	XX	0.9
Total Chromium**	5.1	14.7	XX	XX	1.16
Hexavalent Chromium**	0.41	0.94	XX	XX	1.16
Phenolic Compounds (4AAP)**	5	18	XX	XX	1.13
Oil and Grease**	220	410	XX	XX	50
Spectrus NX 1103	2.9		0.26		0.65
Spectrus OX 1200	5		0.46		1.15
Steamate NF 4630	89		8.1		20
Ferric Chloride	650		59		147
pH			within 6 to 9 std. units at all times		

The proposed effluent limits for Outfall 003 based on a design flow of 5.744 mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				5	
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 004 based on a design flow of 0.35 mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				5	
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 005 based on a design flow of 3 mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				5	
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 006 based on a design flow of 2.2 mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				5	
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00A based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00L based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00M based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00D based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00E based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00F based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00G based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00H based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00J based on a design flow of n/a mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00P based on a design flow of n/a mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfall 00Q based on a design flow of n/a mgd.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX	XX			
TOC				110	138
Oil and Grease			15		30
pH			6.0 to 9.0 standard units at all times		

The EPA waiver is not in effect.

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

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

WQM Permit No. 6405401, Sterling Sewer & Water Company, P. O. Box 125, Lake Ariel, PA 18436. This proposed facility is located in Sterling Township, **Wayne County**.

Description of Proposed Action/Activity: This project is for the construction of a sewage sludge storage tank to the existing WWTP.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

WQM Permit No. 2105405, Sewerage, Hampden Township Sewer Authority, 230 South Sporting Hill Road, Mechanicsburg, PA 17055. This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Authorization for the construction and rehabilitation of three pump stations.

WQM Permit No. 6705409, Sewerage, Spring Grove Area School District, Paradise Elementary School, 100 East College Avenue, Spring Grove, PA 17362. This proposed facility is located in Paradise Township, **York County**.

Description of Proposed Action/Activity: Authorization for the construction/replacement of a wastewater treatment plant.

WQM Permit No. 0605413, Sewerage, MDR Construction, Inc., 38 West Lancaster Avenue, Shillington, PA 19607. This proposed facility is located in Ruscombmanor Township, **Berks County**.

Description of Proposed Action/Activity: Authorization for the construction of a small flow treatment facility.

WQM Permit No. 0605414, Sewerage, MDR Construction, Inc., 38 West Lancaster Avenue, Shillington, PA 19607. This proposed facility is located in Ruscombmanor Township, **Berks County**.

Description of Proposed Action/Activity: Authorization for the construction of a small flow treatment facility.

WQM Permit No. 0605415, Sewerage, MDR Construction, Inc., 38 West Lancaster Avenue, Shillington, PA 19607. This proposed facility is located in Ruscombmanor Township, **Berks County**.

Description of Proposed Action/Activity: Authorization for the construction of a small flow treatment facility.

WQM Permit No. 0605416, Sewerage, **MDR Construction, Inc.**, 38 West Lancaster Avenue, Shillington, PA 19607. This proposed facility is located in Ruscombmanor Township, **Berks County**.

Description of Proposed Action/Activity: Authorization for the construction of a small flow treatment facility.

WQM Permit No. 2205405, Sewerage, **Gerald and Cynthia Erskine**, 84 Shady Lane, Annville, PA 17003. This proposed facility is located in East Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Construction of small flow treatment facility to serve their single family residence on South Side of Cliff Road in Grantville.

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

WQM Permit No. 0279202-A5, Industrial Waste, **Neville Chemical Company**, 2800 Neville Road, Pittsburgh, PA 15225-1496. This proposed facility is located in Neville Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the installation and operation of a carbon absorption system to treat groundwater and discharge into the Ohio River main channel by means of new outfall 005.

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011505071	Joseph Marchetti Marchetti Property Subdivision 12 Montana Avenue Port Monmouth, NJ 07758	Chester	West Caln Township	Birch Run (HQ-CWF)
PAI011505072	The Raven Wood Trust Raven Wood Estate	Chester	Willistown Township	West Branch Crum Creek (EV)
PAI011505073	Devereux Foundation Devereux Kanner Center 390 East Boot Road West Chester, PA 19380-1222	Chester	West Westland Township	East Branch Chester Creek (TSF) Broad Run (HW-CWF-MF) Valley Creek (CWF-MF)
PAI011505074	Genterra Corporation Whitehouse Glen Subdivision 65 Dowlin Forge Road Exton, PA 19341	Chester	Honey Brook Township	UNT West Branch Brandywine Creek (HQ-TSF-MF)

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

Monroe County Conservation District: 8050 Running Valley Rd., Stroudsburg, PA 18360, (507) 629-3060.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024505019	Alfred Natale 19 Whispering Hills Ct. Effort, PA 18330	Monroe	Tunkhannock Township	Tunkhannock Creek HQ-CWF

Pike County Conservation District: HC 6, Box 6770, Hawley, PA 18428, (507) 226-8220

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025205008	Krise Bus Service, Inc. 1325 Scotland Avenue Ext. Punxsutawney, PA 15767	Pike	Delaware Township	Adams Creek EV
PAI025205009	209 Commercial, Inc. R. R. 5 Box 5138A Stroudsburg, PA 18360	Pike	Lehman Township	Little Bushkill Creek EV

Monroe County Conservation District: 8050 Running Valley Rd., Stroudsburg, PA 18360, (507) 629-3060

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024505020	611 Commercial, Inc. R. R. 5 Box 5138A Stroudsburg, PA 18360	Monroe	Hamilton Township	McMichaels Creek 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 & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023905033	John Fasolka Bureau of Parks City of Allentown 2700 Parkway Blvd. Allentown, PA 18104	Lehigh	Upper Milford Township	Cedar Creek HQ-CWF
PAI023905032	Timothy Fallon 5920 Lori Court Center Valley, PA 18034	Lehigh	Salisbury Township	Cedar Creek HQ-CWF

Wayne County Conservation District: 648 Park St., Honesdale, PA 18431, (507) 253-0930.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026405007	Shook Family, LLC R. R. 1, Box 320 Hawley, PA 18428	Wayne	Palmyra Township	Wallenpaupack Creek 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

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

Permit No. 2605504 , Public Water Supply.	
Applicant	Ohioyle Borough P. O. Box 83 Ohioyle, PA 15470
Township or Borough	Ohioyle Borough
Responsible Official	Leo Smith, President of Council Ohioyle Borough P. O. Box 83 Ohioyle, PA 15470
Type of Facility	Water treatment plant
Consulting Engineer	Widmer Engineering 225 West Crawford Avenue Connellsville, PA 15425
Application Received Date	August 10, 2005

Description of Action Replacement of the existing chemical feed equipment; single reaction clarifier with dual modern reaction clarifiers of higher capacity; existing sand filter media with new multi-mixed media; filter under-drain system with new equipment; filter backwash water troughs; filter control console and pneumatic controlled valves for automatic plant control. The project will add turbidimeters on inlet and outlet of each filter; in-line static mixer for chemical addition/mixing; air scour blower equipment for clarifier; dehumidifier and general painting within the existing plant building.

WATER ALLOCATIONS

Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of the Commonwealth

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

WA11-779A, Water Allocations. **Jackson Township Water Authority**, 2949 William Penn Avenue, Johnstown, PA 15909, **Cambria County**. The applicant is requesting the right to purchase 18,200 gallons per day (peak month) from the Ebensburg Borough Municipal Authority.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

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

Goshen Terrace Apts., West Goshen Township, **Chester County**. **George Seidman**, Earth Data Northeast, 924 Springdale Dr., Exton, PA 19341 on behalf of Steve Berger, Pennsylvania Mgmt. Corp., P. O. Box 1036, Blue Bell, PA 19244 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted by release of chlorinated solvents, MTBE and unleaded gasoline. A summary of the Notice of Intent to Remediate was reported to have been published in the *Daily Local News* on March 30, 2005.

Deibler Elementary School/Pennridge School District, East Rockhill Township, **Bucks County**. Mark T. Smith, Spotts, Stevens & McCoy, Inc., 1047 North Park Road, Reading, PA 19610 on behalf of Jim Krynski, Pennridge School Dist., 410 E. Walnut St., Perkasie, PA 18944-5047 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of No. 2 fuel oil. A summary of the Notice of Intent to Remediate was reported to have been published in the *Calkins Newspaper, Inc.* on September 14, 2005.

Yoder Bros., Inc., Toughkenamon Yard Site, New Garden Township, **Chester County**. Gregg Crystall, BrightFields, Inc., 710 Wilmington Rd., New Castle, DE 19720 on behalf of Thomas Payne, The Putnam Group, 800 Ind. St., Suite F, Wilmington, DE 19801 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of arsenic and No. 2 fuel oil.

Exxon SS No. 2-0454, Lower Merion Township, **Montgomery County**. Stephanie L. Rose, GES, 410 Eagleview Blvd., Suite 110, Exton, PA 19341 on behalf of C. William Kieser, 420 Conshohocken State Rd., Bala Cynwyd, PA

has submitted a Notice of Intent to Remediate. Soil and groundwater at the site has been impacted by release of unleaded gasoline. A summary of the Notice of Intent to Remediate was reported to have been published in the *Main Line Times* on March 3, 2005.

Sharswood Phase II, City of Philadelphia, **Philadelphia County**. Charlene Drake, REACT, 6901 Kingsessing Ave., Philadelphia, PA 19142 on behalf of Bruce Houston, Sharswood II Assoc., LP, Stow Rd., P. O. Box 994, Marlton, NJ 08053 has submitted a Notice of Intent to Remediate. Soil at the site has been impacted by release of lead and PAH. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on June 29, 2005.

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

Veeder-Root, Inc., Allegheny Township, **Blair County**. Axiom Environmental Services, Inc., P. O. Box 20522, Lehigh Valley, PA 18002, on behalf of Veeder-Root Company, Sixth Avenue at Burns Crossing, Altoona, PA 16604, submitted a Notice of Intent to Remediate groundwater and site soils contaminated with gasoline, PCBs and chlorinated hydrocarbons. The applicant proposes to demonstrate attainment of the Statewide Health and Site Specific Standards. Future use of the site will be nonresidential.

Reading Buttonwood LLP, City of Reading, **Berks County**. HDR/LMS, 609 Hamilton Street, Allentown, PA 18108, on behalf of reading Buttonwood LLP, c/o Markward Group, 5925 Tilghman Street, Suite 600, Allentown, PA 18104, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with petroleum products from unregulated underground storage tanks. The site is a commercial property, and the applicant proposes to remediate the site to meet the requirements of the Site-Specific Standard.

Gasoline Spill at Junction of Routes 222 and 30, Manheim Township, **Lancaster County**. ARM Group, Inc., 1129 West Governor Road, Hershey, PA 17033, on behalf of Grandview Chase Condominium Association, 1935 Fruitville Pike, No.230, Lancaster, PA 17601, Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103 and E.C. Barnes Inc., 8632 Lincoln Way West, Saint Thomas, PA 17252, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with unleaded gasoline. One of the properties is residential and the other a State-owned facility. The applicants propose to remediate the site to meet the requirements of the Site-Specific Standard.

Garloff Residence, North Lebanon Township, **Lebanon County**. Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg, PA 17110-9307, on behalf of Suburban Energy Services, 5793 Widewaters Parkway, Suite 100, Syracuse, NY 13214, and John Garloff, Sr., 1811 SR 72 North, Lebanon, PA 17046, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 heating oil. The site will continue to be a residential property, and the applicant proposes to remediate the site to meet the requirements of the Statewide Health Standard.

Property at 152 Huntzinger Road, South Heidelberg Township, **Berks County**. Liberty Environmental, Inc., 10 North Fifth Street, Suite 800, Reading, PA 19601, on behalf of Fannie Mae, International Plaza, 15221 Dallas Parkway, Suite 1000, Dallas, TX 75254, submitted a Notice of Intent to Remediate site soils contaminated

with No. 2 fuel oil. The site is a vacant property. The applicant proposes to remediate the site to meet the requirements of the Statewide Health Standard.

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

Markovitz Enterprises-Flowline Division, Shenango Township, **Lawrence County**. Bruce Shaw, American Geosciences, Inc., 3925 Reed Blvd., Suite 400, Murrysville PA 15668 on behalf of Donna Zingaro, Markovitz Enterprises, Inc.—Flowline Division, 1400 New Butler Road, New Castle PA 16107 has submitted a Notice of Intent to Remediate. Site soil and groundwater were impacted by use of chlorinated solvents as a result of historical use of a vapor degreaser at said property. Primary constituents in soil and groundwater to be addressed are tetrachloroethene, trichloroethene, cis-1,2-dichloroethene, 1,1-dichloroethene, 1,1,1-trichloroethane, and vinyl chloride. Notice was published in the *New Castle News* on September 7, 2005.

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.

07-05003B: Norfolk Southern Railway Co.—Juniata Locomotive Shop (200 North 4th Avenue, Altoona, PA 16601) for installation of three natural gas fired boilers each rated at 24.5 mmBtu/hr at their facility in Logan Township, **Blair County**.

34-05001C: Armstrong Cabinet Products (R. R. No. 2, Box 171C, Thompsettown, PA 17094) for modification of an existing finishing line in Delaware Township, **Juniata County**. The facility is subject to 40 CFR Part 63, Subpart JJ—National Emission Standards for Hazardous Air Pollutants for Wood Furniture Manufacturing Operations.

36-05009A: J. L. Clark, Inc. (303 North Plum Street, Lancaster, PA 17602) for installation of a Regenerative Thermal Oxidizer in the City of Lancaster, **Lancaster County**.

36-05027G: RR Donnelley and Sons Co. (216 Greenfield Road, Lancaster, PA 17601) to install a new heatset web offset lithographic printing press to be controlled by an existing regenerative thermal oxidizer at the Lancaster East facility in Lancaster City, **Lancaster County**.

67-05045B: Glen-Gery Corp. (1090 East Boundary Avenue, York, PA 17403) for installation of a dry limestone absorber on Tunnel Kiln No. 2 at their York Plant in Spring Garden Township, **York County**. The facility is subject to 40 CFR Part 63, Subpart JJJJJ—National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (507) 327-3637.

17-305-051: Rosebud Mining Co. (301 Market Street, Kittanning, PA 16201) for construction of a coal processing operation at their Penfield Mine in Huston Township, **Clearfield County**.

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

43-196B: General Electric Transportation—Grove City (1503 West Main Street Extension, Grove City, PA 16127) for minor modification of plan approval 43-302-015 for continuous use of the 800 hp boiler (formerly the emergency boiler) rather than only being able to operate when the 400 hp boiler is out of service in Grove City Borough, **Mercer County**. This is a Title V facility.

25-944A: PHB Die Casting (7900 West Ridge Road, Fairview, PA 16415) for installation of a new aluminum

melting/holding furnace with a 9,000 lb. holding capacity fired by natural gas in Fairview Township, **Erie County**. This is a State-only facility.

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Mark Wejkszner, New Source Review Chief, (507) 826-2531.

45-310-036: Locust Ridge Quarry—Division of Haines and Kibblehouse, Inc. (P. O. Box 196, 2052 Lucon Road, Skippack, PA 19474) for installation of an air cleaning device (replacement of the water-spray system) at their stone crushing plant in Tobyhanna Township, **Monroe County**. This facility is a non-Title V facility. It is anticipated that particulate emissions will be reduced from existing levels once the more efficient, new water spray system is installed. The stone crushing plant in this operation is subject to Subpart OOO of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670–60.676. The company will operate the facility and maintain the systems in accordance with the good engineering practices to assure proper operation of the equipment. The Plan Approval and resulting operating permit will contain recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

48-323-010: Victaulic Co. of America (4901 Kesslersville Road, Easton, PA 18040) for construction of a paint hook cleaning oven and associated air cleaning devices (internal afterburner and cyclones) at their Forks Facility in Forks Township, **Northampton County**. The operation of the paint hook cleaning oven and associated air cleaning devices will result in particulate emissions of 1.4 tons per year, NOx emissions of 3.32 tons per year, CO emissions of 4.76 tons per year and VOC emissions of 0.86 tons per year. The Plan Approval and Operating Permit will contain additional monitoring and recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements. The facility currently has a Title V Operating Permit No. 48-00009. 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.

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

06-05104B: H. B. Mellott Estate, Inc. (100 Mellott Drive, Suite 100, Warfordsburg, PA 17267-8555) for construction of a nonmetallic mineral crushing plant controlled by wet suppression and two diesel fired generators controlled by combustion controls in Maiden Creek Township, **Berks County**. The facility is a non-Title V State-only facility. The plant will be replacing an existing plant. The new plant will be subject to 40 CFR Part 60, Subpart OOO, Standards of Performance for New Stationary Sources. The permittee will be required to limit all emissions from the plant to less than the Title V thresholds. The plant will be limited to a maximum of 7,000 hours of operation during any consecutive 12-month period. The approval requires the removal of the existing plant. The facility will be required to maintain emission and hours of operation records. The approval will include

restrictions, monitoring, testing, work practices, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

07-03034C: Fry Metals, Inc. d/b/a Cookson Electronics (4100 6th Avenue, Altoona, PA 16602) for modification of the air pollution control system in the City of Altoona, **Blair County**. The modification will allow the removal of the PCC (Post Combustion Chamber) Burner and the Pin Mixer. Due to process changes in the Refining and Dross Treatment Operation, this equipment is no longer necessary. Emissions will not increase due to this modification. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

67-03041D: County Line Quarry, Inc. (740 South Front Street, Wrightsville, PA 17368) for replacement of the Midwest 5-deck, 5 by 7 screen with a Telsmith 3-deck, 5 by 16 screen in Wrightsville Borough, **York County**. The plan approval will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (507) 327-3637.

17-305-050B: Penfield Collieries, LLC (301 Market Street, Kittanning, PA 16201) for modification of a coal preparation plant in Huston Township, **Clearfield County**.

The reactivation of the respective coal preparation plant was authorized by Plan Approval 17-305-050, issued by the Department of Environmental Protection (Department) on June 29, 2004. Plan Approval 17-305-050A was subsequently issued by the Department on November 30, 2004, for the construction of coal stockpiling and railcar/truck loading operations at this site. The fugitive particulate matter emissions from the coal preparation plant are prevented or controlled by the use of various devices such as a fabric collector, a wet centrifugal collector, a water truck and enclosures and covers as well as by the implementation of various operating practices such as the tarping of trucks, limiting the speed of trucks, minimizing the freefall distance of coal from the end of conveyors and the flood loading of coal into railcars.

The proposed modification is an increase in the maximum amount of clean coal produced by the plant from 1 million tons per year to 2 million tons per year. This is expected to increase the facility's emission of particulate matter by as much as 37.43 tons per year, of which up to 11.26 tons per year may be PM10.

The Department's review of the information submitted by Penfield Collieries, LLC indicates that the modified coal preparation plant will meet all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirements of 25 Pa. Code §§ 123.1 and 123.2, the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12 and the requirements of Subpart Y of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.250—60.254. Based on this finding, the Department proposes to issue plan approval for the modification of the respective coal preparation plant.

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

1. No more than 2.6 million tons of raw coal shall be processed, nor more than 2 million tons of product coal produced, in any 12-consecutive month period.

2. All conditions of Plan Approvals 17-305-050 and 17-305-050A remain in effect unless superseded or modified by a condition contained herein.

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

20-130B: Meadville Forging Company (15309 Baldwin Street Extension, Meadville, PA 16335) for modification of a plan approval to install a new emission control device on the shot blast machines and to remove emission control devices on six presses at their facility in West Mead Township, **Crawford County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection intends to issue a plan approval for modification of a plan approval to install a new emission control device on the shot blast machines and to remove emission control devices on six presses at their facility in West Mead Township, Crawford County. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

42-004B: American Refining Group (77 North Kendall Avenue, Bradford, PA 16701) for construction of a flare in the city of Bradford, **McKean County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval for their plant in the City of Bradford, McKean County. The facility currently has a Title V permit which was issued 11/13/2000. 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.

This plan approval is for the construction of a flare. The flare will control the same sources that are currently controlled by the existing vapor recovery unit Vapor Recovery Unit (VRU). Currently, the VRU is connected via a manifold to both the storage tanks and the loading rack. The installation of the flare is subject to Federal NSPS and Refinery MACT requirements.

In addition to the Federal requirements for the loading racks, the loading racks are also subject to 25 Pa. Code §§ 129.59 and 129.62 pertaining to the general standards for bulk gasoline terminals, bulk gasoline plants, and small gasoline storage tanks. In addition to the Federal requirements for storage tanks greater than 40,000 gallons capacity containing VOCs, the storage tanks are subject to 25 Pa. Code § 129.56.

As a general summary, the following requirements are applicable to the storage tanks, loading racks and the control device:

1. The emission limit of 10 mg/liter of gasoline added (measured as TOC, which excludes Methane and Ethane (see definition in 40 CFR 63.641)).

2. A stack test shall be conducted in accordance with the test methods and procedures in 40 CFR 60.503,

except a reading of 500 ppm shall be used to determine the level of leaks to be repaired under 40 CFR 60.503(b).

3. The owner or operator shall continuously verify the presence of a pilot flame to the flare during gas loading with a thermocouple (or equivalent) in accordance with 40 CFR 63.425(b) and 63.427(a)(3) and (4). The thermocouple and temperature recorder (continuous monitoring systems) shall be installed, calibrated, operated and maintained in accordance with the manufacturers specifications.

4. The owner or operator of the bulk gasoline terminal shall keep records of the test results for each gasoline cargo tank loading at the facility in accordance with 40 CFR 63.428(b). (This includes the annual certification test for the cargo tanks, the leak detection test for the cargo tanks, the nitrogen pressure decay field test for the cargo tanks, and the continuous performance pressure decay test).

5. The owner or operator of the bulk gasoline terminal shall also meet the recordkeeping requirements of 40 CFR 63.428(c).

6. The owner or operator of the bulk gasoline terminal shall include in a semiannual report to the Administrator each loading of a gasoline cargo tank for which vapor tightness documentation had not been previously obtained by the facility in accordance with 40 CFR 63.428(g)(1).

7. The owner or operator of the bulk gasoline terminal shall include in the excess emissions report to the Administrator required in accordance with 40 CFR 63.10(e)(3), the conditions of 63.428(h)(1)—(3) as applicable.

8. For storage vessels equipped with a closed vent system, the facility must monitor the parameters proposed in the Notice of Compliance Status report to ensure that the control device is being properly operated and maintained. The NCS must contain the results of the initial performance test, including:

- a. Flare design.
- b. Visible emission readings.
- c. Heat content determinations.
- d. Flow rate measurements.
- e. Exit velocity determinations.
- f. Periods during the compliance determination when the pilot flame is absent.

9. Periodic reports are required only if compliance exceptions occur within any 6-month reporting period. The reports must be submitted within 60 days after the end of each 6-month period.

10. For a closed vent system routed to a control device, the facility must inspect the closed vent system as specified in 40 CFR 63.148, every 12 months.

OPERATING PERMITS

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

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

07-05003: Norfolk Southern Railway Co.—Juniata Locomotive Shops (200 North 4th Avenue, Altoona, PA 16601-6702) for operation of their railroad locomotive

repair and construction shops in Logan Township, **Blair County**. The facility is a major source that primarily emits VOCs, NOx, SOx, CO and HAPs resulting from the operation of the metal parts painting operation and the coal fired boilers. The Title V operating permit will contain appropriate emission and through put limitations, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of their Title V operating permit.

In addition, this renewal will incorporate new equipment that was installed under the authority of Plan Approval No. 07-05003A including: the Locomotive Truck Paint Booth (Source 131) and the Traction Motor Overhaul Operation (Source 132). The emission increases from the operation of this equipment was not significant.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, Muhammad Zaman, Facilities Permitting Chief, (507) 327-0512.

60-00004: The New Columbia Joist Co. (2093 Old Highway 15, New Columbia, PA 17856) for renewal of a Title V Operating Permit for their steel joist manufacturing facility in White Deer, **Union County**.

Under 25 Pa. Code § 127.521, the Department of Environmental Protection (Department) intends to issue a renewal Title V Operating Permit to New Columbia Joist Company for their steel joist manufacturing facility located in the White Deer Township, Union County. The New Columbia Joist Company representative to contact regarding this operating permit is Gregory Gemgnani, Environmental, Health and Safety Director, New Columbia Joist Company, 2093 Old Highway 15, New Columbia, PA 17856.

The facility's major sources include four paint dip tanks and a bridging line vacuum coater, which have the potential to emit major quantities of VOCs (50 tons per year or more). The facility emits CO, NOx, SOx, HAPs and PM10 below the major emission thresholds. The proposed renewal Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at the Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review must be made by calling (507) 327-3693.

Written comments or requests for a public hearing should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (507) 327-0512.

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

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

09-00179: Bucks County Furniture, LTD (174 Keystone Drive, Telford, PA 18969-1012) for a non-Title V, State-only, Synthetic Minor Operating Permit in Hilltown Township, **Bucks County**. Bucks County Furniture manufactures wood cabinets and furniture. VOCs are

emitted through surface coating operations and clean-up operations. The facility has annual emission limits of less than 25 tons for VOCs and less than 10 tons for HAPs. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

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

22-03020: Hempt Bros., Inc. (205 Creek Road, Camp Hill, PA 17011) for operation of their Steelton Quarry in Steelton Borough, **Dauphin County**. The facility has the potential to emit 2 tons PM10 per year. The State-only operating permit will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of the State-only operating permit.

28-03050: Bri Mar Manufacturing LLC—South Main Street Plant (1080 South Main Street, Chambersburg, PA 17201-3240) for a natural minor operating permit in lieu of synthetic minor operating permit number 28-05025 renewal in Borough of Chambersburg, **Franklin County**. The facility's major sources of emissions include a paint booth, which primarily emits VOC. The natural minor operating permit renewal will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

36-03075: City of Lancaster AWWTP (1220 New Danville Pike, Lancaster, PA 17603) for operation of their wastewater treatment facility in Lancaster Township, **Lancaster County**. This is a non-Title V State-only facility. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

38-03047: Department of Military and Veteran's Affairs (Fort Indiantown Gap, Annville, PA 17030-9414) for operation of a military support facility in Union and East Hanover Townships, **Lebanon County**. The facility has the potential to emit 92 tons per year of SOx, 67 tons per year of NOx, 22 tons per year of VOCs, 15 tons per year of CO, 14 tons per year of HAPS and 6 tons per year of particulate matter. Fuel combustion sources are the main sources for the SOx and NOx emissions. The State-only Operating Permit shall contain additional testing, monitoring, recordkeeping and reporting requirements, emission restrictions, and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (507) 327-3637.

19-00021: UAE CoalCorp Associates (P. O. Box 306, Mt. Carmel, PA 17851) for the operation of an anthracite coal processing plant located at the Harmony Mine in Conyngham Township, **Columbia County**.

The respective plant is a wet processing plant which incorporates various pieces of coal crushing, screening, conveying, and the like equipment as well as four small anthracite coal-fired furnaces/boilers, a propane-fired emergency hoist generator, a portable coal screen plant and associated diesel engine and a solvent parts washer. The air contaminant emissions from the facility are not

expected to exceed 12.8 tons of particulate matter including PM10, 2.75 tons of SOx, 1.71 tons of NOx, .19 ton of CO and .32 ton of total organic compounds per year.

The respective facility is not a major (Title V) facility for any air contaminant. The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously existing in Operating Permit 19-305-003. These previously-existing conditions include a requirement that all coal processed through the plant be wetted prior to exiting the associated mine, a requirement that water be applied at one of the screens and the fines stacking conveyor incorporated in the plant, a requirement that all trucks loaded with coal entering or exiting the plant via public roadways be tarped and a requirement that the truck tarping requirement be posted onsite.

The Department additionally proposes to incorporate into the operating permit to be issued a condition requiring all coal processed through the portable coal screen plant to be wetted prior to processing, a condition restricting the operation of the portable coal screen plant to no more than 500 hours in any 12-consecutive month period and a condition requiring the maintenance of records of the number of hours the portable coal screen plant operates each month.

12-00006: Lewis and Hockenberry, Inc. (R. D. 1, Box 378A, Emporium, PA 15834) for operation of two sawmill facilities in Shippen Township, **Cameron County**, the Rich Valley Plant and the Clear Creek Plant.

The Rich Valley Plant incorporates a 13.76 million Btu per hour wood-fired boiler, various pieces of woodworking equipment, 13 lumber drying kilns, a propane-fired emergency generator and an end sealant coating application booth. The Clear Creek Plant incorporates a 2.4 million Btu per hour wood-fired boiler, various pieces of woodworking equipment, one lumber drying kiln, a gasoline-fired emergency generator and a lumber gluing operation. The particulate matter emissions from the Rich Valley Plant wood-fired boiler are controlled by a multiclone collector, the particulate matter emissions from the Rich Valley Plant woodworking equipment are controlled by a cyclone collector, the particulate matter emissions from the Clear Creek Plant wood-fired boiler are controlled by a multiclone collector and the particulate matter emissions from the Clear Creek Plant woodworking equipment are controlled by a cyclone collector and an in-house fabricated fabric collector connected in series. The air contaminant emissions from the Rich Valley Plant are not expected to exceed 22.9 tons of NOx, 37.07 tons of CO, 6.85 tons of VOCs, 1.5 tons of SOx and 32.84 tons of particulate matter including PM10 per year. The air contaminant emissions from the Clear Creek Plant are not expected to exceed 4.65 tons of NOx, 21.68 tons of CO, 2.94 tons of VOCs, .26 ton of SOx at 27.28 tons of particulate matter including PM10 per year.

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

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously existing in Operating Permit 12-302-002. These previously-existing conditions include a

.3 pound per mmBtu particulate matter emission limitation for the Rich Valley Plant wood-fired boiler, a requirement that only sawdust, shavings, chips and bark generated from sawing logs and machining kiln-dried lumber may be used as fuel in the respective boiler, a requirement that the multi-clone collector associated with this boiler be equipped with instrumentation to continuously monitor the pressure differential across the collector and a requirement that the hopper bottom of the multi-clone collector associated with this boiler be equipped with a rotary valve or other type of sealed hopper unloading device to prevent the in-leakage of ambient air into the hopper.

The Department additionally proposes to incorporate into the operating permit a condition requiring the performance of particulate matter stack testing on the Rich Valley Plant wood-fired boiler within 2 years of operating permit issuance, a condition prohibiting the use of the Rich Valley Plant woodworking equipment cyclone collector to control the particulate matter emissions from any piece of woodworking equipment installed at the plant after the date of operating permit issuance if the piece of equipment will be used to process kiln-dried lumber, a condition requiring the performance of particulate matter stack testing on the Rich Valley Plant woodworking equipment cyclone collector if requested by the Department, a condition prohibiting the operation of the Clear Creek Plant woodworking equipment at any time there is more than 24 inches of particulate matter accumulated in the bottom of the bags in the associated fabric collector as well as during the process of removing accumulated particulate matter from the bags, a condition prohibiting the emission of fugitive air contaminants during the process of removing accumulated particulate matter from the bags of the fabric collector, a condition requiring spare bags to be kept on hand for the fabric collector and a condition prohibiting the use of the Clear Creek Plant woodworking equipment cyclone and fabric collector to control the particulate matter emissions from any piece of woodworking equipment installed at the plant after the date of operating permit issuance if the piece of equipment will be used to process kiln-dried lumber.

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

S05-009: PECO—Oregon Shop (2610 Columbus Boulevard, Philadelphia, PA 19148) for operation of a maintenance facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include 13 combustion units each rated at less than 5.0 mmBTU/hr (12 burn natural gas, one burns No. 2 fuel oil), one 765 Hp emergency generator, two paint shop spray booths with dry panel filters, one transformer shop paint spray booth with dry panel filters, and a gasoline storage tank and distribution with Stages I and II Vapor Recovery Systems.

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. Any 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.

S05-007: RichardsApex, Inc. (4202-24 Main Street, Philadelphia, PA 19127) for operation of a metal working lubricants manufacturing facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two natural gas or No. 5 oil-fired boilers each rated at 8.375 mmBtu/hr.

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 above 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 particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

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

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity

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

Written comments or objections should contain the name, address and telephone number of the person

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

Coal Applications Received

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

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

*The parameter is applicable at all times.

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

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

11000102 and NPDES No. PA0235342. M. B. Energy, Inc., 175 McKnight Road, Blairsville, PA 15717, permit renewal for the continued operation and restoration of a bituminous surface-auger mine in Susquehanna and Barr Townships, **Cambria County**, affecting 450.0 acres. Receiving streams: UNT to Moss Creek; Moss Creek; UNT to W. Branch Susquehanna River; W. Branch Susquehanna River classified for the following uses: CWF; CWF; CWF; WWF. There are no potable water supply intakes within 10 miles downstream. Application received September 15, 2005.

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

65990101 and NPDES Permit No. PA0202428. Gary Gioia Coal Company (319 Karen Drive, Elizabeth, PA 15037). Renewal application for continued operation and reclamation of a bituminous surface mine, located in South Huntingdon Township, **Westmoreland County**, affecting 14 acres. Receiving stream: UNT to Youghiogheny River, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: September 19, 2005.

65000201 and NPDES Permit No. PA0202835. Reichard Contracting, Inc. (212 Olean Trail, New Bethlehem, PA 16242). Renewal application for operation and reclamation of a bituminous surface mine, located in Sewickley Township, **Westmoreland County**, affecting

41 acres. Receiving streams: UNTs to Sewickley Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: September 20, 2005.

26900109 and NPDES Permit No. PA059206. Chess Coal Company (155 Chess Road, Smithfield, PA 15478). Renewal application for continued operation and reclamation of a bituminous surface mine, located in Georges Township, **Fayette County**, affecting 213 acres. Receiving stream: UNT to York Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Renewal application received: September 22, 2005.

02020201 and NPDES Permit No. PA0250121. Robindale Energy Services, Inc. (1001 Broad Street, Suite 130, Johnstown, PA 15906). Revision for additional acres to an existing coal refuse reprocessing surface mine, located in Plum Borough, **Allegheny County**, affecting 172 acres. Receiving streams: Little Plum Creek and UNT to Little Plum Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Revision application received: September 22, 2005.

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

33040104 and NPDES Permit No. PA0242527. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Revision to an existing bituminous surfaces trip operation in Union Township, **Jefferson County** affecting 16.5 acres. Receiving streams: UNT to Simpson Run, classified for the following uses: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to change the post mining land use from forestland and forestland now abandoned surface mine to unmanaged natural habitat on the Harmony Insurance Company property. Application received: September 16, 2005.

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

17010103 and NPDES Permit No. PA0243051. Bell Resources, Inc. (1340 Hoyt Road, Curwensville, PA 15833), permit renewal for continued operation of a bituminous surface and auger mine in Greenwood Township, **Clearfield County** affecting 23.5 acres. Receiving streams: UNT to West Branch of the Susquehanna River. Application received September 6, 2005.

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901, (507) 621-3118.

40840206R4. Northampton Fuel Supply Company, Inc. (1 Horwith Drive, Northampton, PA 18067), renewal of an existing coal refuse reprocessing and coal ash disposal operation in Plains Township, **Luzerne County** affecting 126.9 acres. Receiving stream: none. Application received September 16, 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.

E23-455. Haverford Township, 2325 Darby Road, Havertown, PA 19083, Haverford Township, **Delaware County**, ACOE Philadelphia District.

Wynnefield Drive/Cobbs Creek Pedestrian Bridge Project.

To construct and maintain a footbridge approximately 70 feet long and 6 feet wide with a 2-foot underclearance over Cobbs Creek (WWF). The encroachment will involve minor floodway excavation and soil stabilization and the construction of a temporary ford crossing to facilitate the bridge construction work.

The project will permanently impact approximately 15 linear feet of watercourse and 0.5 acre of floodway. The project is located on the northeast side of the intersection of Wynnefield Drive and Eagle Road (SR 1005) (Lansdowne PA, Quadrangle N: 21.49 inches; W: 6.89 inches).

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (507) 826-2511.

E40-653. William D. Haas, P. O. Box 125, Bear Creek, PA 18602, in Bear Creek Township and Bear Creek Village Borough, **Luzerne County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a private two-span bridge across Bear Creek (HQ-CWF) and an associated gravel access road across the floodway of Bear Creek and PFO Wetlands impacting a de minimis area of wetlands less than or equal to 0.05 acre. The project will have an overall span of approximately 105 feet and an underclearance of approximately 7.3 feet. The project is located on the west side of SR 2041 (White Haven Road), approximately 0.6 mile southeast of the intersection of SR 0115 and SR 2041 (Wilkes-Barre East, PA Quadrangle N: 8.4 inches; W: 0.0 inch).

E52-201. Forest Glen Estates, LLC, 155 Third Street, Brooklyn, NY 11203-4822, in Delaware Township, **Pike County**, United States Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a road crossing of wetlands utilizing a 6-foot by 4-foot box culvert depressed 1.0 foot; place fill in wetlands for the purpose of widening an existing roadway; and construct and maintain a dry hydrant intake structure in an existing pond. The activities will impact a de minimis area of wetlands less than or equal to 0.05 acre, and are associated with construction of Forest Glen Estates. The project is located on the west side of SR 739, approximately 2 miles northwest of the intersection of SR 0739 and SR 2001 (Edgemere, PA Quadrangle N: 3.3 inches; W: 6.5 inches).

E35-387. Lackawanna County, 200 Adams Avenue, Scranton, PA 18503-1607, in Fell Township, **Lackawanna County**, United States Army Corps of Engineers, Baltimore District.

To modify and maintain an existing road crossing of a tributary to Fall Brook (CWF) consisting of a 10.7-foot by 6.5-foot corrugated metal arch culvert. Modifications include constructing a concrete apron, headwall and wingwalls at the upstream and downstream end; constructing a rock cross-vein; and installing fish baffles. The project is located at the entrance to Merli-Sarnoski Park

immediately adjacent to SR 1017 (Sandy Banks Road) (Carbondale, PA Quadrangle N: 17.2 inches; W: 6.5 inches).

E39-452. Department of Transportation, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103, in Upper Saucon Township, Lehigh County, **United States Army Corps of Engineers**, Philadelphia District.

To remove the existing structure and to construct and maintain a road crossing of Tumble Brook (CWF) consisting of twin 16-foot by 6-foot concrete box culverts depressed 1-foot below streambed elevation and the placement of fill in 0.04 acre of EV wetland. The project is located on SR 2045 (Main Street) approximately 0.5 mile south of Route 309 (Allentown East, PA Quadrangle N: 3.8 inches; W: 2.2 inches).

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

E67-785: MAPA Railroad Preservation Society, 225 West Lanvale Street, Baltimore, MD 21217.

To construct and maintain 3.37 miles of the Maryland and Pennsylvania Railroad including bridge repair of the superstructure and substructure (Latitude: 39° 48' 26"; Longitude: 76° 28' 22") over a UNT to Muddy Creek (TSF), replacement of an existing 10'6" span 6" underclearance bridge with a 10'6" span 1'4" underclearance of a non-composite rolled steel beam bridge (Latitude: 39° 48' 56"; Longitude: 76° 28' 47"), maintenance of existing beams and abutments of a noncomposite rolled steel beam bridge (Latitude: 39° 49' 08"; Longitude: 76° 29' 17"), repair undermined and scoured wing/abutment and scour holes in the stream (Latitude: 39° 49' 33"; Longitude: 76° 29' 57") in UNTs to the North Branch of Muddy Creek (CWF), construct a 6-foot high, 175-foot long gabion wall at the toe of streambank and replace a 12-inch outfall pipe (Latitude: 39° 49' 11"; Longitude: 76° 29' 01"), construct a 6-foot high, 200-foot long gabion wall at toe of streambank and replace a 12-inch outfall pipe (Latitude: 39° 49' 33"; Longitude: 76° 29' 57"), and construct a 6-foot high, 110-foot long gabion wall at toe of streambank and construct an outfall swale along the North Branch Muddy Creek (CWF) Chanceford and Lower Chanceford Township, York County.

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

E02-1514. SMG Development, LLC, 120 Route 908 Extension, Tarentum, PA 15084. To fill wetlands in Richland Township, **Allegheny County**, Pittsburgh ACOE District (Valencia, PA Quadrangle N: 7.4 inches; W: 8.1 inches; and Latitude: 40° 39' 57"—Longitude: 79° 55' 59"). The applicant proposes to fill 0.21 acre of PEM wetland, to construct and maintain 0.21 acre of replacement PEM wetland, and fill and maintain approximately 480 LF long ephemeral UNT to Glade Run (WWF) with a drainage area of approximately 30 acres. This project is associated with the development of the 10 acre Oak Ridge Plan of Lots and is located approximately 1 mile north of Bakerstown adjacent to the east side of Route 8. Total impacts are 0.21 acre of PEM wetland fill and 480 LF of ephemeral stream fill.

E30-085. Wellington Development, WVDT, LLC, 1620 Locust Avenue, Fairmont, WV 26554. To conduct stream encroachments and wetland fills associated with construction of a resource recovery facility in Cumberland Township, **Greene County**, Pittsburgh ACOE District.

The applicant proposes to conduct the following activities associated with the construction of the proposed resource recovery facility:

1. The construction and maintenance of a 1,000 foot long, 12-inch PVC pipe in a UNT to the Monongahela River (WWF) (Carmichaels, PA Quadrangle N: 3.55 inches; W: 7.55 inches and Latitude: 39° 53' 40.47"—Longitude: 79° 55' 43.84").

2. The construction and maintenance of a 271-foot long, 48-inch RCP culvert in a UNT to the Monongahela River (WWF) (Carmichaels, PA Quadrangle N: 1.52 inches; W: 6.25 inches and Latitude: 39° 53' 0.15"—Longitude: 79° 55' 10.42").

3. The construction and maintenance of a 840-foot long, 12-inch PVC pipe in a UNT to Pegs Run (WWF) (Carmichaels, PA Quadrangle N: 2.7 inches, W: 6.84 inches and Latitude: 39° 53' 23.60"—Longitude: 79° 55' 25.51").

4. The placement and maintenance of fill in 0.25 acre of wetlands (Carmichaels, PA Quadrangle N: 2.84 inches; W: 7.5 inches and Latitude: 39° 53' 26.26"—Longitude: 79° 55' 42.63").

5. The construction and maintenance of transmission line towers bordering Monongahela River (WWF) and transmission lines across said river (Masontown, PA Quadrangle N: 22.33 inches; W: 6.06 inches and Latitude: 39° 52' 22.76"—Longitude: 79° 55' 05.38") in German Township, Fayette County and Cumberland Township, Greene County.

6. The removal of four mooring cells from the Monongahela River (WWF) and the construction and maintenance of 13 mooring cells in and along the Monongahela River (Carmichaels, PA Quadrangle N: 1.34 inches; W: 5.82 inches and Latitude: 39° 52' 22.76"—Longitude: 79° 54' 59.49").

7. The construction and maintenance of a water intake in the Monongahela River (WWF) (Carmichaels, PA Quadrangle N: 1.34 inches; W: 5.82 inches and Latitude: 39° 52' 56.66"—Longitude: 79° 54' 59.5").

8. The construction and maintenance of a 14-inch pipe outfall along the Monongahela River (WWF) (Carmichaels, PA Quadrangle N: 3.17 inches; W: 6.89 inches and Latitude: 39° 53' 32.93"—Longitude: 79° 55' 26.81").

E65-880. Turnpike Commission, P. O. Box 67676, Harrisburg, PA 17106-7676. To construct a culvert on Madison Road in Hempfield Township, **Westmoreland County**, Pittsburgh ACOE District (Irwin, PA Quadrangle N: 0.3 inch; W: 2.4 inches and Latitude: 40° 15' 06"—Longitude: 79° 38' 32"). The applicant proposes to relocate and maintain 460 feet of a UNT to Sewickley Creek (WWF) and to construct and maintain a 165.0-foot long 48-inch RCP culvert in a UNT to Sewickley Creek (WWF) and a 110.0-foot long, 48-inch RCP culvert in a UNT to Sewickley Creek (WWF) for the purpose of constructing an access roadway to the Turnpike as part of the Turnpike Improvement Project. The project is located at Structure B-469 (Madison Road). The project will impact 0.12 acre of PEM wetlands.

E65-884. Department of Transportation, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. To construct a two span bridge in New Stanton Borough, **Westmoreland County**, Pittsburgh ACOE District (Mount Pleasant, PA Quadrangle N: 18.3 inches; W: 15.5 inches and Latitude: 40° 13' 30"—Longitude: 79° 36' 55"). The applicant proposes to construct and maintain a two

span bridge across a UNT to Sewickley Creek (WWF) (and drainage area of 546 acres). One of the spans will cross over the UNT and the other span will cross over the adjacent Turnpike. The applicant also proposes to construct and maintain a 174 LF stream relocation, extend and relocate a 131 LF, 5 ft. diameter culvert to a total of 164 LF and fill 0.02 acre of PEM wetland in an adjacent UNT to Sewickley Creek (drainage area of 59.5 acres). This project is associated with the widening and relocation of SR 3111 between the Byers Avenue and Broadview Road intersections.

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

E42-318, Minard Run Oil Company, P. O. Box 18, Bradford, PA 16701. Music Mountain Wetland Roadway Crossing, in Lafayette Township, **McKean County**, ACOE Pittsburgh District (Lewis Run, PA Quadrangle N: 41° 50' 39"; W: 78° 42' 06").

To fill 0.17 acre of PEM wetlands as part of the rehabilitation/maintenance of the existing access roadway and is located approximately 6,000 feet north and 2,300 feet west of the Kennedy Springs Picnic Area along SR 0219. The permittee will be required to replace 0.20 acre of replacement wetlands.

E62-405, Joseph M. and Karen D. White, 20 Riverside Drive, Warren, PA 16365. Boat Ramp and Dock, in Glade Township, **Warren County**, ACOE Pittsburgh District (Clarendon, PA Quadrangle N: 17.8 inches; W: 7.6 inches).

The applicant proposes to construct a solid fill boat ramp in the floodway of the Allegheny River having length of 70 feet, a width ranging from 20 feet to 12 feet

and a maximum depth of 5 feet and a floating dock having dimensions of 20 feet by 8 feet, anchored to the river bottom by concrete anchors and connected to the shore by a 2-foot by 15-foot gangway in the Allegheny River at the property located at 20 Riverside Drive within the Federal Scenic River Corridor of the Allegheny River. The project includes removal of two piles of existing fill in the floodway measuring 25 feet by 25 feet by 4 feet high on the upstream side and 12 feet by 12 feet by 4 feet on the downstream side. A portion of this project has been constructed, and the permit application is the result of an enforcement action. The Allegheny River is a perennial stream classified as a WWF. The project proposes to impact approximately 20 feet of the Allegheny River and an approximately

DAM SAFETY

Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.

D66-060. Lackawanna Audubon Society, 414 Lily Lake Road, Dalton, PA 18414.

To construct, operate and maintain the Davis Crossing Sanctuary Dam across a UNT to the South Branch Tunkhannock Creek (CWF), impacting 0.015 acre of wetlands (Palustrine Emergent) and providing 0.015 acre of wetland mitigation, for the purpose of restoring the function of a previous open water body caused by a destroyed beaver dam. Work includes constructing a 4-foot high, 65-foot long concrete dam to create a 24-acre impoundment. (Factoryville, PA Quadrangle N: 5.97 inches; W: 10.35 inches) in Overfield Township, **Wyoming County**.

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504 and 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.

<i>SSIP Application No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
05012	John W. Rich, Jr. WMPI PTY., LLC P. O. Box 311 Frackville, PA 17931	Schuylkill	Mahanoy Township	5 ASTs storing Jet Fuel	4,540,000 gallons total

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

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0033456 Sewage	ARC DAM SA, LLC 272 Nicole Lane Somerset, PA 15501	Somerset County Somerset Township	UNT of East Branch Coxes Creek	Y

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

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

NPDES Permit No. PAS112206, Industrial Stormwater, **Lamson & Sessions**, 25701 Science Park, Cleveland, OH 44122. This proposed facility is located in Upper Nazareth Township, **Northampton County**.

Description of Proposed Action/Activity: Issuance of NPDES Industrial Stormwater Permit.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

NPDES Permit No. PA0082619, Sewage, **David Worrell, WTS Properties, LLC**, P. O. Box 278, King of Prussia, PA 19406. This proposed facility is located in Newberry Township, **York County**.

Description of Proposed Action/Activity: Cancellation of NPDES permit, connected to Newberry Township Public Sewer.

NPDES Permit No. PA0083615, Sewerage, **Shirley Thomas, H. David Pitzer Trucking, Inc.**, P. O. Box 276, Biglerville, PA 17307. This proposed facility is located in Menallen Township, **Adams County**.

Description of Proposed Action/Activity: Cancellation of NPDES Permit, connected to Possum Valley Municipal Sewer Authority.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570)-327-3664.

PA0228893, Sewerage SIC, 4952, **Liberty Area Municipal Authority**, P. O. Box 73, Liberty, PA 16930 This proposed facility is located in Liberty Township, **Tioga County**.

Description of Proposed Activity: This proposed action is for issuance of an NPDES permit for a proposed discharge of treated sewage wastewater.

The receiving stream, Blockhouse Creek, is in the State Water Plan watershed 9A and classified for CWF. The nearest downstream public water supply intake for PA American Water Company is located on West Branch Susquehanna River 72 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.075 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum mg/l</i>
CBOD ₅				
(6-4 to 10-31)	20	30		40
(11-1 to 5-31)	25	40		50
TSS				
(6-4 to 10-31)	10	15		20
(11-1 to 5-31)	30	45		60
Ammonia-N				
(6-4 to 10-31)	6	9		12
(11-1 to 5-31)	18	27		36
Total Residual Chlorine	0.50			1.6
Ammonia-N	Report			
Kjeldahl-N	Report			
NO ₂ /NO ₃ -N	Report			
Total Nitrogen	Report			
Total Phosphorus	Report			
Fecal Coliforms				
(5-1 to 9-30)			200 col/100 ml geometric mean	
(10-1 to 4-30)			2,000 col/100 ml geometric mean	
pH			within the range of 6.0 to 9.0	

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

NPDES Permit No. PA0252999, Sewage, **Unity Township Municipal Authority**, 1106 Beatty County Road, Latrobe, PA 15650. This proposed facility is located in Unity Township, **Westmoreland County**.

Description of Proposed Action/Activity: NPDES permit issuance.

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

NPDES Permit No. PA0021792, Sewage, **Municipal Authority of the Borough of Edinboro**, 124 Meadville Street, Edinboro, PA 16412. This proposed facility is located in Borough of Edinboro, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Conneauttee Creek in Watershed 16-A.

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

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

WQM Permit No. 2398405 A-2, Sewerage, **Brandywine Operating Partnership, LP**, 401 Plymouth Meeting Road, Plymouth Meeting, PA 19462. This proposed facility is located in Newtown Township, **Delaware County**.

Description of Action/Activity: Consolidation and the operation of sewage treatment facilities.

WQM Permit No. 2305401, Sewerage, **Concord Township Sewer Authority**, 664 Concord Road, Glen Mills, PA 19342-1341. This proposed facility is located in Concord Township, **Delaware County**.

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

WQM Permit No. WQG02090502, Sewerage, **Warrington Township**, 1585 Turk Road, Warrington, PA 18976. This proposed facility is located in Warrington Township, **Bucks County**.

Description of Action/Activity: Construction and operation of a pump station.

WQM Permit No. WQG02460503, Sewerage, **Lower Salford Township Authority**, P. O. Box 243, Harleysville, PA 19438. This proposed facility is located in Lower Salford Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a pump station.

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

WQM Permit No. 5905401, Sewage 4952, **Liberty Area Municipal Authority**, P. O. Box 73, Liberty, PA 16930. This proposed facility is located in Liberty Borough/Liberty Township, **Tioga County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a sewer collection system and a 75,000 gallon per day recirculating sand filter sewage treatment plant; 28,600 feet of the sewer will be a septic tank

effluent collection system; 8,700 feet will be conventional gravity sewer. Disinfection will be by UV light with a backup chlorinator during flood stage events. A cascade aerator will increase dissolved oxygen levels prior to discharge to Blockhouse Creek.

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

WQM Permit No. 3285201-A1, Industrial Waste, **EME Homer City Generation, LP**, 1750 Power Plant Road, Homer City, PA 15748-8009. This proposed facility is located in Center and Blacklick Townships, **Indiana County**.

Description of Proposed Action/Activity: Installation of retention pond synthetic liners.

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

WQM Permit No. WQG018374, Sewerage, **Donald Ferri**, 625 Burkhart Avenue, Erie, PA 16511. This proposed facility is located in North East Township, **Erie County**.

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

WQM Permit No. WQG018408, Sewerage, **Mike Morini**, 5028 Old Pittsburgh Road, New Castle, PA 16101. This proposed facility is located in Wayne Township, **Lawrence County**.

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

WQM Permit No. WQG018416, Sewerage, **David M. Thomas**, 16658 US Route 6, Smethport, PA 16749. This proposed facility is located in Keating Township, **McKean County**.

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

WQM Permit No. 2583409, Sewerage Amendment No. 1, **Millcreek Township Sewer Authority**, 3608 West 26th Street, Erie, PA 16506. This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the Kearsarge pump station upgrade to include a 2.3 million gallon overflow retention facility.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011503093	Toll Brothers, Inc./Orleans Homebuilders, Inc. Ewing Tract—Upper Uwchlan Dev. 325 Fellowship Road Chester Springs, PA 19425	Chester	Upper Uwchlan Township	Tributary Pickering Creek (HQ)
PAI011505005	David McFadden 490 Byers Road Subdivision 996 Old Eagle School Road Wayne, PA 19087	Chester	Uwchlan Township	Pickering Creek (HQ-TSF)
PAI011505034	Archdiocese of Philadelphia St. Peter's Church and Rectory 1080 North Manor Road Honey Brook, PA 19344-9610	Chester	West Brandywine Township	West Branch Brandywine Creek/Beaver Creek (HQ-TSF-MF/TSF-MF)
PAI011505062	Supervisors of West Nantmeal Township West Nantmeal Township Soccer Fields 455 North Manor Road Elverson, PA 19520	Chester	West Nantmeal Township	UNT East Branch Brandywine Creek (HQ-TSF-MF)
PAI012305002	County of Delaware Delaware County Bridge No. 209 201 West Front Street Government Center Building Room 207 Media, PA 19063-2788	Delaware	Middletown Township	Chester Creek Watershed (HQ-CWF-MF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023505001	Laurel Ridge Development, LLC 1710 Madison Ave. Scranton, PA 18509	Lackawanna	Jefferson Township	East Branch Wallenpaupack Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032805003	Alan L. Meyers 148 Meyers Road Greencastle, PA 17225	Franklin	Antrim	Muddy Run HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI064204002	Bradford Regional Airport Authority 212 Airport Road, Suite E Lewis Run, PA 16738	McKean	Lafayette Township	UNT East Branch Tunungwant Creek HQ-CWF UNT Threemile Run CWF

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

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

List of NPDES and/or Other General Permit Types

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

General Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
West Rockhill Township Bucks County	PAG2000905008	Kane Core, Inc. 4365 Skippack Pike P. O. Box 1301 Skippack, PA 19471-1301	UNT East Branch Perkiomen Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plumstead Township Bucks County	PAR10D6571	Central Bucks Athletic Association Box 111 Buckingham, PA 18912	Tohickon and Neshaminy Creeks (CWF, WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

NOTICES

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Richland Township and Quakertown Borough Bucks County	PAG2000905056	Richland Township Water Authority EPA Waterline 1328 California Road, Suite D Quakertown, PA 18951	Tohickon Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bridgeton Township Bucks County	PAG2000904198	The Matlock Family Trust Matlock Subdivision Lots 21 West 10th Street New York, NY 10011	Delaware River (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plumstead Township Bucks County	PAG2000904120	Anthony Ventresca Ventresca Tract 4000 Sawmill Road Doylestown, PA 18901	Pine Run (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Northampton Township Bucks County	PAG2000905094	Villa Joseph Marie High School 1180 Holland Road Holland, PA 18966	Enchain Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plumstead Township Bucks County	PAG2000904046	Zaveta Construction Co., Inc. Garden Village Development 4030 Skyrun Drive, Suite H Doylestown, PA 18901	Pine Run (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Northampton Township Bucks County	PAG2000905037	McBrick Company, LP Hidden Creek Development 340 E. Maple Avenue Suite 306 Langhorne, PA 19047	Enchain Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Borough Bucks County	PAG2000905028	Toll Brothers, Inc. Frost Watson Tract Development 250 Gibraltar Road Horsham, PA 19044	Newtown and Enchain Creeks (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Southampton Township Bucks County	PAG2000905084	Michael A. Donnelly The Donnelly Family Development 550 Swamp Road Newtown, PA	Mill Creek South and Delaware River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warwick Township Bucks County	PAG2000905005	The Cutler Group The Ridings of Warwick 5 Apollo Road, Suite 1 Plymouth Meeting, PA 19462	UNT Enchain Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chalfont Borough Bucks County	PAG20009041671	North Penn/North Wales Water Auth. Forest Park WTP Expan. 144 Park Avenue Box 317 Chalfont, PA 18914	Pine Run, North Branch Enchain Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Warwick Township Bucks County	PAG2000905029	Worth Development Associates, LP Borgeson Tract 6263 Kellers Church Road Pipersville, PA 18947	UNT Enchain Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Falls Township Bucks County	PAR10D541R	NJ Transit Corporation Morrisville Train Station Yard One Penn Plaza East Newark, NJ 07105-2246	Rock Run Creek Delaware and Pennsylvania Canals (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Northampton Township Bucks County	PAG2000904151	Orelans Homes Builders Yamamoto Tract a/k/a Foxhall Estates 3333 Street Road One Greenwood Square Suite 101 Bensalem, PA	Core Creek (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Elverson Borough Chester County	PAG2001505047	Merle Stoltzfus Parksie at Elverson— Phase II 26 East Main St. P. O. Box 20 Elverson, PA 19520-0020	Conestoga Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Goshen Township Chester County	PAG2001505034	O'Rourke Steel 992 Bolmar Street West Chester, PA 19382	Goose Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Clan Township Chester County	PAG2001505026	Caln Township Municipal Complex Development P. O. Box 7214 Thorndale, PA 19372-0419	UNT Beaver Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Goshen Township Chester County	PAG2001505029	New Brandywine Airport Club Taxiway A Extension Brandywine Airport 1205 Ward Ave. West Chester, PA 19380	East Branch Chester Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Pocopson Township Chester County	PAG2001505008	Toll Brothers, Inc. 130 Concord Road Boothwyn, PA 19061	Brandywine Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Concord Township Bucks County	PAG2002305056	Joseph Gagliotte Cheyney Road and Route 1 Glen Mills, PA 19342	Chester Creek (TSF)	
Upper Nazareth Township Northampton County	PAG2004805026	Nazareth Area School Dist. One Education Plaza Nazareth, PA 18064	Shoeneck Creek WWF	Northampton Co. Cons. Dist. (610) 746-1971
Plains Township Luzerne County	PAG2004005027	Mark Paradise SADG-2, Inc. 100 Colliery Rd. Dickson City, PA 18519-1657	Susquehanna River CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Blakely Borough Lackawanna County	PAG2003505010	Richard Huhn Siniawa 18, LP 851 Commerce Blvd. Dickson City, PA 18519	Hull Creek CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
City of Bethlehem Lehigh County	PAG2003904002	Allentown Community Development 4905 Tilghman St. Suite 100 Allentown, PA 18104	Lehigh River WWF	Lehigh Co. Cons. Dist. (610) 391-9583

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<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Waynesboro Borough Franklin County	PAG2002805062	West End Development Ronald Marin 1625 East Main Street Waynesboro, PA 17268	East Br. of Antietam CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Quincy and Guilford Townships Franklin County	PAG20028040171	White Rock Inc. John Miner 3720 Clubhouse Drive Fayetteville, PA 17222-9683	Conococheague and Antietam Creeks CWF	Franklin County Conservation District 100 Sunset Boulevard West Chambersburg, PA 17201 (717) 264-8074, Ext. 5
Manheim Township Lancaster County	PAG2003605107	Wanner Realty Co. 1373 Manheim Pike Lancaster, PA 17601	UNT Little Conestoga Creek TSF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster PA 17601 (717) 299-5361, Ext. 5
Manheim Township Lancaster County	PAG2003605119	Penn Cinema Mgmt. Co., LLC 516 E. Woods Dr. Lititz, PA 17543	Lititz Run WWF	Lancaster County Conservation District 1383 Arcadia Rd., Room 6 Lancaster PA 17601 (717) 299-5361, Ext. 5
Paxtang Borough Dauphin County	PAG2002205030	BRM Inc. c/o William Hornung 6005 Bluebird Ave. Harrisburg, PA 17112	Spring Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Tilden Township Berks County	PAG2000605061	Troy Hatt Tilden Township 874 Hex Highway Hamburg, PA 19526	Hassler Run WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Ontelaunee Township Berks County	PAG2000604103	Walter Pohl Ontelaunee Orchards, Inc. P. O. Box 13613 Reading, PA 19612	UNT to Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Fairview Township York County	PAG2006705068	David Spaulding Susquehanna Area Regional Airport Auth. 1 Terminal Drive Middletown, PA 17057	Yellow Breeches Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAG2006705031	York Valley Inn Adaptive Reuse as York Plaza Ernie Rafailidis 4606 Eastern Ave. Baltimore, MD 21224	Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Shrewsbury Borough York County	PAG2006705017	Phil Robinson Halisco Group, LLC 18147 Amanda Drive New Freedom, PA 17349	Trout Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Fairview Township York County	PAG2006705053	Durla Lathia Hersha Enterprises 148 Sheraton Dr. Box A New Cumberland, PA 17070	Trout Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Fairview Township York County	PAG2006705065	Fishing Creek Salem United Methodist Church Art Young 402 Valley Road Etters, PA 17319	UNT to Fishing Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Beaver County New Sewickley Township	PAG2000405018	Brian Anderson Universal Development 1607 Motor Inn Drive Girard, OH 44420	Crow's Run (WWF)	Beaver County CD (724) 378-1701
Somerset County Black and Summit Townships	PAG2005605003	Casselman Windpower, LLC 3311 Church Road Suite 210 Richmond, VA 23233	Stonybatter Run Shafer Run Lick Run and Bigby Creek (CWF)	Somerset County CD (814) 445-4652
Washington County Chartiers Township	PAG2006305026	Hawthorne Partners, Inc. Paul Scarmazzi 102 W. Pike Street Suite 200 Houston, PA 15342	Chartiers Creek (WWF)	Washington County CD (724) 228-6774
Washington County Hanover Township	PAG2006305036	Riverside Medical Cherian Mariamma 401 Market Street Suite 1000 Steubenville, OH 43952	Ward Run (WWF)	Washington County CD (724) 228-6774
Adams and Middlesex Townships Butler County	PAG2001005019	Mars Area School District 545 Route 228 Mars, PA 16046	UNT Glade Run WWF	Butler conservation District (724) 284-5270
Adams Township Butler County	PAG2001005021	Pine Ridge Farms—Phase 3 William Weaver Pine Ridge Meadows, LP P. O. Box 449 Mars, PA 160463	Breakneck Creek WWF	Butler conservation District (724) 284-5270
Clarion County Porter and Redbank Townships	PAG2081605002	EOG Resources, Inc. 400 Southpointe Blvd. Suite 300 Canonsburg, PA 15317	Middle Run Long Run Leisure Run and Leatherwood Creek CWF	Northwest Region Oil and Gas Mgmt. 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6860
Olyphant Borough Lackawanna County	PAG2113505002	Department of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18711-0790	UNT to the Lackawanna River (CWF)	Department of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18711-0790 (570) 826-2371

General Permit Type—PAG-3

*Facility Location:
Municipality &
County*

<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>	
City of Philadelphia Philadelphia County	PAR600066	Drive Train Exchange d/b/a Venice Auto Parts 6219 Passyunk Ave. Philadelphia PA 19153	Schuylkill River 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
City of Philadelphia Philadelphia County	PAR200002	Allied Tube & Conduit Corp. 11350 Norcom Rd. Philadelphia, PA 19154	Walton Run 3J Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Elverson Borough Chester County	PAR200045	Summit Steel & Mfg. Inc. 47 Park Ave. Elverson, PA 19520	UNT to East Branch Conestoga River 3D Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Scranton City Lackawanna County	PAR602236	Anthracite Auto Exchange, Inc. 900 Fifth Ave. Scranton, PA 18504	Lackawanna River WWF	DEP—NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-2511 (570) 826-2511
Clearfield County Sandy Township	PAR604829	Dorothy L. Spencer 228 Wagoner Road DuBois, PA 15801	Muddy Run (CWF)	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
Summerville Borough Jefferson County	PAR218315	Glen-Gery Corporation 1166 Spring Street Wyomissing, PA 19610-6001	UNT to Redbank Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-4

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
North East Township Erie County	PA0239593	Donald Ferri 625 Burkhart Avenue Erie, PA 16511	Twelve Mile Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Port Allegany Borough McKean County	PAG048562	Ray A. Schafer 546 Open Brook Road Port Allegany, PA 16743	Open Brook Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Limestone Township Warren County	PAG048391	Daniel J. Adamovich R. R. 1, Box 24AB Tidioute, PA 16351-9706	Waid Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Wayne Township Lawrence County	PAG049200	Mike Morini 5028 Old Pittsburgh Road New Castle, PA 16101	Duck Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Keating Township McKean County	PAG049208	David M. Thomas 16658 US Route 6 Smethport, PA 16749	Marvin Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-5

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
City of Titusville Crawford County	PAG058366	United Refining Company of PA P. O. Box 688 Warren, PA 16365	Pine Creek 16-E	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-10**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Cornplanter Township Venango County	PAG108307	Merisol Antioxidants, LLC 292 SR 8 Oil City, PA 16301	Oil Creek 16-E	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

PUBLIC WATER SUPPLY (PWS) PERMITS

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

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

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

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

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act

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

Operations Permit issued to: **Nesquehoning Borough Authority**, 114 West Catawissa Street, Nesquehoning, PA 18240-1511 (PWS ID 3130026) Nesquehoning Borough, **Carbon County** on September 6, 2005, for the operation of facilities approved under Construction Permit No. 1301502.

Operations Permit issued to: **Pennsylvania American Water Company**, 800 West Hersheypark Drive, Hershey, PA 17033 (PWS ID 2450063) Coolbaugh Township, **Monroe County** on September 15, 2005, for the operation of facilities approved under Construction Permit Minor Permit Amendment issued on November 12, 2004.

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

Permit No. 0389502-A4, Public Water Supply.

Applicant	South Buffalo Township Municipal Authority 382 Iron Bridge Road Freeport, PA 16629-1760
Borough or Township	South Buffalo Township
County	Armstrong
Type of Facility	Water distribution system
Consulting Engineer	Senate Engineering Company U-PARC 420 William Pitt Way Pittsburgh, PA 15238-1330
Permit to Construct Issued	September 21, 2005

Operations Permit issued to: **Pennsylvania-American Water Company**, 800 Hersheypark Drive, Hershey, PA 17033, (PWS ID 5320025) White Township, **Indiana County** on September 13, 2005, for the operation of facilities approved under Construction Permit No. 364W010-T1-A1.

Operations Permit issued to: **Pennsylvania-American Water Company**, 800 Hersheypark Drive, Hershey, PA 17033, (PWS ID 5320025) White Township, **Indiana County** on September 13, 2005, for the operation of facilities approved under Construction Permit No. 3281501-T1-A2.

Permit No. 5605501, Minor Amendment. Public Water Supply.

Applicant	United Mobile Homes, Inc. 1275 Foreman Drive Morgantown, WV 26508
Borough or Township	Somerset Township
County	Somerset
Type of Facility	Mobile home park
Consulting Engineer	The EADS Group, Inc. 450 Aberdeen Drive P. O. Box 837 Somerset, PA 15501
Permit to Construct Issued	September 13, 2005

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

Permit No. 8742-W-T1-MA1, Minor Amendment

Applicant	Sykesville Area Sewer & Water Auth.
Borough or Township	Sykesville Borough

County **Jefferson**
 Type of Facility PWS
 Permit to Construct 09/23/2005
 Issued

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>
Mount Joy Township	159 Merts Drive Elizabethtown, PA 17022	Lancaster

Plan Description: The approved plan provides for 30,000 gpd of landfill leachate from the Milton Grove Onyx Landfill to be conveyed through a forcemain along Ridge Rd. and 3,800 feet of gravity sewer to be dedicated to the Township Authority, tributary to the Kiwanis interceptor and Elizabethtown Borough Wastewater Treatment Plant. The ID number for this plan revision is A3-A3-36942-323-3 and the APS number is 559758. 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>
Rye Township	1775 New Valley Road Marysville, PA 17053	Perry

Plan Description: The approved plan revision provides for a new small flow treatment facility to replace a malfunctioning onlot sewage system. It will have a treated discharge of 400 gpd to a UNT of Fishing Creek, a tributary to the Susquehanna River. The proposed facility will serve the Gary Cryder single family residence. The Department's review of the sewage facilities update revision has not identified any significant impacts resulting from this proposal.

Southwest Regional Office, Regional Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
O'Hara Township	325 Fox Chapel Road Pittsburgh, PA 15238	Allegheny

Plan Description: The approved plan proposes the installation of a small flow treatment facility located at 1119 Saxonburg Boulevard, Glenshaw, PA 15116, in O'Hara Township, Allegheny County. The proposed treatment facility will discharge to Pine Creek and service an existing 3-bedroom, single-family dwelling that has an existing malfunctioning onlot system. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

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

Plan Location: On the north side of Van Scoyoc Rd. at its intersection with Old US Route 15.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Latimore Township	P. O. Box 218 York Springs, PA 17372	Adams

Plan Description: The development proposed a five lot single family residential subdivision utilizing onsite sewage disposal and the project code number is A3-01921-141-2. The plan was disapproved because it failed to adequately mitigate contamination from the proposed onlot systems to the groundwater.

HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988

**Settlement under the Hazardous Sites Cleanup Act and Comprehensive Environmental Response, Compensation and Liability Act
 J. C. Cleaners Site, Gettysburg Borough, Adams County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.A. §§ 9601—9675), has entered into a proposed settlement with John L. Sweeney and Catherine C. Sweeney (Settlor).

The proposed settlement resolves claims of the Department with the Settlor under HSCA, CERCLA and other applicable law for response costs that have been expended and will be incurred by the Department at the J. C. Cleaners Site (Site) located in Gettysburg Borough, Adams County.

The proposed settlement obligates the Settlor to remit \$15,000 to the Department. The Department believes that the proposed settlement is fair, reasonable, practicable, in the public interest and in furtherance of the statutory goals of HSCA and CERCLA. This settlement is based primarily on the Department's determination that the Settlor cannot pay for all or any substantial portion of response costs incurred by the Department.

For a period of 60 days, beginning with the October 8, 2005, publication date of this notice, the public is invited to review the Consent Order and Agreement, Monday through Friday, from 8 a.m. to 4 p.m., at the Department's Southcentral Region Office, 909 Elmerton Avenue, Harrisburg, PA 17110, by contacting Steven DeMars at (717) 705-4832.

After review, the public may submit written comments on the Consent Order and Agreement before December 9, 2005, by mailing them to Steven DeMars at the Department's Harrisburg Office at the address noted previously. Persons adversely affected by the settlement may also file an appeal from the Consent Order and Agreement to the Environmental Hearing Board.

Questions concerning this notice should be directed to Steven DeMars at the telephone number and address noted previously.

**Settlement under the Hazardous Sites Cleanup Act and Comprehensive Environmental Response, Compensation and Liability Act
 J. C. Cleaners Site, Gettysburg Borough, Adams County**

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites

Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C.A. §§ 9601—9675), has entered into a proposed settlement with Stephen C. Wah (Settlor).

The proposed settlement resolves claims of the Department with the Settlor under HSCA, CERCLA and other applicable law for response costs that have been expended and will be incurred by the Department at the J. C. Cleaners Site (Site) located in Gettysburg Borough, Adams County. The Settlor has agreed to provide ongoing access to the Department for implementation of the remedy.

Based upon information that the Department has obtained concerning the Settlor and the Site and based upon the information certified by the Settlor in the Consent Order and Agreement, the Department has determined that Settlor: (1) did not conduct or permit the generation, transportation, storage, treatment or disposal of any hazardous substances at the Site, and (2) did not contribute to the release or threatened release of hazardous substances at the Site through any act or omission.

The proposed settlement obligates the Settlor to remit \$1 to the Department. The Department believes that the proposed settlement is fair, reasonable, practicable, in the public interest and in furtherance of the statutory goals of HSCA and CERCLA.

For a period of 60 days beginning with the October 8, 2005, publication date of this notice, the public is invited to review the Consent Order and Agreement, Monday through Friday, from 8 a.m. to 4 p.m., at the Department's Southcentral Region Office, 909 Elmerton Avenue, Harrisburg, PA 17110, by contacting Steven DeMars at (717) 705-4832.

After review, the public may submit written comments on the Consent Order and Agreement before December 9, 2005, by mailing them to Steven DeMars at the Department's Harrisburg Office at the address noted previously. Persons adversely affected by the settlement may also file an appeal from the Consent Order and Agreement to the Environmental Hearing Board.

Questions concerning this notice should be directed to Steven DeMars at the telephone number and address noted previously.

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, documenta-

tion 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.

Sharswood Phase II, City of Philadelphia, **Philadelphia County**. Charlene Drake, REACT, 6901 Kingsessing Ave., Philadelphia, PA 19142 on behalf of Bruce Houston, Sharswood II Assoc., LP, Stow Rd., P. O. Box 994, Marlton, NJ 08053 has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil contaminated with lead and PAH. The report is intended to document remediation of the site to meet the Site-Specific Health Standard.

Exxon SS No. 2-0454, Lower Merion Township, **Montgomery County**. Stephanie L. Rose, GES, 410 Eagleview Blvd., Suite 110, Exton, PA 19341 on behalf of C. William Kieser, 420 Conshohocken State Rd., Bala Cynwyd, PA has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with unleaded gasoline. The report is intended to document remediation of the site to meet the Site-Specific Health and Statewide Health Standards.

Capozzi Prop., City of Philadelphia, **Philadelphia County**. Jeffrey K. Walsh, Penn E & R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Robert Rosenthal, Westrum Park Place, LP, 370 Commerce Dr., Ft. Washington, PA 19034 has submitted a Remedial Investigation Report, Risk Assessment and Cleanup Plan concerning remediation of site soil and groundwater contaminated with petroleum compounds, metals, polynuclear aromatic hydrocarbons and other organic compounds. The report is intended to document remediation of the site to meet the Site-Specific Health and Statewide Health Standards.

David Prop., Jeffrey K. Walsh, Penn E & R, Inc., 2755 Bergey Road, Hatfield, PA 19440 on behalf of Robert Rosenthal, Westrum Park Place, LP, 370 Commerce Dr., Ft. Washington, PA 19034 has submitted a Remedial Investigation Report, Risk Assessment Report and

Cleanup Plan concerning remediation of site soil and groundwater contaminated with petroleum compounds, metals, polynuclear aromatic hydrocarbons and other organic compounds. The report is intended to document remediation of the site to meet the Site-Specific Health and Statewide Health Standards.

Tamanend Middle School, Warrington Township, **Bucks County**. Daniel B. Lewis, P. G., Spotts, Stevens & McCoy, 1047 Park Rd., P. O. Box 6307, Reading, PA 19610 on behalf of Michael Nickerson, Central Bucks School Dist., 320 W. Swamp Rd., Doylestown, PA 18901 has submitted a Final Report concerning remediation of site soil contaminated with Nos. 2 and 4 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Penn Bottle Site, City of Philadelphia, **Philadelphia County**. Mark Eschbacher, P. G., RT Environmental Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Tina Norwood, USPS, 4301 Wilson Blvd., Suite 300, Arlington, VA 22203 has submitted a Final Report concerning remediation of site groundwater contaminated with No. 2 fuel oil and leaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

Veeder-Root Company, Allegheny Township, **Blair County**. Axiom Environmental Services, LLC, P. O. Box 20522, Lehigh Valley, PA 18002, on behalf of Veeder-Root Company submitted a Combined Remedial Investigation and Final Report concerning remediation of groundwater and site soils contaminated with gasoline, PCBs and chlorinated hydrocarbons. The reports intend to document remediation of the site to the Statewide Health and Site Specific Standards.

Columbia Gas of PA, a NiSource Company, City of York, **York County**. The RETEC Group, 300 Baker Avenue, Suite 302, Concord, MA 01742, on behalf of Columbia Gas of PA, 200 Civic Center Drive, Columbus, OH 43215, submitted a Final Report concerning remediation of site soils and groundwater contaminated with BTEX, PAHs, PCBs, oil and grease. The report is intended to document remediation of the site to the Site Specific Standard.

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

Ronald Goss 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 Final Report concerning the remediation of site soil and groundwater contaminated with diesel fuel. The report is intended to document remediation of the site to meet Statewide Health Standards.

American Refinery Group, Foster Township, City of Bradford, **McKean County**. Raman Iyer, Chemtura Corp., 199 Benson Rd., Middlebury, CT 06749 on behalf of Stephen Sherk, American Refinery Group, 77 N. Kendall Ave., Bradford, PA 16701 has submitted a Remedial Investigation Report and a Risk Assessment Report concerning the remediation of site soil and groundwater contaminated with volatile hydrocarbons and polycyclic aromatic hydrocarbons. The reports are intended to document remediation of the site to meet Site-Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has received the following plans and reports:

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

Sellersville Ldfl., Sellersville Borough, **Bucks County**. Gary R. Brown, P. E., RT Environmental Svc., Inc., 215 W. Church St., King of Prussia, PA 19406 on

behalf of Bud Motes, Park 10 Assoc., 418 W. Main St., Lansdale, PA 19446 has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site soil contaminated with TCE and groundwater contaminated with volatile organics. The Remedial Investigation Report and Cleanup Plan was disapproved by the Department on June 13, 2005, due to deficiencies.

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 19106 has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 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 September 21, 2005.

Atlantic Metals Corp. Prop., City of Philadelphia, **Philadelphia County**. Donald A. Coleman, P. G., Penn E & R, 2755 Bergey Rd., Hatfield, PA 19440 on behalf of James Thackray, Orthodox St. Prop., LLC d/b/a Thackray Crane Rental, Inc., 2071 Byberry Blvd., Philadelphia, PA 19118 has submitted a Baseline Environmental Report concerning the remediation of site soil and groundwater contaminated with lead, selenium, metal and semi-volatiles. The Baseline Environmental Report was approved by the Department on September 20, 2005.

Lydia Woolman Wright Estate, East Nantmeal Township, **Chester County**. Joseph Diamadi, Jr., P. G., Marshall Geoscience, Inc., 170 E. First Ave., Collegeville, PA 19426 on behalf of Jerry Goldberg, Mellow Financial Corp. has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 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 September 20, 2005.

508 Stidman Dr. Site, Springfield Township, **Delaware County**. Mark Eschbacher, RT Environmental Svc., Inc., 215 Church Rd., King of Prussia, PA 19406 on behalf of Christine Madison, Madison Prop. Mgmt., 20 Ardmore Lane, Chadds Ford, PA 19317 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 20, 2005.

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

Sun Pipe Line—Stoltzfus Farm Leak Site, Upper Leacock Township, **Lancaster County**. Goundwater & Environmental Services, 410 Eagleview Boulevard, Suite 110, Exton, PA 19341, on behalf of Sunoco, Inc., Post Road and Blueball Avenue, Marcus Hook, PA 19061, Mervin Stoltzfus, 2440 Creek Hill Road, Lancaster, PA 17601 and Jonas Zook and Daniel Zook, 729 Hartman Station Road, Lancaster, PA 17601, submitted a Remedial Investigation, Risk Assessment, Cleanup Plan and a Final Report concerning the remediation of site soils and groundwater contaminated with petroleum product. The Final Report demonstrated attainment of the Site-Specific and residential Statewide Health Standards and was approved by the Department on September 20, 2005.

Lime Springs Farm, East Hempfield and West Hempfield Townships, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster, PA 17602, on behalf of Marilyn Berger, 22D East Roseville

Road, Lancaster, PA 17601 and the Stauffer Charitable Trust, 901 Roherstown Road, Lancaster, PA 17601, submitted a Final Report concerning the remediation of site soils contaminated with No. 2 fuel oil encountered during removal of a fuel oil tank. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on September 22, 2005.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. 100620. BFI—Imperial Landfill, BFI Waste Systems of North America, Inc., 11 Boggs Road, P. O. Box 47, Imperial, PA 15126. Operation of a municipal waste landfill in Findlay Township, **Allegheny County**. Permit Update issued in the Regional Office on September 22, 2005.

Permit revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 400554. Presbyterian Medical Center, 51 N. 39th St., Philadelphia, PA 19104, City of Philadelphia. Waste incinerator clean closed. Permittee requests permit revocation and bond release. Bond to be released upon action becoming final. The permit was revoked by the Southeast Regional Office on September 20, 2005.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

09-302-086GP: Arkema, Inc. (2000 Market Street, Philadelphia, PA 19103) on September 22, 2005, to operate a small gas and No. 2 oil combustion in Bristol Township, **Bucks County**.

AQ-SE-0019: Reading Materials, Inc. (2052 Lucon Road, P. O. Box 1467, Skippack, PA 19474) on September 27, 2005, to operate a portable processing plant in East Bradford Township, **Chester County**.

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

35-302-117GP1: Dempsey Uniform and Linen Supply (1200 Mid Valley Drive, Jessup, PA 18434) to con-

struct and operate a Cleaver Brooks boiler at their facility in Jessup Borough, **Lackawanna County**.

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

GP-42-207: M and M Royalty—Dent Station (SR 219, Big Run, PA 15715) on September 30, 2005, to operate a natural gas fired compressor engine in Lafayette Township, **McKean County**.

GP-42-212: M and M Royalty—SR 59 Station (SR 59, Lewis Run, PA 16738) on September 30, 2005, to operate a natural gas fired compressor engine in Lafayette Township, **McKean 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.

46-0200: John Middleton, Inc. (418 West Church Road, King of Prussia, PA 19406) On September 22, 2005, to operate a top dressing materials in Upper Merion Township, **Montgomery County**.

09-0185: Bucks County Roses, Inc. (1235 Buck Road, Holland, PA 18966) on September 27, 2005, to operate a heat input boiler in Northampton Township, **Bucks County**.

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

40-317-024: Gruma Corp. (Mission Foods, 15 Elmwood Road, Mountaintop, PA 18707) on September 15, 2005, to construct snack food processing operations at their facility in Wright Township, **Luzerne County**.

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

62-0017M: United Refining Co. (15 Bradley Street, Warren, PA 16365) on September 19, 2005, to replace a burner on the DHT1 heater with new Low NOx Burner rated at 9 mmBtu/hr at their refinery in the City of Warren, **Warren County**. The company is a Title V facility.

61-185B: Heath Oil Co. (SR 8, Barkeyville, PA 16038) on September 16, 2005, to modify plan approval 61-185A conditions with regards to removal of 40 CFR 60 Subpart J (Petroleum Refineries) requirements for the Volcanic and Val Verde units in Barkeyville Borough, **Venango County**. This is a State-only facility.

24-083G: Carbone of America Ind. Corp. (215 Stackpole Street, St. Marys, PA 15857) on September 19, 2005, for construction of Carbon Baking Kiln No. 35 with a thermal oxidizer and connecting to existing Scrubber B in St. Marys City, **Elk County**. This is a Title V facility.

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.

46-0031B: SmithKline Beecham d/b/a Glaxo-SmithKline (1250 South Collegeville Road, Collegeville, PA 19426) on September 22, 2005, to operate two MW No. 2 fuel oil-fired generators in Upper Providence Township, **Montgomery County**.

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

65-302-071: Koppers Industries, Inc. (436 Seventh Avenue, Pittsburgh, PA 15219) on September 21, 2005, to modify two coke oven gas/natural gas-fired boilers at their Koppers, Inc. Monessen Coke Works in Monessen, **Westmoreland County**. This plan approval is a Title V Facility. The Department of Environmental Protection (Department) has modified the Plan Approval to revise monitoring, recordkeeping and reporting requirements not previously established in the original Plan Approval 65-302-071. The modified Plan Approval conditions are:

1. This Plan Approval Modification reflects revised monitoring, recordkeeping and reporting requirements not previously established in the original Plan Approval 65-302-071 issued for the construction of two coke oven gas/natural gas-fired boilers at the Koppers, Inc. Monessen Coke Works in Monessen (Koppers), Westmoreland County. (25 Pa. Code §§ 127.1 and 127.12(a)(5)).

2. These boilers are subject to the New Source Performance Standards for industrial-commercial-institutional steam generating units promulgated in 40 CFR 60.40b, Subpart Db. In the event that the Department receives notice that the United States Environmental Protection Agency (EPA) has determined that this provision is not applicable to these boilers, Koppers may apply for revision of this Plan Approval to reflect this determination. In such event, the Department will then modify this Plan Approval to remove or revise requirements that are based upon 40 CFR 60.40b, Subpart Db.

3. A Continuous Emission Monitoring System (CEMS) in the common exhaust stack venting the combined emissions from both boilers shall be installed, maintained, operated and approved in accordance with the Department's Continuous Source Monitoring Manual and in accordance with the requirements of this Modified Plan approval, the applicable requirements of 25 Pa. Code and 40 CFR 60.40. Koppers shall submit all necessary materials for Department Phase 1 approval within 30 days of the effective date of this Plan Approval and shall install and begin operation of the CEMS within 180 days of receiving Department approval. Koppers shall complete the requirements for Phase III approval of the CEMS within 270 days of receiving Department Phase I approval. (40 CFR 60, 25 Pa. Code §§ 127.12b(a), 127.12b(b) and 139.52(1)).

4. Continuous monitoring is required to be performed for the following (40 CFR 60, 25 Pa. Code §§ 127.12(a) and 127.12(b)).

- A. SOx (as SO₂)
- B. NOx (as NO₂)

C. Exhaust gas flow rate. If Koppers can demonstrate to the Department that the flow rate monitor is providing inaccurate results, Koppers may utilize f factors to calcu-

late the exhaust flow rate and shall submit (within 30 days of Koppers' demonstration) an engineering study explaining the causes for the flow rate monitor's inaccuracies and necessary corrective action. (40 CFR 60, 25 Pa. Code § 127.12(a) and (b).)

5. The Permittee shall calculate, measure and record the daily volume of Coke Oven Gas (COG) produced and burned using the following procedure (25 Pa. Code §§ 127.12(a) and 127.12(b)).

A. COG Generated

$$\text{COG generated (Vf)} = \frac{\text{tons/day of coal charged} \times 12,525 \text{ scf of COG}}{\text{Ton coal charged}}$$

$$= X \text{ scf of COG generated/day.}$$

B. COG Burned

The Permittee shall continuously measure and record the daily volume of COG burned in the boilers.

C. Annual Flow Tests:

The Permittee shall conduct 24 hour flow tests on an annual basis to confirm the default gas flow value used in A. (based on historical test data from 1998-2002) for the volume of COG currently generated/ton of coal charged (Vf). If the results of this comparison indicate greater than a 10% deviation (plus or minus) from the current annual COG generation rate, the Permittee must notify the Department in writing within 2 weeks including the test results. The Department will determine at that time whether adjustments are necessary to the current annual COG generation rate and reported emission rates. The Permittee must submit a flow testing protocol to the Department within 90 days of Plan Approval issuance for review and approval. The protocol must provide the details and conditions under which these flows will be tested and confirmed.

6. Plan Approval No. 65-305-048, condition 21 is hereby amended as follows:

The applicable limit on sulfur compounds expressed as equivalent H₂S contained in the COG burned anywhere at the entire facility is 45 gr H₂S/100 DSCF of COG (25 Pa. Code § 127.25.)

A. Prior to installation and use of the CEMS, compliance with the 45 gr H₂S/100 DSCF COG limit shall be established based on the procedure currently in practice of COG sampling and lab analysis using the Tutweiler method. Koppers shall take three samples consecutively. If the first sample analyzed meets the 45 gr H₂S/100 dscf standard, then Koppers should report that value. If not, Koppers may analyze the second sample. If this sample meets the 45 gr H₂S/100 dscf standard, then Koppers should report that value. If not, Koppers may analyze the third sample. If this sample meets the 45 gr H₂S/100 dscf standard, then Koppers should report that value. If none of the samples meets the 45 gr H₂S/100 dscf standard, Koppers should report a violation. Analyses of the COG for H₂S shall be by the Tutweiler method (UOP Method 9-59, as detailed in 40 CFR 60.648).

B. Upon installation/operation of the CEMS, compliance with the 45 gr H₂S/100 DSCF COG limit shall be established in accordance with the following:

The hourly average of SO_x (as SO₂) from the SO_x CEMS shall be divided by the actual volume of COG burned in the boilers in that same hour as indicated by the COG gas flow meters at the boilers and expressed as equivalent gr H₂S/100 DSCF COG. Compliance shall be

determined on a 24-hour basis in accordance with the Department's Continuous Source Monitoring Manual. (25 Pa. Code § 127.12(b))

C. The requirement to achieve and demonstrate 90% SO₂ control efficiency applies to the new boilers only. Prior to installation and use of the CEMS compliance with the 90% SO₂ control efficiency limit shall be based on the calculation described in the Addendum using the samples set forth in 8.A (Tutweiler procedure) daily sulfur in fuel (COG) analyses and the COG orifice flow monitor to estimate daily actual emissions ("B_A" in Addendum equation) of SO_x (as SO₂) from the boilers.

D. Compliance with the 90% SO₂ control efficiency limit shall be demonstrated on a 30-day rolling average basis in accordance with the calculation previously supplied to Koppers and as described in the Addendum attached to these Plan Approval conditions. (40 CFR 60.45b)

7. The following emission limits shall apply:

A. 63 lbs/hr SO_x (as SO₂) and 275 tons SO_x/yr from the boilers. (25 Pa. Code § 123.23.)

B. The data from the SO_x CEMS and appropriate conversion factors shall be used for demonstrating compliance with the lbs./hr. limit and be determined on a 24-hour block basis in accordance with the Department's Continuous Source Monitoring Manual. (25 Pa. Code § 127.12(b).)

C. Compliance with the ton/year limit shall be determined on a 12-month rolling average basis (the average of the valid hourly data from the previous 12 months). (25 Pa. Code § 127.12(b)).

D. The NO_x (as NO₂) emissions from the boilers when COG is being burned in the boilers shall not exceed the rate determined in accordance with the procedure described in 40 CFR 60.44b(f). (The Department acknowledges that 40 CFR 60.44b(f) is not an applicable requirement.) In the interim, an emission limit of 0.5 lb/mmBtu shall apply. (40 CFR 60.44(b))

i. Within 210 days of the final Phase III approval of the CEMS units, the Permittee shall submit emissions data in accordance with the Department's Continuous Source Monitoring Manual in a source-specific NO_x emissions limit petition to the Department in accordance with the procedure described in 40 CFR 60.44b(f). Upon approval the facility-specific limit for NO_x (lb/mm Btu) will be considered to be incorporated by reference into this Plan Approval and become an ongoing limitation during the use of COG in the boilers.

ii. The data from the NO_x CEMS and appropriate conversion factors shall be used for demonstrating compliance. Compliance with the lbs/mm Btu limit shall be determined on a 30-day rolling average basis in accordance with the Department's Continuous Source Monitoring Manual.

E. The NO_x (as NO₂) emissions from the boilers when Natural Gas is being burned in the boilers shall not exceed 0.1 lb NO_x per mmBtus. (40 CFR 60.44b)

i. The Permittee shall demonstrate compliance with this limit within 180 days of issuance of this Plan Approval using the appropriate reference method and annually thereafter. Once the Phase III approval of the NO_x CEMS is issued, the data from the NO_x CEMS and appropriate conversion factors shall be used for demonstrating compliance. The emission rate shall be determined by using the CEMS data, natural gas fuel flow

monitors for the boilers and a heating value of natural gas of 1,050 Btus per standard cubic foot. During the test, compliance may be established by firing each boiler individually or both boilers simultaneously while burning gas only at a minimum of 80% load. (25 Pa. Code § 127.12(b))

F. The NO_x (as NO₂) hourly emissions from the boilers when COG and natural gas are being burned in the boilers shall not exceed the rate determined in accordance with 40 CFR 60.44 b(f).

i. In the event COG and Natural Gas are burned concurrently, Koppers shall calculate the COG: natural gas ratio being used in the boilers on a 30-day rolling average basis.

ii. The data from the NO_x CEMS and appropriate conversion factors shall be used for demonstrating compliance. The emission rate shall be determined by using the CEMS data, COG and natural gas fuel flow data for the boilers and a heating value of COG and natural gas of 502 and 1050 Btus/SCF respectively. (25 Pa. Code § 127.12(b), 40 CFR 60.44b(b)).

iii. Depending upon the coal supply used, the heating value of COG may change. If Koppers reasonably believes that the heating value of COG is significantly different than SO₂ Btu/SCF, Koppers shall submit data in support of a more appropriate heating value and shall seek an amendment of this Plan Approval.

G. The opacity of the visible emissions from the boilers shall not exceed the limitations set forth in 40 CFR 60.43b and shall not exceed 25 Pa. Code § 123.41. Koppers shall perform visual observations for opacity using Method 9. If, within 180 days of Plan Approval issuance, Koppers fails to obtain written approval from EPA to continue to use visual observations, Koppers shall install and begin operation of a CEMS to monitor opacity within 270 days of Plan Approval issuance.

H. Particulate matter emissions from the boilers shall not exceed the limitation set forth in 40 CFR 60.43b.

8. In accordance with 40 CFR 60.4, copies of all requests, reports, submittals and other communications shall be forwarded to both the EPA and the Department at the addresses that follow unless otherwise noted:

Director
Air Toxics and Radiation
United States Environmental Protection Agency
Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Regional Program Manager
Air Quality
Department of Environmental Protection
400 Waterfront Drive
Pittsburgh, PA 15222-4745

9. Stack testing shall be performed to satisfy the approval requirements of the Continuous Source Monitoring Manual. After the CEMs have been approved, the CEMs shall be used to demonstrate compliance with emission limits. Pretest protocols for all stack tests must be submitted to the Department in writing at least 60 days in advance of the test and Koppers shall notify the Department at least 2 weeks prior to performance of any stack tests so that an observer may be present. (25 Pa. Code § 127.12b)

10. Two copies of the stack test results shall be submitted to the Department within 60 days of completion of the tests. (25 Pa. Code § 127.12b)

11. In addition to reporting requirements, records of all measurements shall be retained for at least 2 years and made available to the Department upon request. (25 Pa. Code § 127.12b)

Addendum to Koppers, Inc.; Plan Approval Minor Modification

With reference to Condition 5, this addendum is provided as a basis for calculating the percent control efficiency for SO_x (as SO₂) in accordance with the New Source Performance Standard.

The potential daily emission rate from the boilers shall be calculated based on the daily coal charge rate to the facility and the average sulfur content of the coal for that day multiplied by the following fraction—the daily volume of coke oven gas burned in the boilers divided by the daily volume of coke oven gas burned throughout the entire facility. The actual daily emission rate from the boilers shall be calculated based on output from the SO_x (as SO₂) continuous emission monitoring system and a daily control efficiency shall then be calculated as the daily emission rate from the boilers divided by the potential daily emission rate from the boilers. Compliance shall be demonstrated on a 30-day rolling average basis.

This method for determining compliance with 40 CFR 60 Subpart Db shall not be considered precedential to other affected facilities and has been specifically developed for the Koppers Monessen Coke Works only.

$$1. CE = 1 - \frac{B_A}{B_P} > .90$$

$$2. B_P = C \times S \times \frac{MW_{SO_2}}{MWS} \times \frac{VB}{V_F}$$

CE	= Control Efficiency
B _A	= Combined Boiler(s) Actual Emission Rate in lbs/day as determined by the Continuous Emission Monitoring System
B _P	= Combined Boiler(s) Potential Emission Rate in lbs SO ₂ /day
C	= Coal charge rate to the entire facility in lbs coal/day
S	= Sulfur in coal as a decimal
MW SO ₂	= Molecular weight of SO ₂ = 64
MWS	= Molecular weight of sulfur = 32
V _B	= Daily volume of coke oven gas burned in the boilers (units in DSCFD)
V _F	= Daily volume of coke oven gas burned throughout the entire facility (units in DSCFD)

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

10-346A: Scrap Salvage and Surplus, Inc. (690 Glenwood Way, Butler, PA 16001) on September 30, 2005, to install a torch cutting facility with a movable building and baghouse in Center Township, **Butler County**. This is a State-only facility.

37-306A: Atlantic States Materials of PA, Inc.—Taylor Run Mine (Route 106, Slippery Rock, PA 16057) on August 31, 2005, to construct a sand and gravel processing plant in Scott Township, **Lawrence County**.

10-284C: Seneca Landfill, Inc. (Hartman Road, Mars, PA 16046) on August 31, 2005, to modify the gas management system in Jackson Township, **Butler County**.

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

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

23-00037: Sunoco Partners Marketing and Terminal, LP (1801 Market Street—3/10 PC, Philadelphia, PA 19103-1699) on September 26, 2005, to operate a renewal of the facility Title V Operating Permit in Tinicum Township, **Delaware County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

67-05047: Republic Service of PA, LLC (4400 Mt. Pisgah Road, York, PA 17402) on August 31, 2005, to operate a municipal landfill in Windsor and Lower Windsor Townships, **York County**. This is a renewal of the Title V Operating Permit.

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

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

09-00158: Allied Cremation, Inc. (864 Bristol Pike, Bensalem, PA 19020) on September 22, 2005, to operate an incinerator at a crematory to the existing facility natural minor operating permit in Bensalem Township, **Bucks County**.

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

06-03011: Joseph D. Giles Funeral Home, Inc. (21 Chestnut Street, Mohnton, PA 19540) on September 19, 2005, to operate two human crematories controlled by secondary combustion chambers in the Borough of Mohnton, **Berks County**. This is a renewal of the operating permit.

36-03070: Mark Line Industries (502 Alexander Drive, Ephrata, PA 17522-9652) on September 21, 2005, for a natural minor operating permit renewal in Ephrata Township, **Lancaster County**. This is a renewal of the operating permit.

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

43-00326: Buckeye Leasing, Inc.—City Slag Quarry Plant (300 Ohio Street Extension, Hermitage, PA 16148) on September 21, 2005, to operate a nonmetallic mineral processing plant at City of Hermitage, **Mercer County**. The significant sources are slag processing operations and diesel generator.

42-00182: Allegheny Store Fixtures Inc. (57 Holley Avenue, Bradford, PA 16701) on September 22, 2005, for a Natural Minor operating permit for their Bradford facility in the City of Bradford, **McKean County**.

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

S05-008: WMCH, Inc. (3300 Henry Avenue, Philadelphia, PA 19129) on September 12, 2005, to operate a commercial hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 650 Hp boilers and three emergency generators.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

Coal Permits Actions

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

03990105 and NPDES Permit No. PA0202592. Seven Sisters Mining Co., Inc. (P. O. Box 300, U. S. Route 22, Delmont, PA 15626-0300). Permit renewal issued for continued reclamation only of a bituminous surface mining site located in South Bend and Burrell Townships, **Armstrong County**, affecting 206.2 acres. Receiving streams: UNT to Fagley Run and to Fagley Run. Application received: July 25, 2005. Reclamation-only renewal issued: September 20, 2005.

65030102 and NPDES Permit No. PA0250465. Amerikohl Mining, Inc. (P. O. Box 427, Acme, PA 15610). Permit issued for commencement, operation and reclamation of a bituminous surface mining site located in Ligonier Township, **Westmoreland County**, affecting 71.4 acres. Receiving streams: UNT to Loyalhanna Creek and Fourmile Run. Application received: August 12, 2003. Permit issued: September 23, 2005.

26970103 and NPDES Permit No. PA0201961. Piccolomini Contractors, Inc. (P. O. Box 4, Waltersburg, PA 15488). Permit revised to add 4.5 acres to the permit area at a surface mining site located in Franklin Township, **Fayette County**, now affecting 53.0 acres. Receiving streams: UNTs to Redstone Creek to the Monongahela River. Application received: April 21, 2005. Revised permit issued: September 26, 2005.

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

33980110 and NPDES Permit No. PA0227901. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767) Revision to an existing bituminous surface strip operation in Perry Township, **Jefferson County** affecting 137.0 acres. Receiving streams: UNT to Mahoning Creek. Revision to add 14.7 acres to the permit. Application received: May 23, 2005. Permit issued: September 16, 2005.

24900105 and NPDES Permit No. PA0208108. Tamburlin Bros. Coal Co., Inc. (P. O. Box 1419, Clearfield, PA 16830). Renewal of an existing bituminous surface strip and beneficial use of coproduct, shale and sandstone removal operation in Horton Township, **Elk County** affecting 30.0 acres. Receiving streams: UNT to Johnson Run to Johnson Run. Application for reclamation only. Application received: July 11, 2005. Permit issued: September 22, 2005.

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

17980127 and NPDES Permit No. PA0238201. Waroquier Coal Co. (P. O. Box 128, Clearfield, PA 16830). Renewal of an existing bituminous surface mining permit in Lawrence Township, **Clearfield County** affecting 53.0 acres. Receiving streams: UNTs to Hogback Creek. Application received: July 11, 2005. Permit issued September 9, 2005.

17900143 and NPDES Permit No. PA0206458. TDK Coal Sales, Inc. (P. O. Box 259, Brockway, PA 15824). Renewal of an existing bituminous surface mining permit in Penn and Brady Townships, **Clearfield County** affecting 342.5 acres. Receiving streams Irish Run and UNTs of Irish Run to Irish Run; Irish Run to Curry Run; Curry Run to the West Branch of the Susquehanna River; West Branch of the Susquehanna River to the Susquehanna River. Renewal application received: July 21, 2005. Permit issued: September 7, 2005.

17030112 and NPDES Permit No. PA0243566. U. S. Operating Services Co. (2151 Libson Road, Kennerdell, PA 16374), commencement, operation and restoration of a surface mining permit in Chest Township, **Clearfield County** affecting 83.9 acres. Receiving streams: UNT to North Camp Run to Chest Creek to the West Branch Susquehanna River classified for the following uses: CWF. Application received: September 9, 2003. Permit issued: September 20, 2005.

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

54840205R4. Hegins Mining Company (290 Swatara Road, Tremont, PA 17981), renewal of an existing coal refuse reprocessing operation in Reilly Township, **Schuylkill County** affecting 63.6 acres, receiving stream: none. Application received March 10, 2005. Renewal issued September 22, 2005.

54813224R4. Richard E. Tallman (31 Schwalm Road, Tower City, PA 17980), renewal of an existing coal refuse reprocessing operation in Butler Township, **Schuylkill County** affecting 9.6 acres, receiving stream: none. Application received March 25, 2005. Renewal issued September 22, 2005.

19793201R4. Gilberton Coal Company (10 Gilberton Road, Gilberton, PA 17934), renewal of an existing coal refuse reprocessing operation in Conyngham Township, **Columbia County** affecting 3.4 acres, receiving stream: none. Application received January 11, 2005. Renewal issued September 23, 2005.

Noncoal Applications Returned

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

52040301. ER Linde Construction Corp. (R. R. 6, Box 6825, Honesdale, PA 18431), commencement, operation and restoration of a quarry operation in Lackawaxen Township, **Pike County** affecting 83.5 acres, receiving

stream: Little Blooming Grove Creek. Application received March 31, 2004. Application returned September 21, 2005.

Noncoal Permits Actions

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

63800201 and NPDES Permit No. PA0125857. LaFarge North America, Inc. (555 Frost Road, Suite 100, Streetsboro, OH 44241). NPDES permit renewal issued for continued reclamation only of a noncoal surface mining site located in Jefferson Township, **Washington County**, affecting 85.05 acres. Receiving stream: Harmon Run. Application received: June 30, 2005. NPDES Renewal issued: September 23, 2005

02850301 and NPDES Permit No. PA0200204. LaFarge North America, Inc. (555 Frost Road, Suite 100, Streetsboro, OH 44241). NPDES permit renewal issued for continued reclamation only of a noncoal surface mining site located in West Mifflin Borough, **Allegheny County**, affecting 68.2 acres. Receiving stream: Lewis Run. Application received: June 30, 2005. NPDES Renewal issued: September 23, 2005.

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

08980801. James K. Mattocks (R. R. 3, Box 175, Troy, PA 16947), noncoal mining operation in Troy Township, **Bradford County**. Restoration of 0.5 acre completed. Receiving stream: Sugar Creek to Susquehanna River. Application received: July 5, 2005. Final bond release: July 22, 2005.

08030812. Clifford C. Davis, Jr. (14 Newland Drive, Troy, PA 16947), noncoal mining operation in Troy Township, **Bradford County**. Restoration of 1.0 acre completed. Receiving stream: UNT to Fall Brook. Application received: June 23, 2005. Final bond release: August 22, 2005.

08052801. Daggett Sand & Gravel, Inc. (R. R. 2, Box 250, Millerton, PA 16936), commencement, operation and restoration of a small (sand and gravel) surface mining permit in Wells Township, **Bradford County** affecting 5.0 acres. Receiving streams: Seeley Creek; Chemung River. Application received: April 12, 2005. Permit issued September 13, 2005.

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

58040301. L & D Stoneworks, Inc., (R. R. 5 Box 112M, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Middletown Township, **Susquehanna County** affecting 29.0 acres. Receiving stream: none. Application received: January 28, 2004. Permit issued September 20, 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.

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

09054013. Demtech (65 Bald Mountain Road, Dubois, WY 82513), demolition blasting for Smoke Stacks at the

Horizon Business Center in Bensalem Township, **Bucks County** with an expiration date of November 15, 2005. Permit issued September 19, 2005.

21054164. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Summerhill in Silver Spring Township, **Cumberland County** with an expiration date of July 31, 2006. Permit issued September 19, 2005.

35054115. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting for Harmony Hill Development in Moscow Borough, **Lackawanna County** with an expiration date of September 30, 2006. Permit issued September 21, 2005.

35054116. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Scranton Motor Parts in Jessup Borough, **Lackawanna County** with an expiration date of September 22, 2006. Permit issued September 21, 2005.

36054151. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for MillCreek in East and West Lampeter Townships, **Lancaster County** with an expiration date of September 30, 2006. Permit issued September 21, 2005.

39054516. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Arcadia Park in Weisenberg Township, **Lehigh County** with an expiration date of September 15, 2005. Permit issued September 21, 2005.

46054134. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting for Weber Tract Subdivision in Lower Gwynedd Township, **Montgomery County** with an expiration date of December 10, 2005. Permit issued September 21, 2005.

36054152. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Manor Heights Development in Manor Township, **Lancaster County** with an expiration date of September 30, 2006. Permit issued September 22, 2005.

36054153. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Thyme & Season Catering in East Lampeter Township, **Lancaster County** with an expiration date of September 30, 2006. Permit issued September 22, 2005.

36054154. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Brookview Estates in Adamstown Borough and East Cocalico Township, **Lancaster County** with an expiration date of September 30, 2006. Permit issued September 22, 2005.

36054155. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Congregational Bible Church in East Donegal Township, **Lancaster County** with an expiration date of September 30, 2005. Permit issued September 22, 2005.

36054156. Gerlach's Drilling & Blasting (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Penn Manor School Maintenance Building in Manor Township, **Lancaster County** with an expiration date of September 30, 2006. Permit issued September 22, 2005.

36054157. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Nolt Dental Office in Earl Township, **Lancaster County** with an expiration date of December 30, 2005. Permit issued September 22, 2005.

38054125. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for ISM Construction in Heidelberg Township, **Lebanon County** with an expiration date of December 30, 2005. Permit issued September 22, 2005.

21054163. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Stratton Chase in Silver Spring Township, **Cumberland County** with an expiration date of September 30, 2006. Permit issued September 23, 2005.

21054165. Newville Construction Services, Inc. (408 Mohawk Road, Newville, PA 17241), construction blasting for Oakwood Development in West Pennsboro Township, **Cumberland County** with an expiration date of September 30, 2006. Permit issued September 23, 2005.

21054166. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013), construction blasting for CV Motors in Silver Spring Township, **Cumberland County** with an expiration date of December 30, 2005. Permit issued September 23, 2005.

67054138. M & J Explosives, Inc. (P. O. Box 608, Carlisle PA 17013), construction blasting for Sheridan Manor in Springettsbury Township, **York County** with an expiration date of September 30, 2006. Permit issued September 23, 2005.

48054009. Bernard J. Hasara (1125 East Mahanoy Avenue, Mahanoy City, PA 17948) and MF Ronca & Sons, (179 Mikron Road, Bethlehem, PA 18020), construction blasting at Lower Nazareth Commercial Park in Lower Nazareth Township, **Northampton County** with an expiration date of May 31, 2006. Permit issued September 26, 2005.

06054013. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Autumns Edge Subdivision in Spring Township, **Berks County** with an expiration date of September 30, 2006. Permit issued September 26, 2005.

06054014. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Stonehedge Subdivision in Bern Township, **Berks County** with an expiration date of September 30, 2006. Permit issued September 26, 2005.

23054008. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting at Traditions Ridley Creek in Brookhaven Borough, **Delaware County** with an expiration date of October 1, 2006. Permit issued September 26, 2005.

36054028. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Trails at Strasburg Subdivision in Strasburg Borough, **Lancaster County** with an expiration date of September 30, 2006. Permit issued September 26, 2005.

36054029. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Patterson Dental Commercial Subdivision in Mount Joy Borough, **Lancaster County** with an expiration date of September 30, 2006. Permit issued September 26, 2005.

36054030. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Manor Oaks Subdivision in Manor Township, **Lancaster County** with an expiration date of September 30, 2006. Permit issued September 26, 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.

E15-738. Uwchlan Township, 715 N. Ship Road, Exton, PA 19341-1945, Uwchlan Township, **Chester County**, ACOE Philadelphia District.

To perform the following water obstruction associated with the restoration of a UNT of the East Branch of Brandywine Creek (HQ-TSF-MF) and the management of an existing pond to remediate algal blooms:

1. Place fill in 0.26 acre body of water and remove outlet works from existing nonjurisdictional dam (Pond B).

2. Relocate and restore about 125 linear feet of water-course.

3. To construct and maintain wetlands adjacent to restored stream channel.

4. Modify an existing nonjurisdictional dam (Pond A) by constructing and maintaining an intake structure and lift pump along the existing stone dam breast.

5. Construct and maintain 6-inch SCH 40 PVC outfall structure to wetland area noted in Item 3.

The site is located about 500 feet west of intersection of Shelmire Road and Welsh Ayres Way (Downingtown, PA, USGS Quadrangle N: 8.50 inches, W: 11.75 inches).

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)).

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

E35-379. Lackawanna River Basin Sewer Authority, P. O. Box 9068, Dickson City, PA 18519-9068. Dickson City Borough, **Lackawanna County**, Army Corps of Engineers Baltimore District.

To remove an existing outfall structure and to construct and maintain an outfall structure consisting of a 36-inch ductile iron pipe, concrete endwall, riprap apron and backflow preventor and to construct and maintain a 17 foot by 32 foot underground concrete chlorine contact basin and associated piping in the floodway of the Lackawanna River (HQ-CWF) for approximately 65 LF. The project is located approximately 200 feet southeast of the intersection of Eagle Lane and Enterprise Street at the Throop Wastewater Treatment Plant CSO Diversion Chamber (Olyphant, PA Quadrangle N: 15.7 inches; W: 15.9 inches). (Subbasin: 05A)

E35-383. Benton Township, P. O. Box 29, Fleetville, PA 18420. Benton Township, **Lackawanna County**, Army Corps of Engineers Baltimore District.

To authorize previously constructed water obstructions and encroachments associated with the Gritman Road Widening Project. They include the placement of fill in 0.02 acre of EV PEM wetland; the removal of an existing structure; and the construction and maintenance of a road crossing of a tributary to South Branch Tunkhannock Creek (CWF) consisting of a 24-inch diameter by 70 LF HDPE pipe. The project is located along Gritman Road (TR501) immediately south of its intersection with SR 0107 (Dalton, PA Quadrangle N: 17.5 inches; W: 5.3 inches). (Subbasin: 04F)

E58-261. Carole A. DeMaree, 1075 Quaker Lake Road, Brackney, PA 18812. Silver Lake Township, **Susquehanna County**, Army Corps of Engineers Baltimore District.

To maintain a house that partially extends above Quaker Lake. The portions of the structure that extend above the lake are a cantilevered dock, and balconies and roof above the dock, occupying a footprint of approximately 700 square feet and extending approximately 12 feet lakeward from the shoreline. The project is located along the northern shoreline of Quaker Lake (Laurel Lake, PA-NY Quadrangle N: 19.1 inches; W: 5.7 inches). (Subbasin: 04E)

Cambria District: Environmental Program Manager, 286 Industrial Park Rd, Ebensburg, PA 15931-4119.

E43-09-001. Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria Office, 286 Industrial Park Rd., Ebensburg, PA 15931. Abandoned Mine Land Reclamation Project, in Worth and Jackson Townships, **Mercer County,** Pittsburgh ACOE District.

The applicant proposes to backfill an abandoned surface mine, which includes a total of 1,500 linear feet of dangerous highwall. The project will include the backfilling of: (1) 2.06 acres of PEM wetland; (2) 1.03 acres of open water; (3) 2.06 acres of PEM replacement wetland will be constructed onsite to provide mitigation for wetland impacts; (4) 0.41 acre of open water will also be constructed onsite to mitigate for open water impacts. The project will directly impact 2.06 acres of wetland and 1.03 acres of open water. 2.06 acres of replacement wetland and 0.41 acre of open water will be utilized to compensate for wetland water body impacts. (Sandy Lake Quadrangle N: 4.25 inches, W: 13.5 inches).

ENVIRONMENTAL ASSESSMENTS

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

EA21-003CO. Scott Hench, 251 Scheaffer Road, Carlisle, PA 17013 Middlesex Township, **Cumberland County** ACOE Baltimore District.

Project proposes to operate and maintain an existing nonjurisdictional dam across a tributary to Spring Run (WWF) impacting approximately 475 linear feet of stream channel. The dam is located approximately 1,400 feet Southeast of the intersection of SR 944 and Sheaffer Road (T506) in Middlesex Township, Cumberland County. (Shermansdale, PA Quadrangle N: 3.5"; W: 7.0")

D11-002EA and D11-003EA. Highland Sewer and Water Authority, 120 Tank Drive, Johnstown, PA 15904 Washington Township, **Cambria County,** ACOE Pittsburgh District.

Project proposes to breach and remove Bear Rock No. 1 Dam and Bear Rock No. 2 Dam across Bear Rock Run (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The project will restore approximately 1,600 feet of stream channel. The dams are located approximately 2.1 miles southeast of the town of Lily (Cresson, PA Quadrangle, N: 6.35 inches, W: 11.5 inches) (Cresson, PA Quadrangle, N: 6.8 inches, W: 11.6 inches).

STORAGE TANKS

RELEASE DETECTION VARIANCE

The following variance from release detection regulations under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and 25 Pa. Code Chapter 245, Subchapter E has been issued by the Bureau of Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

Variance No.	Applicant Name & Address	County	Municipality	Tank Type	Tank Capacity
U-05-001	Ron Kepner Bucks County Water and Sewer Authority 1275 Almshouse Road Warrington, PA 18976	Bucks	Doylestown Township	Hazardous—Sodium Hypochlorite	6,000 gallons

The pressure and flow rate of the system were insufficient to allow certified equipment to meet the release detection requirements of 25 Pa. Code § 245.445. A variance was granted to use an interstitial monitoring system that will detect a release in the minimum amount of time without allowing regulated substance to enter the soil.

SPECIAL NOTICES

Drinking Water State Revolving Fund

Special notice under the Federal Safe Drinking Water Act

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

Project Location:

Applicant	Applicant Address	County
Aqua Pennsylvania, Inc.	204 East Sunbury Street Shamokin, PA 17872	Luzerne and Schuylkill Counties

Project Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, is intended to be the funding source for this project. Aqua Pennsylvania, Inc. proposes distribution system improvements at the Eagle

Rock and Oneida Systems to include storage tanks, pressure reducing valves, transmission line and some water main replacement.

The Department of Environmental Protection's (Department) review of the project and the information received in the Environmental Report for the project has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby approves the Environmental Assessment.

[Pa.B. Doc. No. 05-1859. Filed for public inspection October 7, 2005, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us (DEP Keyword: Participate). The "Current Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's

final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2005.

Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Final Guidance

DEP ID: 563-2000-655. Title: Surface Water Protection—Underground Bituminous Coal Mining Operations. Description: This guidance describes procedures for protecting perennial and intermittent streams and wetlands from potential adverse effects caused by underground bituminous coal mining operations. It replaces existing technical guidance document No. 563-2000-655: Perennial Stream Protection, which pertains only to the protection of perennial streams. The guidance is established through the authority of 25 Pa. Code Chapters 86, 89, 93, 96 and 105, The Clean Streams Law (35 P.S. §§ 691.1—691.1001) and The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). Notice of availability of the draft document was published at 35 Pa.B. 1476 (February 26, 2005). The Department accepted public comments on the draft document from February 26, 2005—March 28, 2005. The Department received comments on the draft, which are addressed in the final guidance document. The Department also prepared a Comment and Response document addressing the public comments which were received. Contact: Harold Miller, P.G., Bureau of Mining and Reclamation, (717) 783-1199, harmiller@state.pa.us. Effective Date: October 8, 2005.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-1860. Filed for public inspection October 7, 2005, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Chambersburg Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Chambersburg Hospital has requested an

exception to the requirements of 28 Pa. Code § 51.6 (relating to identification of personnel).

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. 05-1861. Filed for public inspection October 7, 2005, 9:00 a.m.]

Application of Elk Regional Health Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Elk Regional Health Center has requested an exception to the requirements of 28 Pa. Code § 51.6 (relating to identification of personnel).

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. 05-1862. Filed for public inspection October 7, 2005, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Medical Assistance Program; Preferred Drug List

The Department of Public Welfare (Department) will begin a phased-in implementation of a Preferred Drug List (PDL) on October 1, 2005. Drugs within therapeutic classes included in the PDL that do not appear on the PDL will require prior authorization on and after that date, as authorized by section 443.6(b)(7) of the Public Welfare Code (62 P. S. § 443.6(b)(7)).

The PDL is a clinically based list of covered outpatient drugs, referred to as "preferred drugs." Preferred drugs are those drugs that are determined to be the best in a particular therapeutic class of drugs, based on clinical effectiveness, safety and outcomes. Other drugs in the therapeutic class, identified as "nonpreferred drugs," will remain available but require prior authorization.

All classes of drugs covered under the Medical Assistance Program will be included on the PDL, and each drug within the class will be designated as "preferred" or "nonpreferred," with the exception of drugs classified as HIV/AIDS drugs. All drugs classified as HIV/AIDS drugs will be included on the PDL as preferred drugs.

The Department will phase in implementation of the PDL and will notify all prescribers and pharmacies of each class of drug as the class is included on the PDL, the preferred drugs within the class and the effective date of implementation by publication of a Medical Assistance Bulletin.

As new drugs become available in the marketplace, they will be designated as nonpreferred and the Department will require prior authorization for prescriptions for those drugs.

Fiscal Impact

These changes are estimated to result in savings totaling \$99.152 million (\$45.602 million in State funds) in the Medical Assistance Outpatient Program in Fiscal Year (FY) 2005-2006. Savings are estimated \$109.961 million (\$50.613 million in State funds) in FY 2006-2007.

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-442. No fiscal impact; (8) recommends adoption. Implementation of this notice will generate savings to the General Fund beginning in FY 2005-2006 of \$45.60 million. Savings for FY 2006-2007 are estimated at \$50.61 million.

[Pa.B. Doc. No. 05-1863. Filed for public inspection October 7, 2005, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Definition of Serious Traffic Violation

The Department of Transportation (Department), Bureau of Driver Licensing, gives notice, under subsection (5) of the definition of "serious traffic violation" in 75 Pa.C.S. § 1603 (relating to definitions), that a violation of 75 Pa.C.S. § 1501(a) (relating to drivers required to be

licensed) shall be considered a serious traffic violation under 75 Pa.C.S. Chapter 16 (relating to Uniform Commercial Driver's License Act).

The definition of "serious traffic violation" in 75 Pa.C.S. § 1603 includes "any violation of section 1606(a) (relating to requirement for commercial driver's license)." In addition to 75 Pa.C.S. § 1606(a) specifically relating to a commercial driver's license, a driver's failure to obtain a commercial driver's license may also be considered and reported to be a violation of 75 Pa.C.S. § 1501(a). The inclusion of violation of 75 Pa.C.S. § 1501(a) within the definition is consistent with Federal Highway Administration regulations at 49 CFR 383.5 and 383.51, Table 2 (relating to definitions; and disqualification of drivers).

Accordingly, the purpose of this notice, consistent with the provisions of the definition of "serious traffic violation" in 75 Pa.C.S. § 1603 and "requirement for commercial driver's license" appearing in 75 Pa.C.S. § 1606(a), is to include a conviction for violating 75 Pa.C.S. § 1501(a) while operating a commercial motor vehicle as a serious traffic violation. Violations of either 75 Pa.C.S. § 1501(a) or § 1606(a) by a driver operating a commercial motor vehicle shall be considered to be a serious traffic violation for purposes of 75 Pa.C.S. Chapter 16.

This notice affects drivers within this Commonwealth since it expands the offenses which may result in driver disqualification under 75 Pa.C.S. § 1611(g) (relating to disqualification). That section disqualifies commercial motor vehicle drivers from driving a commercial motor vehicle for 60 days if convicted of two serious traffic violations or 120 days if convicted of three serious traffic violations arising from separate and distinct incidents occurring within a 3-year period.

Upon the publication of this notice, serious traffic violations shall not include weight and defect violations, but shall consist of the following as provided in 49 CFR 383.5 and 75 Pa.C.S. § 1603:

- Excessive speeding, involving any single offense for any speed of 15 miles per hour or more above the posted speed limit;
- Reckless driving, as defined by State or local law or regulation, including but not limited to, offenses of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;
- Improper or erratic traffic lane changes;
- Following the vehicle ahead too closely;
- A violation, arising in connection with a fatal accident, of State or local control (other than a parking violation);
- Driving a Commercial Motor Vehicle (CMV) without obtaining a Commercial Driver's License (CDL) in violation of 75 Pa.C.S. § 1501(a) or § 1606(a);
- Driving a CMV without a CDL in the driver's possession. Any individual who provides proof to the enforcement authority that issued the citation by the date the individual must appear in court or pay any fine for such a violation, that the individual held a valid CDL on the date the citation was issued, shall not be guilty of this offense;
- Driving a CMV without the proper class of CDL and/or endorsements for the specific vehicle group being operated for the passengers or type of cargo being transported; or
- Any violation of 75 Pa.C.S.:

Section 3305 (relating to limitations on overtaking on left);

Section 3306 (relating to limitations on driving on left side of roadway);

Section 3307 (relating to no-passing zones);

Section 3309 (relating to driving on roadways laned for traffic);

Section 3310 (relating to following too closely);

Section 3326 (relating to duty of driver in construction and maintenance areas or on highway safety corridors); or

Section 3365(c) (relating to special speed limitations).

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 05-1864. Filed for public inspection October 7, 2005, 9:00 a.m.]

Finding

Chester County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department of Transportation (Department) plans to replace the SR 3049, Section 48M Bridge over a tributary to the West Branch of Brandywine Creek in

Newlin Township, Chester County. The subject project will result in the permanent acquisition of 0.014 hectare (0.034 acre) of land from the Powell Property and 0.013 hectare (0.033 acre) from the Passmore Property. Both the Passmore Property and Powell Property contribute to the National Register Eligible Green Valley Historic District. Temporary construction easements will also be needed in the Green Valley Historic District.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize effects. To minimize the harm to the Section 2002 protected property impacted by the project, the replacement bridge abutments and wingwalls will be constructed with an architectural stone form liner and color to provide the appearance of stone facing.

The Deputy Secretary for Highway Administration has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effect.

GARY L. HOFFMAN, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 05-1865. Filed for public inspection October 7, 2005, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
14-493	Department of Public Welfare Nursing Facility Services; Preadmission Requirements and Civil Rights Compliance for Nursing Facilities 35 Pa.B. 4191 (July 30, 2005)	8/29/05	9/28/05

Department of Public Welfare Regulation #14-493 (IRRC #2488)

Nursing Facility Services; Preadmission Requirements and Civil Rights Compliance for Nursing Facilities

September 28, 2005

We submit for your consideration the following comments on the proposed rulemaking published at 35 Pa.B. 4191. 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 Public Welfare (Department) to

respond to all comments received from us or any other source.

1. Section 1187.2. Definitions.—Statutory Authority; Reasonableness; Clarity.

Clinical evaluation

This term refers to the assessment that is required to be conducted before a patient can be admitted to a nursing facility. Commentators have expressed confusion regarding whether this assessment is the same as the OPTIONS assessment that is currently used for Medical Assistance (MA) applicants, or if the Department is establishing a new assessment process. Based on discussions with Department staff, it is our understanding that

the existing OPTIONS assessment process will be used. The clarity of the term would be improved if it were defined as the existing OPTIONS assessment process that is currently used to conduct the clinical evaluation.

MA applicant

The definition of this term includes an individual who "Based upon information provided by the individual or person making a nursing facility application on behalf of the individual, is likely to be an MA conversion resident within 12 months from the date of admission." The regulation provides no direction on the type of information on which this determination must be based. Additionally, as noted in our discussion of Section 1187.31, we question the Department's statutory authority to impose requirements on nursing homes related to patients who are not MA recipients at the time of admission.

If the Department is able to demonstrate its authority for this approach, the final-form regulation should specify the information that is to be provided by the applicant and the criteria the nursing facilities must use to determine if the applicant is likely to become an MA conversion resident within 12 months from the date of admission.

The Department should also specify whether the facility is responsible for verifying this information, and if so, how that will be accomplished given that an applicant who is not an MA recipient is under no obligation to provide the information to the facility. Finally, the Department should explain how it intends to enforce this provision.

2. Section 1187.22. Ongoing Responsibilities of Nursing Facilities.—Reasonableness; Need; Clarity.

Data collection

Subsection (18)(i) states that the "nursing facility shall collect the following data . . ." (Emphasis added.) However, even though the nursing facility requests this information, some of it might not be disclosed by the applicant. Therefore, the word "collect" should be replaced with "request."

Social Security number

Subsection (18)(i)(G) requires the nursing facility to collect the applicant's Social Security number as part of the civil rights data collection and reporting requirements. The Department has indicated the Social Security number is used to track the individuals as the information is reported to the Department. Given the risk of identity theft related to recording an individual's Social Security number, the Department should consider eliminating this requirement in favor of another method of tracking individuals.

Additional information

Subsection (18)(iii) provides that if a nursing facility requests additional information from applicants beyond the required information in Paragraphs (A) through (M), the facility is required to maintain a written record of the additional information for four years. Since requests for additional information are at the discretion of the nursing facility, the facility should determine if and for how long it will maintain records of this information. Therefore, this provision is not needed and should be deleted.

Data reporting

Subsection (18)(iv) requires facilities to submit data reports to the Department "in a format and at intervals specified by the Department." For clarity, the final-form

regulation should specify intervals for reporting. It should also identify how and where the facilities can access the report forms.

3. Section 1187.31. Admission or MA Conversion Requirements.—Statutory Authority; Protection of the Public Health, Safety and Welfare; Reasonableness; Economic Impact; Need; Clarity.

This section requires a clinical evaluation to be completed prior to an individual's admission to a nursing facility, unless certain exceptions apply. This requirement applies to MA recipients and MA applicants, including an individual who may become an MA conversion resident within 12 months from the date of admission. We have four areas of concern.

Pre-admission assessments for future MA recipients

We request the Department provide its statutory authority for requiring clinical assessments of individuals who are not MA recipients at the time of admission. While we understand the Department's desire to plan for future MA recipients, we do not believe it has the authority to require nursing homes to comply with MA assessment requirements for patients who are not currently receiving MA benefits, have not applied for MA benefits and for whom there is no reliable way of ascertaining their future eligibility.

Pre-admission assessments

The Pennsylvania Health Care Association, Pennsylvania Association of County Affiliated Homes, Pennsylvania Association of Nonprofit Homes for the Aging, Collision Law Associates, Genesis Health Care, Beverly Healthcare and Wellington at Hershey's Mill all noted that the requirement for completion of assessments prior to admission is impractical and will result in substantial delays for individuals awaiting admission to nursing facilities. Department staff has explained that as long as the facility contacts the local area agency on aging (AAA) to advise them that an assessment is needed, the facility can admit the patient without penalty. While this is a reasonable approach, it is not consistent with the preamble or the text of the regulation.

The "Purpose" section of the preamble states that the regulation "requires a nursing facility to have applicants evaluated by the Department or its independent assessor for the need for nursing facility services prior to admission to the facility." Subsection (2)(i) of the regulation states that "The nursing facility shall ensure that the MA applicant and MA recipient who has submitted a nursing facility application to the facility receives a clinical evaluation prior to admission" unless certain exceptions apply. Furthermore, under Subsection (2)(iii), the nursing facility may be subject to civil penalties if the Department "determines that a nursing facility admitted an MA applicant or MA recipient who did not receive a clinical evaluation prior to admission . . ."

If it is the Department's intent to allow admissions without completion of a clinical evaluation as long as the AAA has been notified that a clinical evaluation is necessary, then the preamble and text of the regulation should be revised accordingly. If it is the Department's intent to allow admissions prior to completion of the clinical evaluation only in the limited instances identified in the exceptions in Subsection (2)(ii)(A) through (B), then we request the Department further explain the justification for this approach, including how the resulting delays will impact the health of the individuals involved, hospital costs and access to care.

Referral for clinical evaluation

Subsection (2)(ii)(B) lists the conditions that must be met for a nursing facility to admit an MA applicant prior to receiving a clinical evaluation. Subsection (2)(ii)(B)(I) states that one of those conditions is "the *nursing facility* refers the applicant for a clinical evaluation prior to admission." (Emphasis added.) In its comments, Community Legal Services Elderly Law Project points out that frequently hospitals make the referral for evaluation. Therefore, the language in this subsection should be amended to state that "the facility verifies that the applicant has been referred for a clinical evaluation prior to admission." This language would allow for referral by a party other than the nursing facility.

Civil penalties

As noted above, Subsection (2)(iii) provides that a facility which does not comply with the preadmission clinical evaluation requirements may be subject to civil money penalties, in addition to penalties and sanctions imposed under 55 Pa. Code Chapter 1101. The amount of these penalties may range from \$150 to \$3,000 per day but may not be less than the facility's total charges to the individual for services during the noncompliance period.

We question the Department's statutory authority for imposing these civil penalties. Additionally, we request the Department explain the need for these penalties. Since MA payment would not be made to a provider who failed to comply with the requirements in this regulation, it appears that the additional penalties contained in this subsection are unnecessary.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 05-1866. Filed for public inspection October 7, 2005, 9:00 a.m.]

Notice of Filing of Final Rulemaking

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. To obtain a copy of the regulation, contact the promulgating agency.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Resubmitted</i>
2-147	Department of Agriculture Nutrient Management Certification	9/28/05

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 05-1867. Filed for public inspection October 7, 2005, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval to Merge

Radian Guaranty Inc., a Pennsylvania domiciled stock casualty insurance company, has submitted a Plan of

Merger, whereby it proposes to merge with Commonwealth Mortgage Assurance Company of Texas, a Texas domiciled stock insurance company. The survivor of the merger would be Radian Guaranty Inc. The initial filing was made under 15 Pa.C.S. §§ 1921—1932 (relating to merger, consolidation, share exchanges and sale of assets), the GAA Amendments Act of 1990 (15 P. S. §§ 21101—21208) and the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413). Persons wishing to comment on the grounds of public or private interest in this merger are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include the name, address and telephone number of the author, identification of the application to which the statement is addressed and a concise statement with sufficient detail to inform the Department of the exact basis of the statement and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1868. Filed for public inspection October 7, 2005, 9:00 a.m.]

Blue Cross of Northeastern Pennsylvania; Blue Care PPO (Formerly Known as Access Care II) Experience Rated (51 + Eligible Contracts); Hospital Trend and Retention; Rate Filing

On September 16, 2005, the Insurance Department (Department) received from Blue Cross of Northeastern PA a filing requesting approval to change the hospital trend from 12.5% to 15.7% and to change the retention factors.

The proposed effective date is January 1, 2006, and will impact 50,785 subscribers.

Unless formal administrative action is taken prior to December 21, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website: 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 Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, csandersjo@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1869. Filed for public inspection October 7, 2005, 9:00 a.m.]

Capital BlueCross; Revised Rates for Nongroup Security 65 Standardized Benefit Package C; Rate Filing

Capital BlueCross has filed filing no. 05-FF for approval reduced rates for its nongroup Security 65 Plan C program. The revised rates are to be effective on January 1, 2006, and reflect a reduction of 12.2% from the currently approved rates. The proposed monthly premium for subscribers enrolling at first eligibility is \$130; the current monthly premium for these insureds is \$148.11.

These rate adjustments will affect approximately 18,957 subscribers in this Commonwealth and will reduce income by approximately \$4.2 million annually.

Unless formal administrative action is taken before December 5, 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 at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, mgurgiolo@state.pa.us, within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1870. Filed for public inspection October 7, 2005, 9:00 a.m.]

Lori Ann Creighton; Prehearing

Appeal of Lori Ann Creighton under 40 P. S. §§ 991.2101—991.2193; Keystone Health Plan East; Doc. No. HC05-08-026

Under 40 P. S. §§ 991.2101—991.2193, notice is hereby given that the appellant in this action has requested a hearing in connection with the appellant's managed health care plan. The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference initiated by the Administrative Hearings Office shall be conducted on October 11, 2005. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before October 7, 2005.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before September 27, 2005, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Sev-

enth Street, Harrisburg, PA 17102. Answer to petitions to intervene shall be filed on or before October 4, 2005.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1871. Filed for public inspection October 7, 2005, 9:00 a.m.]

Independence Blue Cross; Community Rated Basic Blue Cross Hospital Adjustment (8-P-05); Rate Filing

On September 21, 2005, Independence Blue Cross filed for an increase in its community rated Basic Blue Cross hospital rates in its five-county Southeastern Pennsylvania service area. The proposed 50.8% increase will affect 1,300 contracts and generate an additional \$644,000 annually. The requested effective date of this change is January 1, 2006.

A copy of the filing is available on the Insurance Department's (Department) website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1872. Filed for public inspection October 7, 2005, 9:00 a.m.]

Independence Blue Cross; 7-P-05 Nongroup Basic Blue Hospital; Rate Filing

On September 23, 2005, the Insurance Department (Department) received from Independence Blue Cross a filing requesting a rate increase of 18.87% for non-HCTC eligibles and 12.63% for HCTC eligibles.

This increase will produce approximately \$4.06 million annually of additional income. The proposed effective date is January 1, 2006, and will impact 7,100 subscribers.

Unless formal administrative action is taken prior to December 21, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website: 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 Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square,

Harrisburg, PA 17120, csandersjo@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1873. Filed for public inspection October 7, 2005, 9:00 a.m.]

Pennsylvania Compensation Rating Bureau; Filing for Domestic Terrorism, Earthquake and Catastrophic Industrial Accidents and Miscellaneous Values for Foreign Terrorism; Rate Filing

On September 20, 2005, the Insurance Department (Department) received from the Pennsylvania Compensation Rating Bureau (PCRB) proposed revisions to rules, forms, rating values and Statistical Plan revisions pertaining to losses attributable to domestic terrorism, earthquake, catastrophic industrial accidents and foreign terrorism to be effective January 1, 2006. The filing proposes to:

- Omit losses attributable to domestic terrorism, earthquake and catastrophic industrial accidents from experience data used in normal ratemaking analyses.
- Prospectively rate such losses by applying a \$0.01 loss cost in the premium calculation algorithm.
- Revise associated endorsement forms, manual language and the Statistical Plan for this Commonwealth.

The filing is available for review on the Department's website at www.ins.state.pa.us. To access the filing, under "Quick Links" click on "Rate filings published in the PA Bulletin."

The filing is also available for review on the PCRB's website at www.pcrb.com in the "Filings" section.

Interested parties are invited to submit written comments, suggestions or objections to Mike McKenney, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, mmckenney@state.pa.us, within 20 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1874. Filed for public inspection October 7, 2005, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68) (Act 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of Act 68, 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Grace Barley; file no. 05-130-06216; Travelers Insurance; doc. no. P05-08-024; October 5, 2005, 10 a.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Wanita L. Rudisill; file no. 05-130-06474; AIG National Insurance; doc. no. P05-08-025; October 26, 2005, 4 p.m.

Appeal of Ronald B. Abrams; file no. 05-210-02662; Erie Insurance Exchange; doc. no. PH05-09-013; October 27, 2005, 9 a.m.

Appeal of Sung Kook and Chung Hee Shin; file no. 05-267-02433; State Farm Mutual Insurance; doc. no. PH05-09-012; October 27, 2005, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Kathryn Culbertson, Agency Coordinator at (717) 705-4194.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1875. Filed for public inspection October 7, 2005, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Michael P. Keefer; file no. 05-130-05714; Erie Insurance Exchange; doc. no. P05-08-023; October 6, 2005, 10 a.m.

Appeal of Marie M. Wood; file no. 05-130-06829; Utica First Insurance Company; doc. no. P05-08-029; October 11, 2005, 10 a.m.

Appeal of James F. and Karen G. O'Shea; file no. 05-183-06794; Erie Insurance Exchange; doc. no. P05-09-004; October 27, 2005, 10 a.m.

The following hearing will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Shawn Starks; file no. 05-266-02277; Allstate Insurance; doc. no. PH05-08-022; October 26, 2005, 3 p.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Kathryn Culbertson, Agency Coordinator at (717) 705-4194.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-1876. Filed for public inspection October 7, 2005, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

Application Schedule Amendment

The Pennsylvania Gaming Control Board (Board), under authority contained 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), adopted a schedule for the acceptance of applications for permanent Category 1 licenses, Category 2 licenses and Category 3 licenses, published at 35 Pa.B. 5338 (September 24, 2005). The Board also set a date of October 31, 2005, for the deadline for acceptance of conditional Category 1 applications.

Amendments

1. *Deadline for Conditional Category 1 application submission.* In answer to concerns from potential applicants as to the time frame for receipt of applications for Conditional Category 1 licenses, the Board has extended the deadline for these applications until December 28, 2005, to correspond with the deadline for receipt of all applications for slot machine licenses.

2. *Submission of application by final harness racetrack licensee.* In addition, the Board has been informed that the Harness Racing Commission has not yet awarded the remaining harness racing license available under 4 Pa.C.S. Part II (relating to Race Horse Industry Reform Act). As a result, the Board has also agreed to extend the date for receiving applications for conditional and permanent Category 1 licenses from the applicant that is awarded the remaining harness racing license to occur 30 days following the Commission's award of the license. If this 30-day period extends beyond the date for receiving all other applications for initial slot machine licenses, the application of the remaining harness racing licensee shall be considered an initial application for the purposes of 4 Pa.C.S. § 1301 (relating to authorized slot machine licenses) requiring that all initial applications be considered, approved, conditioned or denied collectively within 12 months following the time set by the Board at which time all applications are to be filed and deemed complete.

THOMAS A. DECKER,
Chairperson

[Pa.B. Doc. No. 05-1877. Filed for public inspection October 7, 2005, 9:00 a.m.]

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY AND DEPARTMENT OF ENVIRONMENTAL PROTECTION

Clean Water State Revolving Fund; Federal Fiscal
Year 2004 and 2005 Project Priority List

The Pennsylvania Infrastructure Investment Authority (PENNVEST) and the Department of Environmental Protection (Department) have amended the Federal Fiscal Year (FY) 2004/2005 Clean Water State Revolving Fund (CWSRF) Project Priority List (List) of municipal sewage construction projects.

The FY 2004/2005 List was prepared in conformance with the requirements of Title II and Title VI of the Clean Water Act and Federal guidance and was previously approved by the Environmental Protection Agency (EPA). The projects included on the List have a project priority rating established under the Department's EPA approved Chapter 103 project priority rating system. The Clean Water Act stipulates that states must maintain a List of municipal sewage projects from which to develop the annual CWSRF Intended Use Plan (IUP) list of projects to be funded.

The projects added to the List will not replace any project currently on the approved FY 2004/2005 List. Projects were placed in the appropriate ranking slot in relation to other rated and ranked projects on the List. The rank order standing of projects on the List does not dictate the order in which projects are chosen for funding in the CWSRF program. A project may be selected from any numerical rank position on the List for funding. A project's readiness to proceed and the reasonable availability of alternative sources of funds have a bearing on project selection for funding in the program.

Some projects added to the FY 2004/2005 List are expected to proceed to construction in the near future and others are being added as potential projects for future construction loan consideration. The projects expected to be ready for loan funding in the near future have submitted applications for funding and may be placed on an IUP to: (1) replace projects that have not proceeded timely toward initiation of project construction; and/or (2) to fill funding gaps that have developed as a result of cost savings. Projects removed from an IUP will remain on the List and be considered for CWSRF loan funds in the future.

Interested persons are invited to express their views on the priority rating or ranking of projects on the amended FY 2004/2005 List. Persons wishing to offer comments should submit them in writing to the Infrastructure Grant Administration Section, Division of Technical and Financial Assistance, Bureau of Water Standards and Facility Regulation, 10th Floor, Rachel Carson State Office Building, P. O. Box 8466, Harrisburg, PA 17105-8466, (717) 787-6744, amaisano@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Tony Maisano as noted previously or through the Pennsylvania Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

A copy of the amended FY 2004/2005 List that shows all municipal sewage projects in priority and ranked order is available for public review in the offices listed at the end of this notice and is accessible electronically through the Department's website as follows:

www.dep.state.pa.us/dep/deputate/watermgt/WSM/WSM_TAO/Finan_Tech_Asst.htm

Department of Environmental Protection
Bureau of Water Standards and Facility Regulation
Division of Technical and Financial Assistance
Infrastructure Grant Administration Section
10th Floor, Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101
(717) 787-6744

PENNVEST
22 S. Third Street
4th Floor, Keystone Building
Harrisburg, PA 17101
(717) 787-8137

KATHLEEN A. MCGINTY,
Secretary
Department of Environmental Protection
Vice Chairperson
Pennsylvania Infrastructure Investment Authority
and

PAUL A. MARCHETTI,
Executive Director
Pennsylvania Infrastructure Investment Authority
[Pa.B. Doc. No. 05-1878. Filed for public inspection October 7, 2005, 9:00 a.m.]

Drinking Water State Revolving Fund; Federal Fiscal Year 2004 and 2005 Project Priority List

The Pennsylvania Infrastructure Investment Authority (PENNVEST) and the Department of Environmental Protection (Department) have amended the Federal Fiscal Year (FY) 2004/2005 Drinking Water State Revolving Fund (DWSRF) Project Priority List (List) of drinking water construction projects.

The FY 2004/2005 List was prepared in conformance with the requirements of the Safe Drinking Water Act Amendments of 1996 (act) and Federal guidance. The act stipulates that states must maintain a List of drinking water projects from which to develop the annual DWSRF Intended Use Plan (IUP) list of projects to be funded.

The projects added to the List will not replace any project on the previously published FY 2004/2005 List. Projects were placed in the appropriate ranking slot in relation to other rated and ranked projects on the List. The rank order standing of projects on the List does not dictate the order in which projects are chosen for funding in the DWSRF program. A project's readiness to proceed and the reasonable availability of alternative sources of funds have a bearing on project selection for funding in the program.

Some projects added to the FY 2004/2005 List are expected to proceed to construction in the near future and others are being added as potential projects for future construction loan consideration. The projects expected to be ready for loan funding in the near future have submitted applications for funding and may be placed on an IUP to: (1) replace projects that have not proceeded timely toward initiation of project construction; and/or (2) to fill funding gaps that have developed as a result of cost savings. Projects removed from an IUP will remain on the List and be considered for DWSRF loan funds in the future.

Interested persons are invited to express their views on the priority rating or ranking of projects on the amended FY 2004/2005 List. Persons wishing to offer comments should submit them in writing to the Infrastructure Grant Administration Section, Division of Technical and Financial Assistance, Bureau of Water Standards and Facility Regulation, 10th Floor, Rachel Carson State Office Building, P. O. Box 8466, Harrisburg, PA 17105-8466, (717) 787-6744, amaisano@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should

contact Tony Maisano as noted previously or through the Pennsylvania Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

A copy of the amended FY 2004/2005 List that shows all municipal sewage projects in priority and ranked order is available for public review in the offices listed at the end of this notice and is accessible electronically through the Department's website as follows:

www.dep.state.pa.us/dep/deputate/watermgt/WSM/WSM_TAO/Finan_Tech_Asst.htm

Department of Environmental Protection
Bureau of Water Standards and Facility Regulation
Division of Technical and Financial Assistance
Infrastructure Grant Administration Section
10th Floor, Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17101
(717) 787-6744

PENNVEST
22 S. Third Street
4th Floor, Keystone Building
Harrisburg, PA 17101
(717) 787-8137

KATHLEEN A. MCGINTY,
Secretary
Department of Environmental Protection
Vice Chairperson
Pennsylvania Infrastructure Investment Authority
and

PAUL A. MARCHETTI,
Executive Director
Pennsylvania Infrastructure Investment Authority

[Pa.B. Doc. No. 05-1879. Filed for public inspection October 7, 2005, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Identity Theft; Doc. No. M-00041811

Public Meeting held
July 14, 2005

Commissioners Present: Wendell F. Holland, Chairperson;
James H. Cawley, Vice Chairperson; Bill Shane; Kim
Pizzigrilli; Terrance J. Fitzpatrick

Order

By the Commission:

By order entered October 14, 2004, the Commission initiated an investigation pursuant to Sections 331(a), 501(a) and 1501 of the Public Utility Code, 66 Pa.C.S. §§ 331(a), 501(a) and 1501, to examine: (1) the impact of identity theft on Pennsylvania utility companies and consumers and (2) whether existing rules, regulations, and policies adequately protect consumers and utilities from the effects of identity theft. The order was served on all major jurisdictional companies to solicit comments from the utilities on a number of issues including: (1) utility procedures and processes to verify customer identities; (2) policy and procedures related to the use of an applicant or customer's social security number; (3) policies and procedures to protect privacy of customer account

information and personal information; and (4) identity theft related incidences and losses.

The Commission served 123 jurisdictional utilities with interrogatories. The utilities filed responses to the Commission's interrogatories. Commission Staff reviewed the comments and responses and prepared a preliminary report which described the issue of identity theft as it relates to utilities and how Pennsylvania utilities are addressing the situation.

Based upon this report, as well as a review of the filed comments, it appears that, with respect to public utilities, there are four methods of identity theft: (1) person-to-person identity theft, (2) identity theft by utility employees, (3) name game identity theft, and (4) security database breach.

The first area of concern is the most publicized and familiar. This problem involves the unauthorized use of someone's identity by another person. According to the responses, an overwhelming majority of public utilities in Pennsylvania have not experienced many problems with person-to-person identity theft for the years 2000-2003. Moreover, of those reported cases of identity theft during this time, the vast majority reported less than a total of five cases.

The second method involves identity theft by employees when a utility employee gathers information about utility customers either directly or through the company's files and disseminates that information to an outside source, thereby giving that source access to the personal information of numerous customers. It is this problem, the unlawful use and dissemination of personal data maintained by utilities, that poses the greatest threat of exposing utilities and their customers to financial difficulty and civil liability.

Many utilities and employees have access to the personal information of its thousands of customers. As evidenced by recent security breaches of major companies such as Lexis-Nexis, there is no fail-safe system for protecting customers from identity theft perpetrated by a company employee. Nor is there a fail-safe system to prevent a computer hacker from entering a company system and stripping it of confidential information.

The third method is name game identity theft. This occurs when a household member uses the identification of another household member to establish a utility account and obtain utility service. In most cases, the "victim" and the perpetrator live in the same household and both benefit from access to the service. The real concern is that the utility often fails to recover the earlier debt. This means that the utility's ratepayers are burdened with the uncollectible debt.

It has been suggested that the newly enacted Chapter 14 of the Public Utility Code, 66 Pa.C.S. Ch. 14, may reduce the opportunity for customers capable of paying to avoid payment of utility bills by switching the names on their accounts. The definition of "applicant" and "customer" under Chapter 14 includes not only the person who is currently receiving the residential service, but also any adult occupant whose name appears on the mortgage, deed, or lease of the property for which residential utility service is requested.

Utilities commented that Chapter 14 is intended to seriously inhibit identity theft attributable to instances of the "name game." Chapter 14 gives utilities tools so a nonpaying customer can no longer switch the account into the name of another person living in the household.

The fourth method of identity theft involves security database breaches by third parties (non-utility employee). To date, no reported or announced incidences of this type of identity theft have involved Pennsylvania jurisdictional utilities. Public utilities gather, access, and maintain confidential personal information on a regular and on-going basis. It is imperative, therefore, that this information be protected against theft and misuse. We note that the Federal Trade Commission¹ as well as many states² require that companies notify affected individuals of security breaches. In Pennsylvania, legislation was recently introduced to address identity theft concerns such as notification of security breaches and the protection of social security numbers. See, e.g., Senate Bill 712/House Bill 1023; Senate Bill 601; Senate Bill 180; Senate Bill 711; Senate Bill 714; and House Resolution 351³.

In its investigation, the Commission also asked utilities whether the Commission's existing rules and regulations adequately protect consumers and utilities from the effects of identity theft and what changes, if any, should be made. Many utilities responded that current Commission regulations were sufficient to safeguard against identity theft and were not in need of modification. While some utilities proposed changes or modifications to the Commission's regulations,⁴ it should be noted many of the regulations referenced⁵ will be reevaluated as the Commission implements Chapter 14 legislation. 66 Pa.C.S. §§ 1401—1418.⁶

While the responses filed in this investigation proceeding indicate that identity theft incidences for Pennsylvania jurisdictional utilities with respect to person-to-person, employee identity theft and name game identity theft do not represent substantial numbers at this time, it is imperative that companies be particularly mindful of potential security database breaches. As evidenced by recent security breaches of major companies, effects of such breaches can have far reaching consequences on thousands of consumers.⁷

We note that there are millions of utility customers in Pennsylvania. Utilities collect and store the personal information of their customers on a daily basis. This information, if compromised or breached, could have a devastating impact on both the utility and its customers. There are additional steps utilities can take to enhance the protection of personal information. For example, utility companies are strongly encouraged to develop and re-evaluate their notification of breach procedures and their initial policies to ensure that storage of customer confidential information, either on company database or on outsourced arrangement, complies with federal and

other relevant laws. Such preventative proactive measures protect consumers as well as the utility.⁸

Based upon responses and comments submitted in this proceeding as well as the Staff's report, we conclude that revisions to existing Commission rules and regulations may be premature at this time. However, with regard to Chapter 56 regulations, it is anticipated that this issue will be addressed, as warranted, during the regulatory review necessitated by Chapter 14. New legislation may be implemented which addresses identity theft. At that time, the Commission should then determine whether existing rules and regulations are consistent with the new law. To that end, Commission Staff is hereby directed to continue to monitor, on an on-going basis, identity theft related legislation and to make recommendations, as appropriate, regarding any future Commission action that may be warranted.

Moreover, to provide assistance to the legislature, consumers and utilities, the findings of Staff's preliminary report will be made public. In this way, the Commission in cooperation with the legislature and the utilities it regulates can work together to address this very important issue of identity theft; *Therefore,*

It Is Ordered That:

1. The Commission's Law Bureau monitor and evaluate federal and state legislation addressing identity theft and identity theft related issues and make recommendations, as appropriate, regarding any future Commission action that may be appropriate.

2. Findings of the Staff Preliminary Report be publicly released.

3. Copies of this order be served on, the Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Office of Attorney General.

4. A copy of this order be published in the *Pennsylvania Bulletin*.

5. That this docket be marked closed.

JAMES J. MCNULTY,
Secretary

**Staff Report on Identity Theft and Its Impact on
Pennsylvania Utilities and Customers; Doc. No.
M-00041811**

Prepared by the Pennsylvania Public Utility Commission
Law Bureau

Dated: May 24, 2005

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1. Employee Screening

⁸ In a June 2005 article, the *Wall Street Journal* reported that stock ratings fell for companies after reported data breach incidences. In recent publications, identity theft has been referred to as the next wave of corporate liability.

¹ Rules promulgated under the Fair Credit Reporting Act require notification of consumers following a security breach.

² For example, California, Arkansas, Connecticut, Florida, Nevada and Texas.

³ We note that the General Assembly recently adopted a Resolution to establish a committee to investigate and review the policies, procedures and practices of various Commonwealth Agencies, authorities, boards, commissions, councils, departments and offices and the entities they license or regulate to protect the personal health, financial and other sensitive data of Pennsylvania citizens. See House Resolution 351.

⁴ One utility suggested that 52 Pa. Code § 64.32 be amended to remove reference to the "applicant's social security number" so that this number is not made available. Another company proposed changes to 52 Pa. Code § 64.32 to provide the utility with the ability to require five pieces of identification for applicants, including a requirement that applicants provide a social security number without restriction.

⁵ In their respective responses, utilities referenced Commission regulations such as 52 Pa. Code §§ 56.2; 59.26; 56.16; 56.16; 56.33; 65.72; 56.131; and 64.61.

⁶ Specifically, section 6 of Act 201, Act of November 30, 2004, P.L. 1578, effective Dec. 14, 2004, provides: "The Pennsylvania Public Utility Commission shall amend the provisions of 52 Pa. Code Ch. 56 to comply with provisions of 66 Pa.C.S. Ch 14. . . ."

⁷ February 2005—Choice Point, Inc. reported that consumer profiles of 145,000 compromised. April 2005—LexisNexis announced personal information of 310,000 accessed through identity theft. May 2005—Time Warner reported that personal data of 600,000 current and former employees compromised. June 2005—Card Systems indicated that as a result of a security breach the credit information of approximately 40million cardholders was compromised.

2. Training
3. Ethics Policy
4. Management Employees
5. Information Technology Safeguards
- VI. NAME GAME IDENTITY THEFT
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- IX. ATTACHMENTS
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REPORT ON IDENTITY THEFT

SUMMARY

By Investigation Order, entered October 14, 2004, at M-00041811, the Commission initiated an investigation to focus on identity theft, its impact on Pennsylvania utility companies and consumers, and whether existing Commission rules, regulations and policies adequately protect consumers and utilities from the effects of identity theft. In the order, the Commission directed all major jurisdictional fixed utility companies, telecommunications service providers, electric generation suppliers, and natural gas suppliers to file written responses to a specific set of questions prepared by the Commission pertaining to identity theft and invited interested parties to file written comments on identity theft.

The Commission served 123 jurisdictional utilities with interrogatories. All of the utilities that were served with the Commission's interrogatories filed responses. The majority reported that they had no identity theft incidents during the years 2000-2003. Moreover, of the utilities that reported cases of identity theft, the majority reported less than a total of 5 cases for those years. We suggest that one of the reasons identity theft in relation to Pennsylvania jurisdictional utilities rarely occurs is due to the fact that utility service is rendered to a specific service address. Because sufficient focus is on the residents of the service address, such thefts are relatively rare and are often discovered shortly after the account is established.

Although these numbers seem encouraging, utilities should be aware of the potentially devastating impact of identity theft and continue to implement or begin to implement effective procedures and practices to ward off identity theft. Utilities should be encouraged to utilize social security numbers in conjunction with credit agencies; to have policies and handbooks regarding employees' protection of confidential information; and to adhere to the Commission's regulations. Because utilities are regulated by the Commission, the Commission has the ability, through its rules and regulations, to require significant protections for the utilities and their customers.

I. INTRODUCTION

The Commission's Investigation Order states that "[w]hile the Commission's ruling in a recent proceeding addressed the issue of one consumer's problem involving identity theft, the issue of identity theft as it relates to utilities and utility regulation warrants a more compre-

hensive review."⁹ The Commission is concerned because on a yearly basis, thousands of individuals apply to Pennsylvania utilities and energy suppliers to initiate or transfer service, and the Commission's rules governing billing and credit policies¹⁰ were enacted prior to federal legislation and Federal Trade Commission (FTC) initiatives addressing identity theft. Because identity theft has become a national problem and the potential losses for both the utilities and their customers are significant, the Commission determined it was in the public interest to examine whether existing regulations and processes provide adequate protection against identity theft in Pennsylvania.

Pursuant to the Commission's authority under Sections 501, 504, 505, and 506 of the Public Utility Code,¹¹ the Commission directed all major jurisdictional fixed utility companies, telecommunications service providers, electric generation suppliers, and natural gas suppliers to file written responses to a specific set of questions prepared by the Commission pertaining to identity theft. (The questions are attached hereto as Attachment A). The Commission also invited interested parties to file written comments on identity theft in relation to utility service and to propose solutions to address the problem, including amendments to the Commission's regulations pertaining to credit and billing practices.

In reply to the order, the Commission received a response from each of the 123 utilities that were served with the order. The Law Bureau reviewed and analyzed each response in writing this report.

In the area of public utilities, there are three major areas of concern that relate to identity theft; (1) person-to-person identity theft, (2) identity theft by utility employees, (3) name game identity theft, and (4) security database breach. This report will address each of these concerns and focus on the scope of the problem in Pennsylvania. This report will also address possible solutions to these problems, particularly in the area of prevention. By way of introduction to identity theft in general, this report will also define the topic and include relevant statistics on identity theft.

Due to the proprietary nature of the responses received from the utilities, the substance of this report will not contain the names of the parties responding, except in those limited instances where reference is being made to comments filed by a particular party.

II. DEFINITION OF IDENTITY THEFT

While identity theft has been depicted as one of the "fastest growing crimes in the nation"¹² and as "the crime of the new millennium,"¹³ a 2003 FTC study indicates that identity theft has impacted only 4.6 percent of the population.¹⁴ In some areas, even when recommendations

⁹ See *Investigation Order* at 2. The Order references the Commission's decision in *Donna MacDougall v. Verizon North, Inc.*, F-01339719 (Order entered Aug. 23, 2004). In that case, an individual fraudulently established telephone service in the complainant's name. The Commission found that the complainant offered sufficient evidence to support a finding of identity theft based on the police report she filed and her testimony that she discontinued service to the address in question and never resided there. In the Order, the Commission explained that the proceeding highlighted the need to explore methods of ensuring protections for consumers and utilities with regard to identity theft and further stated, "it is appropriate for the Commission to open an investigation, under a separate docket, to address the broader issue of identity theft and how it impacts utility service in Pennsylvania."

¹⁰ See e.g., 52 Pa. Code §§ 56.31, et seq.; 52 Pa. Code §§ 64.31, et seq.

¹¹ 66 Pa.C.S. §§ 501, 504, 505, and 506.

¹² Steven F. Miller, *Someone Out There is Using Your Name: A Basic Primer on Federal Identity Theft Law*, Fed. Law., Jan. 11, 2003, at 11.

¹³ Sean B. Hoar, *Identity Theft: The Crime of the New Millennium*, 80 Or. L. Rev. 1423 (2001).

¹⁴ Synovate, F.T.C., *Identity Theft Survey Report* 9, 30 (2003), available at <http://www.ftc.gov/os/2003/09/synovaterreport.pdf> (hereafter "*FTC. 2003 Report*"). The 4.6 percentage amount equates to 9.91 million individuals.

are made to implement methods to decrease identity theft occurrences, this is not regarded as an appropriate allocation of resources.¹⁵

In Pennsylvania, the crime of identity theft is defined as “. . . the possession or use, through any means, of identifying information of another person without the consent of that other person to further any unlawful purpose.”¹⁶ At the outset, we note that the concept of identity theft in relation to utilities does not fit neatly into this definition. Utility service is rendered to a specific service address, and it is often difficult to discern if the service is rendered without the consent of the victim, particularly when the victim resides at the service address. These concepts will be discussed in further detail throughout this report, notably in Section VI.

Generally, identity theft refers to a variety of crimes which involve “stealing someone’s personal identifying information.”¹⁷ The identity thief uses a broad range of methods to obtain the information, from “basic street theft to sophisticated, organized crime schemes involving the use of computerized databases or the bribing of employees with access to personal information on customer or personnel records.”¹⁸ The thief profits by using the victim’s personal information to take funds from his/her bank account, create debts, or commit crimes.

III. OVERVIEW

Identity theft has become a growing concern in virtually every aspect of business relationships in today’s society. A person must be readily able to prove who they are whether purchasing a home, utility service, boarding an airplane, or going to a physician. In fact, one’s identity must be proven whenever it may be to the advantage of someone to impersonate another person.

Identity theft is not a new problem. For years, stolen wallets, mail, and checkbooks have been fertile grounds for thieves to take on another person’s identity and benefit from it. Moreover, these crimes were prevalent long before the widespread usage of computers and other modern technological advances.

Based on the FTC’s 2003 report, a victim is likely to know the identity thief when the crime is serious. In 26 percent of the cases, the victim knew the thief’s identity. In 35 percent of these cases, the thief was a family member or relative.¹⁹

In response to the problem of identity theft, numerous state and federal laws have been enacted. Forty-four states have specific laws criminalizing identity theft, and five other states have laws that cover activities included within the definition of identity theft.²⁰

The federal government has also attempted to address this problem. The federal Identity Theft and Assumption Deterrence Act of 1998 specifically labels identity theft as a crime.²¹ The Act criminalizes the unauthorized use or transfer of identity documents such as social security cards and the unauthorized use of credit cards and ATM codes, as well as instances when a person “knowingly transfers or uses, without lawful authority, a means of identification of another person with the intent to com-

mit, or to aid or abet, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law. . . .”²²

The Federal Fair and Accurate Credit Transactions Act of 2003 (FACT Act)²³ focuses on credit reporting agencies and the use of credit reports and credit scores. It requires businesses engaging in commerce to establish procedures to respond to consumer claims of identity theft. It also deals with numerous other issues, such as the ability to sell or transfer debt involving identity theft; what may be printed on receipts for credit or debit cards; how change-of-address requests for credit or debit cards may be processed; sharing of consumer information among affiliates; and limitations on the use of medical information. Additionally, Congress passed the Identity Theft Penalty Enhancement Act²⁴ on July 15, 2004, to prescribe stricter penalties for the commission of identity theft and fraud.

There are two variables that make identity theft so much more dangerous to our society today than it was before. These factors have made identity theft a potential threat to virtually everyone.

The first of these variables is the use of computer data. The widespread use and accessibility of computer data clearly has the potential of expanding the operation of identity thieves. This is especially true if the perpetrator has, or purchases, access to databases that hold confidential information.

The second variable is the advancement in technology that enhanced the ability to fraudulently duplicate identity documents. These advances have made the duplication of identification documents such as driver’s licenses, social security cards, passports, etc. of such quality that these counterfeit documents have become increasingly more difficult to detect.

Another aspect of technology that has caused identity theft concerns is the widespread usage of telephone communications to apply for and order changes to utility service. In fact, most of the utilities responding to the interrogatories process most of their applications and service inquiries over the telephone. Many have limited office hours available to the public and many never physically see the applicants.

Concerns over identity theft have affected the manner in which public utilities conduct their businesses. In fact, the utility industry ranks second (though a very distant second) only to the credit card industry in frequency of this type of identity theft.²⁵

A. Identity Theft Statistics

On February 1, 2005, the FTC released its annual report, *National and State Trends in Fraud & Identity Theft: January—December 2004*, analyzing consumer complaints regarding identity theft.²⁶ Identity theft topped the list of categories of fraud-related complaints filed with the FTC in 2004, amounting to 39 percent of the 635,173 consumer fraud complaints filed with the agency.²⁷ The national statistics reported that credit card fraud was the most common form of identity theft at 28 percent, followed by phone or utilities fraud at 19 percent.²⁸ (See detailed National Identity Theft Fraud Statis-

¹⁵ Treasury Inspector General for Tax Admin., *The Internal Revenue Service’s Individual Taxpayer Identification Number Creates Significant Challenges for Tax Administration*, at 10 (Jan. 2004).

¹⁶ 18 Pa.C.S. § 4120.

¹⁷ Holly K. Towle, *Identity Theft: Myths, Methods, and New Law*, 30 Rutgers Computer & Tech. L. J. 237, 241 (2004); S. Rep. No. 105-274, at 6 (1998).

¹⁸ Id.

¹⁹ F. T. C. 2003 Report at 28-29.

²⁰ U. S. Gen. Accounting Office, *Identity Theft: Greater Awareness and Use of Existing Data are Needed*, 1.6 (June 2002).

²¹ 18 U.S.C. § 1028(a).

²² Id.

²³ Pub. L. 108-159, 117 Stat. 1952. FACT Act amended the Fair Credit Reporting Act of 1970 (FCRA), which regulated the obligations of credit bureaus and those supplying information to them.

²⁴ Pub. L. 108-275.

²⁵ Consumer Sentinel and Identity Theft Data Clearinghouse, F.T.C., *National and State Trends in Fraud & Identity Theft: January—December 2004*, (2005).

²⁶ Id.

²⁷ Id. at 3.

²⁸ Id.

tics (2004) at Attachment B). The 19 percent of consumer complaints relating to phone or utilities fraud is made up of 10 percent attributable to new wireless accounts; 5.9 percent attributable to new telephone accounts; 4.2 percent attributable to new utilities accounts; 0.7 percent attributable to unauthorized charges to existing accounts;²⁹ and 0.3 percent attributable to unspecified accounts.³⁰ (See Attachment C: Nat'l Phone or Utilities Fraud).

The Pennsylvania statistics followed the federal statistics with credit card fraud the most common form of identity theft at 32 percent, followed by phone or utilities fraud at 19 percent.³¹ (See Attachment D: Identity Theft Types Reported by PA Victims). Among the major metropolitan areas for identity theft-related complaints, Philadelphia-Camden-Wilmington area was ranked 29th with 4,782 victims and Pittsburgh was ranked 49th with 1,211 victims.³² When categorizing identity theft victims by state, Pennsylvania was ranked 25th with a total of 7,563 victims.³³ The top identity theft victim locations in Pennsylvania were as follows: Philadelphia (1,871 victims); Pittsburgh (453 victims); Allentown (124 victims); Reading (112 victims); York (112 victims).³⁴

The results of the FTC's 2003 *Identity Theft Survey Report*, suggest that almost 10 million individuals within the United States were victims of some form of identity theft within the previous year.³⁵ In evaluating the costs of identity theft, the study found that the total loss to businesses and financial institutions was \$47.6 billion, and the total loss to victims was \$5 billion.³⁶

According to the Pennsylvania-specific data provided in the FTC's *Identity Theft Victim Complaint Data: Figures and Trends in Pennsylvania—January 1—December 31, 2003*, identity theft regarding phone or utilities fraud accounted for 21 percent of the total number of victims reporting identity theft.³⁷ In that study, the 21 percent of phone or utilities fraud was broken down as follows: new wireless accounts (11.2 percent); new telephone accounts (3.6 percent); new utilities accounts (4.6 percent); unauthorized charges to existing accounts (0.7 percent); unspecified (0.6 percent).³⁸

In analyzing the number of identity theft victims per state, Pennsylvania was ranked 24th with 6,545 victims.³⁹ The top cities in Pennsylvania based on the number of identity theft victims during the covered time period follow: Philadelphia (1,639); Pittsburgh (367); Allentown (98); West Chester (79); Harrisburg (74); and York (74).⁴⁰

IV. PERSON-TO-PERSON IDENTITY THEFT

Analysis

The first area of concern is the most publicized and familiar. This problem involves the unauthorized use of

²⁹ Id. at 10. See, e.g., Verizon Pennsylvania Inc. and Verizon North Inc. (Verizon)—Pennsylvania Office of Consumer Advocate (OCA) Settlement Agreement, available on the OCA website at www.oca.state.pa.us. In the settlement, the OCA and Verizon want to resolve all pending complaints before the Commission by Verizon customers regarding Verizon Long Distance international toll charges associated with modem hijacking, including those formal complaints in which the OCA has intervened, and to avoid future modem hijacking litigation.

³⁰ Id. at 10.

³¹ Id. at 54.

³² Id. at 12.

³³ Id. at 14.

³⁴ Id. at 54.

³⁵ *F.T.C. 2003 Report* at 4.

³⁶ Id. at 7.

³⁷ Identity Theft Data Clearinghouse, F.T.C., *Identity Theft Victim Complaint Data: Figures and Trends in Pennsylvania—January 1—December 31, 2003*, Figure 2 (2003).

³⁸ Id.

³⁹ Id., Figure 4a.

⁴⁰ Id., Figure 5.

someone's identity by another person. It should be noted, however, that the most common form of this type of identity theft occurs when a household member uses an identification of another household member to establish a utility account and obtain service. This will be discussed more fully in Section VI in this report, Name Game Identity Theft.

Public utilities in Pennsylvania have not experienced many problems with person-to-person identity theft. In fact, the overwhelming majority of the responding utilities reported that they had experienced no identity theft incidents for the years 2000 through 2003. Moreover, of those reported cases of identity theft during this time, the vast majority reported less than a total of five cases. Even where a utility reported more than five total cases, the utility clarified that identity theft cases are not tracked separately and that the total included all fraud that the company had experienced during those years and not just identity theft which may, or may not, have accounted for some of those cases.

Presently, most Pennsylvania utilities do not view identity theft as a significant problem. This is probably due, in large part, to its very rare occurrence. But we would suggest that another reason for this review is that, in relation to losses to the companies, this type of identity theft is usually discovered within several months of the account's being created. Because the service is rendered to a specific service address, this type of theft is usually discovered shortly after the account is established and sufficient focus is on the resident of the service address.

These results raise the question whether identity theft is really the "new crime of the millennium" or just a minor problem that the media has dramatized.⁴¹ It is suggested that the answer to this query is that, although person-to-person identity theft in the utility industry is, at present, a relatively minor problem that draws an over abundance of media attention, this problem has the potential to become one of the utility industry's most prevalent fraud concerns.

At the outset, it should be made clear that, although this type of identity theft appears to be rare in the utility industry at the present time, no one wants to be a statistic included in the "victim" column of an identity theft study. The individual victims of identity theft often expend many hours of time and a great deal of effort in rectifying the problems that this type of crime causes. In some cases, money is lost and credit reports are adversely affected. This fact alone should make it imperative that all possible measures to protect a utility customer's identity should be taken.

It is often forgotten that person-to-person identity theft involves another victim other than the person whose identity is stolen. The other "victim" of identity theft that is often overlooked is the utility to which the stolen identity is presented. This victim may be forgotten due to the fact that the media does not seem very interested in a utility company's being duped into serving the wrong customer for a short period of time. Utilities are generally looked at as having "deep pockets." While it may be true that the very small numbers of identity thefts that have been perpetrated through Pennsylvania utilities is somewhat insignificant at present, the potential effect could, eventually, be dramatic.

It must also be remembered that a public utility has many customers and each of those customers has pro-

⁴¹ Holly K. Towle, *Identity Theft: Myths, Methods, and New Law*, 30 Rutgers Computer & Tech. L. J. 237, 240-241 (2004).

vided some type of personal information to the utility to initiate service. Therefore, unless the company has some reliable way to identify its customers, numerous instances of identity thefts are possible. Moreover, it is apparent that when a customer files a complaint that someone else has used his identity and the complaint is verified, the utility always takes the loss. Of course this loss is not borne by the company's stockholders, but is passed on to the utility's customer base so that everyone is affected.

As stated previously, a review of the data submitted by the utilities clearly indicates that person-to-person identity theft is not seen to be significant in Pennsylvania at the present time. However, the data reveals that there may be a reason for this low occurrence of this type of identity theft.

After examining the responses presented, it becomes apparent that the key factor in the frequency of person-to-person identity theft is the utilization by many utilities of social security numbers as an identification tool, coupled with the utilities' use of credit agencies and those agencies' positive identification programs. According to the utilities that rely on these methods, incidents of identity theft are minuscule.

If one questions whether the use of social security numbers and credit agencies are the real cause for the low occurrence of identity theft, or whether this type of fraud is just rare in general, one need only to review the interrogatory answers of a large jurisdictional utility that utilizes this method. This particular utility is representative of a group of companies that utilize social security numbers and credit agencies to verify identities.

This utility reported that the numbers of attempted identity thefts for the years in question were:

2000—130
2001—143
2002—165
2003—1269

In its answer to the interrogatories, the company stated:

[The Company] utilizes the EQUIFAX (Positive Identification Program (P0510) to identify potential instances of identity fraud. The EQUIFAX Positive Identification Program is a consumer database of information created and updated by a credit inquiry, normally based on credit related activities or employment verification of an individual.

Anytime a consumer applies for gas service, [the Company] requests the applicant provide their social security number. [The Company's] customer service representative keys the social security number provided by the applicant, into a computer program. The computer program transmits the information to EQUIFAX. EQUIFAX scans their social security index database to determine the name of the person attached to the social security number provided by the applicant.

A second scan of the social security number provided by the applicant is made on the EQUIFAX SAFESCAN database. This valuable segment of the POSID program is used to identify attempted fraud. EQUIFAX's database includes data from the Social Security Administration that identifies "out of range", "deceased," or "retired" social security numbers, as well as social security numbers identified as "minors." Suspicious activity is also collected and reported from various sources via EQUIFAX including

names of other people who have used the same Social Security number the applicant provided.

Within seconds, EQUIFAX provides information with regards to the legitimacy of the applicant's identification. If EQUIFAX verifies the exact match of the social security number to the exact spelling of the customer's name, the company representative will proceed with scheduling the service connect order. However, if the information provided by the applicant fails the POSID verification test, the customer service representative will immediately deny the applicant service and request further identification be provided. [The Company] will issue a denial of service letter to the applicant requesting a notarized affidavit and a residential gas service application be completed.

The significance of this method becomes apparent when one realizes that, although a relatively large number of identity thefts were attempted for the years in question the number of actual identity theft complaints the company received were:

2000—0
2001—5 (four of which were unfounded)
2002—2 (both were unfounded)
2003—2 (one was unfounded)

Simply stated, for the years in question, there were 1,707 potential attempts to commit identity fraud through the use of questionable social security numbers. However, the company only actually experienced two verifiable incidents of identity theft for those years in question. Obviously, the company's method of identifying its applicants made it possible to detect an identity problem at the outset. These preventative measures effectively neutralized these threats.

Though most of the companies that responded to the interrogatories did not go into the same amount of detail as this particular utility, it seems that many companies, whether urban, suburban, or rural, used some similar method of identification. The use of a social security number is a readily available "red flag" to warn a utility that there may be a problem.

Virtually all the utilities state that an applicant's refusal to provide a social security number does not prevent an applicant from receiving service. However, where a social security number is not provided, or where one is provided and fails to verify the person's identity, most utilities require the applicant to personally appear before a company employee and present at least two forms of identification. Two of the companies encode the person's account with a personal password such as the applicant's mother's maiden name or a personal identification number.

Most of the companies require customers to provide a social security number or account number along with the customer's telephone number and address when seeking access to their accounts. However, when a transfer of service is requested, nearly all of the companies only permit the person listed as the current customer to transfer the service. Apparently, these procedures have also been effective in preventing identity theft.

The Pennsylvania Telephone Association (PTA) filed comments in response to the Commission's Order. In its comments, PTA suggested that the Commission should recognize that the FTC enacted rules pursuant to the FACT Act that went into effect on December 1, 2004. Therefore, PTA urged the Commission to delay any actions regarding identity theft until the full effect of the FTC's rules could be determined.

The PTA also cautioned the Commission that utility companies in Pennsylvania can be found at both ends of the business spectrum. PTA stated that some utilities are small family-owned operations that serve rural areas and whose employees personally know a significant portion of their customers and have never had an identity theft incident. Correspondingly, other utilities are listed on stock exchanges and lose significant amounts of money and man hours to identity theft. Therefore, PTA suggested that any action taken on a state-wide level must grant a certain degree of flexibility so as to be effective, but not oppressive, to different types of customers and utilities.⁴²

In addition to the responses to the interrogatories filed pursuant to the Commission's Order, a large telecommunications company also filed additional comments through its counsel. The company expressed concern that the Commission carefully analyze the projected costs versus the potential benefits realized by placing additional regulatory constraints on public utilities operating in Pennsylvania.

The company also added that additional regulatory oversight may not be prudent because consumers in Pennsylvania already have multiple levels of protection from identity theft available to them. The company stated that this is particularly true with respect to telephone utilities since the Commission has implemented 52 Pa. Code § 63.131, et seq., as these regulations establish rigid safeguards for protection of confidential telecommunications information. The company also cited other statutes that it submits protect Pennsylvania consumers from identity theft.

Conversely, many of the utilities, in response to question 15,⁴³ suggested that many of the Commission's identity theft regulations are obsolete and should be changed to provide for more protection. These responses will be addressed later in this report. However, it is interesting to note that a large telecommunications company suggested that 52 Pa. Code § 64.32 (credit standards) should be changed so that, as a condition of providing service, and to determine identity and credit worthiness, utilities should have the authority to ask applicants for five (5) pieces of identification.

Another advantage to medium and large utilities utilizing credit reports in conjunction with social security numbers is that information relating to identity theft can be easily retrieved and analyzed. One problem that utility companies seem to have is that they do not distinguish between identity theft and all other fraud complaints. Through many of the credit reporting company's data bases, information can be received to determine exactly how many attempted cases of identity theft a company may be experiencing.

Although the most effective way for most utilities to combat identity theft seems to be the use of social security numbers and credit reporting agencies, some smaller utilities may not have the ability or the resources to utilize these services. In response to the interrogatories, one small telecommunications company stated that the majority of its employees live and have deep roots within its service territory and that most of the customers are known by name. However, this company still has policies and procedures in place to insure the customer's identity. One of the cornerstones of this identification

process is that the customer is required to complete the company's application in person at one of its offices. During that time, some form of identification, preferably a photo identification is presented.

V. IDENTITY THEFT BY UTILITY EMPLOYEES

A. Analysis

Employee identity theft involves a utility employee gathering information about utility customers either directly or through the company's files and disseminating that information to an outside source, thereby giving that source access to the personal information of numerous customers. It is this problem, the unlawful use in dissemination of personal data maintained by utilities, that poses the greatest threat of exposing utilities and their customers to financial difficulty and civil liability. Public utilities gather, access, and maintain confidential personal information on a regular and on-going basis. It is imperative, therefore, that this information be protected against theft and misuse.

Unlike person-to-person identity theft, where suspicion is generated relatively soon after the theft, employee identity theft may take a long period of time to detect. In fact, it may not be detected by the customer until the customer learns that he has financial obligations about which he did not know or the customer receives a credit report indicating fraudulent activity. By that time, all the turmoil and expense that results from the use of a customer's identity has already been borne by customer. This can have a devastating effect.

On the other hand, a public utility's actual monetary losses due to this kind of identity theft may be somewhat hard to calculate. In most instances, the utility would not be out-of-pocket any revenues because the customer is probably paying his utility bills, but simply does not know that his identity is being used for other expenses or purposes that do not directly effect his relationship to the utility. The utility's exposure for financial harm may come by way of civil liability for failing to adequately protect the confidential information of their customers. In the long run, this could be considerably more damaging to the utility than simply writing off an individual's utility bill.

In reviewing all of the responses from the utilities that answered the Commission's interrogatories, employee identity theft appears to be even rarer than person-to-person identity theft. In fact, the only verified incidents of this type of utility theft were reported by a medium-sized utility in the Scranton area. The company learned of the incident, fired the employee, and had the employee prosecuted criminally. The employee was convicted of a felony and is currently being sued civilly by the victim. It should be noted that this case was on a very small scale and occurred because the employee's name was the same as the victim's name so the employee decided to take advantage of the victim's confidential information.

As is the case with person-to-person identity theft, employee identity theft, while apparently not a significant issue at the present time, has the potential to become an enormous problem if utilities do not take reasonable measures to protect customers' confidential information. This is especially true if utilities are permitted to require social security numbers. The task is then to determine the most effective ways to protect confidential customer information.

In reviewing the companies' responses to questions regarding their policies relating to employee identity theft, many companies had specific portions of their handbooks address the handling of confidential informa-

⁴² Comments of the Pennsylvania Telephone Association, M-00041811 at 2, 3.

⁴³ Question 15 of the Order asked the utilities to respond to the following: "Identify those Commission regulations that may create an opportunity for identity theft. Explain in detail how each regulation may contribute to the identity theft, and propose amendments to correct the problem."

tion and policies relating to employee fraud in this area. However, some of the smaller companies had no such policy because they had never experienced employee identity theft. Most of these smaller companies indicated that they would refer the matter to law enforcement.

At the outset, it must be understood that there is no fail-safe system for protecting customers from identity theft perpetrated by a company employee. Nor is there a fail-safe system to prevent a computer hacker entering a company system and stripping it of confidential information. The utility companies, especially larger ones, face a constant battle to upgrade their computer systems with protective devices to guard against computer hackers who damage these systems and retrieve confidential customer information. However, based upon the companies' comments, some actions do limit the amount of exposure a utility might have to identity theft by a company employee.

After carefully reviewing the interrogatory responses and speaking with a number of company officials, in particular those of a large urban utility, an on-going multifaceted approach to protect confidential information is the most successful action. The best way to achieve this is to promote a well informed and honest workforce, regardless of the size of the utility.

B. Preventative Measures

1. Employee Screening

As the companies indicated, the first step is to create a work force that can be trusted to protect confidential information that is provided to the company by carefully selecting employees. The companies suggest that pre-employment background checks should be conducted on all potential employees. This includes a criminal records history check and affirmative statements by the employee concerning his or her criminal history. A company does not hire anyone convicted of a crime of dishonesty or the illegal use or sale of contraband or controlled substances. The companies have found that in order for utilities to conduct business, they must be able to protect information from theft or misuse and, therefore, the utilities must maintain strict guidelines concerning who will be hired to properly handle and protect this information.

The companies stated that it is important that all employees are scrutinized through this type of check. Moreover, this is a routine screening that can be accomplished by a large or small company through the use of computer technology. Specifically, the screening generally includes the following:

- a. Verification that all information on the employment application and supporting documentation is accurate and current;
- b. Requesting all information to conduct a thorough criminal history record check;
- c. Taking and retaining copies of application information such as birth certificates, driver's licenses, and social security cards;
- d. Reference checks;
- e. Verification of education.

This type of background verification helps to insure that utilities know the type of employees that are in their workforce.

2. Training

New employees receive extensive training on the utility's privacy policy and how to maintain confidential

records. Many of the companies responding to the Commission's interrogatories incorporate this training with their employee orientations. This may suffice for some employees that are taking information over the telephone, but more extensive training is required of those employees who are entrusted to protect and preserve confidential information.

3. Ethics Policy

Most of the major companies have adopted a corporate ethics policy concerning conflicts of interest and using the corporation for one's personal gain. The companies indicated that merely having an ethics policy and handing out a booklet is not enough. At the very least, the companies have found that they should also provide some type of basic training on their ethics codes to define terms and state their expectations, particularly with regard to customer confidentiality.

Along with educating employees on the companies' ethics codes, the companies strictly and aggressively enforce their codes. Strict enforcement is accomplished by:

- a. Terminating employees who intentionally misuse confidential customer data, and where appropriate, the company should utilize local law enforcement;
- b. Terminating employees, who during the course of their employment, are convicted of crimes of dishonesty or other moral turpitude;
- c. Actively investigating any allegations of dishonesty and terminate such employee if the investigation determines it is likely that the employee committed the act;
- d. Where necessary, utilizing outside investigation services to conduct a full and thorough investigation;
- e. Establishing a policy of publicizing the company's strict ethical standards, and the actions taken when those standards are violated; and
- f. Vigorously opposing unemployment compensation claims when employees are terminated for dishonest activities.

4. Management Employees

The Companies stated that in order for a utility to effectively combat employee identification theft, management employees should be held to a higher standard of conduct than rank and file employees. This does not mean that rank and file employees can ignore or disobey an ethics policy. In fact, it means that management employees should be responsible, not only for their own compliance with ethics policies, but also for closely scrutinizing the employees they supervise, to insure that ethical standards are being met. Additionally, the hiring of management level employees, or employees who will be directly involved with the accumulation and storage of confidential information, should, at the outset, be more closely scrutinized. Simply stated, when hiring or promoting employees to a management position, or one of trust, a more extensive background check should be conducted.

Many of the larger utilities have developed different procedures for screening confidential employees. One very large natural gas company was particularly helpful in sharing its procedures. After reviewing this company's responses to the interrogatories, as well as its procedures, and personally speaking with its corporate counsel, it appears that the way it screens its confidential employees is very effective. Specifically, in addition to the steps for pre-employment screening previously enumerated in this report, this company does the following:

- a. Lexis-Nexis Check
 1. Lien and Judgment Index
 2. Newspaper and Magazine files
 3. Property Ownership, Property Transfer and Tax Assessor files
 4. Federal and State Criminal and Civil Docket files
 5. Bankruptcy file
 6. Federal and State case files (Lexis)
 7. SmartLinx TM Person and Location tool
 8. All Find tool
 9. Business and Corporation files
 10. Social Security Death Index
- b. Check of local court docket where appropriate
- c. Check with federal, state, and local law enforcement agencies where appropriate
- d. Internet name search
- e. Prior bad acts (honesty and integrity related acts that may not have resulted in arrest or conviction)

5. Information Technology Safeguards

Protecting a customer's confidential information is a two-fold problem. First, as stated previously, companies find it necessary to closely scrutinize the employees handling such information. The second problem is the on-going battle of utilities to protect hardware, software, and data from intrusion, destruction, and file corruption.

Those companies that utilize computer systems to obtain, maintain, track, and store confidential customer information do whatever is technologically possible to protect that information. This includes:

- a. Firewalls
- b. DMZ
- c. Paper trail when employee modified files
- d. Network monitoring tools-monitor fire wall activity and all of the network devices
- e. Regular security assessments
- f. Employee education and awareness
- g. Staying current with best practices on handling and protecting data
- h. Protection against viruses and malicious code (all desktops and servers)
- i. Maintaining a technical disaster recovery plan in place
- j. Following current practices for backing up data and sending it off-site
- k. Stratifying access and viewing rights based on need to know

While it is recognized that some of these methods for protecting customers against employee identification theft may be costly and time consuming for smaller utilities, the companies indicated that it is necessary.

A few of the smaller utilities still store confidential information in file cabinets. These companies state that these file cabinets are locked and only certain employees have access to them. Although the use of locked file cabinets may be outdated, and is not encouraged, it is probably preferable to utilize secure file cabinets instead of an unsecured computer system. This is because file

cabinet information may be stolen only by physically entering a company's facilities and removing the files. On the other hand, an unsecured computer system allows an identity thief access to confidential files and selling the information found in those files without ever leaving the comfort of his computer lab.

After reviewing the companies' responses to the interrogatories it appears that careful hiring practices, employee training, establishing company policies and strict enforcement of those policies are the best ways to combat employee identity theft. Although no system is 100% effective, utilization of these methods seems to significantly decrease the threat of employee identity theft.

VI. NAME GAME IDENTITY THEFT

This is a third type of fraud that some utilities classify as identity theft. While name game identity theft may or may not constitute identity theft under Pennsylvania Crimes Code 18 Pa.C.S. § 4120, it is nonetheless an activity of serious concern to fixed utilities in Pennsylvania and warrants discussion in this report.

Name game identity theft occurs when a household member uses the identification of another household member to establish a utility account and obtain utility service. In most cases, the "victim" and the perpetrator live in the same household and both benefit from access to the service. For this reason, and because family members rarely prosecute each other for this form of identity theft, discovery rarely, if ever, results in prosecution. The problem with name game identity theft is not the individual "victim's" losses because that person benefits from the theft by living in the home where the utility service is being provided. The real concern is that the utility often fails to recover the earlier debt. This means that the utility's ratepayers are burdened with this uncollectible debt.

According to the Commission's Bureau of Consumer Services (BCS), which contributed significantly to this section of this report, name game identity theft is most often reported by fixed utility companies. However, it is apparent from the answers to the Commission's interrogatories that the utilities, in most cases, did not classify name game identity theft as a type of identity theft in answering the interrogatories.

Of course, not all instances of the "name game" meet the definition of identity theft because the "victims" may collaborate with the "perpetrators" to receive utility service. However, identity theft may still occur in those situations where there is a request to place the service in a person's name who has not consented to the use of his name and personal information such as his social security number.

To combat this type of identity theft, Title 66 was amended by adding Chapter 14, 66 Pa.C.S. §§ 1401, et seq. Chapter 14 is intended to eliminate the opportunities for customers capable of paying to avoid payment of utility bills by switching the names on their accounts. This is accomplished by including within the definition of "applicant" and "customer" not only the person who is currently receiving the residential service, but also any adult occupant whose name appears on the mortgage, deed, or lease of the property for which residential utility service is requested.

Additionally, Chapter 14 permits utilities to require that the applicant provide names of each individual occupant residing at the location and proof of his identity. Moreover, Chapter 14 allows a public utility to require the payment of an outstanding balance, or portion of an

outstanding balance, if the new applicant resided at the property for which services were requested during the time the outstanding balance accrued, and for the time the applicant resided there.

Chapter 14 is intended to seriously inhibit name game identity theft attributable to instances of the "name game." A nonpaying customer can no longer switch the account into the name of another person living in the household.

VII. COMPANY RECOMMENDATIONS

The last question posed by the Commission asked utilities whether, in their opinions, Commission regulations create an opportunity for identity theft. Additionally, those utilities that envision a problem with the regulations were asked to propose changes. Due to confidentiality concerns, these responses will be discussed without specifically identifying the utilities.

Many of the utilities that responded to this question opined that the current regulations were sufficient to safeguard against identity theft and were not in need of modification. These utilities did not have a problem with identity theft and were in general agreement that if utilities adequately uphold the Commission's regulations and conduct a sound business practice, identity theft should not be a major concern.

As stated previously, one major telecommunications utility and PTA agreed with this general sentiment and focused on the costs of additional regulations, coupled with the increased administrative burden that the regulations might place on utilities, and cautioned that these factors must be weighed against any potential benefits to be gained. This company also stated that if the Commission were to implement regulations with high costs of compliance for public utilities, the end user consumers of telephone services would suffer negative consequences in the form of increased costs and this would inevitably lead to utility rate increases.

This utility also stated that in 1996, the Pennsylvania General Assembly enacted its own identity theft statute at 18 Pa.C.S. § 4120, which makes identity theft a crime in the Commonwealth that can rise to the level of a felony. In addition to other protections afforded by the federal government, such as limitations on the required use of social security numbers, the US Government recently enacted amendments to the FCRA, 15 U.S.C. § 1601, et seq. The amendments, known as the FACT Act, Pub. L. No. 108-159, 117 Statute 1952, were passed in 2003, with the express purpose of "amending the FCRA to prevent identity theft. . . ." The Act contains many new provisions to avoid identity theft, such as placing fraud alerts on consumer credit reports, allowing free access to consumer credit reports to those who have placed fraud alerts, and redaction of complete credit card numbers on customer receipts. This utility and others suggest that because this statute is fairly new, ample time must be allowed to gauge its effectiveness before additional levels of regulatory burden are imposed.

Nonetheless, this company suggested changing the Commission's regulations. Specifically, it suggested that, to assist in the fight against identity theft, 52 Pa. Code § 64.32(4)(ii)(A) be amended to remove reference to "the applicant's social security number" so that this number is not made available.

Other utilities also expressed concerns and made suggestions. For example, a major gas utility suggested that it is not wise to post notices on a customer's premises that include visible names and account numbers.

Another major jurisdictional telecommunications utility responded that § 64.32 (Credit Standards) does not specify use of credit bureau reports as a tool for an applicant to demonstrate credit worthiness. This utility believes that this opens the door for fraud by making it difficult to obtain and verify information regarding the applicant. Accordingly, it suggested that the Commission's regulations should work in cooperation with the FACT Act and the FCRA. To this end, the utility proposed that § 64.32 be revised to permit carriers to use credit reports as the primary standard for creditworthiness and that § 64.61 (Grounds for Suspension) be amended to allow the disconnection of utility service for fraud without notice and the ability to deny reconnection of utility service where the ground for suspension is fraud.

A relatively small telephone company stated that the Commission's regulations do not specifically address preventative measures that may guard against identity theft. This utility believes that requiring one personal visit to the office, two separate forms of proof of identity, including a photo ID and a copy of the customer's social security card should help minimize exposure to identity theft.

As mentioned previously, a major jurisdictional telecommunications utility suggested that changes be made to 52 Pa. Code § 64.32 (Credit Standards). Specifically, this utility feels that as a condition of providing service and to determine identity and creditworthiness, it is essential that it have the ability to ask for five (5) pieces of identification from applicants, including the requirement that applicants provide a social security number without restriction. Information that is necessary and should be required before provisioning service includes date of birth, employment, and address. It stated that, under the FACT Act, a social security number is crucial to make inquiries to one of the major credit bureaus in order to receive a Fraud Alert Indicator, where applicable.

Another indicator that would be provided by using a social security number would be a Notice of Address Discrepancy Indicator. Both of these indicators act as a "red flag" in protecting the real customer when inquiries are made to establish service without authorization. This utility also agreed with other responders that the existing Commission rules and regulations need to coexist and complement the FACT Act's provisions.

In its responses, a major water utility suggested that to strengthen 52 Pa. Code § 56.33, all applicants for utility service should be required to provide proof of identity (social security number, driver's license number, etc.). The utility further opined that a utility should be afforded discretion to deny utility service when an applicant refuses to comply with proof of identity requirements. With respect to §§ 56.16, 56.72, and 56.131, transfer of accounts, discontinuation of service and third party notification, respectively, the utility suggested that callers be required to provide a passcode or password in order to access account information.

Several energy utilities responded to the Commission's questions as well. A major gas utility suggested that the definition of "unauthorized use of utility service," found at 52 Pa. Code § 56.2, be amended to expressly clarify that service acquired through identity theft is unauthorized. It also suggested that 52 Pa. Code § 59.26 be amended to expressly authorize a utility to refuse to serve an applicant who fails to provide sufficient proof of identity and residency. Lastly, this utility suggests that the general regulations be amended to allow utility security departments to openly communicate with and share information with each other regarding identity theft complaints. This

type of communications would help security personnel verify information provided to them by the complainant and other witnesses/suspects.

These responses are representative of the responses received from interrogatories. It should also be mentioned that the Pennsylvania Telephone Association filed responses for numerous smaller telephone companies. Generally, these companies have not had any experience with identity theft of any kind.

VIII. CONCLUSION

In conducting a thorough review and analysis of identity theft and its impact on Pennsylvania utilities, the data shows that Pennsylvania utilities have not yet experienced significant identity theft problems. As stated earlier, the majority of utilities that responded to the Commission's interrogatories reported no identity theft incidents during the years 2000-2003. Moreover, of the utilities that reported cases of identity theft, the majority reported less than a total of 5 cases for those years. As suggested previously, one of the reasons identity theft in relation to utility service is rare is because the service is rendered to a specific service address and is usually discovered shortly after the account is established.

Despite the fact that identity theft in relation to Pennsylvania's utilities is currently a relatively minor problem, the problem could expand and become a more prevalent concern with potentially harmful affects on both utility companies and their customers.

The key reasons that person-to-person identity theft is not currently a large problem for Pennsylvania utilities are the utilities' utilization of social security numbers as an identification tool, coupled with the use of credit agencies and the agencies' positive identification programs. Additionally, the utilities' adherence to the Commission's regulations regarding the confidentiality of customer information aid in combating this problem.

Similarly, employee identity theft has not been identified as a major concern for most companies because many have detailed policies and employee handbooks regarding the handling of confidential information. It is recommended that all companies implement a multi-faceted approach to promote a well-informed and honest workforce, which includes employee screening, training, ethics policies, higher standards for management employees, and information technology safeguards. Moreover, to combat instances of "name game" identity theft, the General Assembly has amended Title 66 by adding Chapter 14, 66 Pa.C.S. § 1401, et seq.

Based upon the findings in the report, it appears that identity theft is not currently a major problem for Pennsylvania utilities. However, utilities should be aware of its potential impact and continue to or begin to implement effective procedures and practices to ward off identity theft. Utilities should be encouraged to utilize social security numbers and credit agencies; to have policies and handbooks regarding employee protection of confidential information; to adhere to the Commission's regulations; to apply any other effective procedures to ensure that confidential information is protected.

ATTACHMENT A

All major jurisdictional fixed utility companies, telecommunications service providers, and electric generation

suppliers and natural gas suppliers, are directed to file written responses to the following questions on identity theft⁴⁴:

1. Provide the total number of disputes, as that term is defined in Commission regulations⁴⁵, in which a customer alleged identity theft for each of the following calendar years:

- (a) For the year ending December 31, 2000.
- (b) For the year ending December 31, 2001.
- (c) For the year ending December 31, 2002.
- (d) For the year ending December 31, 2003.

If the company keeps statistics by fiscal year, please provide the above information for the immediate past four fiscal years.

2. Describe and provide a copy of company policy and procedures relating to verification of the customer's identity in the application process and the account transfer process. Also, provide information regarding the circumstances under which the company requests that a consumer provide additional sources of personal identification in order to verify that consumer's identity.

3. Describe and provide a copy of the company's written policy regarding new applications for service. Provide a copy of rules and regulations from the company's current and effective tariff relating to new applications for service, including circumstances under which written applications are required, and circumstances under which applications for service may be accepted over the telephone. Describe the process employed by the company to verify information provided over the telephone to ensure that the person requesting the service is in fact who he or she represents themselves to be.

4. Other than applications for new service, what kind of personal information is required when customers call in regarding their service and seeks to do the following?

- a. Verify the balance due.
- b. Transfer the account into another person's name.
- c. Complain about a service disruption.
- d. Pay the bill over the phone.
- e. Ask questions about their bill or service.
- f. Close an account.
- g. Any other action not described above.

5. Describe and provide a copy of the company's policy relating to the use of an applicant's or a customer's social security, particularly the circumstances under which the company requires that a social security number be provided, and how the social security number is used by the company. Describe and provide a copy of all documents related to security measures that the company uses to protect a customer's social security number. Describe and provide a copy of all documents relating to the company's procedures and policy applicable to situations where a customer refuses or fails to provide a social security number. By way of example only, if the company declines to serve to a new customer, what is the basis for the denial?

6. Describe and provide a copy of the company's policies and procedures relating to protecting the privacy of a customer's account information and other personal identi-

⁴⁴ The offense of "identity theft" is defined as "... the possession or use, through any means, of identifying information of another person without the consent of that other person to further any unlawful purpose." 18 Pa.C.S. § 4120.

⁴⁵ See 52 Pa. Code § 56.2(definitions) and 52 Pa. Code § 64.2 (definitions).

fication information that may be provided by the customer in conjunction with applying for, or transferring utility service, or paying utility bills. In particular, describe the security measures or procedures that are in place to protect or secure personal information customers provide to the company.

7. For the calendar year ending December 31, 2003, provide the following information related to establishing or transferring customer accounts:

- (a) Total number of new accounts.
- (b) Total number of transferred accounts.
- (c) Total number of new accounts for which identity of consumer was verified by:
 - i. Credit history check.
 - ii. Government-issued photograph identification card, such as a driver's license, student identification card, employee identification card.
 - iii. Government issued non-photograph identification card, such as a library card, voter registration card.
 - iv. Other form of identification, such as credit card, automobile club service card, student identification card, employee identification card.
- (d) Total number of transferred accounts for which identity of the consumer was verified by:
 - i. Credit history check.
 - ii. Government-issued photograph identification card, such as a driver's license, student identification card, employee identification card.
 - iii. Government issued non-photograph identification card, such as a library card, voter registration card.
 - iv. Other form of identification, such as credit card, automobile club service card, student identification card, employee identification card.

8. Provide the address and hours of operation of each company office that is open to the public where a consumer can establish or transfer a service account in person. The term "company office" includes an office that is operated by an agent of the company. Identify each company office that is operated by contracted agents.

9. Provide the total amount of costs attributable to identity theft involving customer accounts for each of the following calendar years:

- (a) For the year ending December 31, 2000.
- (b) For the year ending December 31, 2001.
- (c) For the year ending December 31, 2002.
- (d) For the year ending December 31, 2003.

If the company keeps statistics by fiscal year, please provide the above information for the immediate past four fiscal years.

Explain how the company identifies and tracks costs that can be attributed to identity theft. The term "costs" is defined to include all expenditures made in investigating and verifying identity theft claims.

10. Provide the total amount of losses attributable to identity theft involving customer accounts for each of the following calendar years:

- (a) For the year ending December 31, 2000.
- (b) For the year ending December 31, 2001.
- (c) For the year ending December 31, 2002.
- (d) For the year ending December 31, 2003.

If the company keeps statistics by fiscal year, please provide the above information for the immediate past four fiscal years.

The term "losses" is the dollar amount of uncollected charges for stolen service as a result of identity theft. Explain how the company identifies and tracks losses that can be attributed to identity theft. Also, explain how much of the company's active debt and write-offs, expressed in total dollars and as a percentage of the whole, are directly attributable to identity theft. Please provide figures for the company's gross debt and for gross write-offs for comparison to the percentages attributable to identity theft.

11. Provide a copy of the company's current procedures for conducting internal investigations related to alleged customer identity theft by a company employee. Provide a copy of the final report on each internal investigation of alleged customer identity theft by a company employee that was conducted since January 1, 2000. Identifying personal information for the employee and customer must be redacted from each report.

12. Provide a copy of the company's current procedures for investigating customer allegations of identity theft relating to a utility service account. Provide a copy of the final report on each such investigation conducted since January 1, 2000. Identifying personal information for the customer must be redacted from each report.

13. Provide the total number of internal investigations of alleged customer identity theft by company employee conducted by the company for each of the following calendar years:

- (a) For the year ending December 31, 2000.
- (b) For the year ending December 31, 2001.
- (c) For the year ending December 31, 2002.
- (d) For the year ending December 31, 2003.

Indicate the number of internal investigations that are currently in progress.

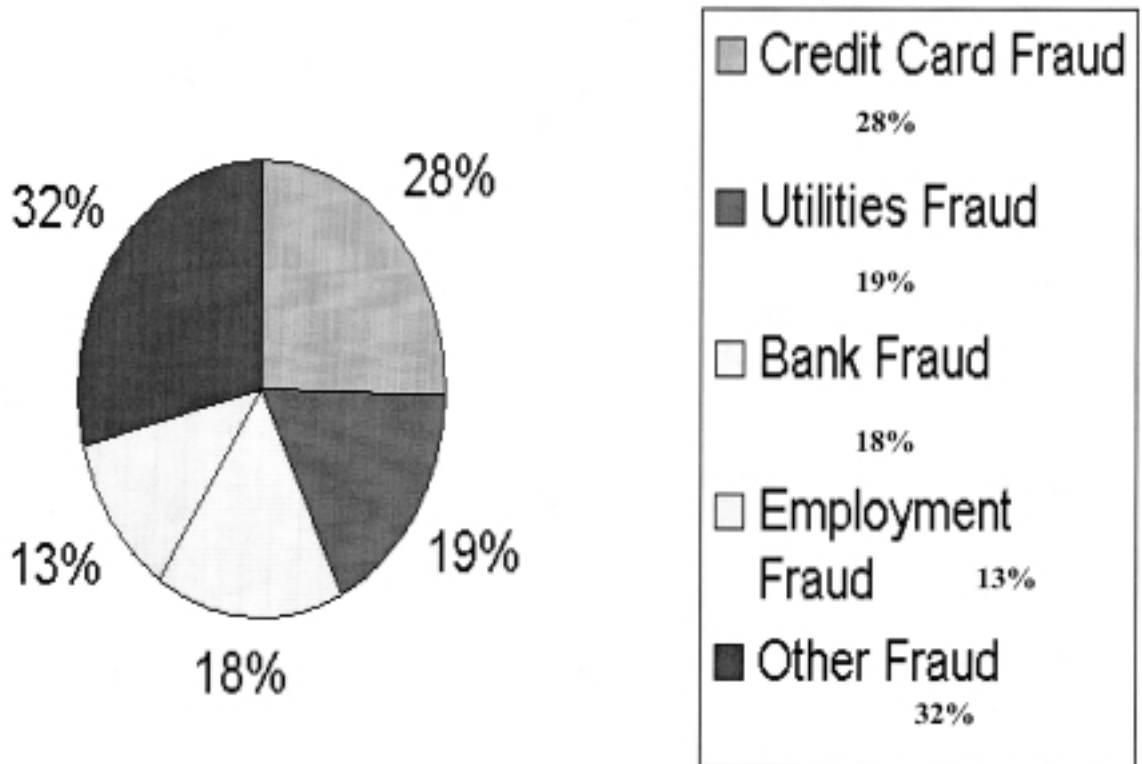
14. Provide the total number of investigations of customer allegations of identity theft conducted by company for each of the following calendar years:

- (a) For the year ending December 31, 2000.
- (b) For the year ending December 31, 2001.
- (c) For the year ending December 31, 2002.
- (d) For the year ending December 31, 2003.

Indicate the number of investigations that are currently in progress.

15. Identify those Commission regulations that may create an opportunity for identity theft. Explain in detail how each regulation may contribute to the identity theft, and propose amendments to correct the problem.

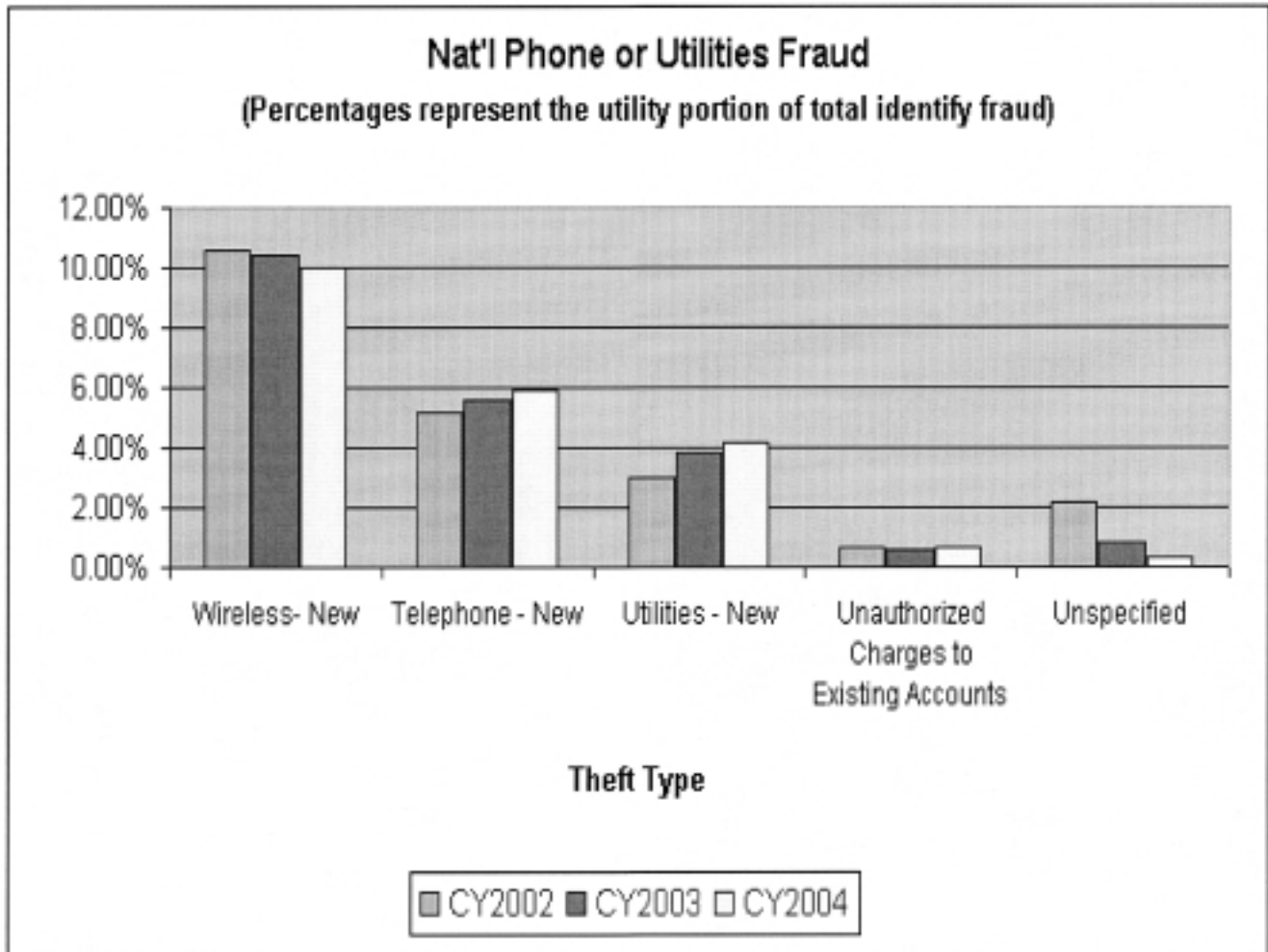
National Identity Theft Fraud Statistics (2004)



Source:

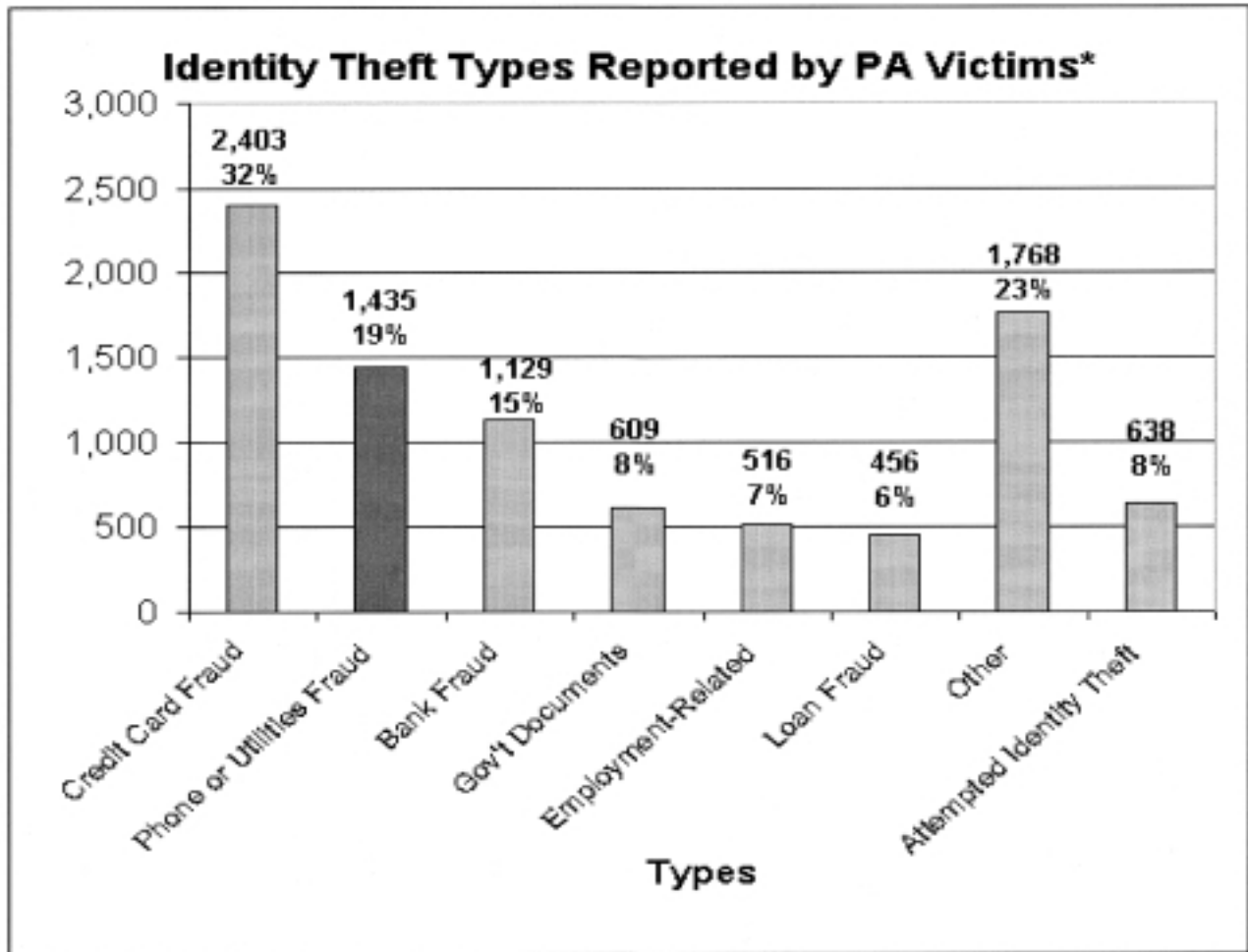
Consumer Sentinel and Identity Theft Data Clearinghouse, F.T.C., *National and State Trends in Fraud & Identity Theft: January – December 2004* (2005).

ATTACHMENT C



Source:
 Consumer Sentinel and Identity Theft Data Clearinghouse, F.T.C., *National and State Trends in Fraud & Identity Theft: January – December 2004* (2005).

ATTACHMENT D



JAMES J. MCNULTY,

Source:

Consumer Sentinel and Identity Theft Data Clearinghouse, F.T.C., National and State Trends in Fraud & Identity Theft: January – December 2004, (2005).

[Pa.B. Doc. No. 05-1880. Filed for public inspection October 7, 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, on or before October 31, 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.

Applications of the following for approval to *begin operating as common carriers for transportation of persons as described under each application.*

A-00122110. David J. Mahalak (P. O. Box 1212, Wilkes-Barre, Luzerne County, PA 18703)—persons in paratransit service, from points in the Counties of Luzerne and Lackawanna, to points in Pennsylvania, and return.

A-00122121. J & E Transportation Service, LLC (P. O. Box 284, Lancaster County, PA 17545), a limited liability company of the Commonwealth of Pennsylvania—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

A-00122113. Charles J. Martin (934 Lebanon Road, Manheim, Lancaster County PA 17545)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the County of Lancaster, to points in Pennsylvania, and return.

A-00122114. Alexander N. Rodriguez (246 N. 11th Street, Allentown, Lehigh County PA 18102)—persons upon call or demand service, in the City of Allentown, Lehigh County, and points within 5 statute miles of the limits of said city.

Applications of the following for *amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.*

A-00113582, Folder 2, Am-C. Concord Limousine, Inc. t/d/b/a Concord Coach Taxi (2752 Mount Carmel Avenue, Glenside, Montgomery County, PA 19038), a corporation of the Commonwealth of Pennsylvania, for amendment to its common carrier certificate, which grants the right, inter alia, to transport, by motor vehicle, persons, upon call or demand in the Bala-Cynwyd section of Lower Merion Township, Montgomery County, between the Schuylkill River on the east and Wynnewood Avenue on the west and extending to Rock Hill Road, Bryn Mawr Avenue and Montgomery Avenue on the north and from points in that area to other points in Pennsylvania, and vice versa; all transportation to be on call by telephone to the carrier's office: *So As To Permit* the transportation of persons upon call or demand: (1) in the Township of Hanover, and the Borough of Fountain Hill, both located in Lehigh County; (2) the City of Bethlehem, located in

the Counties of Northampton and Lehigh, and; (3) the Townships of Bethlehem and Lower Saucon, and the Boroughs of Freemansburg and Hellertown, said boroughs and townships all located in the County of Northampton.

A-00118810, F. 1, Am-C. Michael Felix Szczepanski t/a J. B. Taxi (233 Midland Avenue, Midland, Beaver County, PA 15059)—amendment to his authority to transport, as a common carrier by motor vehicle, persons, upon call or demand, in the County of Lawrence: *So As To Permit* the transportation of persons upon call or demand in the County of Mercer.

Application of the following for approval of the *additional right and privilege of operating motor vehicles as common carriers for transportation of persons as described under the application.*

A-00120712, Folder 2. Airport Orbit, Inc. (140 South Main Street, Slippery Rock, Butler County, PA 16057), a corporation of the Commonwealth of Pennsylvania—persons in limousine service, between points in Pennsylvania, excluding the right to transport between points in the County of Allegheny; which is to be a transfer of all the right authorized under the certificate issued at A-00106294, F. 4 to Blair Cab, Inc. t/a Pelton Limousine, subject to the same limitations and conditions. *Attorney:* David M. O'Boyle, Esquire, 1450 Two Chatham Center, Pittsburgh, PA 15219.

Application of the following for approval of the *right to begin to operate as a broker for the transportation of persons as described under the application.*

A-00122117. Medical Transportation Management, Inc. t/d/b/a Medical Transportation Management of Pennsylvania (16 Hawk Ridge Drive, Lake Saint Louis, MO 63367), a corporation of the State of Missouri—brokerage license—to arrange for the transportation of persons who are Medicaid recipients, under a contract with the Department of Public Welfare, for nonemergency transportation service, under the Philadelphia Medical Assistance Program, between points in Pennsylvania. Application for temporary authority has been filed at A-122117, seeking the right cited previously. *Attorney:* William T. Hawke, 100 North Tenth Street, Harrisburg, PA 17101.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. System of Services, Inc. t/d/b/a SOS Taxi & Fantasy Limo; Doc. No. A-00108826C, Fs. 1 and 3

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 System of Services, Inc., t/d/b/a SOS Taxi & Fantasy Limo, respondent maintains a principal place of business at 28 Georgetown Lane, Beaver, Pennsylvania 15009.
2. That respondent was issued Certificates of Public Convenience by this Commission on November 2, 1990, at

Application Docket No. A-00108826, on March 13, 1990, at Application Docket No. A-00108826, Folder 2, on July 27, 1993, at Application Docket No. A-00108826, Folder 3, on June 30, 1993, at Application Docket No. A-00108826, Folder 4, and on December 13, 2000, at Application Docket No. A-00108826, Folder 5.

3. That respondent has failed to maintain evidence of bodily injury and property damage insurance on file with this Commission.

4. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission issue an Order which (1) cancels the Certificates of Public Convenience held by respondent at Docket No. A-00108826, Fs. 1 and 3, for failure to maintain evidence of current insurance on file with the Commission, (2) orders such other remedy as the Commission may deem to be appropriate, which may include a fine and the suspension of a vehicle registration and (3) imposes an additional fine on the respondent.

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 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). 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 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 days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, Contract Carrier Permit, or Broker-

age license, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations within twenty days of the date of service of this Complaint. The proof of insurance must be filed with the Secretary of the Commission at the address set forth in Paragraph A. Upon receipt of the evidence of insurance from your insurer, the complaint proceeding shall be closed. **ACCORD CERTIFICATES OF INSURANCE ARE UNACCEPTABLE AS EVIDENCE OF INSURANCE.**

D. If you file an answer which either admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission enter an order imposing a penalty (see Paragraph B). Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

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 penalty set forth in Paragraph B.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Insurance/Filing Unit at (717) 783-5933.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Brian Kerrigan and Joseph McGoff t/a Northeastern Pennsylvania Courier; Doc. No. A-00117304C0501

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 Brian Kerrigan and Joseph McGoff, t/a Northeastern Pennsylvania Courier Services, respondent, maintains a principal place of business at 526 Emmett Street, Scranton, PA 18505.

2. That respondent was issued a Certificate of Public Convenience by this Commission on January 17, 2001, at Application Docket No. A-00117304 F.2.

3. That respondent has failed to maintain evidence of cargo insurance and bodily injury and property damage insurance on file with this Commission.

4. That respondent, by failing to maintain evidence of file with this Commission, violated 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

Wherefore, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty (20) days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission issue an

Order which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. A-00120753, for failure to maintain evidence of current file with the Commission, (2) orders such other remedy as the Commission may deem to be appropriate, which may include a fine and the suspension of a vehicle registration and (3) imposes an additional fine on the respondent.

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 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 of the date of service, 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 causing your insurer to file proper evidence of current insurance in accordance with the Commission's regulations within twenty (20) days of the date of service of this Complaint. The proof of insurance must be filed with the:

Compliance Office, Bureau of Transportation & Safety
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Upon receipt of the evidence of insurance from your insurer, the Complaint proceeding shall be closed. **ACCORD CERTIFICATES OF INSURANCE AND FAXED FORM E's AND H's ARE UNACCEPTABLE AS EVIDENCE OF INSURANCE.**

D. If you file an Answer which either 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. 05-1881. Filed for public inspection October 7, 2005, 9:00 a.m.]

Telecommunications

A-310922F7001. Verizon North Inc. and Core Communications, Inc. Joint petition of Verizon North Inc. and Core Communications, Inc. for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon North Inc. and Core Communications, Inc., by its counsel, filed on September 21, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North, Inc. and Core Communications, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1882. Filed for public inspection October 7, 2005, 9:00 a.m.]

Water Service

A-210104F0066 and A-210620F2000. Aqua Pennsylvania, Inc. and Country Club Gardens Water Company, Inc. Joint application of Aqua Pennsylvania, Inc. (Aqua PA) and Country Club Gardens Water Company, Inc. (Country Club) for approval of: 1) the acquisition by Aqua PA of the water system assets of Country Club situated in the: (i) Maple Hills community, Lower Macungie Township; (ii) Country Club Gardens community, South Whitehall and Salisbury Townships; and (iii) Springhouse Farms community, South Whitehall Township, all of which are situated in Lehigh County; 2) the right of Aqua PA to begin to offer, render, furnish and supply water service to the public in the: (i) Maple Hills community, Lower Macungie Township; (ii) Country Club Gardens community, South Whitehall and Salisbury Townships; and (iii) Springhouse Farms community, South Whitehall Township, all of which are situated in Lehigh County; and 3) the abandonment by Country Club of public water service in the: (i) Maple Hills community, Lower Macungie Township; (ii) Country Club Gardens

community, South Whitehall and Salisbury Townships; and (iii) Springhouse Farms community, South Whitehall Township, all of which are situated in Lehigh County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before October 24, 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: Aqua Pennsylvania, Inc. and Country Club Gardens Water Company, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1883. Filed for public inspection October 7, 2005, 9:00 a.m.]

Water Service

A-210104F0067 and A-212180F2000. Aqua Pennsylvania, Inc. and Oakland Beach Water Company, Inc. Joint application of Aqua Pennsylvania, Inc. (Aqua PA) and Oakland Beach Water Company, Inc. (Oakland Beach) for approval of: 1) the acquisition by Aqua PA of the water system assets of Oakland Beach in Sadsbury and Summit Townships, Crawford County; 2) the right of Aqua PA to begin to offer, render, furnish and supply water service to the public in a portion of Sadsbury and Summit Townships, Crawford County; and 3) the abandonment by Oakland Beach of public water service within Sadsbury and Summit Townships, Crawford County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before October 24, 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: Aqua Pennsylvania, Inc. and Oakland Beach Water Company, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong and Niesen, 212 Locust Street, Suite 500, P. O. Box 9500, Harrisburg, PA 17108

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1884. Filed for public inspection October 7, 2005, 9:00 a.m.]

Water Service

A-212285F0126. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply water service to the public in portions of South Franklin Township and Buffalo Township, Washington County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before October 24, 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: Pennsylvania-American Water Company

Through and By Counsel: Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-1885. Filed for public inspection October 7, 2005, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearing Scheduled

A hearing has been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

November 8, 2005	David M. Nelson	1 p.m.
	(Disability Retirement Post Termination)	

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

ERIC HENRY,
Secretary

[Pa.B. Doc. No. 05-1886. Filed for public inspection October 7, 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.

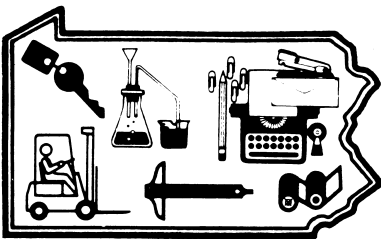
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

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.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer



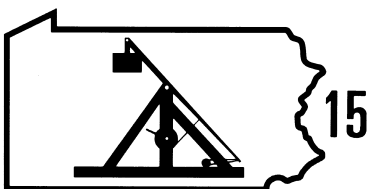
Commodities

ESAM-SIM This provides interested suppliers with sufficient information to enable them to prepare and submit written responses for consideration by the Commonwealth of Pennsylvania (Commonwealth or PA) to meet the need for a Security Incident Management System (ESAM-SIM) product standard.

Department: Office of Administration/Executive Offices
Location: Office of Information Technology, Bureau of Enterprise Architecture, Technology Engineering Division, 1 Technology Park—Room 153, Harrisburg, PA 17110

Contact: Roger Andras, 717-783-0579

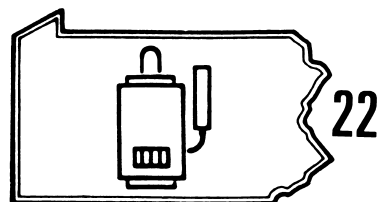
SERVICES



Environmental Maintenance Service

OSM 16(0065)101.1 Abandoned Mine Land Reclamation Project, Fairhill Coal. The principal items of work and approximate quantities include 74,000 cubic yards of Grading, 575 cubic yards of Ditch Excavation, 300 square yards of H.V.E.C.M.B., 300 square yards of Rock Lining, 120 linear feet of twenty-four (24) Inch Diameter Pipe and 10.25 acres of Seeding. This project issues on September 30, 2005 and bids will be opened on October 25, 2005 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. Federal funds have been made available for this project from the \$25.4 million for Pennsylvania's 2005 AML Grant.

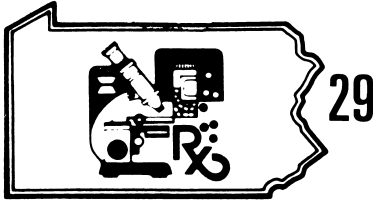
Department: Environmental Protection
Location: Redbank Township, Clarion County Duration: 240 calendar days after the official starting date.
Contact: Construction Contracts Section, 717-787-7820



HVAC Services

W-0588-0504 Contractor shall properly remove and dispose of the existing Trane air cooled chiller and furnish and install replacement equipment consisting of an air cooled screw chiller with a minimum nominal cooling capacity of 200 tons.

Department: Public Welfare Duration: Unknown
Contact: Nikki Koser, Purchasing Agent, (717) 789-5508



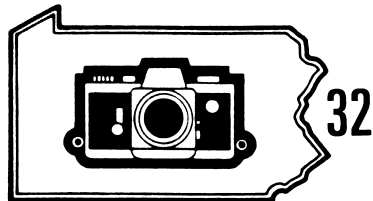
Medical Services

CN00016904/Speech Speech/Dysphagia Services—Rehabilitative Services—Diagnostic and evaluation services to approximately 500 residents of the Hollidaysburg Veterans Home as directed by physicians. Services under this contract will be on a consultant basis, as an independent contractor, not as an employee of the Commonwealth. Contractor must have license in Speech Language Pathology. Contractor must be registered with the Commonwealth. In order to do so, please visit www.vendorregistration.state.pa.us/. If you would like a bid packet, please either e-mail or fax your request, along with your Vendor Registration Number, to the information below.

Department: Military Affairs

Location: Hollidaysburg Veterans Home, PO Box 319, RT 220 & Meadows Intersection Hollidaysburg PA 16648-0319 Duration: Approximately December 01, 2005 through June 30, 2006 with renewal options.

Contact: Becky J. Clapper, FAX: 814/696-5395



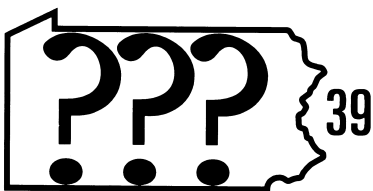
Photography Services

CN00016546 Provide vertical aerial photography on projects within the Commonwealth of Pennsylvania utilizing a 9" X 9" format vertical aerial precision mapping camera capable of meeting the Department's camera standard and rigid lens calibration requirements. The vertical aerial photography shall meet the specifications in the Department's Surveying and Mapping Manual, Publication 122M, Part B-Photogrammetric Mapping, Chapter 2 (March 2002 Edition), its latest amendments and as supplemented herein.

Department: Transportation

Location: Bureau of Design, Photogrammetry & Surveys Section, 145 Limekiln Road, Suite 300, New Cumberland, PA 17070 Duration: This will be a 3-year contract from the effective date with 2 one year renewals.

Contact: Debra Long, 717-787-3311



Miscellaneous

cn00016755 Provide annual physical evaluations to include the following minimal requirements for the purpose of determining the employees ability to utilize respiratory protection equipment: Physical exam and occupational health history, comparison of previous years exam results with a written interpretation of results by the attending licensed physician, review of current and past years chest x-ray films and reports, review of current and past years pulmonary function test results, respiratory clearance, written clearance by medical physician regarding employees medical suitability for respirator use. All vendors must be registered with an SAP vendor number prior to awarding a contract. To register, please call the Central Vendor Management Unit at 1-866-775-2868 or register online at www.vendorregistration.state.pa.us.

Department: Public Welfare

Location: Polk Center, P. O. Box 94, Polk, PA 16342 Duration: April 1, 2006 through June 30, 2009 Date:

Contact: Amy Tatarek, 814-432-0229

[Pa.B. Doc. No. 05-1887. Filed for public inspection October 7, 2005, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
|--|---|

JAMES P. CREEDON.
Secretary

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 401, 423, 427, 433, 441, 443, 495 AND 501]

Amendment to Temporary Regulations

Under the Pennsylvania Gaming Control Board's (Board) Resolution No. 2005-3 REG, entitled Adoption of Temporary Regulations, dated June 16, 2005, and Resolution No. 2005-4, entitled Adopting of Draft Regulations as Temporary Regulations for the General Licensing Standards for Slot Machine License Applicants Temporary Regulations, dated July 21, 2005, the Board has the authority to amend the temporary regulations, adopted on June 16, 2005, and July 21, 2005, as it deems necessary in accordance with the purpose of the act of July 5, 2004 (P. L. 572, No. 71) and to further the intent of Act 71. Therefore the Board has decided to make editorial changes to the temporary regulations, dated June 16, 2005, and July 21, 2005, as deposited with the Legislative Reference Bureau (Bureau) and published at 35 Pa.B. 4045 (July 15, 2005) and 35 Pa.B. 4828 (August 6, 2005).

Therefore, the Board has deposited with the Bureau amendments to §§ 401.4, 423.1, 427.1, 427.2, 433.1, 441.4, 443.2, 443.3, 461, 495.7 and 501.8. The Board amended the title of Subchapter H. The amendments are effective as of September 28, 2005.

The temporary regulations of the Board, Chapters 401, 423, 427, 433, 441, 443, 461, 495 and 501, are amended by amending §§ 401.4, 423.1, 427.1, 427.2, 433.1, 441.4, 443.2, 443.3, 461, 495.7 and 501.8 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-4. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart A. GENERAL PROVISIONS

CHAPTER 401. PRELIMINARY PROVISIONS

§ 401.4. Definitions.

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

* * * * *

Key employee qualifier—Officers; directors; persons who directly or indirectly hold any beneficial interest in or ownership of the securities of an applicant or licensee; a person who has the ability to control the applicant or licensee, has a controlling interest in the applicant or licensee, elects a majority of the board of directors of the applicant or licensee, or otherwise has the ability to control the applicant or licensee; a lender, other than a bank or lending institution which makes a loan or holds a mortgage or other lien acquired in the ordinary course of business; an underwriter; a financial backer; and an employee of a slot machine applicant or licensee, manufacturer applicant or licensee or supplier applicant or licensee required to be licensed by the Board.

* * * * *

Subpart B. LICENSING, REGISTERING AND PERMITTING

CHAPTER 423. APPLICATIONS

§ 423.1. General requirements.

(a) For the purposes of this section, a reference to an applicant includes the applicant's affiliates, intermediaries, subsidiaries and holding companies.

(b) Every application shall be submitted on forms supplied or approved by the Board and shall contain all information and documents as required by the Board.

(c) The applicant shall file with the application all supplemental forms provided by the Board. The forms require full disclosure of all details relative to the applicant's suitability to conduct business in this Commonwealth under the act.

(d) Upon request of the Board, the applicant shall further supplement any information provided in the application. The applicant shall provide all requested documents, records, supporting data and other information within the time period specified in the request, or if no time is specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period as set forth in the request, the Board may deny the application.

(e) An applicant shall submit evidence to the Board of the applicant's financial fitness, integrity and responsibility. The Board's review will include, but not be limited to: the applicant's bank references, business and personal income and disbursement schedules, annual financial statements and tax returns, whether the applicant has adequate financing available to pay all current obligations, and whether the applicant is likely to be able to adequately cover all existing and foreseeable obligations in the future.

(f) All information provided to the Board shall be true and complete. If there is any change in the information provided to the Board, the applicant shall promptly file a written amendment in a form prescribed by the Board.

(g) The application and any amendments or supplements must be sworn to or affirmed by the applicant before a notary public.

(h) The Board will automatically deny the application of any applicant that refuses to submit to a background investigation or provide requested information as required under the act.

(i) An applicant that submits a document to the Board which is in a language other than English shall also submit an English translation of the non-English language document. The translation must include the signature, printed name, address and telephone number of the translator and a verification by the translator of the truth and accuracy of the translation. At its discretion, the Board may accept an English summary of a document in lieu of a complete translation of the document.

CHAPTER 427. MANUFACTURER LICENSES

§ 427.1. Manufacturer license requirements.

(a) In determining whether an applicant will be licensed as a manufacturer under this section, the Board will consider whether the applicant satisfies the criteria listed in this section and whether the applicant manufactures, builds, rebuilds, fabricates, assembles, produces, programs, designs or otherwise makes modifications to slot machines or associated equipment at a licensed facility which meet one or more of the following criteria:

(1) Are specifically designed for use in the operation of a slot machine.

(2) Are needed to conduct an authorized game.

(3) Have the capacity to affect the outcome of the play of a game.

(4) Have the capacity to affect the calculation, storage, collection, or control of gross terminal revenue.

* * * * *

§ 427.2. Manufacturer licensing standards and application.

(a) The standards and requirements for qualification for a manufacturer license are as follows and in section 1317 of the act (relating to supplier and manufacturer licenses application). The applicant shall submit:

* * * * *

(2) An original and three copies of the Manufacturer Application and Disclosure Information Form for the applicant that has applied for the license under this part.

* * * * *

(4) An application from every key employee and key employee qualifier as specified by the Manufacturer Application and Disclosure Information Form or as determined by the Board, which shall consist of the following:

(i) An original and three copies of the Multi Jurisdictional Personal History Disclosure Information Form with a nonrefundable deposit to be set by the Board and provided in a fee schedule for each key employee and key employee qualifier.

* * * * *

CHAPTER 433. LICENSE RENEWAL

§ 433.1. Renewal of manufacturer and supplier license.

* * * * *

(b) The licensed entity shall complete and file an original and three copies of a Manufacturer License Renewal Application Form which shall, without limitation, disclose all changes in ownership of the licensed entity, and the new owner shall be required to submit an application for licensure and evidence that it is qualified for licensure.

* * * * *

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441.SLOT MACHINE LICENSES

§ 441.4. Slot machine license application.

(a) To be eligible for a slot machine license, an applicant shall submit an application which includes the following:

(1) An original and three copies of the slot machine license Application and Disclosure Information Form.

* * * * *

(3) A license application for each key employee qualifier and key employee under Chapter 435 (relating to employees), unless granted a waiver under § 435.2(g) or § 435.3(f), including an original and three copies of the Multi Jurisdictional Personal History Disclosure Form, the Pennsylvania Supplement and a nonrefundable background investigation deposit to be set by the Board and provided in a fee schedule for each key employee qualifier and each key employee. An additional charge may be assessed upon the applicant by the Board based on the

actual expenses incurred in order to conduct the background investigation required by the act.

* * * * *

CHAPTER 443. CATEGORIES OF LICENSURE

§ 443.2. Alternative Category 1 licensing standards.

* * * * *

(b) The Board may use the abbreviated process if:

* * * * *

(3) The Board has received a copy of the completed application, all renewal applications and all accompanying documents filed in the other jurisdiction.

* * * * *

§ 443.3. Conditional Category 1 licenses.

* * * * *

(b) An application for a Conditional Category 1 license shall include the following information:

* * * * *

(4) A copy of the applicant's audited financial statements for the last 5 years, unless otherwise requested by the Board.

* * * * *

(7) An original and three copies of the Multi Jurisdictional Disclosure Form for each key employee qualifier and key employee and a consent form from each of these individuals authorizing the Board to conduct a background investigation and a release signed by each key employee qualifier and key employee identified under paragraph (6) of all information required to complete the investigation, unless subject to waiver under § 435.2(g) or § 435.3(f).

* * * * *

Subpart E. SLOT MACHINE TESTING, CERTIFICATION AND CONTROL

Subpart H. PRACTICE AND PROCEDURE

CHAPTER 495. DOCUMENTARY FILINGS

§ 495.7. Number of copies.

(a) An original and three copies of pleadings or documents other than correspondence shall be furnished to the Board at the time of filing, except as may be otherwise required by statute or ordered or requested by the Board.

* * * * *

Subpart I. COMPULSIVE AND PROBLEM GAMBLING

CHAPTER 501. COMPULSIVE AND PROBLEM GAMBLING REQUIREMENTS

§ 501.8. Prohibition on check cashing.

* * * * *

(b) Notwithstanding the provisions of subsection (a), a licensed gaming entity may accept a recognized traveler's check, cashier's check, money order, wire transfer check, personal check or other cash equivalent.

[Pa.B. Doc. No. 05-1888. Filed for public inspection October 7, 2005, 9:00 a.m.]

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 441 AND 463]

Slot Machines

The Pennsylvania Gaming Control Board (Board), under authority in 4 Pa.C.S. § 1202 (relating to general and specific powers), has drafted temporary regulations to facilitate the prompt implementation of 4 Pa.C.S. Part II (relating to Pennsylvania Race Horse Development and Gaming Act). Upon adoption of the regulations by the Board, the Board's temporary regulations will be added to 58 Pa. Code Part VII (relating to Gaming Control Board). By publishing these temporary regulations in draft form, the Board seeks public comment prior to the adoption of the regulations.

Contact Person

Interested persons are invited to submit written comments, suggestions or objections to the draft temporary regulations by means of the United States mail to the Pennsylvania Gaming Control Board, Office of Communications, P. O. Box 69060, Harrisburg, PA 17106-9060, ATTN: Public Comment. The public comment period will end on October 28, 2005.

THOMAS A. DECKER,
Chairperson

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, REGISTERING AND PERMITTING

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441. SLOT MACHINE LICENSES

§ 441.18. Change in ownership or control of slot machine licensee and multiple slot machine license prohibition.

(a) Pursuant to a change in ownership or control of a slot machine licensee under section 1328 of the act (relating to change in ownership control of slot machine licensee) and in accordance with section 1330 of the act (relating to multiple slot machine license prohibition), a slot machine licensee, including its affiliates, intermediaries, subsidiaries and holding companies, is prohibited from possessing an ownership or financial interest in any other slot machine licensee or in any other person eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies that exceeds 33.3%.

(b) Nothing in subsection (a) prevents a slot machine licensee from possessing ownership or financial interests of 33.3% or less, in multiple slot machine licensees or in persons eligible to apply for a Category 1 slot machine license or its affiliate, intermediary, subsidiary or holding company.

(c) If a slot machine licensee or its affiliates, intermediaries, subsidiaries or holding companies has an ownership or financial interest in another slot machine licensee that is in violation of subsection (a), the licensee will be required to divest that interest which is in excess of 33.3% in compliance with section 1330 of the act.

Subpart E. SLOT MACHINE TESTING, CERTIFICATION AND CONTROL

CHAPTER 463. POSSESSION OF SLOT MACHINES

Sec.	
463.1.	Possession of slot machines generally.
463.2.	Transportation of slot machines into, within and out of the Commonwealth.
463.3.	Slot machine authorized locations.
463.4.	Connection to the central computer system.
463.5.	Slot machine master list.
463.6.	Notice to central computer system.

§ 463.1. Possession of slot machines generally.

(a) Except as otherwise provided in this section and 18 Pa.C.S. § 5513 (relating to gambling devices, gambling, etc.), a person may not possess within this Commonwealth any slot machine which may be used for gambling activity.

(b) The following persons and any employee or agent acting on their behalf may, subject to any terms and conditions imposed by the Board, possess slot machines in this Commonwealth for the purposes in this part provided that the slot machines are kept in locations specifically approved in writing by the Board and that any slot machines located outside of a licensed facility not be used for gambling activity:

(1) An applicant for, or holder of:

(i) A slot machine license, for the purpose of maintaining for use or actually using the machines in the operation of a licensed facility.

(ii) A manufacturer license for the purpose of manufacturing, exhibiting, demonstrating or training, preparing for transfer to a supplier licensee or providing initial installation services under an agreement with a supplier licensee under § 431.3 (relating to supplier requirements and prohibitions).

(iii) A supplier license for the purpose of distributing, repairing, servicing, exhibiting or demonstrating slot machines and any training with regard thereto.

(2) An educational institution, as authorized by the Board, for the purpose of teaching slot machine design, operation, repair or servicing.

(3) A manufacturer or supplier of slot machines not licensed within this Commonwealth, as authorized by the Board, for the limited purpose of temporary exhibition or demonstration of same.

(4) A common carrier, for the purpose of transporting slot machines in accordance with § 463.2 (relating to transportation of slot machines into, within and out of this Commonwealth).

(5) An employee or agent of the Board, the Pennsylvania State Police or any law enforcement agency of the Commonwealth for the purpose of fulfilling official duties or responsibilities.

(6) Other persons the Board may approve after finding that the possession of slot machines by those persons in this Commonwealth is necessary and appropriate to fulfill the goals and objectives of the act.

§ 463.2. Transportation of slot machines into, within and out of this Commonwealth.

In furtherance of section 1511 of the act (relating to declaration of exemption from Federal laws prohibiting slot machines), prior to the transport or movement of any slot machine into this Commonwealth, from one person authorized to possess slot machines under § 463.1 (relating to possession of slot machines generally) to another

person so authorized within this Commonwealth or transport or movement out of this Commonwealth, those persons causing the slot machine to be transported or moved shall first notify the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board. The notice shall be submitted no later than the day the slot machine is transported or moved and shall include the following information:

- (1) The name and address of the person shipping or moving the slot machine.
- (2) The name and address of the person who owns the slot machine, if different from the person shipping or moving such machine.
- (3) If applicable, the name and address of any new owner in the event ownership is being changed in conjunction with the shipment or movement.
- (4) The method of shipment or movement and the name and address of the common carrier or carriers, if applicable.
- (5) The name and address of the person to whom the slot machine is being sent and the destination of the slot machine, if different from such address.
- (6) The quantity of slot machines being shipped or moved and the manufacturer's serial number of each machine.
- (7) The expected date and time of delivery to, or removal from, any authorized location within this Commonwealth.
- (8) The port of entry, or exit, if any, of the slot machine if the origin or destination of the slot machine is outside the continental United States.
- (9) The reason for transporting or moving the slot machine.

§ 463.3. Slot machine authorized locations.

Each slot machine on a gaming floor shall be placed at an authorized location identified by number on a gaming floor plan approved by the Board under section 1322 of the act (relating to slot machine accounting controls and audits) and shall also be identified on a slot machine master list.

§ 463.4. Connection to the central computer system.

Prior to its utilization for gambling activity, each slot machine on a gaming floor shall be connected or linked to a central computer system having the capabilities and pursuant to the terms of section 1323 of the act (relating to central control computer system).

§ 463.5. Slot machine master list.

(a) *Comprehensive list required of licensee.* Prior to the commencement of operations at a licensed facility, each slot machine licensee shall file with the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, a comprehensive list of slot machines possessed by the licensee on its gaming floor, in Board approved restricted areas off the gaming floor but within the licensed facility, and in Board-approved storage locations in this Commonwealth off the premises of the licensed facility. The list shall be denoted as a slot machine master list and shall contain the following information which, for those slot machines located on the gaming floor, shall be presented for each slot machine in consecutive order by authorized location number:

- (1) The date the list was prepared.
- (2) A description of each slot machine by:
 - (i) Asset, model and manufacturer's serial number.
 - (ii) Denomination, if configured for multiple denominations so designate.
 - (iii) Manufacturer and machine type, noting with specificity whether the machine is a high-boy, is a progressive or a wide area progressive slot machine.
 - (iv) An indication as to whether the slot machine has an activated electronic transfer credit feature.
 - (v) An indication as to whether the slot machine has an activated gaming voucher feature, and, if so, whether the feature is in lieu of a hopper.
- (3) For those slot machines located off the gaming floor, an indication as to whether the slot machine is in a Board-approved restricted area off the gaming floor but within the licensed facility or in a Board-approved storage location in this Commonwealth off the premises of the licensed facility.
- (4) Other information the Board may require.

(b) *Subsequent movement of machines by licensed facility.*

- (1) Once a slot machine has been placed in an authorized location on the gaming floor or is stored in a Board-approved restricted area off the gaming floor but within the licensed facility, all subsequent movements of that slot machine from or to a location within that licensed facility shall be recorded by a slot department member in a machine movement log which includes the following:
 - (i) The asset, model and manufacturer's serial number of the moved slot machine.
 - (ii) The date and time of movement.
 - (iii) The location from which the slot machine was moved.
 - (iv) The location to which the slot machine was moved.
 - (v) The date and time of any required notice to the Department in connection with activation or disabling of the slot machine in the central computer system.
 - (vi) The signature of the slot shift manager and the lead technician verifying the movement of the slot machine in compliance with this section.
- (2) Documentation summarizing slot machine movements within a licensed facility shall be submitted to the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, on a daily basis.

(c) *Updated slot machine list required of licensee.* On the first Tuesday of each month following the initial filing of a slot machine master list, each slot machine licensee shall file with the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, an updated slot machine master list documenting all slot machines possessed by the licensee on its gaming floor, in Board-approved restricted areas off the gaming floor but within the licensed facility, and in Board-approved storage locations in this Commonwealth off the premises of the licensed facility. The updated list shall be in a form, and contain the information, required in subsection (a).

(d) *Possession of slot machines generally under § 463.1.* Manufacturer licensees, supplier licensees, educational

institutions, manufacturers and suppliers not licensed within this Commonwealth and regulatory and law enforcement agencies having authority to possess slot machines under § 463.1 (relating to possession of slot machines generally) who cause slot machines to be transported or moved shall file with the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, a comprehensive list of slot machines possessed by that person. The list shall be denoted as a slot machine master list and shall be filed within 3 business days of the initial receipt of slot machines and contain the following information:

- (1) The date on which the list was prepared.
- (2) A description of each slot machine by:
 - (i) Model and manufacturer's serial number.
 - (ii) Manufacturer and machine type, noting with specificity whether the machine is a high-boy, is a progressive or a wide area progressive slot machine.
- (e) *Updated slot machine master list for machines possessed under § 463.1.* On the first Tuesday of each

month following the initial filing of a slot machine master list, those persons enumerated in subsection (d) shall file with the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, an updated slot machine master list. The updated list shall be in a form, and contain the information, required in subsection (d).

§ 463.6. Notice to central computer system.

In addition to the recordkeeping requirements required in this part, prior to the placement of a slot machine on the gaming floor, any movement of that slot machine from or to authorized locations within a licensed facility or removal of a slot machine from the gaming floor, the slot machine licensee shall provide the Department with notice of the slot movement, in a form and under a time frame prescribed by the Department, to insure activation or disabling, as appropriate in the central computer system and the retrieval of real time meter information from the slot machine coincident with the movement.

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