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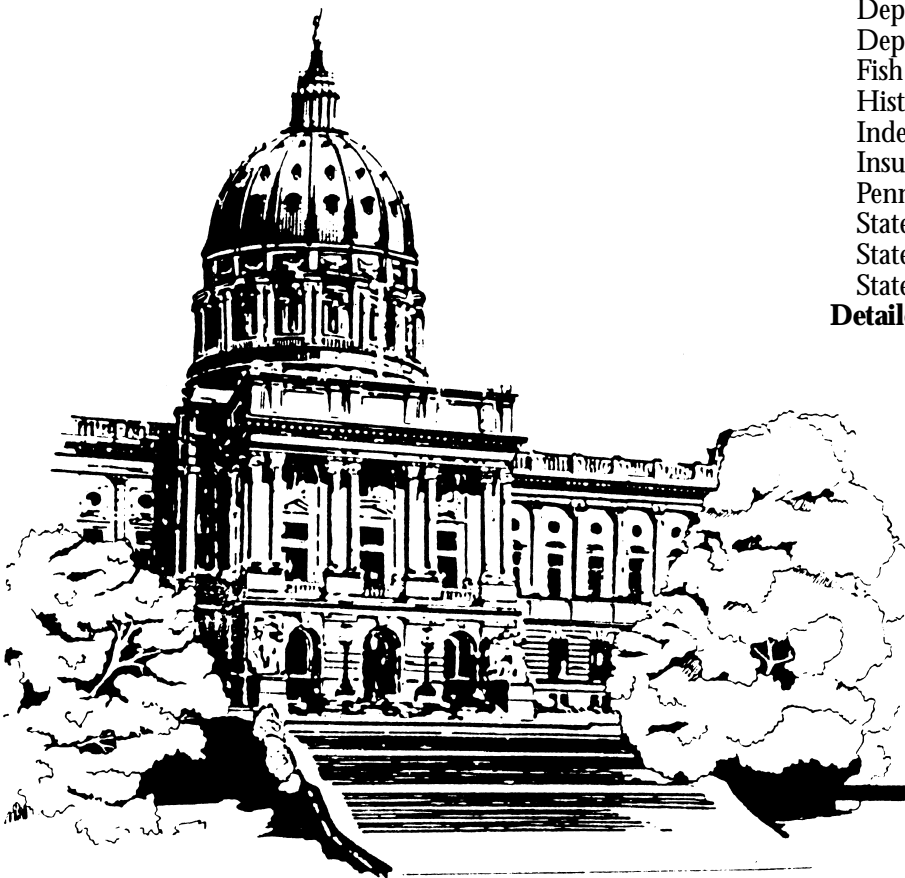
# PENNSYLVANIA BULLETIN

Volume 33  
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**Agencies in this issue:**

The General Assembly  
The Courts  
Department of Banking  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of State  
Department of Transportation  
Fish and Boat Commission  
Historical and Museum Commission  
Independent Regulatory Review Commission  
Insurance Department  
Pennsylvania Public Utility Commission  
State Board of Education  
State Board of Landscape Architects  
State Board of Physical Therapy

**Detailed list of contents appears inside.**



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

**No. 348, November 2003**

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

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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# THE GENERAL ASSEMBLY

## Recent Actions during the 2003 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2003 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2003 GENERAL ACTS ENACTED—ACT 031</b>					
031	Oct 31	SB0164	PN1222	60 days	Judicial Code (42 Pa.C.S.)—court authority upon petition to remove child from foster parent and criminal victim aid good Samaritan civil immunity

\* denotes an effective date with exceptions

### Effective Dates of Statutes

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

### Advance Copies of Statutes

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

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

ROBERT W. ZECH, Jr.,  
*Director*  
*Legislative Reference Bureau*

[Pa.B. Doc. No. 03-2219. Filed for public inspection November 21, 2003, 9:00 a.m.]

## Recent Actions during the 2003 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2003 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2003 GENERAL ACTS ENACTED—ACT 032 through 034</b>					
032	Nov 6	SB0461	PN1191	immediately	Walters Drive—designation
033	Nov 6	HB1549	PN2468	60 days	Transportation (74 Pa.C.S.)—Designation of Governor Robert P. Casey Highway and State Route 120 as scenic byways
034	Nov 6	HB0538	PN1757	July 1, 2003	Job Enhancement Act—Technology Work Experience Internship Program

\* denotes an effective date with exceptions

### Effective Dates of Statutes

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

### Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the Laws of Pennsylvania are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services shall distribute advance sheets of the Laws of Pennsylvania to each law judge of the courts, to every county and public library of this

Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

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

ROBERT W. ZECH, Jr.,  
*Director*  
*Legislative Reference Bureau*

[Pa.B. Doc. No. 03-2220. Filed for public inspection November 21, 2003, 9:00 a.m.]

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## COMMISSION ON SENTENCING

### Meeting Scheduled

The Commission on Sentencing announces the following public meeting, to be held at The Union League, 140 South Broad Street, Philadelphia, PA, 19102:

Wednesday,  
December 10, 2003

9 a.m.

Quarterly Commission Meeting  
Lincoln Memorial Room

MARK H. BERGSTROM,  
*Executive Director*

[Pa.B. Doc. No. 03-2221. Filed for public inspection November 21, 2003, 9:00 a.m.]

# THE COURTS

## Title 255—LOCAL COURT RULES

### ARMSTRONG COUNTY

#### Adoption of New Local Rules of Court—2002; No. 2002-0189-Misc.

##### Order

*And Now*, this 28th day of October, 2003, it is hereby *Ordered* as follows:

1. L.O.C. Rule No. 12.16A, following this Order, is hereby adopted as a new Local Orphans' Court Rule.

2. L.O.C. Rule No. 5.4A and L.O.C. Rule No. 18.1A are hereby amended to read as follows.

3. These new and amended Local Rules of Court shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

4. Certified copies of this Order with the new and amended Local Rules of Court shall be distributed by the Court Administrator as required by pertinent state rules of court, together with a diskette containing the hard copy version where required.

*By the Court*

JOSEPH A. NICKLEACH,  
*President Judge*

### LOCAL ORPHANS' COURT RULES

#### Rule 12.16A. Claims of Minors and Incapacitated Persons

(a) A petition filed under this rule shall contain the same information prescribed by the Local Rules of Civil Procedure governing such petitions filed in civil actions.

(b) Petitions for approval by the court of a proposed compromise, settlement, or discontinuance of a cause of action for injury to the person of a minor or to an incapacitated person shall be governed by Rule 1.2D and Rule 3.5F(a)(1) of these Rules.

(c) If no party in interest answers or objects to such a petition for approval involving a minor, the minor shall be present in Court at the time the record is transmitted to the Court upon praecipe filed pursuant to Rule 3.5F(a)(i) of these Rules. The praecipe shall be filed immediately before commencement of a duly scheduled session of Motions Court.

##### Comment

Under subsection (c) of this rule, the Motions Judge will review the record, see the minor, and act upon the petition.

#### Rule 5.4A. Notice. Proof of Service

Proof of service of notice shall be by affidavit of the person serving, mailing, publishing or delivering such notice. A proof of service by mail or by delivery shall include the name and address of each party in interest so served. The proof of service shall be substantially in the form prescribed by Appendix O-1 of these Local Rules.

#### Rule 18.1A. Notice by Clerk of Entry of Order, Decree, Etc.

(a) The Clerk shall immediately give written notice by regular mail of the entry of any order, decree, judgment,

memorandum or opinion to the lawyer for the petitioner or accountant, or, if unrepresented, to the petitioner or accountant directly, and to all other parties in interest who have entered an appearance.

(b) Service by the Clerk of a copy of the document itself shall be sufficient notice of its entry if the front page of the copy bears the date and time of its entry.

##### Comment

Rule 1.2C of these rules requires that the name and address of each party in interest be set forth in the body of any petition filed with the Clerk. The proof of service of the notice of the filing of an account or petition will set forth similar information. See Rule 5.4A of these rules. The proof of service of a citation will set forth the same information. See Rule 3.5B and Rule 3.5C of these rules.

##### APPENDIX O-1

##### [CAPTION]

##### PROOF OF SERVICE

I, the undersigned, hereby certify that I caused a copy of the attached Notice to be served upon the following parties in interest

Name and Address    Method of Service    Date of Service  
of Person

and that attached to said Notice was a true and correct copy of the legal paper referred to therein.

Date: \_\_\_\_\_  
Attorney

[Pa.B. Doc. No. 03-2222. Filed for public inspection November 21, 2003, 9:00 a.m.]

### DAUPHIN COUNTY

#### Promulgation of Local Rules; No. 1793 S 1989

##### Order

*And Now*, this 5th day of November 2003, Dauphin County Local Rule 237.1 is renumbered and amended and Dauphin County Local Rule 1018.1 is amended as follows:

Rule [ **237.1** ] **237.5**. Notice of Intention to Enter Default Judgment

The notice of intention to enter judgment by default shall be set forth in both English and Spanish, substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS  
          : DAUPHIN COUNTY, PENNSYLVANIA

vs. : NO.

Defendant: : CIVIL ACTION -

##### [ IMPORTANT NOTICE ]

TO: \_\_\_\_\_  
(Defendant)

DATE OF NOTICE:

**IMPORTANT NOTICE**

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO [TAKE ACTION REQUIRED OF YOU IN THIS CASE. UNLESS YOU ACT WITHIN TEN (10) DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING, AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.] ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.**

DAUPHIN COUNTY LAWYER REFERRAL SERVICE  
213 North Front Street  
Harrisburg, PA 17101  
(717) 232-7536

**AVISO IMPORTANTE**

A: \_\_\_\_\_  
(Defendido)

FECHA DEL AVISO: \_\_\_\_\_

USTED ESTA EN REBELDIA PORQUE HA FAL-LADO DE [TOMAR LA ACCION REQUERIDA EN ESTE CASO. A MENOS QUE USTED TOME ACCION DENTRO DE LOS PROXIMOS DIEZ (10) DIAS DE LA FECHA DE ESTE AVISO, SE PUEDE DICTAR UN FALLO EN CONTRA SUYA SIN LLEVARSE A CABO UNA VISTA Y USTED PUEDE PERDER SU PROPIEDAD Y OTROS DERECHOS IMPORTANTES. USTED DEBE LLEVAR ESTE DOCUMENTO INMEDIATAMENTE A SU ABOGADO. SI USTED NO TIENE UN ABOGADO O NO PUEDE PAGAR UNO, VAYA O LLAME LA OFICINA ABAJO INDICADA PARA QUE LE INFORMEN DONDE PUEDE CONSE-QUIR AYUDA LEGAL.] REGISTRAR COMPARE-CENCIA ESCRITA POR SI MISMO O A TRAVES DE UN ABOGADO Y SOMETER CON LA CORTE SUS DEFENSAS U OBJECCIONES A LOS CAR-GOS QUE SE HAN PRESENTADO CONTRA USTED. A MENOS QUE USTED ACTUE DENTRO DE DIEZ DIAS DE

**HABER RECIBIDO ESTE AVISO, LA CORTE PUEDE TOMAR UNA DECISION EN CONTRA SUYA SIN TENER DERECHOS A UNA VISTA Y USTED PUEDE PERDER SU PROPIEDAD U OTROS DERECHOS IMPORTANTES.**

**USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE UN ABOGADO, LLAME O VAYA A LA SIGUIENTE OFICINA. ESTA OFICINA PUEDE PROVEERLE INFORMACION A CERCA DE COMO CONSEGUIR UN ABOGADO.**

**SI USTED NO PUEDE PAGAR POR LOS SERVICIOS DE UN ABOGADO, ES POSIBLE QUE ESTA OFICINA LE PUEDA PROVEER INFORMACION SOBRE AGENCIAS QUE OFREZCAN SERVICIOS LEGALES SIN CARGO O BAJO COSTO A PERSONAS QUE CALIFI-CAN.**

DAUPHIN COUNTY LAWYER REFERRAL SERVICE  
213 North Front Street  
Harrisburg, PA 17101  
(717) 232-7536

An adequate supply of forms containing the bilingual notices required by these Rules shall be furnished by the Dauphin County Bar Association to the office of the Prothonotary, and shall be available for use by litigants and their attorneys.

**Rule 1018.1. Notice to Defend. Form.**

(b)— [ (d) ](c) Reserved

(d) The required Notice to Defend shall be set forth in both English and Spanish and shall be in substantially the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS  
          : DAUPHIN COUNTY, PENNSYLVANIA  
          :  
vs. : NO.  
          :  
          : CIVIL ACTION—  
Defendant:

**NOTICE**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER [OR CANNOT AFFORD ONE], GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. [TO FIND OUT WHERE YOU CAN GET LEGAL HELP.] THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

**IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU**

**WITH INFORMATION ABOUT AGENCIES THAT  
MAY OFFER LEGAL SERVICES TO ELIGIBLE  
PERSONS AT A REDUCED FEE OR NO FEE.**

DAUPHIN COUNTY LAWYER REFERRAL SERVICE  
213 North Front Street  
Harrisburg, PA 17101  
(717) 232-7536

**AVISO**

USTED HA SIDO DEMANDADO/A EN CORTE. Si usted desea defenderse de las demandas que se presentan **[mas] más** adelante en las siguientes **[paginas] páginas**, debe tomar **[accion] acción** dentro de los **[proximos] próximos** veinte (20) **[dias] días [despues] después** de la **[notificacion] notificación** de esta Demanda y Aviso radicando personalmente o por medio de un abogado una comparecencia escrita y radicando en la Corte por escrito sus defensas de, y objeciones a, las demandas presentadas **[aqui] aquí** en contra suya. Se **[la] le** advierte de que si usted falla de tomar **[accion] acción** como se describe anteriormente, el caso puede proceder sin usted y un fallo por cualquier suma de dinero reclamada en la demanda o cualquier otra **[reclamacion] reclamación** o remedio solicitado por el demandante puede ser dictado en contra suya por la Corte sin **[mas] más** aviso adicional. Usted puede perder dinero o propiedad u otros derechos importantes para usted.

USTED DEBE LLEVAR ESTE DOCUMENTO A SU ABOGADO INMEDIATAMENTE. SI USTED NO TIENE UN ABOGADO **[O NO PUEDE PAGARLE A UNO]**, LLAME O VAYA A LA SIGUIENTE OFICINA **[PARA AVERIGUAR DONDE PUEDE ENCONTRAR ASISTENCIA LEGAL]**. **ESTA OFICINA PUEDE PROVEERLE INFORMACION A CERCA DE COMO CONSEGUIR UN ABOGADO.**

**SI USTED NO PUEDE PAGAR POR LOS SERVICIOS DE UN ABOGADO, ES POSIBLE QUE ESTA OFICINA LE PUEDA PROVEER INFORMACION SOBRE AGENCIAS QUE OFREZCAN SERVICIOS LEGALES SIN CARGO O BAJO COSTO A PERSONAS QUE CALIFICAN.**

DAUPHIN COUNTY LAWYER REFERRAL SERVICE  
213 North Front Street  
Harrisburg, PA 17101  
(717) 232-7536

An adequate supply of forms containing the bilingual notices required by these Rules shall be furnished by the Dauphin County Bar Association to the office of the Prothonotary and shall be available for use by litigants and their attorneys.

These amendments shall be effective 30 days after publication in the *Pennsylvania Bulletin*.

*By the Court*

JOSEPH H. KLEINFELTER,  
*President Judge*

[Pa.B. Doc. No. 03-2223. Filed for public inspection November 21, 2003, 9:00 a.m.]

**LACKAWANNA COUNTY**

**Appeal and Adoption of Rules of Civil Procedure;  
94 CIV 102**

**Order**

*And Now*, this 30th day of October, 2003, it is hereby *Ordered and Decreed* that, as per the following rescissions, amendments and revisions, Lacka. Co. R.C.P. 295 (Proceeding in Forma Pauperis in Civil Cases), 1018.2 (Civil Cover Sheet), 1531 (Injunctions), 3190—3193 (Real Estate Tax Assessment Appeals) and 4000 (Motion Practice for Discovery and Scheduling Matters) are hereby amended as follows:

1. The language of the following rules which appears in brackets and is bold face is rescinded and deleted from the amended rules;

2. The language of the following rules which appears in regular type and has not been bracketed or bold faced is not rescinded and shall remain part of the revised rules;

3. The language of the following rules which appears in bold face reflects new provisions which have been added to the amended rules;

4. The following repeals, amendments and adoptions shall become effective thirty (30) days from the date of their publication in the *Pennsylvania Bulletin* as per Pa.R.Civ.P. 239;

5. Seven certified copies of the new Local Rules shall be filed with the Administrative Office of the Pennsylvania Courts;

6. Two certified copies of the new Local Rules and a computer diskette containing the text of the next Local Rules in either MS-DOS, ASCII, Microsoft Word or WordPerfect format shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

7. Once certified copy of the new Local Rules shall be filed with the Civil Procedural Rules Committee for the Supreme Court of Pennsylvania; and

8. These new Local Rules shall be available for public inspection and copying in the office of the Clerk of Judicial Records, Civil Division.

*By the Court*

CHESTER T. HARHUT,  
*President Judge*

**Rule 295. Proceeding in Forma Pauperis in Civil Cases.**

(a) Any party who is represented by counsel who certifies on the application or by separate document that the plaintiff is indigent, or any party who is represented by court-appointed counsel or by counsel furnished from a non-profit legal services organization providing free legal services to the indigent may apply to the court for leave to proceed in forma pauperis.

(b) An application to proceed in forma pauperis shall be accompanied by a verified statement showing in detail the inability of such party to pay the fees and costs of ordinarily incident to the filing and processing of such action which shall be substantially in the following form:

(CASE CAPTION)

\_\_\_\_\_ states under the penalties provided by 18 Pa.C.S. Section 4904 (unsworn falsification to authorities) that:

1. I am the \_\_\_\_\_  
 (plaintiff or defendant)  
 in the above action and because of my financial condition  
 am unable to pay the following fees and costs:  
 (state with particularity the relief requested)

2. My responses to the questions below relating to my  
 ability to pay the fees and costs of prosecuting or  
 defending this action are true and correct.

(a) Are you presently employed?

(1) If the answer is yes, state the amount of your  
 salary or wages per month and give the name and  
 address of your employer.

(2) If the answer is no, state the date of your last  
 employment and the amount of the salary and wages per  
 month which you received.

(b) Have you received within the past twelve months  
 any income from a business, profession or other form of  
 self-employment or in the form of rent payments, interest,  
 dividends, pensions, annuities, social security benefits,  
 support payments or other source?

If the answer is yes, describe each source of income,  
 and state the amount received from each during the past  
 twelve months.

(c) Do you own any cash or checking or savings ac-  
 count?

If the answer is yes, state the total amount of the items  
 owned.

(d) Do you own any real estate, stocks, bonds, notes,  
 automobiles, or other valuable property (excluding ordi-  
 nary household furnishings and clothing)?

If the answer is yes, describe the property and state its  
 approximate value and the amount of any encumbrances.

(e) List the persons, if any, who are dependent upon  
 you for support and state your relationship to those  
 persons.

(f) List all your debts and obligations.

3. I understand that a false statement or answer to  
 any question in this verified statement will subject me to  
 the penalties provided by law (misdemeanor of the second  
 degree).

\_\_\_\_\_  
 Signature of Applicant

(c) Parties eligible to apply for leave to proceed in  
 forma pauperis, as set forth in subsection (a) above, may  
 also apply to the court for relief from payment of special  
 or unusual expenses, i.e., those costs not related to filing  
 and service of process. Such application shall also be  
 accompanied by the verified statement required in subsec-  
 tion (b) above.

(d) The right to apply for leave to proceed in forma  
 pauperis shall likewise be available to parties in any civil  
 action commenced before the minor judiciary. Applications  
 in such cases shall be brought to the [ **court of common  
 pleas** ] **presiding District Justice** for disposition in the  
 manner set forth in subparagraph (a) above.

**Rule 1018.2. Civil Cover Sheet.**

**(a) All new civil actions commenced after Janu-  
 ary 1, 2004 are to be filed on 8 1/2" x 11" paper in the  
 office of the Clerk of Judicial Records, First Floor,  
 Lackawanna County Courthouse, 200 North Wash-  
 ington Avenue, Scranton, PA 18503, and any plead-  
 ing or other filing which institutes a new civil  
 action after January 1, 2004 must be accompanied  
 by a duly completed Civil Cover Sheet in the form  
 which is attached to the Appendix to these Local  
 Rules as Form 6.**

**(b) No summons, complaint, pleading or other  
 document used to commence a new civil action  
 after January 1, 2004 will be accepted for filing by  
 the Clerk of Judicial Records unless it is accompa-  
 nied by a duly completed Civil Cover Sheet.**

Court of Common Pleas of Lackawanna County  
 Civil Cover Sheet

FOR CLERK OF JUDICIAL RECORDS USE ONLY  
 Docket Number: \_\_\_\_\_

PLAINTIFF'S NAME		DEFENDANT'S NAME
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS
PLAINTIFF'S NAME		DEFENDANT'S NAME
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS
PLAINTIFF'S NAME		DEFENDANT'S ADDRESS
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS
TOTAL NUMBER OF PLAINTIFFS	TOTAL NO. OF DEFENDANTS	COMMENCEMENT OF ACTION Complaint    Petition    Action    Notice of Appeal Writ of Summons    Transfer from other jurisdictions
AMOUNT IN CONTROVERSY In Excess of Jurisdictional Amount? Yes      No	COURT PROGRAMS Arbitration    Jury    Non-Jury    Petition    Minor Court Appeal    Statutory    Appeals Other:	
CASE TYPE AND CODE (SEE INSTRUCTIONS)		



STATUTORY BASIS FOR CAUSE OF ACTION (SEE INSTRUCTIONS)	
REMARKS:	
TO THE CLERK OF JUDICIAL RECORDS: Please enter my appearance on behalf of Plaintiff; Papers may be served at the address set forth below:	
NAME OF PLAINTIFF'S ATTORNEY OR PRO SE PLAINTIFF	ADDRESS
PHONE NUMBER	FAX NUMBER
SUPREME COURT IDENTIFICATION NO.	E-MAIL ADDRESS
SIGNATURE	DATE

LACKAWANNA COUNTY COURT OF COMMON PLEAS  
CIVIL COVER SHEET INSTRUCTIONS

An attorney or pro se party filing a document commencing any type of civil action shall file a properly completed Civil Cover sheet. Copies of the Civil Cover Sheet shall be attached to service copies of the document commencing the action.

PARTIES

Regardless of the type of action, the initiating party or parties shall be designated as Plaintiff or Plaintiffs and the responding party or parties shall be designated as Defendant or Defendants. Names of individuals shall be listed as last name, first name, middle initial. Full names of agencies and corporations shall be provided. Spouses shall be listed as separate parties unless the claim of one spouse is limited to a claim for consortium in which case the designation, et ux. or et vir shall be used. Where there are more than three plaintiffs or defendants, a supplemental form listing the additional parties shall be attached to the Cover Sheet.

The section labeled "Remarks" is for procedural matters only. These may include such matters as related cases where consolidation might be advisable. Matters such as expected difficulty with service of process or the status of settlement discussions do not belong in this section.

CASE TYPE AND CODE DESIGNATION

FAM	Family Court
MCT	Minor Court Appeal
LAG	Local Agency Appeal
LAG/MVS	Motor Vehicle Suspension
LAG/ZB	Zoning Board Appeal
LAG/O	Other Agency Appeals
PCP	Proceedings commenced by Petition
CNT	Contract cases
TORT/AB	Assault & Battery
TORT/LS	Libel & Slander
TORT/FR	Fraud
TORT/BF	Bad Faith
TORT/WCP	Wrongful Use of Civil Process
TORT/O	Other torts
NGL/MVA	Motor Vehicle Accident
NGL/NF	No-Fault Benefits
L NGL/PI	Personal Injury
NGL/PREM	Premises Liability
NGL/PROD	Product Liability
NGL/TT	Toxic Tort
NGL/O	Other Negligence Action
M MLP/D	Dental Malpractice
MLP/L	Legal Malpractice
MLP/M	Medical Malpractice

FAM	Family Court
MLP/O	Other Malpractice
EQ	Equity
RP	Real Property
RP/EJ	Ejectment
RP/QT	Quiet Title
RP/MF	Mortgage Foreclosure
RP/ML	Mechanic's Lien
RP/PRT	Partition
PP	Personal Property Actions

STATUTORY CAUSE OF ACTION

If the action is commenced pursuant to statutory authority, the specific statute must be identified with full citation.

PENDING CASES

Previously filed related cases must be identified by caption and docket number whether or not consolidated.

**Rule 1531. Injunctions.**

No application for an injunction will be considered by the court unless the factual reasons are set forth specifically and in detail. The pleading of conclusions will not be sufficient. If an application for an injunction is considered, the court will issue an order for a hearing to be scheduled by the Court Administrator **pursuant to Pa.R.Civ.P. 1531. [within five days of presentation of the application or within three days when required by Pa. R.C.P. 1531(f)(1).]** Requests for immediate hearings will be granted upon approval of the court if it finds that extraordinary and urgent circumstances exist which require an immediate hearing.

**Rule 4000. Motion Practice for Discovery and Scheduling Matters.**

(a) Any court order regarding discovery, including orders involving sanctions **and pre-trial deadlines for the completion of discovery, the exchange of expert reports, the filing of case dispositive motions, and other scheduling matters prior to the filing of a Certificate of Readiness,** which a party seeks pursuant to any provisions of Pa.R.Civ.P. 4001 through 4020 or any provisions of the Rules of Civil Procedure of the court of common pleas of Lackawanna County pertaining to discovery **or scheduling orders** shall be sought by the presentation **[to the court]** of a motion in compliance with the provisions of Lacka. Co.R.C.P. 206.1, **4000.1 and 4019.**

**Rule 3190. Real Estate Tax Assessment Appeal**

**(a) A real estate tax assessment appeal from a decision of the Lackawanna County Board of As-**

assessment Appeals as to the amount of assessment for real estate tax purposes or as to exemption of real estate from payment of real estate taxes shall be captioned "Real Estate Tax Assessment Appeal" and shall be filed with the Clerk of Judicial Records within the time prescribed by statute.

(b) A Real Estate Tax Assessment Appeal shall contain the following:

(1) Caption designating the named party taking the appeal as Appellant, the Lackawanna County Board of Assessment Appeals as Appellee, and if Appellant is a taxing authority it shall join the owner of the real estate involved as of course as a party in the assessment appeal by designating such named owner in the caption as Respondent.

(2) Brief description of the subject real estate, its location, name and address of the owner, and municipality and school district wherein the real estate is located.

(3) Nature of and reasons for the appeal.

(4) Reference to the decision of Lackawanna County Board of Assessment Appeals (Board) from which the appeal is taken. A copy of the Board's notice of decision shall be attached as an exhibit.

(5) Verification consisting of a verified statement as "verified" is defined in Pa.R.Civ.P. No. 76.

(c) Appellant shall serve copies of the appeal by certified or registered mail upon the Board at its official office and, unless named as the appellant, upon the Board of County Commissioners of Lackawanna County and upon the legislative governing body of the municipality and the board of school directors of the school district wherein the real estate is located at their respective official offices or, in the absence of an official office, at the last known address of the secretary of said body and upon the respondent owner of the real estate at said owner's last known address.

(d) Appellant shall file with the Clerk of Judicial Records within ten (10) days of the filing of the Real Estate Tax Assessment Appeal, proof of service of copies thereof consisting of a verified statement (as "verified" is defined in Pa.R.Civ.P. No. 76) that service was made by certified or registered mail, with the sender's receipt for certified or registered mail attached thereto.

(e) No response is required to be made by Appellee or by the County, municipality, school district or Respondent owner of real estate served with copy of Real Estate Tax Assessment Appeal.

#### Rule 3191. Intervention.

(a) The County, municipality, or school district not named as Appellant may intervene as of course during pendency of the appeal by filing a Notice of Intervention with Clerk of Judicial Records.

(b) Notice of Intervention shall contain the name of the intervening party designated as intervenor in the caption, and shall set forth that such identified party is intervening.

(c) Intervenor shall serve copies of Notice of Intervention by certified or registered mail upon Appellant, Appellee, any Respondent owner and any other intervening parties of record.

(d) Intervenor shall file with the Clerk of Judicial Records within ten (10) days of the filing of Notice of Intervention, proof of service of copies thereof consisting of a verified statement (as "verified" is defined in Pa.R.Civ.P. No. 76) that service was made by certified or registered mail, with the sender's receipt for certified or registered mail attached thereto.

(e) No response is required to be made by any party served with copy of Notice of Intervention.

#### Rule 3192. Discovery.

(a) Pa. R.C.P. Nos. 4001 et seq. and Lackawanna Co. R.C.P. 4000 et seq. addressing Depositions and Discovery shall be applicable to real estate tax assessment appeals, unless otherwise ordered by the court.

#### Rule 3193. Pretrial Status Conference.

(a) The court sua sponte or upon application of a party shall schedule a pretrial status conference. Notification of conference need be given by the court only to Appellant, Appellee, Respondent owner if any, and such other parties who have intervened of record.

(b) Each party of record shall file with the Clerk of Judicial Records, a Pretrial Status Conference Memorandum and serve a copy thereof on the trial judge at least seven (7) days prior to the date of scheduled conference along with proof of service of copies thereof upon parties of record by personal service or by regular mail. Proof of service shall consist of a verified statement as "verified" is defined in Pa.R.Civ.P. No. 76.

(c) Pretrial Status Conference Memorandum shall contain a summary statement of facts, stipulations desired, witnesses expected to be called, exhibits expected to be offered, legal issues, and special problems presented, if any.

[Pa.B. Doc. No. 03-2224. Filed for public inspection November 21, 2003, 9:00 a.m.]

## SCHUYLKILL COUNTY

### Amended/Adopted Criminal Rules of Procedure; No. 592 Misc. 2003

#### Order of Court

And Now, this 6th day of November, 2003, at 9:30 a.m., Schuylkill County Criminal Rules of Procedure, Rule 106 and Rule 319 are amended and Rule 722 is adopted for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Clerk of Courts of Schuylkill County is Ordered and Directed to do the following:

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

2) File two (2) certified copies of this Order and Rules with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.

3) File one (1) certified copy of this Order and Rules with the Pennsylvania Criminal Procedural Rules.

4) Forward one (1) copy to the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.

5) Keep continuously available for public inspection copies of this Order and Rules.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

WILLIAM E. BALDWIN,  
*President Judge*

### **Rule 106 Continuances**

#### **Motion by Defendant**

A. All motions for continuance of trial by a defendant shall be in writing, upon forms approved by the Court, and shall be executed by the defendant and his attorney, if any.

B. Upon a first application for a continuance, the presence of the defendant and his or her counsel shall not be required at the hearing on said motion unless the District Attorney has notified the Defendant and the Court Administrator (criminal) that the continuance request is opposed. All first application requests shall be filed with the Clerk of Courts and contemporaneously a copy shall be served on the District Attorney by the defendant before the close of business on the Monday preceding the Friday continuance date set forth on the Court Calendar. Any first continuance request not filed by the Monday preceding the continuance court date shall be treated as if opposed and the party and counsel will be required to appear in person at continuance court.

C. When a motion seeks a second or subsequent continuance the defendant shall give at least twenty-four (24) hours advance notice of the intention to present said motion to the District Attorney. The defendant will be required to appear in Court for a second or subsequent continuance, with counsel (if any), for consideration of the continuance request.

### **Rule 319 Procedure for Obtaining Dismissal and Expungement Order upon Successful Completion of A. R. D. Program.**

(a) Whenever a defendant is placed under the Accelerated Rehabilitation Disposition Program and shall have satisfactorily completed the program and complied with its conditions, the Adult Probation Office shall notify the defendant in writing of his/her eligibility to petition the Court for dismissal of the charges and expungement of the arrest record.

(b) A motion for dismissal of the charges and expungement of the arrest record shall be filed on a form approved by the Court and available at the office of the Adult Probation Department. Every motion so filed shall include a certification from the Adult Probation Department that the defendant has satisfactorily completed the program and complied with all its conditions and shall further include a proposed order in compliance with Pa.R.Crim.P. Rule 722.

(c) The defendant shall file the motion in the office of the Clerk of Courts and shall contemporaneously serve a copy on the District Attorney. The Clerk of Courts shall forward the motion to the Court Administrator for assignment to a judge. If the District Attorney objects to dismissal of the charges or to automatic expungement of the arrest record, the objections shall be filed within

thirty (30) days after service of the motion for dismissal and expungement. A copy of the objections shall be served on the defendant or the defendant's attorney. If objections are filed the Court shall conduct a hearing, affording all parties an opportunity to be heard. If no objections are filed, the Court may order dismissal of the charges and expungement of the arrest record without hearing.

### **Rule 722 Petitions for Expungement**

(a) Every motion for expungement shall have attached a proposed order of expungement in compliance with Pa.R.Crim.P. 722.

(b) A defendant shall file the original motion for expungement with the Clerk of Courts and contemporaneously serve a copy on the District Attorney. The Clerk of Courts shall forward the motion to the Court Administrator for assignment to a judge. If the District Attorney objects to expungement, the objections shall be filed within thirty (30) days after service of the motion. A copy of the objections shall be served on the defendant or the defendant's attorney. If objections are filed, the Court shall conduct a hearing, affording all parties an opportunity to be heard. If no objections are filed, the Court may order expungement of the arrest record without hearing.

[Pa.B. Doc. No. 03-2225. Filed for public inspection November 21, 2003, 9:00 a.m.]

## **SCHUYLKILL COUNTY** **Amended Orphans' Court Rules**

### **Order of Court**

*And Now*, this 6th day of November, 2003, at 9:30 a.m., the Court hereby amends Schuylkill County Orphans' Court Rule 6.1A. This rule is amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Clerk of the Orphans' Court of Schuylkill County is Ordered and Directed to do the following:

1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.

2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.

3) File one (1) certified copy of this Order and Rule with the Pennsylvania Orphans' Court Rules Committee.

4) Forward one (1) copy to the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.

5) Keep continuously available for public inspection copies of this Order and Rule.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

WILLIAM E. BALDWIN,  
*President Judge*

### **Rule 6.1A Accounts. Form. Additional Requirements.**

(a)(1) All accounts shall be in the form approved by the Pennsylvania Supreme Court and known as Uniform

Fiduciary Accounting Standards. Should the account filed fail to comply with said accounting standards, the Clerk shall notify the Accountant to immediately comply prior to thirty (30) days before Audit Submission Day. The corrected account shall be given to all parties in interest. A failure to correct the account shall result in the account being stricken.

[Pa.B. Doc. No. 03-2226. Filed for public inspection November 21, 2003, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

#### [58 PA. CODE CHS. 51 AND 63]

#### General Provisions; Fishing

The Fish and Boat Commission (Commission) amends Chapters 51 and 63 (relating to administrative provisions; and general fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). This final-form rulemaking pertains to the release of Commission documents and records, the review of applications for permits to draw off impounded waters and fishing with long bows, spears and gigs.

#### A. Effective Date

This final-form rulemaking will go into effect upon publication of this order in the *Pennsylvania Bulletin*.

#### B. Contact Person

For further information on this final-form rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

#### C. Statutory Authority

The amendments to § 51.9 (relating to release of documents and records) are published under the statutory authority of section 8(a) of the Right-to-Know Law (law) (65 P. S. § 66.8(a)) and section 506 of The Administrative Code of 1929 (71 P. S. § 186). The amendments to §§ 51.84 and 63.8 (relating to review of permit applications; and long bows, spears and gigs) are published under the statutory authority of section 2102 of the code (relating to rules and regulations).

#### D. Purpose and Background

The final-form rulemaking is designed to update, modify and improve the Commission's regulations pertaining to administrative provisions and fishing. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

#### E. Summary of Changes

(1) *Section 51.9.* On December 26, 2002, amendments to the law went into effect. The amended law provides that agencies shall establish written policies and may promulgate regulations necessary to implement the law. The amended law also provides that written policies shall include the name of the office to which requests for access shall be addressed and a list of applicable fees. Although the Commission already had a regulation pertaining to the release of documents and records, the Commission updated this regulation to read as set forth in the notice of proposed rulemaking.

(2) *Section 51.84.* A recent review of the Commission's regulations pertaining to permits to draw off impounded waters has revealed that a housekeeping change to this section is needed in that the Commission no longer has an environmental and technical liaison. Accordingly, the Commission amended this section to read as set forth in the notice of proposed rulemaking.

(3) *Section 63.8.* The Commission recently amended its Lake Erie regulations to prohibit spear fishing in or along Lake Erie tributary streams. To be consistent, the Commission amended this section to read as set forth in the notice of proposed rulemaking.

#### F. Paperwork

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

#### G. Fiscal Impact

This final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. This final-form rulemaking will impose no new costs on the private sector or the general public with the exception of the amendments to § 51.9, which impose a charge for certified copies of \$1 per page up to \$5 per document. The impact of this charge will be nominal. All other charges remain unchanged.

#### H. Public Involvement

A notice of proposed rulemaking was published at 33 Pa.B. 3126 (July 5, 2003). The Commission did not receive any public comments regarding the proposed changes.

#### Findings

The Commission finds that:

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

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

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

#### Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 51 and 63, are amended by amending §§ 51.9, 51.84 and 63.8 to read as set forth at 33 Pa.B. 3126.

(b) The Deputy Executive Director will submit this order and 33 Pa.B. 3126 to the Office of Attorney General for approval as to legality as required by law.

(c) The Deputy Executive Director shall certify this order and 33 Pa.B. 3126 and deposit the same with the Legislative Reference Bureau as required by law.

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

DENNIS T. GUISE,  
Deputy Executive Director

**Fiscal Note:** Fiscal Note 48A-145 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 03-2227. Filed for public inspection November 21, 2003, 9:00 a.m.]

**FISH AND BOAT COMMISSION****[58 PA. CODE CHS. 61 AND 65]****Fishing**

The Fish and Boat Commission (Commission) amends Chapters 61 and 65 (relating to seasons, sizes and creel limits; and special fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The final-form rulemaking relates to the minimum size and daily limit for Delaware River and River Estuary striped bass and a miscellaneous special regulation for Raccoon Creek State Park Upper Pond in Beaver County.

**A. Effective Date**

This final-form rulemaking will go into effect on January 1, 2004.

**B. Contact Person**

For further information on this final-form rulemaking, contact Laurie E. Shepler, Assistant Counsel, P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This final-form rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

**C. Statutory Authority**

The amendment to § 61.2 (relating to Delaware River and River Estuary) is published under the statutory authority of section 2102(b) of the code (relating to rules and regulations). The amendment to § 65.24 (relating to miscellaneous special regulations) is published under the statutory authority of section 2307 of the code (relating to waters limited to specific purposes).

**D. Purpose and Background**

The final-form rulemaking is designed to update, modify and improve the Commission's regulations pertaining to fishing. The specific purpose of the final-form rulemaking is described in more detail under the summary of changes.

**E. Summary of Changes**

(1) *Section 61.2.* The evolution of the Commission's Delaware River and Estuary striped bass regulations has been quite dynamic over the past 20 years. As a member of the Atlantic States Marine Fisheries Commission (ASMFC) Striped Bass Management Board, the Commission has worked in concert with other east coast states, in particular neighboring jurisdictions, regarding an agreed upon management plan for migratory striped bass. The Commission has amended its regulations to reflect changes to the ASMFC Interstate Fishery Management Plan for Atlantic Striped Bass. Currently, one striped bass between 24 and 28 inches and one striped bass 28 inches or longer may be taken per day.

Specific compliance criteria contained in Amendment 6 of the Atlantic Striped Bass Management Plan adopted in February 2003 includes a two-fish creel limit and a 28-inch minimum size limit for most recreational fisheries. Jurisdictions may implement other regulations provided conservation equivalency is maintained. Regulations differing from the two-fish per day at the 28-inch minimum size must be approved first by the ASMFC striped bass technical committee and then the management board. The implementation schedule to meet Amendment 6 deadlines and the uncertainty with regard to how "producer areas" will be handled regarding status quo have placed this Commonwealth in a dilemma with neighboring jurisdictions bordering the Delaware River

and Estuary. To date, New York, Delaware, New Jersey and the Commonwealth have attempted to maintain consistent regulations for Delaware River striped bass.

With the implementation of Amendment 6, New York and Delaware are going to implement the two at 28 inches package. It is uncertain, however, what course of action New Jersey will take. Under the circumstances, the Commission believes that it would be prudent for the Commonwealth to take the same approach as New York and Delaware until the "producer area" issue is resolved. Accordingly, the Commission amended § 61.2 to impose a two-fish creel limit and a 28-inch minimum size limit for striped bass taken during the current harvest seasons. The Commission amended this section to read as set forth in the notice of proposed rulemaking.

(2) *Section 65.24.* Raccoon Creek State Park Upper Pond is an 8-acre impoundment in Hanover Township, Beaver County, which is maintained by the Department of Conservation and Natural Resources. This impoundment was inventoried by the area fisheries manager in 2002. According to the inventory, the fish community is primarily a warm water one with a fairly abundant largemouth bass population with a favorable size structure. Bluegills were available in moderate numbers and smaller sizes during the May 2002 survey. Raccoon Creek State Park is one of the closest State parks to the Pittsburgh metropolitan area and is prone to heavy visitation. State park personnel expressed strong interest in maintaining, if not improving, the quality of the fishery at the Upper Pond and the educational experience of groups using this waterway. Trout stocking is not being considered due to the close proximity of trout stocked waters in nearby 101-acre Raccoon Lake and sections 2 and 3 of Traverse Creek. Also, the pond is located in somewhat of a remote setting requiring a minimum of a 1/2-mile hike on a gate access road.

Accordingly, the Commission adopted catch-and-release regulations for all species at Raccoon Creek State Park Upper Pond to optimize use of this waterway. The Commission amended § 65.24 to read as set forth in the notice of proposed rulemaking. Under § 51.5 (relating to correction of regulations), the Commission is making a corrective change to reflect that the correct name of the State park is Raccoon Creek State Park, not Raccoon State Park.

**F. Paperwork**

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

**G. Fiscal Impact**

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

**H. Public Involvement**

Notice of proposed rulemaking was published at 33 Pa.B. 4076 (August 16, 2003). Regarding the proposed amendments to § 61.2, the Commission received one public comment from the Upper Delaware Council requesting that the Commission consider a minimum size limit of 18 inches so that the size limit is consistent with producer areas, such as the Hudson River. Commission staff, however, believe that until the ASMFC designates the Delaware River as a producer area, the Commission should not consider a reduced minimum size limit. Copies of this public comment were provided to the Commission-

ers. The Commission did not receive any public comments concerning the other proposed amendment.

Findings

The Commission finds that:

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

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

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

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 61 and 65, are amended by amending § 61.2 to read as set forth at 33 Pa.B. 4076 and § 65.24 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Deputy Executive Director will submit this order, 33 Pa.B. 4076 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Deputy Executive Director shall certify this order, 33 Pa.B. 4076 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect on January 4, 2004.

DENNIS T. GUISE, Deputy Executive Director

Fiscal Note: Fiscal Note 48A-148 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

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

Table with 3 columns: County, Name of Water, Special Regulations. Row 1: Beaver, Raccoon Creek State Park Upper Pond, This is a catch and release/no harvest fishery for all species. It is unlawful to take, kill or possess any fish. All fish caught must be immediately returned unharmed.

[Pa.B. Doc. No. 03-2228. Filed for public inspection November 21, 2003, 9:00 a.m.]

Title 67—TRANSPORTATION

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 177]

Emissions Inspection Program

The Department of Transportation (Department), Bureau of Motor Vehicles (Bureau) amends Chapter 177 (relating to emission inspection program) by adding provisions for vehicle emission inspection and maintenance (I/M) testing using the onboard diagnostic (OBD) systems in model year (MY) 1996 and newer vehicles.

The I/M program, implemented under 75 Pa.C.S. §§ 4103, 4531, 4701, 4706, 4707, 4710, 6103 and 9104, is required by the Federal Clean Air Act (Clean Air Act), as amended by Pub. L. No. 101-52, 104 Stat. 2399-2712 (42 U.S.C.A. §§ 7401—26718) and Pub. L. No. 104-59, 109 Stat. 568 (1995), known as the National Highway System Designation Act of 1995. Implementation of emission testing using vehicle OBD systems is required by the Clean Air Act and recent amendments to 40 CFR Parts 51 and 85 (relating to regulations for preparation, adoption and submittal of implementation plans; and control of air pollution from mobile sources).

Proposed rulemaking is omitted under 75 Pa.C.S. § 4706 (relating to prohibition on expenditures for emission inspection program), which exempts the regulations from the proposed rulemaking provisions of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), known as the Commonwealth Documents Law, the Regulatory Review Act (71 P. S. §§ 745.1—745.12) and 75 Pa.C.S. § 4710 (relating to Vehicle Emission System Inspection Program Advisory Committee), which provides for initial submission of final regulations regarding the vehicle emission I/M program to the Office of Attorney General for review as to form and legality and thereafter to the Independent Regulatory Review Commission (IRRC) and the House and Senate Transportation Committees in accordance with the Regulatory Review Act.

Purpose of Chapter 177

Chapter 177 implements an emission I/M program as required by the Clean Air Act and regulations promulgated thereunder, 40 CFR Parts 51 and 85.

Purpose of the Final-Omitted Rulemaking

The final-omitted rulemaking incorporates OBD-I/M testing of MY 1996 or newer vehicles into the I/M program in this Commonwealth, in compliance with the Clean Air Act and amendments to 40 CFR Parts 51 and 85 (relating to requirements for preparation, adoption and submittal of implementation plans; and control of air pollution from mobile sources) which require states to implement OBD testing. The final-omitted rulemaking also implements gas cap testing and visual antitampering inspection in selected counties.

The engines in vehicles MY 1996 and newer are largely electronically controlled. Sensors and actuators sense the operation of specific components (for example, oxygen sensors) and actuate others (for example, fuel injectors) to maintain optimal engine performance and control. An onboard computer controls all of these systems. With proper software, the onboard computer is capable of monitoring all of the sensors and actuators to determine whether they are working as intended. It can detect a malfunction or deterioration of the various sensors and actuators, usually well before the driver becomes aware of the problem through a loss in vehicle performance or

drivability. The sensors and actuators, along with the diagnostic software in the onboard computer, make up what is called the OBD system.

Many component failures that impact emissions can be electrical or even chemical in nature. The OBD system is intended to detect problems that may not be noticeable upon visual inspection. When the OBD system determines that a problem exists, a corresponding "diagnostic trouble code" is stored in the computer's memory. When the vehicle is taken to a service center or repair shop, a service technician can retrieve the stored diagnostic trouble codes from the computer memory of the vehicle using newly developed diagnostic tools. Since the diagnostic trouble codes will specifically identify the problem, the service technician can more quickly and accurately make the proper repair.

The Clean Air Act (42 U.S.C.A. §§ 7401—7671q) as amended in 1990 required the Environmental Protection Agency (EPA) to set requirements for states to follow in designing and operating vehicle I/M programs. In addition to distinguishing between basic and enhanced I/M programs, the requirements also clarify how states can meet other minimum design requirements set by the Clean Air Act. One requirement applicable to both basic and enhanced I/M programs includes OBD system checks as part of the required periodic inspection.

On November 5, 1992, the EPA published regulations meeting most of the requirements of the Clean Air Act. At the time the regulations were promulgated, however, Federal OBD certification standards had not yet been developed and published. To address the Clean Air Act's OBD-I/M requirement, the EPA reserved sections in the regulations with the understanding that the reserved sections would be amended on a future date. Although the Federal requirement to incorporate OBD into new vehicles began with MY 1994, manufacturers were allowed to request waivers on vehicles for MY 1994-95. Full compliance was not required on all light-duty cars and trucks sold in the United States until MY 1996. On August 6, 1996, the EPA published amendments to the 1992 I/M regulations establishing OBD-I/M performance standards. The 1996 amendments also established data collection, analysis and summary reporting requirements for the OBD-I/M testing element; established OBD test equipment requirements and the OBD test result reporting format; and identified those conditions that would result in an OBD-I/M pass, failure or rejection. Lastly, the August 6, 1996, amendments revised 40 CFR Part 85, Subpart W (relating to emission control systems performance warranty short test) to establish OBD-I/M as an official performance warranty short test under section 207(b) of the Clean Air Act (42 U.S.C.A. § 7541(b)).

At the time the original OBD-I/M requirements were established, it was not practical to evaluate the real world, in-use performance of OBD because the vehicles in question were still too new and the number of vehicles in need of repair was too few to make pilot testing worthwhile. In 1998, the EPA further amended its OBD-I/M requirements to provide that state I/M programs begin OBD testing by January 1, 2001. In April 2001, the EPA amended its OBD-I/M regulations to: (1) provide states several options for extending the current deadline for mandatory implementation of OBD-I/M inspection beyond January 1, 2001; (2) clarify states' options regarding the integration of OBD-I/M checks into existing I/M programs; (3) revise and simplify the current list of diagnostic trouble codes that constitute the OBD-I/M failure criteria to include any code that leads the dashboard

malfunction indicator light to illuminate; and (4) provide for exemptions from specific readiness code rejection criteria on OBD-equipped vehicles based upon vehicle MY.

In addition to the inclusion of OBD-I/M testing in the I/M program, these amendments correct some organizational and typographical deficiencies in the existing regulations.

#### *Significant Provisions of the Final-Omitted Rulemaking*

*§ 177.3. Definitions.* Since 1999, the Commonwealth has not conducted a basic emissions inspection program, conducting only enhanced programs in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties (Philadelphia region) and in Allegheny, Beaver, Washington and Westmoreland Counties (Pittsburgh region). Going forward, the inclusion of OBD-I/M testing will be incorporated into the enhanced program and expanded to other counties and regions in this Commonwealth. Consequently, the basic/enhanced distinction has no significance for the emission I/M program in this Commonwealth and the definitions have been eliminated. References to the basic program and use of the word "enhanced" as a modifier throughout the regulation have been eliminated in the final-omitted rulemaking.

In addition, since air quality attainment status is determined on a regional basis, it is more appropriate to discuss elements of the program in terms of regions. The definition of "I/M area" has been replaced with "I/M region." Insofar as air quality considerations may require, the Secretary may initiate emission inspections in a single county as well. Counties and regions in which an I/M program is currently being administered or envisioned are included in the definition of "I/M region."

Also included are definitions for new terms and acronyms related to OBD technology. Definitions are provided for "DTC—diagnostic trouble code," "MIL—malfunction indicator light," "OBD—onboard diagnostics," "OBD data link connector (DLC)," "readiness code" and "scanner or scan tool."

*§ 177.22. Commencement of inspections.* The Department plans to begin the implementation of OBD-I/M testing on or before the close of the 2003 calendar year, as testing and recording equipment compatible with the Department's vehicle inspection information database is developed and marketed to inspection stations. This section provides that the Secretary will give notice by publication in the *Pennsylvania Bulletin* of effective dates for the transition of the existing emission I/M inspection programs in the Philadelphia and Pittsburgh regions to programs which include OBD-I/M testing and to initiate OBD-I/M testing programs in other counties and regions as appropriate. The notice will provide motorists in those counties or regions with 60 days notice of the transition or initiation of the program.

This section also recognizes that, over time, the number of pre-1996 vehicles (which, generally, were not manufactured with the OBD technology) required to receive actual tailpipe testing and analysis of emitted gasses under the final-omitted rulemaking will gradually decrease and their contribution to air pollution in the region in which they are registered will diminish. Consistent with EPA guidelines, therefore, this section provides that the Secretary can reduce the test cycle or eliminate the emission testing of these vehicles altogether, provided that emissions in the region are at or below State implementation plan levels and the I/M performance standards for the region are being met. Notably, this section also makes clear, however, that the requirements for annual safety



inspections of all vehicles are not affected by any change in the emission I/M program.

*§ 177.51. Program requirements.* This section is amended to include the provisions for OBD-I/M testing of vehicles of MY 1996 and newer once an effective date for implementation of the program in a given county or region is established by the Secretary. Consistent with EPA regulations and guidelines, MY 1996 and newer vehicles will receive both an OBD-I/M check and the existing fuel filler cap (gas cap) test. This section is amended to provide that as a vehicle MY becomes 25 years of age and fewer vehicles of that MY are driven, vehicles of that MY will be required to undergo only the gas cap test and a visual inspection.

In regions of this Commonwealth where the I/M program has already been established and some vehicles are subject to acceleration simulation mode or dynamometer testing, the capability to perform the OBD-I/M check will be required for existing participating emission inspection stations. New inspection stations capable of performing only the OBD-I/M check will not be certified in these regions for 2 years following the promulgation of this rulemaking to ensure that motorists in those regions will be able to receive an emission inspection at any certified station, regardless of the kind of test that is required for their vehicle. It may reasonably be anticipated that after the OBD-I/M check has been in place for 2 years, the population of pre-MY 1996 vehicles will have diminished in those regions and motorist awareness of the differences in the emission inspection tests will have increased so that certification of OBD-I/M check only stations will not result in significant motorist confusion or dissatisfaction.

*§ 177.106 (now § 177.275). Repair technician training and certification.* This section is amended to include language requiring training in OBD technology and the OBD testing requirements being implemented. It incorporates, but relocates to § 177.275, the existing language requiring completion of a course relating to the Commonwealth's emission I/M program and adds a requirement of completion of additional training specifically related to OBD-I/M technology and repair.

*§ 177.202a. OBD-I/M check equipment.* This new section describes the performance features required of equipment used to perform the OBD-I/M check. Reference is made to specifications developed by the Department and its consultants ensuring that the data retrieved in the performance of the OBD-I/M check can be communicated to the Department's vehicle inspection information database.

*§ 177.203. Test procedures.* This section is amended to delete provisions relating to a "basic" I/M program and eliminate the use of "enhanced" as a modifier. Procedures for establishing a vehicle's "readiness" for the OBD-I/M check as well as for conducting the test are added to this section. Procedures currently found only in Appendix B for performance of the gas cap test and procedures for performance of the visual inspection in § 177.204 (relating to basis for failure) have been moved to this section, a more appropriate location.

*§ 177.204. Basis for failure.* This section includes criteria for failure of all the I/M program tests, not simply standards for permissible levels of emitted gasses. Criteria for failure of the OBD-I/M check are also included and track the requirements and recommendation of the EPA.

*§ 177.252. Emission inspection report.* The amendments to this section eliminate provisions regarding the "basic" I/M program no longer conducted in this Common-

wealth. Requirements for the report to be given the vehicle owner or operator under § 177.252 under the existing program are retained. Requirements of the report to be given to vehicle owners or operators on which the OBD-I/M check is performed have been added. The OBD-I/M check report details the readiness results and diagnostic trouble codes revealed in the test, as well as providing information on any applicable recall for the vehicle and the availability of warranty coverage.

*§ 177.406. Equipment.* The amendments to this section include OBD scanners or scan tools in the list of equipment required at an official emission inspection station. The amendments also delete reference to specifications for equipment at "basic" I/M stations.

*§ 177.408. Certified emission inspectors.* This section is amended to delete references to a "basic" and "enhanced" I/M program. The amendments also include the training required for certification as an emission inspector for the OBD-I/M check.

*§ 177.501. Equipment approval procedures.* This section is amended to delete references to a "basic" and "enhanced" I/M program and to remove provisions specific to the "basic" program no longer conducted in this Commonwealth. The amendments also delete the provisions for "interim" approval relevant only during the start-up period of the I/M program. The amendments also include new requirements to be met for approval of equipment to be used in the OBD-I/M check.

#### *Persons and Entities Affected by the Final-Omitted Rulemaking*

The final-omitted rulemaking will affect the owners and operators of vehicles registered in this Commonwealth as well as individuals in the business of vehicle inspection and vehicle repair in the affected counties.

#### *Fiscal Impact*

The final-omitted rulemaking will require the purchase of new equipment by existing emission inspection stations and by new stations in the areas in which an I/M program is being initiated. The cost will be recouped through the fees charged to vehicle owners for inspections. In some regions, the final-omitted rulemaking may nevertheless result in savings to vehicle owners in the form of lower cost of emission inspection with introduction of the simpler OBD-I/M check. In counties in which the final-omitted rulemaking initiates an I/M program, vehicle owners will experience increased costs for the emission inspection. These costs or savings to the general motoring public are not, however, readily measurable. Costs of the I/M tests are market driven and are not regulated by the Department. Station owners vary in the fee charged for I/M testing and vehicle owners have the opportunity to choose a station with a fee acceptable to them. The Department cannot, however, measure with any precision what costs and savings may result in the marketplace.

#### *Regulatory Review*

Under 75 Pa.C.S. § 4710(e), the Department submitted a copy of the final-omitted rulemaking to the Office of Attorney General on August 12, 2003. The final-omitted rulemaking was approved as to form and legality by the Office of Attorney General on September 10, 2003. The Department submitted a copy of this final-omitted rulemaking on September 11, 2003, to IRRC and to the Chairpersons of the House and Senate Transportation Committees for review consistent with section 5 of the Regulatory Review Act (71 P.S. § 745.5). On October 10,

2003, the final-omitted rulemaking was tolled and resubmitted to IRRC and the Committees. In accordance with section 5(c) of the Regulatory Review Act, this final-omitted rulemaking was deemed approved by the Committees on October 30, 2003, and was approved by IRRC on November 6, 2003.

In addition to the final-omitted rulemaking, the Committees were provided with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

In preparing the final-omitted rulemaking, the Department has considered the comments received from the EPA, the public and individuals in the business of vehicle inspection and repair.

*Sunset Provisions*

The Department is not establishing a sunset date for this final-omitted rulemaking since the final-omitted rulemaking is necessary to comply with requirements of Federal laws regarding control of vehicle emissions.

*Contact Person*

The contact person for this final-omitted rulemaking is Peter Gertz, Vehicle Inspection Division, 4th Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, pgertz@state.pa.us.

*Authority*

The final-omitted rulemaking is adopted under the authority in 75 Pa.C.S. §§ 4103, 4531, 4701, 4706, 4707, 4710, 6103 and 9104.

*Order*

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

(a) The regulations of the Department, 67 Pa. Code Chapter 177, are amended by amending §§ 177.3, 177.22—177.24, 177.51—177.53, 177.101, 177.105, 177.201—177.204, 177.252, 177.253, 177.271—177.274, 177.281, 177.282, 177.291, 177.292, 177.304, 177.401, 177.404, 177.405—177.408, 177.421, 177.422—177.425, 177.431, 177.501—177.503, 177.521, 177.602, 77.603, 177.651 and Appendices A and B, by deleting §§ 177.21 and 177.106 and by adding §§ 177.202a, 177.202b, 177.275 and 177.601 to read as set forth in Annex A, with ellipses referring to the existing text to the regulations.

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

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

ALLEN D. BIEHLER, P. E.,  
Secretary

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. 5791 (November 22, 2003).)*

**Fiscal Note:** 18-384. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 67. TRANSPORTATION**

**PART I. DEPARTMENT OF TRANSPORTATION**

**Subpart A. VEHICLE CODE PROVISIONS**

**ARTICLE VII. VEHICLE CHARACTERISTICS**

**CHAPTER 177. EMISSION INSPECTION PROGRAM**

**Subchapter A. GENERAL PROVISIONS**

**GENERAL**

**§ 177.3. Definitions.**

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

*ASM test—Acceleration Simulation Mode test*—A one mode "loaded" mode emission test (ASM 5015), utilizing a dynamometer, which simulates driving a vehicle at a predetermined speed and driving condition.

*Antique motor vehicle*—A motor vehicle, which displays a current antique motor vehicle registration plate issued by the Department, and which is consistent with the definition of "antique motor vehicle" as provided in section 102 of the Vehicle Code (relating to definitions).

*Approved exhaust emission analyzer*—An instrument, developed for measuring the hydrocarbon, carbon monoxide, carbon dioxide or oxides of nitrogen emissions from the exhaust system of a vehicle, which meets required emission analyzer specifications and program requirements and has been approved by the Department under § 177.406(b) (relating to equipment).

*BAR97*—The acronym used for the California Bureau of Automotive Repair's Exhaust Gas Analyzer system Specifications provided in 1996, for the testing and documentation of technical specifications required for the approval of analyzer and dynamometer use in California for the measurement of hydrocarbon and carbon monoxide emissions. These specifications, including performance criteria, design characteristics, instrument evaluation procedures and documentation, warranty requirements and logistics shall be met or surpassed for an exhaust gas analyzer and dynamometer to be considered equivalent to the BAR97 exhaust gas analyzer system. Copies of the BAR97 specifications may be obtained from the Department of Consumer Affairs, Bureau of Automotive Repair, California Vehicle Inspection Program, 3116 Bradshaw Road, Sacramento, California 95827. A fee for this document may be required.

*BAR80*—The acronym used for the California Bureau of Automotive Repair's Exhaust Gas Analyzer Specifications: 1979 provided in 1980 for the testing and documentation of technical specifications required for the approval of analyzer use in California for the measurement of hydrocarbon and carbon monoxide emissions.

*Bureau*—The Bureau of Motor Vehicles of the Department.

*Business day*—Each day in which an appointed emission inspection station is open for business, excluding Sundays and selected State holidays determined by the Department.

*CO—carbon monoxide*—A colorless, odorless gas formed by incomplete combustion of carbon, including gasoline. It is considered a mobile source pollutant.

*CO<sub>2</sub>—carbon dioxide*—A colorless, odorless incombustible gas formed during respiration and combustion.

*Certificate of emission inspection*—A serially numbered sticker that, when affixed to the windshield of a vehicle, indicates that the vehicle has passed an emission inspection consistent with this chapter. The certificate is also referred to in this chapter as a sticker.

*Certificate of waiver*—An official Department document indicating that the requirement of passing emission

reinspection has been waived for a vehicle under § 177.291 (relating to certificates of emission inspection).

*Certified emission inspector*—A person who holds a valid certification card issued by the Bureau which certifies that the person is qualified and has passed the requirements to perform emission inspections on subject vehicles in an appointed emission inspection station.

*Certified repair technician*—A person who has provided proof to the Department of completion of Department or Nationally recognized emission component repair training and has received a valid emissions repair technician certificate issued by the Department.

*Classic motor vehicle*—A motor vehicle, but not a reproduction thereof, which displays a current classic motor vehicle registration plate issued by the Department and meets the definition provided in section 102 of the Vehicle Code.

*Collectible motor vehicle*—A reconstructed motor vehicle, but not a reproduction thereof, substantially modified from the manufacturer's original specifications and appearance and maintained in a collectible condition as determined by the Department.

*Commonwealth emission inspection station*—An inspection station appointed by the Commonwealth to conduct emission inspections on subject vehicles owned by and engaged exclusively in the performance of the official duties of the Federal government, the Commonwealth or a political subdivision of this Commonwealth.

*Consumer complaint emission inspection procedure*—The method provided for consumers who wish to have the results of the emission inspection verified at an inspection facility or lane operated under contract to the Department where the verification is supervised by a Department designated official.

*DTC—Diagnostic Trouble Code*—An alphanumeric code which is set in a vehicle's onboard computer when a monitor detects a condition likely to lead to (or which has already produced) a component or system failure.

*Decentralized inspection*—A system for vehicle emission inspection using privately owned and operated, Department-certified facilities to provide for vehicle emission testing or allowing repairs, or both.

*Department*—The Department of Transportation of the Commonwealth.

*EPA*—The United States Environmental Protection Agency.

*Emission inspection*—The testing of the exhaust emissions control systems of a subject vehicle as required by this chapter. The term includes an inspection performed utilizing an I/M emission test, an OBD-I/M check, an evaporative function test, gas cap test, visual inspection or any combination of these tests.

*Emission inspection program*—A vehicle emission inspection program as defined by the EPA designed to meet an I/M performance standard.

*Emission inspection report*—A document automatically generated by an emission inspection device once the testing cycle is completed.

*Federal standard*—A minimum standard of vehicle or vehicle equipment performance issued under the National Highway Traffic Safety Administration Act of 1991 (49 U.S.C.A. §§ 30101—30169), the act of July 5, 1994 (Pub. L. No. 103-272) (108 stat. 745), Chapter 323—Consumer Information, known as the Motor Vehicle Infor-

mation, Standards and Requirements Act (49 U.S.C.A. §§ 32301—32309) or the Clean Air Act (42 U.S.C.A. § 7401—7671q).

*Field certified exhaust emission analyzer*—An approved exhaust emission analyzer certified by the manufacturer or distributor as being properly calibrated at the emission inspection station according to the manufacturer's specifications and Department procedures and capable of properly recording, storing and transferring test data.

*Fleet emission inspection station*—An inspection station appointed by the Commonwealth to inspect a minimum of 15 subject vehicles, space permitting, leased or owned and registered in the name of the person in whose name the certificate of appointment is issued.

*GVWR—Gross vehicle weight rating*—The value specified by the manufacturer on the Federal weight certification label as the loaded weight of a single vehicle.

*Gas cap test*—A fuel filler gas cap test, as specified in § 177.204(2)(iii) (relating to basis for failure), that determines whether or not the vehicle's gas cap is functioning as designed.

*General emission inspection station*—An inspection station appointed by the Department to conduct emission inspections on all subject vehicles, including fleet, government and private vehicles.

*HC—Hydrocarbon*—An organic compound containing carbon and hydrogen and often occurring in petroleum, natural gas, coal and bitumens.

*I/M*—Inspection/Maintenance.

*I/M emission test*—The testing of exhaust emissions of a subject vehicle, while the vehicle is running, for CO, HC, NO or other emitted gasses.

*I/M indicator insert (for safety certificate of inspection)*—An insert containing an indicator in the background to be affixed to the safety certificates of inspection to indicate a requirement for an emission I/M inspection.

*I/M monthly insert (for a certificate of emission inspection)*—An insert to be affixed to the certificate of emission inspection to show the expiration date of the current emission I/M inspection.

*I/M region*—The designation and grouping of counties in the Commonwealth certified under § 177.51(d) (relating to program requirements for purposes of administration of emission inspection requirements) under this chapter. Currently, in accordance with § 177.51(d), Chester, Delaware, Bucks, Montgomery and Philadelphia Counties constitute the Philadelphia Region; Allegheny, Beaver, Washington and Westmoreland Counties constitute the Pittsburgh Region. Pending certification in accordance with § 177.51(d), Berks, Dauphin, Cumberland, Lancaster, Lebanon, Lehigh, Northampton and York Counties shall constitute the South Central Region; Blair, Cambria, Centre, Erie, Lackawanna, Luzerne, Lycoming and Mercer Counties shall constitute the Northern Region.

*I/M registration indicator*—An indicator on the registration card which identifies the vehicle as a subject vehicle which shall be emission inspected annually.

*Idle test*—A vehicle emission inspection test procedure for sampling exhaust emissions which requires maintaining the vehicle's engine speed in the idle range of rpms. The vehicle engine speed is set with the operational range of rpms as prescribed in 40 CFR Part 51, Subpart S,

Appendix B(I) (relating to test procedures), and the exhaust gas emissions are measured within the single idle speed range.

*Implement of husbandry*—A vehicle designed or adapted and determined by the Department to be used exclusively for agricultural operations and infrequently operated or moved upon highways.

*Inspection area*—The area in which emission inspections shall be conducted.

*Light duty trucks*—Trucks weighing less than 9,000 pounds GVWR.

*Light duty vehicles*—Passenger cars or multi-purpose vehicles weighing less than 6,000 pounds GVWR.

*Limited fleet inspection periods*—Inspection periods in which approved fleet owners/lessors are required to emission inspect their vehicles, as specified in the Application for Fleet Stations form provided by the Department.

*MIL—Malfunction Indicator Light*—Dashboard light illuminated when a vehicle's onboard computer detects conditions likely to result in emissions exceeding standards by 1 1/2 times or greater. The MIL may display "Check Engine," "Service Engine Soon," or other similar message, or a symbol or picture representing an automobile engine.

*MY—Model Year*—The calendar year so designated by the manufacturer of a vehicle as the model year for a particular vehicle design.

*NMHC—Nonmethane hydrocarbons*—A mobile source or exhaust pollutant for which the EPA has set allowable standards.

*NO—Oxides of nitrogen*—A mobile source or exhaust pollutant for which the EPA has set allowable standards.

*OBD—Onboard Diagnostics*—A system of vehicle component and condition monitors controlled by a central, onboard computer designed and programmed, among other things, to signal the motorist when conditions exist which could lead to (or which has already produced) a component or system failure.

*OBD Data Link Connector (DLC)*—The interface which allows connection of the vehicle's OBD computer to an OBD scanner. Connecting an OBD scanner to the DLC allows I/M inspectors and vehicle repair technicians to read the readiness status of the vehicle's various onboard monitors and to read any diagnostic trouble codes recorded by the OBD computer.

*OBD-I/M Check*—An inspection and evaluation of a vehicle's emission control systems utilizing the vehicle's OBD system as provided in § 177.203 (relating to test procedures) and § 177.204.

*On-road testing device*—An exhaust gas analyzer capable of measuring vehicle exhaust gas content outside of the emission inspection station environment, while the vehicle is in motion on the road or at a roadside stop.

*PA97*—The emission inspection analyzer designed to meet the requirements and specifications for idle testing of this Commonwealth's emission inspection program as defined in Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements).

*PA97 with dynamometer*—The emission inspection analyzer and dynamometer designed to meet the requirements and specifications for ASM testing of this Commonwealth's emission inspection program as defined in Appendix A.

*Ppb*—Part per billion.

*Ppm*—Part per million.

*Qualified Commonwealth employee*—An individual, police officer or qualified Department employee, who has completed training in the inspection or weighing of vehicles as required by section 4704, 4981 or 8302 of the Vehicle Code (relating to inspection by police or Commonwealth personnel; weighing and measurement of vehicles; and powers and duties of department).

*Quality assurance officer*—A person designated by the Department to investigate, inspect and supervise the operations of emission inspection stations.

*Qualifying repairs*—Vehicle repairs necessary to correct the deficiencies which resulted in a vehicle's failure of the emission inspection test and which count toward the minimum dollar amount required before a waiver may be issued. For those repairs where repair or replacement of emission-related parts requires replacement of other non-emission related equipment constructed as one indivisible unit by the manufacturer, the total replacement costs or repair costs may be counted toward qualifying repairs.

*Rpm*—Revolutions per minute.

*Readiness code*—A status flag stored by a vehicle's onboard computer which is different from a DTC in that it does not indicate a vehicle component or system failure, but rather indicates whether or not the component or system in question has been recently checked by the OBD system to determine if it is functioning properly.

*Recognized repair facility*—A business engaged in the diagnosis and repair of automotive engines and related systems, and one that has been issued or applied for a State Sales Tax identification number by the Commonwealth or another state jurisdiction.

*Registration recall*—A formal action of the Department to withdraw the vehicle registration of a vehicle owner or operator for failure to produce proof of correction or waiver of an on-road emission test failure.

*Residency exemption*—A document issued by the Department stating that a residency exemption application has been verified and approved, and that the vehicle listed is exempt from an emission inspection.

*Residency exemption application*—An application issued by the Department and used by a Commonwealth vehicle owner residing outside of a designated emission I/M program area to apply for an exemption from emission inspection when the owner has incorrectly received an I/M indicator on the registration card or registration renewal card.

*Scanner or scan tool*—A PC-based or handheld device used to interface with a vehicle's onboard computer through its DLC for the purpose of determining readiness status and reading DTCs.

*Secretary*—The Secretary of the Department.

*Special mobile equipment*—

(i) Vehicles not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to: ditch digging apparatus; well boring apparatus; earth moving and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, snowplows, ditchers, graders, finishing machines, road rollers, scarifiers, earth

moving carryalls, scrapers, power shovels and draglines; and self-propelled cranes and tractors, other than truck tractors.

(ii) The term does not include: house trailers; dump trucks; truck-mounted transit mixers, cranes or shovels; or other vehicles designed for the transportation of persons or property to which machinery has been attached.

*Street rod*—A motor vehicle, or a reproduction thereof, with a model year of 1948 or older which has been materially altered or modified by the removal, addition or substitution of essential parts and with a gross weight or registered gross weight of not more than 9,000 pounds.

*Subject emission control device*—The vehicle emission control devices, including the catalytic convertor, the fuel tank inlet restrictor and the exhaust gas recirculation (EGR) valve which are required to be inspected as part of the emission inspection program.

*Transient test*—A vehicle emission inspection test in which the vehicle is tested for exhaust emissions under conditions simulating actual on-road driving conditions. Testing equipment includes a dynamometer that permits simulation of driving and exhaust gas analyzer equipment that analyzes the exhaust gas emissions under various driving conditions.

*Two-speed test*—A vehicle emission inspection test in which the exhaust emissions are measured at two ranges of engine revolutions per minute (rpm) as prescribed in 40 CFR Part 51, Subpart S, Appendix B(II) (relating to test procedures two speed idle test).

*Unsafe condition*—A defect, malfunction or condition which may expose an emission inspector to harm in the performance of an emission inspection of that vehicle.

*VIID—Vehicle Inspection Information Database*—The vehicle database established to collect inspection test data and to provide emission inspection test standards to emission inspection stations for the purpose of conducting the appropriate emission inspection.

*VIN—Vehicle identification number*—A combination of numbers or letters, or both, which the manufacturer assigns to a vehicle for identification purposes, or, if no VIN is present on the vehicle, which the Department may assign for identification purposes.

*Vehicle Code*—75 Pa.C.S.

*Vehicle equipment standard*—A minimum standard for vehicle performance or vehicle equipment performance which meets the needs of vehicle safety, noise control or air quality control, and which is practicable and provides objective criteria.

*Vehicle Inspection Division*—The division within the Bureau which administers vehicle equipment and inspection matters.

*Vehicle year*—The date of manufacture of a vehicle as specified by the VIN, or, if this number is not available or cannot be interpreted for the year, the annual production period of the vehicle as designated by the manufacturer.

#### IMPLEMENTATION OF EMISSION INSPECTION PROGRAM

§ 177.21. (Reserved).

§ 177.22. Commencement of inspections.

Prior to implementation of the OBD-I/M check and related inspection provisions of this chapter, the Department will provide affected vehicle owners with at least 60 days notice. The notice will be published in the *Pennsyl-*

*vania Bulletin*, as provided for in 75 Pa.C.S. § 4706(b.1) (relating to prohibition on expenditures for emission inspection program).

§ 177.23. Notification of requirement for emission inspection.

The Department will notify the owner or lessee of a subject vehicle that is required to have an emission inspection.

§ 177.24. Program evaluation.

A program evaluation of the vehicle inspection and maintenance (I/M) program that meets EPA requirements will be performed with date submitted to EPA on a biennial basis.

#### I/M PROGRAM

§ 177.51. Program requirements.

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(c) *Inspection*. Subject vehicles shall be emission inspected annually in coordination with a safety inspection according to procedures established by the Bureau, subject to paragraphs (1)—(3). A safety inspection certificate for a vehicle subject to an emission inspection may not be affixed to the vehicle until the subject vehicle has passed an emission inspection or received an exemption or a waiver as provided in § 177.281 (relating to issuance of waiver). The term “safety inspection certificate” as used in this subsection does not include temporary inspection approval indicators as defined in § 175.2 (relating to definitions). Safety inspection stations are not required to conduct emission inspections to maintain certification as safety inspection stations.

(1) When the Secretary certifies, by publication of a notice in the *Pennsylvania Bulletin*, that the number of subject pre-MY 1996 vehicles constitutes less than 40% of the total subject vehicles registered in an I/M county or region, subject pre-MY 1996 vehicles in that I/M county or region shall be inspected biennially in coordination with an annual safety inspection, provided that emissions in that I/M county or region are at or below levels which are in compliance with the State Implementation Plan, conformity requirements under the Clean Air Act, and the I/M performance standard.

(2) At such time as the Secretary certifies, by publication of a notice in the *Pennsylvania Bulletin*, that the number of subject pre-MY 1996 vehicles constitutes less than 20% of the total subject vehicles registered in an I/M county or region, pre-MY 1996 vehicles shall no longer be subject to the I/M program, provided that emissions in that I/M county or region are at or below levels which are in compliance with the State Implementation Plan, conformity requirements under the Clean Air Act, and the I/M performance standard.

(3) Nothing in this section relieves any vehicle from the requirements for annual safety inspections under Chapter 175 (relating to vehicle equipment and inspection).

(d) *I/M counties or regions covered*. The Department will establish counties or regions within this Commonwealth which are subject to an emission inspection by certification of the Secretary of the need to comply with Federal law and will publish the certification as a notice in the *Pennsylvania Bulletin* listing the I/M counties or regions.

(e) *Model year coverage*. Subject gasoline-powered motor vehicles with a model year of 1975 and newer with a GVWR of 9,000 pounds or less and registered in an I/M county or region are subject to an emission inspection.

Current model year vehicles and vehicles driven less than 5,000 miles per year are exempt from this requirement.

(f) *Exhaust emission test types.* The following types of tests will be administered to the appropriate model years and fuel types, subject to subsection (c)(2):

(1) Prior to the date established in accordance with § 177.22 (relating to commencement of inspections, subject vehicles registered in counties in the Philadelphia Region will be required to undergo the following tests:

<i>Model Year</i>	<i>Test Type</i>
1975-1980 vehicles and 1975-1983 light duty trucks.	One-speed idle test; gas cap test; visual inspection.
1981 and newer vehicles and 1984 and newer light duty trucks.	ASM 1 (ASM5015); evaporative system function tests (pressure, purge and gas cap test); visual inspection.

<i>Model Year</i>	<i>Test Type</i>
1981 and newer full time all wheel drive vehicles.	Two speed idle test, visual inspection, pressure and gas cap test.

(2) On and after the date established in accordance with § 177.22 (relating to commencement of inspections) subject vehicles MY 1996 and newer registered in counties in the Philadelphia Region will be required to undergo the following tests:

<i>Model Year</i>	<i>Test Type</i>
1996 and newer vehicles 8,500 GVWR and under.	OBD-IM check; gas cap test.
1996 and newer vehicles between 8,501 and 9,000 GVWR.	Two speed idle test, visual inspection and gas cap test.

All subject vehicles MY 1975-1995 registered in counties in the Philadelphia Region shall be tested in accordance with the following table:

<i>Calendar Year</i>	<i>Model Year</i>	<i>Test Type</i>
2003	1975-1977 vehicles and light duty trucks. 1978-1980 vehicles and 1978-1983 light duty trucks. 1981-1995 vehicles and 1984-1995 light duty trucks.  1981-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure and gas cap test.
2004	1975-1978 vehicles and light duty trucks. 1979-1980 vehicles and 1979-1983 light duty trucks. 1981-1995 vehicles and 1984-1995 light duty trucks.  1981-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2005	1975-1979 vehicles and light duty trucks. 1980 vehicles and 1980-1983 light duty trucks. 1981-1995 vehicles and 1984-1995 light duty trucks.  1981-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2006	1975-1980 vehicles and light duty trucks. 1981-1983 light duty trucks.  1981-1995 vehicles and 1984-1995 light duty trucks.  1981-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection. One speed idle test; gas cap test; visual inspection. ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection. Two speed idle test; visual inspection; pressure purge and gas cap test.
2007	1975-1981 vehicles, light duty trucks and full time all wheel drive vehicles. 1982-1983 light duty trucks.	Gas cap test; visual inspection.  One speed idle test; gas cap test; visual inspection.

## RULES AND REGULATIONS

<i>Calendar Year</i>	<i>Model Year</i>	<i>Test Type</i>
	1982-1995 vehicles and 1984-1995 light duty trucks.  1982-1995 full time all wheel drive vehicles.	ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2008	1975-1982 vehicles, light duty trucks and full time all wheel drive vehicles.  1983 light duty trucks.  1983-1995 vehicles and 1984-1995 light duty trucks.  1983-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  One speed idle test; gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2009	1975-1983 vehicles, light duty trucks and full time all wheel drive vehicles.  1984-1995 vehicles and light duty trucks.  1984-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2010	1975-1984 vehicles, light duty trucks and full time all wheel drive vehicles.  1985-1995 vehicles and light duty trucks.  1985-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2011	1975-1985 vehicles, light duty trucks and full time all wheel drive vehicles.  1986-1995 vehicles and light duty trucks.  1986-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2012	1975-1986 vehicles, light duty trucks and full time all wheel drive vehicles.  1987-1995 vehicles and light duty trucks.  1987-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2013	1975-1987 vehicles, light duty trucks and full time all wheel drive vehicles.  1988-1995 vehicles and light duty trucks.  1988-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2014	1975-1988 vehicles, light duty trucks and full time all wheel drive vehicles.  1989-1995 vehicles and light duty trucks.  1989-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2015	1975-1989 vehicles, light duty trucks and full time all wheel drive vehicles.	Gas cap test; visual inspection.

<i>Calendar Year</i>	<i>Model Year</i>	<i>Test Type</i>
	1990-1995 vehicles and light duty trucks.  1990-1995 full time all wheel drive vehicles.	ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2016	1975-1990 vehicles, light duty trucks and full time all wheel drive vehicles.  1991-1995 vehicles and light duty trucks.  1991-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2017	1975-1991 vehicles, light duty trucks and full time all wheel drive vehicles.  1992-1995 vehicles and light duty trucks.  1992-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2018	1975-1992 vehicles, light duty trucks and full time all wheel drive vehicles.  1993-1995 vehicles and light duty trucks.  1993-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2019	1975-1993 vehicles, light duty trucks and full time all wheel drive vehicles.  1994-1995 vehicles and light duty trucks.  1994-1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2020	1975-1994 vehicles, light duty trucks and full time all wheel drive vehicles.  1995 vehicles and light duty trucks.  1995 full time all wheel drive vehicles.	Gas cap test; visual inspection.  ASM 1 (ASM5015); evaporative system function test (pressure purge and gas cap test); visual inspection.  Two speed idle test; visual inspection; pressure purge and gas cap test.
2021 and thereafter.	1975-1995 vehicles, light duty trucks and full time all wheel drive vehicles.	Gas cap test; visual inspection.

(3) Prior to the date established in accordance with § 177.22, subject vehicles registered in counties in the Pittsburgh Region will be required to undergo the following tests:

<i>Model Year</i>	<i>Test Type</i>
1975-1980	One-speed idle test; gas cap test; visual inspection.
1981 and newer	Two-speed idle test, gas cap test; visual inspection.

(4) On and after the date established in accordance with § 177.22, subject vehicles MY 1996 and newer registered in counties in the Pittsburgh Region will be required to undergo the following tests:

<i>Model Year</i>	<i>Test Type</i>
1996 and newer vehicles 8,500 GVWR and under.	OBD-I/M check; gas cap test.
1996 and newer vehicles between 8,501 and 9,000 GVWR.	Two speed idle test, visual inspection and gas cap test.

All subject vehicles MY 1975-1995 registered in counties in the Pittsburgh Region shall be tested in accordance with the following table:



## RULES AND REGULATIONS

<i>Calendar Year</i>	<i>Model Year</i>	<i>Test Type</i>
2003	1975-1977 vehicles. 1978-1980 vehicles. 1981-1995 vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. Two-speed idle test; gas cap test; visual inspection.
2004	1975-1978 vehicles. 1979-1980 vehicles. 1981-1995 vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2005	1975-1979 vehicles. 1980 vehicles. 1981-1995 vehicles.	Gas cap test; visual inspection. One-speed idle test; gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2006	1975-1980 vehicles. 1981-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2007	1975-1981 vehicles. 1982-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2008	1975-1982 vehicles. 1983-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2009	1975-1983 vehicles. 1984-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2010	1975-1984 vehicles. 1985-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2011	1975-1985 vehicles. 1986-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2012	1975-1986 vehicles. 1987-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2013	1975-1987 vehicles. 1988-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2014	1975-1988 vehicles. 1989-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2015	1975-1989 vehicles. 1990-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2016	1975-1990 vehicles. 1991-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2017	1975-1991 vehicles. 1992-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2018	1975-1992 vehicles. 1993-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2019	1975-1993 vehicles. 1994-1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2020	1975-1994 vehicles. 1995 vehicles.	Gas cap test; visual inspection. Two speed idle test; gas cap test; visual inspection.
2021 and thereafter.	1975-1995 vehicles.	Gas cap test; visual inspection.

(5) Following publication of notice of an effective date in the *Pennsylvania Bulletin* in accordance with § 177.22, subject vehicles registered in the South Central Region will be required to undergo the following:

<i>Model Year</i>	<i>Test Type</i>
1975-1995	Gas cap test; visual inspection
1996 and newer vehicles 8,500 GVWR and under	OBD-I/M check; gas cap test

<i>Model Year</i>	<i>Test Type</i>
1996 and newer vehicles between 8,501 and 9,000 GVWR	Gas cap test; visual inspection

(6) Following publication of notice of an effective date in the *Pennsylvania Bulletin* in accordance with § 177.22, subject vehicles registered in the Northern Region will be required to undergo the following:

<i>Model Year</i>	<i>Test Type</i>
1975 and newer vehicles	Gas cap test; visual inspection

(7) One-speed and two-speed idle testing shall be as described in 40 CFR Part 51, Subpart S, Appendix B (I and II) (relating to one and two-speed idle tests), which is adopted by reference.

\* \* \* \* \*

(k) *Recall.* The owner of a vehicle for which a voluntary or mandatory manufacturer's emission-related recall notice was issued 6 months after the commencement of an I/M program in the affected county shall have the necessary repairs completed prior to presenting the vehicle for emission inspection as a prerequisite to begin the emission inspection process.

\* \* \* \* \*

**§ 177.52. Emission inspection prerequisites.**

The following prerequisites shall be accomplished by the vehicle owner or driver prior to the performance of the emission inspection:

(1) The vehicle owner or driver shall present the vehicle registration card to the emission inspection station and pay the required test fee to the inspection station. This fee shall also include one free retest, if the vehicle owner or driver complies with the retest requirements as provided in §§ 177.271—177.274 (relating to retest).

(2) When the EPA National Recall Database with the necessary recall notice information is available to the Department, the inspection station shall check with the VIID when applicable to determine whether an applicable emission-related manufacturer recall notice was issued for the subject vehicle.

(3) When the EPA National Recall Database with the necessary recall notice information is available to the Department, and if a subject vehicle was targeted for a voluntary or mandatory manufacturer's applicable emission recall notice, the vehicle owner or operator shall present proof of compliance with the recall notice to the emission inspection station before the emission inspection begins.

**§ 177.53. Vehicle inspection process.**

The vehicle inspection process shall be as follows:

(1) If a subject vehicle passes the emission inspection, the emission inspection station shall provide the vehicle owner or operator with an emission inspection report certifying that the vehicle has passed the emission inspection.

(2) If a subject vehicle fails any phase of the emission inspection, the emission inspection station shall provide the vehicle owner or operator with a software generated interpretive diagnostic information form based on the particular portions of the inspection that the vehicle failed.

(3) If a subject vehicle fails any phase of the emission inspection, the vehicle owner shall have the vehicle repaired and submit the vehicle for retesting.

(4) If the subject vehicle fails the retest, the vehicle owner can apply for a waiver. If the waiver requirements as prescribed in §§ 177.281 and 177.282 (relating to issuance of waiver; and annual adjustment of minimum waiver expenditure for emission inspection) are met, a waiver will be issued.

(5) An emission inspector will place a certificate of emission inspection on the windshield of the subject vehicle, as prescribed in §§ 177.291 (relating to certificates of emission inspection procedures), which has passed the emission requirements or received a waiver.

**Subchapter B. SUBJECT VEHICLES**

**§ 177.101. Subject vehicles.**

(a) *Subject vehicles.* Subject vehicles in an I/M county or region include gasoline powered 1975 and newer model year vehicles, excluding the current model year, with a GVWR of 9,000 pounds or less which are:

(1) Registered in or required to be registered in a certified I/M county or region.

(2) Leased vehicles with registration or titling in the name of someone other than the lessee or user where the motor vehicle is registered or required to be registered in an I/M county or region.

(3) Operated on Federal installations located within an I/M county or region, regardless of where the vehicles are registered. This requirement applies to employee-owned or leased vehicles, including vehicles owned, leased or operated by civilian and military personnel on Federal installations, as well as, agency-owned or operated vehicles. Vehicles exempted from this requirement are:

(i) Tactical military vehicles.

(ii) Visiting agency, employee or military personnel vehicles as long as the visits do not exceed 60 calendar days per calendar year.

(4) School buses 9,000 pounds or less GVWR and other buses with a seating capacity of 15 seats or less with a GVWR of 9,000 pounds or less.

(b) *Other exempted vehicles.* Other exempted vehicles include vehicles operated or registered as one of the following:

(1) Special mobile equipment.

(2) Implements of husbandry.

(3) Motor vehicles being towed.

(4) Classic, antique or collectible motor vehicles.

(5) Motorcycles.

(6) Motorized pedalcycles.

(7) Street rods.

(8) Vehicles repossessed by a financier or collector through the use of miscellaneous motor vehicle business registration plates.

(9) Buses with a seating capacity of 16 or more.

(10) Motor vehicles being driven, or towed by an official inspection station owner or employee for the purpose of inspection.

(11) New vehicles while they are in the process of manufacture, including testing, and not in transit from the manufacturer to a purchaser or dealer.

(12) Vehicles driven less than 5,000 miles in the previous 12 months as indicated by the mileage noted on their safety inspection certificate or by the mileage recorded on the vehicle inspection data base and which were owned by one individual for at least 1 year.

(13) Current model year vehicles which are subject vehicles never before registered in this Commonwealth or any other jurisdiction and which have less than 5,000 miles on their odometers.

(14) Specially constructed vehicles.

**§ 177.105. Vehicles requiring emission inspection due to change of address.**

Subject vehicles required to participate in the I/M Program because of vehicle registration change of address shall be phased into the emission inspection program at the time of the expiration of the current certificate of safety inspection when the vehicle is next inspected.

**§ 177.106. (Reserved).**

**Subchapter C. EMISSION TEST PROCEDURES AND EMISSION STANDARDS**

**GENERAL**

**§ 177.201. General requirements.**

I/M emission tests, OBD-I/M checks, evaporative system function tests, gas cap tests and visual inspections shall be subject to the following requirements:

(1) Vehicles shall be tested in as-received condition. A vehicle capable of operating on gasoline and other fuel is subject to testing and shall be tested while operating in the gasoline mode.

(2) An initial test is the emission test that occurs the first time in a test cycle. The initial test shall be performed without prior repair or adjustment to the subject vehicle at the emission inspection station, except as provided for in the evaporative system integrity test. An emission inspection performed after the initial test in a test cycle shall be considered a retest.

(3) An official test, once initiated, shall be performed in its entirety regardless of immediate outcome except in the case of an invalid test condition, unsafe conditions or fast pass/fail algorithms.

(4) Tests involving measurements shall be performed with approved equipment that has been calibrated according to the quality control procedures contained in 40 CFR Part 51, Subpart S, Appendix A (relating to calibrations, adjustments and quality control), which is adopted by reference, or as specified in Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements).

(5) Vehicles may not be tested if the exhaust system is missing or leaking, or if the vehicle is in an unsafe condition.

(6) Alteration of a vehicle's configuration so that it changes from a certified to a noncertified configuration is prohibited. In the inspection process, vehicles that have been altered from their original certified configuration shall be tested in the same manner as other subject vehicles, in accordance with the following:

(i) Vehicles with engines other than the engine originally installed by the manufacturer, or an identical replacement engine shall be subject to the test procedures and standards for the chassis type and model year, including visual equipment inspections for components that are part of the original certified configuration and part of the normal inspection.

(ii) Vehicles that have been altered from an engine of one fuel type to another fuel type that is subject to the I/M program, for example, from a diesel engine to a gasoline engine shall be subject to the test procedures and standards for the current fuel type, and to the requirements of subparagraph (i).

(iii) Vehicles that are altered to a fuel type for which there is no certified configuration shall be tested according to the most stringent emission standards established for that vehicle type and model year. Emission control device requirements may be waived if the Department determines that the alternatively fueled vehicle configuration would meet the new vehicle standards for that model year without these devices.

**§ 177.202. Emission test equipment.**

(a) *Performance features of emission test equipment.* Computerized test systems are required for performing any emission measurement on subject vehicles. The test equipment shall be certified to meet as applicable EPA requirements, including those contained in 40 CFR Part 51, Subpart S, Appendix D (relating to steady-state short test equipment), which is adopted by reference, or the performance standards of California BAR 97 as they apply to the PA97 analyzer and Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements). Newly acquired systems shall be subjected to acceptance test procedures to ensure compliance with program specifications.

(1) Emission test equipment shall be capable of testing subject vehicles and shall be updated as needed to accommodate new technology vehicles as well as changes to the program.

(2) At a minimum, emission test equipment shall be:

(i) Automated to the highest degree commercially available to minimize the potential for intentional fraud or human error, or both.

(ii) Secure from tampering or abuse, or both.

(iii) Based upon written specifications.

(iv) Capable of simultaneously sampling dual exhaust vehicles.

(b) *Functional characteristics of computerized test systems.* The test system is composed of emission measurement devices and other motor vehicle test equipment controlled by a computer.

(1) The test system shall automatically:

(i) Make pass/fail decisions for all measurements.

(ii) Record test data to an electronic medium.

(iii) Conduct regular self-testing of recording accuracy.

(iv) Perform electrical calibration and system integrity checks before each test, as applicable.

(v) Initiate system lockouts for:

(A) Tampering with security aspects of the test system.

(B) Failing to conduct or pass periodic calibration or leak checks.

(C) Failing to conduct or pass the constant volume sampler flow rate check, if applicable.

(D) Failing to conduct or pass one or more of the dynamometer checks, including coast-down, roll speed and roll distance, power absorption capability and inertia weight selection checks, if applicable.

(E) Failing to conduct or pass the pressure monitoring device check, if applicable.

(F) Failing to conduct or pass the purge flow metering system check, if applicable.

(G) Failing to have installed in the test analyzer a full data recording medium or one that passes a cyclical redundancy check.

(2) Test systems shall include a real time data link to the Department computer or other computers as specified by the Department.

(3) The test system shall insure accurate data collection by limiting, cross-checking or confirming manual data entry.

(c) *Test equipment for acceleration simulation mode (ASM) emission testing.* Test equipment for ASM emission testing shall be as specified in Appendix A and quality control regulations of this chapter.

(d) *One-speed idle test equipment.* One speed idle test equipment requirements for model years 1975—1980 shall be as specified in 40 CFR Part 51, Subpart S, Appendix (D)(I) which is adopted by reference.

(e) *Two-speed idle test equipment.* Two-speed idle test equipment for model years 1981 and newer shall be as specified in 40 CFR Part 51, Subpart S, Appendix D which is adopted by reference or Appendix A, as applicable.

**§ 177.202a. OBD-I/M check equipment.**

(a) *Performance features of OBD-I/M check equipment.* The design and operation of any scanner or scan tool used in the performance of an OBD-I/M check shall meet all Federal requirements (contained in 40 CFR 85.2207-2231) and recommended Society of Automotive Engineers (SAE) practices (J1962, J1978 and J1979) for OBD system inspections.

(1) The equipment shall be automated and require no inspector intervention to collect and record OBD data retrieved by means of the diagnostic link.

(2) The equipment shall automatically retrieve an RPM signal, OBD readiness monitors, failure codes, MIL status, powertrain identification, powertrain control module identification and OBD vehicle identification number (where available) through a standard interface with the vehicle DLC.

(b) The equipment shall function in accordance with the specifications issued by the Department. Copies of the specifications are available from the Department.

**§ 177.202b. Equipment for gas cap test and visual inspection.**

The design and operation of equipment used in the performance of the gas cap test and visual inspection shall meet the specifications issued by the Department. Copies of the specifications are available from the Department.

**§ 177.203. Test procedures.**

(a) *I/M emission test procedures.*

(1) *Idle testing.* Idle tests of all model year subject vehicles shall be performed in accordance with the procedures in 40 CFR Part 51, Subpart S, Appendix B(I) and (II) (relating to test procedures-idle tests) which is adopted by reference, and Appendix A (relating to simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements). The following steps shall be taken when testing subject vehicles:

(i) Emission test data shall be entered into the analyzer by a certified emission inspection inspector using

the bar coded vehicle registration card or the alphanumeric keyboard in the sequence specified.

(ii) Idle tests shall be either one-speed or two speed as specified in § 177.51(f) (relating to program requirements).

(2) *ASM test.* The ASM test of 1981 and newer model year subject vehicles shall be performed in accordance with the ASM test procedure and specifications and quality assurance requirements contained in Appendix A. The ASM test procedure, including algorithms and other procedural details, shall be approved by the EPA prior to use in the I/M program of the Commonwealth. Special test algorithms and pass/fail algorithms may be employed to reduce test time when the test outcome is predictable with near certainty, if approved by the EPA.

(3) *Evaporative system function tests.* Evaporative system functions tests, including an evaporative system pressure test and an evaporative system purge test on 1981 and newer model year subject vehicles, shall be administered on subject vehicles registered in Bucks, Chester, Delaware, Montgomery and Philadelphia counties upon notification to the Department of EPA approved procedures and will be conducted based on the procedures approved by the Department.

(b) *OBD-I/M check.*

(1) *Readiness requirement for a valid OBD-I/M check.* An initial scan of the OBD system should determine the status of all readiness codes.

(i) A status indication of “not ready,” “not supported” or similar message for one or more of the continuous monitors (that is, misfire, fuel trim or comprehensive components), may be disregarded for readiness determination purposes only and the OBD-I/M check can proceed.

(ii) For model year 1996—2000 vehicles, a status indication of “not ready,” “not supported” or similar message for two or fewer other readiness codes may be disregarded for readiness determination purposes only and the OBD-I/M check can proceed.

(iii) For model year 2001 and newer vehicles, a status indication of “not ready” or “not supported” for no more than one other readiness code may be disregarded for readiness determination purposes only and the OBD-I/M check can proceed.

(iv) The readiness requirement may also be waived or otherwise accommodated for specific makes, models, and model years of vehicles with known readiness design problems, in accordance with applicable technical service bulletins or EPA guidance, or both. The Bureau will advise all participating stations by station bulletin whether the readiness requirements can be waived or otherwise accommodated for specific makes, models and model years of vehicles.

(2) *Performing the OBD-I/M check.* Following a determination of readiness, the seven step procedure delineated below shall be used when performing an OBD-I/M check:

(i) Initiate the official test by scanning or manually inputting the required vehicle and owner information.

(ii) Visually examine the vehicle instrument panel to determine if the MIL illuminates briefly when the ignition key is turned to the “key on, engine off” (KOEO) position. A brief period of illumination of the MIL at start-up is normal and helps confirm the MIL bulb is in proper operating condition. This portion of the test proce-

ture is also known as the "bulb check." Enter the results of the bulb check for downloading into the VIID.

(iii) Locate the vehicle's data link connector (DLC) and plug the scan tool into the connector. While it is recommended that this step be performed with the ignition in the "off" position, this step can also be performed with the vehicle running.

(iv) Start the vehicle's engine so that the vehicle is in the "key on, engine running" (KOER) condition. The MIL may illuminate and then extinguish during this phase. Continued illumination of the MIL (MIL commanded on) while the engine is running is cause for failure of the OBD-I/M check under § 177.204(2) (relating to basis for failure).

(v) With the scan tool in the "generic OBD" mode, follow the scan tool manufacturer's instructions to determine vehicle readiness status, MIL status (whether commanded on or off), and diagnostic trouble codes (DTCs) for those vehicles with the MIL commanded on.

(vi) The results of the OBD-I/M check will be transferred automatically to the VIID.

(vii) Without clearing DTCs or readiness codes, turn off the vehicle ignition and then disconnect the scan tool. Procedure for clearing codes as necessary is included in § 177.271 (relating to procedure).

(c) *Gas cap test procedures.* The gas cap test will be conducted using test equipment approved by the Department, in accordance with the manufacturer's instructions.

(d) *Visual inspection procedures.*

(1) A visual inspection of the vehicle emission control system shall look for the presence of the following emission control devices:

- (i) Catalytic converter.
- (ii) Exhaust gas recirculation (EGR) valve.
- (iii) Positive crankcase ventilation (PCV) valve.
- (iv) Fuel inlet restrictor.
- (v) Air pump.
- (vi) Evaporative control system components.

(2) Visual inspections shall be performed through direct observation or through indirect observation, using a mirror or other visual aid.

(3) Inspections shall include a determination as to whether each subject device is present and appears to be properly connected and to be the correct type for the certified configuration.

(e) *Subsequent test procedures approved by the EPA.* If the EPA develops or approves other test procedures, including test procedures prescribed in this section, the Department may adopt these subsequently approved test procedures consistent with section 4706(e) of the Vehicle Code (relating to prohibition on expenditures for emission inspection program).

#### § 177.204. Basis for failure.

The basis for failure of the tests and procedures under this chapter shall be as follows:

(1) *I/M emission test.* A vehicle fails the I/M emission test if emissions exceed the following standards:

(i) *Idle test standards.*

(A) Passenger cars and trucks less than 6,000 pounds GVWR.

MODEL YEAR	CO%	HC (PPM)
1975-1979	4.0	400
1980	3.0	300
1981-1992	1.2	220
1993 and newer	1.0	130

(B) Trucks 6,000 pounds through 9,000 pounds GVWR.

MODEL YEAR	CO%	HC (PPM)
1975-1978	6.0	650
1979	4.0	400
1980	3.0	300
1981-1992	1.2	220
1993 and newer	1.0	180

(C) Maximum exhaust dilution shall be measured as at least 6% CO plus CO<sub>2</sub> on vehicles subject to a steady-state test as described in 40 CFR Part 51, Subpart S, Appendix B (relating to test procedures), which is adopted by reference.

(ii) *ASM test emission standards.* Model years 1981 and newer vehicles required to receive an ASM emission inspection shall be subject to standards specified in Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements).

(2) *OBD-I/M check.*

(i) Unless otherwise noted, a vehicle fails the OBD-I/M check for any of the following:

(A) The MIL does not illuminate at all when the ignition key is turned to the KOEO position.

(B) The DLC is missing, has been tampered with, is otherwise inoperable or is inaccessible.

(C) The vehicle displays more than the requisite number of readiness codes as "not ready," "not supported" or similar message under § 177.203(b)(1)(i)–(iii) (relating to test procedures), and there is no justification under § 177.203(b)(1)(iv) for disregard of the readiness requirement.

(D) The MIL illuminates continuously or flashes while the engine is running, even if no DTCs are present. If this condition is present, the vehicle shall fail under this paragraph, not subparagraph (ii), even if the MIL did not illuminate in the KOEO position.

(E) Any DTCs are present and the MIL status, as indicated by the scan tool, is commanded on, regardless of whether or not the MIL is actually illuminated.

(ii) During the first test cycle of emission inspection utilizing the OBD-I/M check in an I/M county or region, the inability to locate or access a vehicle's DLC shall not be a basis for failure, provided that the MIL illuminates when the ignition key is in the KOEO position and does not illuminate continuously or flash while the engine is running.

(3) *Evaporative emission system function test (gas cap test) standards.* A vehicle shall fail the gas cap test if at any time during the gas cap test the pressure drops from the starting pressure by more than 6 inches of water, causing the test to be terminated. If the pressure does not drop more than 6 inches during the test, the vehicle shall pass the gas cap test.

(4) *Visual inspection of vehicle emission control system.* A vehicle shall fail the visual inspection if applicable required emission control equipment specified in § 177.203(d) is not present, is not properly connected or is not the correct type for the certified configuration.

(5) *Subsequent test procedures and bases for failure approved by the EPA.* If the EPA develops or approves other test procedures and bases for failure of test procedures, including the test procedures prescribed in this section, the Department may adopt these subsequently approved test procedures and bases for failure consistent with section 4706(e) of the Vehicle Code (relating to prohibition on expenditures for emission inspection program).

**EMISSION INSPECTION REPORT**

**§ 177.252. Emission inspection report.**

(a) The emission inspection report shall be as shown on the sample emission inspection report form contained in Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements) and shall include:

(1) A vehicle description, including license plate number, VIN, vehicle make, model, odometer reading, GVWR and estimated test weight, engine size, and inspection type.

(2) The date and time of the test.

(3) The name, identification number and signature of the individuals performing the tests and the name, address and station number of the test station.

(4) The type of tests performed.

(5) The applicable test standards.

(6) The I/M emission test results, if applicable, including exhaust concentrations, pass/fail results for each mode measured and the results of visual inspection.

(7) The OBD-I/M check results, if applicable, including the status of the MIL illumination command, the alphanumeric DTC(s) as specified per SAE J2012 and J1930, unset readiness codes if the number of unset readiness codes exceeds the limit for which an exemption is allowed, that is, if the outcome of the test is unacceptable for testing based upon the presence of too many unset readiness codes. If, during the initial emission inspection cycle in an I/M county or region, a vehicle subject to the OBD-I/M check with a DLC which cannot be accessed nevertheless satisfies the MIL elements of the OBD-I/M check, that result shall be specifically noted in the report.

(8) The results of the gas cap test.

(9) The results of the visual inspection, if applicable.

(10) A statement indicating the availability of warranty coverage as required in section 207 of the Clean Air Act (42 U.S.C.A. § 7525).

(11) The results of the recall provisions check, if applicable, including the recall campaign number and date the recall repairs were completed.

(12) A certification that tests were performed in accordance with this chapter and EPA regulations.

**§ 177.253. Responsibility of the station owner for vehicles which fail the emission inspection.**

(a) Owners or operators of vehicles that fail the emission inspection shall be provided with an emission inspection report as described in § 177.252 (relating to emission inspection report) as well as the consumer complaint procedure, including the telephone number of the quality assurance officer or the Vehicle Inspection Division.

(b) Owners or operators of vehicles that fail the emission inspection may challenge the results.

(1) A challenge regarding the performance or results of the test shall be made within 10 days of the failure of the emission inspection.

(2) A quality assurance officer or Department representative will function as a referee and will arrange to meet with the owner or operator of a vehicle that fails if requested.

(3) The referee will first determine whether test equipment functioned properly. If the test equipment is functioning correctly, the referee will determine whether proper test procedures were followed. If the equipment and procedures were correct and the vehicle still fails the inspection, the vehicle shall be brought into compliance prior to a retest. If the vehicle passes, a certificate of inspection will be affixed to the vehicle.

(4) If the referee determines that the test equipment malfunctioned, the equipment shall be brought into compliance prior to a referee test. If the equipment cannot be brought into compliance at this meeting, the owner or operator of the vehicle may request that the referee test be conducted at an alternate test location.

**RETEST**

**§ 177.271. Procedure.**

(a) *I/M emission test.* Vehicles that fail the initial I/M emission test or a retest shall be retested after repair.

(b) *OBD-I/M check.* Vehicles that fail the OBD-I/M check shall be retested after repair and clearing of the DTCs appearing in the initial check and compliance of the vehicle with the readiness requirements of § 177.203(b)(1) (relating to test procedures).

(c) *Gas cap test and visual inspection.* Vehicles that fail the gas cap test or visual inspection shall be retested after repair.

**§ 177.272. Prerequisites.**

For a retest, the vehicle owner or driver shall present to the inspection station the emission inspection report and the diagnostic information repair data form as described in § 177.273 (relating to content of repair data form).

**§ 177.273. Content of repair data form.**

The repair data form shall include the following:

(1) The repairs performed.

(2) The cost of repairs.

(3) The repair technician's number or name if the person who made the repairs does not have a Department issued technician number.

(4) The repairs recommended by the repair facility or identified on the emission inspection report that were not performed.

(5) The name, address and telephone number of the repair facility, and station number, if the repair facility is also a department-certified safety or emission inspection station.

**§ 177.274. Retest fees.**

(a) If the vehicle owner or driver presents the emission inspection report and the completed repair form to the emission inspection station that performed the initial inspection within 30 calendar days of the initial emission inspection, the vehicle owner or driver shall receive one free retest. Retests after the 30-day period or retests

performed after the free retest shall only be performed upon payment of the required fee to the emission inspection station.

(b) If a referee test is requested after the vehicle has failed the free retest and the vehicle passes the referee test, a certificate of inspection shall be affixed to the vehicle and the vehicle owner or operator need not pay for this test.

(c) If a referee test is requested after the vehicle has failed the free retest and the vehicle fails the referee test, the vehicle owner or operator shall pay for this test and any subsequent retests. If expenditures for repairs meet or exceed the requirements for a waiver stated in § 177.281 (relating to issuance of waiver), a certificate of inspection with a waiver indicator may be issued. If the requirements for a waiver have not been met, the vehicle shall then be repaired to meet the requirements for passing the emission inspection or for issuance of a waiver.

**§ 177.275. Repair technician training and certification.**

(a) *General rule.* Personnel who perform diagnosis and repair of automotive engines and related systems required to meet the emission standards of this chapter may be certified by the Department as certified repair technicians. Only certified repair technicians with a valid drivers license will be authorized to process requests for and deliver waivers.

(b) *Certified repair technician requirements.* A repair technician desiring to be certified shall:

- (1) Be 18 years of age or older.
- (2) Have a valid driver's license.
- (3) Have done one of the following:
  - (i) Completed a course pertaining to the Commonwealth's emission inspection program and regulations, including training specifically pertaining to evaluation of OBD systems, and passed a written test administered by the Department or its agents with a minimum of 80% correct test responses and obtained certification from an automotive manufacturer or from the National Institute for Automotive Service Excellence or other training identified by the Department as being equivalent and that certifies that the repair technician is proficient in evaluating and repairing emission control systems.
  - (ii) Completed a course pertaining to the Commonwealth's emission inspection program and regulations, including training specifically pertaining to evaluation of OBD systems, passed a written test administered by the Department or its agents with a minimum of 80% correct test responses and completed and passed a repair technician test, approved by the Department, that included testing pertaining to the Commonwealth's emission inspection program and regulations, and, at a minimum, also included:
    - (A) The diagnosis and repair of malfunctions in computer controlled close-loop vehicles.
    - (B) The application of emission control theory and diagnostic data to the diagnosis and repair of failures of the emission test and the evaporative system function tests.
    - (C) The utilization of diagnostic information on systematic or repeated failures observed in the emission test and the evaporative system function tests.

(D) Generalized testing on the various subsystems related to emission control.

(E) Additional testing specifically pertaining to evaluation and repair of OBD systems.

(c) *Completion of training program.* A person who successfully completes all phases of the training program and who passes the required testing will qualify as a certified repair technician.

(d) *Supplemental training.* By notice published in the *Pennsylvania Bulletin*, the Department may authorize periodic supplemental training as a requirement for a person to maintain the status of a certified repair technician.

**ISSUANCE OF WAIVER**

**§ 177.281. Issuance of waiver.**

The Department or a single contractor shall electronically issue a certificate of emission inspection with an indicator to show that the vehicle has received a waiver if:

(1) The subject vehicle has failed the initial emission inspection, qualifying repairs have been completed and the subject vehicle has failed the retest.

(2) Emission control devices, as originally equipped, are installed. Vehicles with emission devices which are obsolete and cannot be obtained through the original equipment manufacturer, aftermarket manufacturers or suppliers of used parts are exempt from this paragraph. Specific reporting requirements shall be completed and maintained as specified by the Department in this section and Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standards, equipment specifications and quality control requirements.)

(3) The procedure as described in Appendix A has been followed and the amount spent on qualifying repairs:

(i) Was an amount as determined in § 177.282 (relating to annual adjustment of minimum waiver expenditure for emission inspection).

(ii) Includes charges for electronic diagnostic inspection, parts costs and labor costs paid for qualifying emission repair services performed on the vehicle if paid by the vehicle owner and if the qualifying repairs were performed by a recognized or certified repair technician. For qualifying emission repair services performed by someone other than a recognized or certified repair technician, the cost of parts but not labor utilized by nonrepair technicians may apply toward the waiver limit. The cost of parts for the repair or replacement for the following emission control components may be applied: oxygen sensor; catalytic converter; thermal reactor; EGR valve; fuel filler or gas cap; evaporative canister; PCV valve; air pump; distributor; ignition wires; coil; spark plugs; and power train management system. The cost of hoses, gaskets, belts, clamps, brackets or other accessories directly associated with these components may also be applied to the waiver limit. These repairs shall have been performed no more than 60 days prior to the initial emission inspection test.

(iii) Is appropriate to the cause of the test failure.

(iv) Excludes expenses which are incurred in the repair of emission control devices which are:

- (A) Found to be tampered with.
- (B) Rendered inoperative.
- (C) Rendered inaccessible.

(D) Not installed.

(v) Excludes costs recoverable under an emission warranty, insurance policy or prepaid maintenance agreement. These recoverable cost repairs shall be used before necessary repair costs can be applied toward the waiver cost limitations. The operator of a vehicle within the statutory age and mileage coverage under section 207(b) of the Clean Air Act (42 U.S.C.A. § 7525(b)) shall present a written denial of warranty coverage from the manufacturer or authorized dealer for this provision to be waived.

(vi) Excludes the fee for emission inspection.

(vii) Excludes charges for giving a written estimate of needed repairs, except that the fee for an electronic diagnostic inspection may be included.

(viii) Excludes charges for checking for the presence of emission control devices.

(4) The vehicle owner or driver shall present the original of repair bills or receipts for parts to the inspection station to demonstrate compliance with the qualifying dollar amount established under paragraph (3). The bills shall:

(i) Include the name, address and telephone number of the repair facility.

(ii) Describe the repairs that were performed.

(iii) State the labor or parts costs, or both, for each repair.

(iv) State on the written estimate the general problem, the necessary major parts replacement items and the total necessary repair and labor costs which would exceed the total cost limitations.

(5) Upon completion of waiver requirements and a visual check to determine that repairs were actually made, a certificate of emission inspection with a waiver indicator shall be affixed to the subject vehicle.

(6) Vehicles subject to an emission test may be issued a certificate of emission inspection with a waiver indicator without meeting the emission test standards of § 177.204 (relating to basis for failure) if, after failing an emission retest, a complete, documented physical and functional diagnosis and inspection performed by emission inspection station personnel shows that no additional emission related repairs are needed.

**§ 177.282. Annual adjustment of minimum waiver expenditure for emission inspection.**

The minimum expenditure for the first 2 years after commencement of the program in an affected area is \$150. Beginning with the 3rd year of the program in an affected area, an expenditure of at least \$450 shall be required to qualify for a waiver. The \$450 expenditure shall be adjusted annually in January of each year by the percentage, if any, by which the Consumer Price Index for the preceding calendar year differs from the Consumer Price Index for 1989. The procedure for using the Consumer Price Index for determining the minimum waiver expenditure shall be as follows:

(1) The Consumer Price Index for a calendar year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year.

(2) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

**PROCEDURES RELATING TO CERTIFICATES OF EMISSION INSPECTION**

**§ 177.291. Procedures relating to certificates of emission inspection.**

(a) *Certificates issued.* The Department will issue a certificate of emission inspection, through an official emission inspection station, valid until the next scheduled emission inspection, for a subject motor vehicle which meets both the following:

(1) The motor vehicle has passed an inspection or reinspection performed by the emission inspection station.

(2) The motor vehicle has all required emission control devices installed under § 177.281 (relating to issuance of waiver).

(b) *Certification procedures.*

(1) Motor vehicles inspected under safety inspection regulations existing on October 1, 1997, shall have their registration card checked by the examining inspector for an I/M designated code printed on the registration card.

(2) A registration card containing the designation I/M shall indicate that the vehicles shall be emission inspected.

(3) A motor vehicle with a registration card containing the designation emission inspection required shall have a specified I/M indicator insert placed on the proper certificate of safety inspection and affixed to the windshield upon passing safety inspection.

(4) Upon compliance or issuance of a Certificate of Waiver an emission inspection sticker shall be affixed to the immediate right (when viewed from the driver's position) of the safety inspection sticker or, in the case where a truck weight class sticker is present, to the immediate right (when viewed from the driver's position) of the truck weight class sticker.

(5) If the vehicle fails the emission inspection, certificate of emission inspection may not be issued except under § 177.281.

(6) A motor vehicle bearing a specified safety inspection sticker with an I/M Indicator Insert which does not have a currently valid emission inspection sticker affixed to the windshield shall be in violation of section 4703 of the Vehicle Code (relating to operation of vehicle without official certificate of inspection) and shall be subject to the penalties and fines provided in the Vehicle Code.

(c) *Unauthorized display of certificate of emission inspection.* A certificate of emission inspection may not be marked and affixed to a vehicle until it has successfully passed emission inspection requirements of Chapters 45 and 47 of the Vehicle Code (relating to other required equipment; and inspection of vehicles) and this chapter.

(d) *Required information.* The required information on the rear of the certificate of emission inspection shall be completed in permanent ink.

(e) *Inspection cycle.* The proper I/M monthly insert for certificate of emission inspection shall be coordinated with the vehicle safety inspection. Vehicles which are emission inspected shall receive an inspection certificate which is valid for no more than 15 months, or no more than 27 months if § 177.51(c)(1) (relating to program requirements) becomes applicable and no less than 6 months, based on the vehicle's registration month and charts supplied by the Department

(f) *Affixing certificate.* The certificate of emission inspection shall be affixed to the vehicle only at the



premises of the official emission inspection station and on a portion of the premises located within 100 feet and on the same side of the street as the official emission inspection station. Certificates of emission inspection may not be issued or affixed at any other area or location.

(1) The surface on which the sticker is to be attached shall be wiped dry and clean of road film, grease or moisture for proper adhesion. The following instructions apply:

- (i) Clean the glass thoroughly.
- (ii) Remove the protective slip sheet from the adhesive side of sticker.
- (iii) Place the proper monthly indicator insert in the appropriate position so that month and year of expiration are visible to oncoming traffic.
- (iv) Position the sticker carefully to the immediate right (when viewed from the driver's position) of the current certificate of safety inspection or, if a truck weight class sticker is present, to the immediate right (when viewed from the driver's position) of the truck weight class sticker. Press firmly until tightly affixed to the windshield.

(2) It is the responsibility of the certified emission inspector to affix the certificate of emission inspection. Only the certified emission inspector who performed the entire emission inspection shall affix the certificate of emission inspection to the vehicle.

(g) *Improper or faulty inspection.* A deviation or change in the procedure specified in this section shall be considered an improper or faulty inspection and the certificate of emission inspection issued as a result shall be void.

(h) *Unauthorized display of certificate of emission inspection.* A certificate of emission inspection may not be marked and affixed to a vehicle until the vehicle has successfully passed an emission inspection meeting the emission requirements of Chapters 45 and 47 of the Vehicle Code (relating to other required equipment and inspection of vehicles) and this chapter.

(i) *Data entry errors.* If a data entry error occurs, the error and the error correction shall be clearly noted on the computerized record of inspection.

(j) *Voided certificates of emission inspection.* If it is necessary to void a certificate of emission inspection, the certificate number and the reason shall be clearly noted on the computerized record of inspection.

#### § 177.292. Recording inspection.

(a) *Fraudulent recording.* Fraudulent recording of required data or other forms and cards will be considered cause for suspension of inspection privileges.

(b) *Proper forms.* The emission inspection inspector shall enter required data for loading into the VIID and record required information on the proper and applicable report forms and place his signature in the appropriate columns designated. This shall be done immediately following the emission inspection.

(c) *Certificate of waiver.* The electronic waiver process shall be completed by the VIID. A waiver insert, as supplied by the Department, shall be placed on each emission certificate of inspection issued through the waiver process. The certificate of waiver form may be collected or the results of the electronic waiver process may be reviewed by the Department or its designee on an unannounced periodic basis.

(d) *Nonrelated items.* Gas, oil or other nonrelated items may not be included in the total charges for emission inspection.

(e) *Supply.* A supply of report sheets and other emission forms may be obtained from the Vehicle Inspection Division.

### ON-ROAD TESTING

#### § 177.304. Failure of on-road emission test.

The owner or operator of a subject vehicle that was required to have an emission inspection and that fails an on-road emission test shall have 30 days following notice of the failure in which to have the failed vehicle pass an emission inspection or to produce evidence that the subject vehicle has a valid emissions inspection waiver.

### Subchapter D. OFFICIAL EMISSION INSPECTION STATION REQUIREMENTS

#### GENERAL

#### § 177.401. Appointment.

(a) *Authority.* For the purpose of establishing a system of official emission inspection stations, the Bureau will issue certificates of appointment to facilities within this Commonwealth that comply with the Vehicle Code and this title. Official emission inspection stations are authorized to conduct emission inspections and issue official certificates of emission inspection.

(b) *Scope of certification.* Until January 1, 2006, emission inspection station will not be issued a certificate of appointment unless it is capable of performing every type of emission inspection required for vehicles registered in the region in which the station is located.

(c) *Certificate of appointment.* The certificate of appointment for emission inspection stations will be issued only when the Bureau is satisfied that the station is properly equipped and employs certified emission inspectors, as applicable, to perform emission inspections required of vehicles registered in the region in which the station is located. Only those stations fulfilling Department requirements and complying with this chapter will be issued an emission certificate of appointment. Prior involvement with a suspended inspection station may be sufficient cause to deny appointment. The emission certificate of appointment shall be conspicuously displayed at the place for which issued, in accordance with section 4722 of the Vehicle Code (relating to certificate of appointment).

(d) *Certificate not assignable.* A certificate of appointment for an emission inspection station may not be assigned or transferred to another person, business entity or location and shall be valid only for the person or business entity in whose name it is issued and for transaction of business at the place designated therein.

(e) *Valid certificate required.* A person may not represent any place as an official emission inspection station unless the station is operating under a valid certificate of appointment issued by the Bureau.

(f) *Inspection stations with common access.* An emission inspection certificate of appointment will not be issued for operation of an official emission inspection station on a part of the premises of another official emission inspection station which utilizes the same access. This subsection does not apply where the stations have separate internal accesses, though sharing a common external access.

(g) *Suspended inspection stations.* An emission inspection certificate of appointment will not be issued for operation of an official emission inspection station on a part of the premises of an official emission inspection station which has been suspended if the owner of the suspended station continues to conduct any type of business which utilizes the same access. This subsection does not apply where the station and the other business each have a separate internal access, though sharing a common external access.

(h) *Indefinite suspension of appointment.* A certificate of appointment issued to an official emission station may be suspended indefinitely if the station no longer fulfills the requirements for appointment provided in this subchapter. Once the deficiency which prompted the suspension is cured, a station which has had its certificate of appointment indefinitely suspended may apply for re-appointment in accordance with the procedures in this subchapter.

**§ 177.404. Required certificates and station signs.**

After appointment the owner of an emission inspection station shall prominently display the following:

- (1) A certificate of appointment for each type of emission inspection approved for the location.
- (2) A sign clearly stating the fee for inspection, that the fee is the same whether the vehicle passes or fails, that the fee for inspection includes the cost of labor for the inspection, but not the cost of parts, repairs and adjustments, and that no additional charge shall be made by the inspecting station for one necessary reinspection within 30 days of the original inspection. Fleet and Commonwealth stations are exempt from this paragraph.
- (3) The current list of certified emission inspectors.
- (4) An approved official emission inspection sign outside of the garage that is clearly visible to the public. This sign shall have a keystone design which is at least 24 inches high and 21 inches wide. The background shall be navy blue with gold lettering. The station number plate shall be at least 3 inches high and at least 13 inches wide. The background shall be green with white station numbers. If a keystone designated sign is already present, the station number shall be placed below present plates. If hung from a bracket, the sign shall be double faced. Fleet and Commonwealth emission inspection stations are exempt from this paragraph.
- (5) An approved sign indicating whether the emission inspection station is able to deliver waivers.
- (6) A sign clearly providing the location and telephone number of the quality assurance officer or the Vehicle Inspection Division.

**§ 177.405. Emission inspection areas.**

(a) Emission inspections shall be conducted within approved enclosed or outside inspection areas that are safe, sound, well ventilated, and in good repair and condition.

- (1) Emission inspections shall be conducted within an approved enclosed building when outside temperatures are below 35°F or above 110°F or relative humidity exceeds 85%, or when it is precipitating.
- (2) Emission inspections may be conducted in an approved area outside an enclosed building when outside temperatures are between 35°F and 110°F with from 0 to 85% relative humidity and if there is no precipitation. The analyzer shall remain within the approved enclosed

building at all times but the probe and exhaust gas hose may be extended outside to the vehicle being inspected.

(b) Anticipated alterations or changes affecting the condition, size or safety of inspection areas shall be reported to the Quality Assurance Officer within 5 days of the anticipated alteration or change.

(c) The floor shall be of a hard, clean surface and in sound, smooth condition. Dirt floors will not be approved.

(d) The inspection area shall be free of obstructions, including shelves, work benches, partitions, displays, machinery and stairways, unless, in the opinion of the quality assurance officer, the obstruction does not protrude into the area far enough to curtail or interfere with inspection.

(e) Emission inspection stations shall be at least 12 feet by 22 feet.

**§ 177.406. Equipment.**

(a) *General requirements.* Official emission inspection stations shall have tools and equipment in good satisfactory operating condition to be able to conduct emission inspections upon a subject vehicle. Equipment required shall include the following:

- (1) Wheel chocks.
- (2) Approved emission inspection and maintenance textbooks/workbooks or electronic or computerized medium with supplements and current changes and approved handbooks and manuals.
- (3) Exhaust emission analyzer approved by the Bureau and certified by the manufacturer as meeting or surpassing specifications set forth in subsection (b), where applicable.
- (4) Approved dynamometer, where applicable.
- (5) Where applicable, OBD-I/M equipment as specified in § 177.501(a)(2) (relating to equipment approval procedures), approved by the Bureau.
- (6) Where applicable, equipment for performing the gas cap test and visual inspection.

(b) *Analyzer specifications.* Exhaust emission analyzers approved by the Bureau shall meet the following requirements:

- (1) Meet PA 97 equipment specifications, where applicable, as provided in Appendix A (relating to acceleration simulation mode: Pennsylvania procedures, standard, equipment specifications and quality control requirements) and meet section 207b of the Federal Clean Air Act (42 U.S.C.A. § 7541(b)) warranty specifications.
- (2) Conform with the following minimum specifications:
  - (i) Upon the activation of the emission test, the Automatic data collection unit or VIID, as applicable, shall automatically set the standard required for comparison as defined in § 177.204 (relating to basis for failure). Standards shall be field programmed by the manufacturer or provided by the vehicle inspection information database, as applicable.
  - (ii) Approved exhaust emission analyzers shall be powered by alternating current.
  - (iii) The sample probe shall meet or surpass PA 97 sample probe requirements and be capable of being placed in the tailpipe a minimum of 10 inches with a device, if necessary, to preclude sample dilution.
- (3) *Field calibration gases.* Field calibration gases shall be as specified in Appendix A (relating to acceleration

simulation mode: Pennsylvania procedures, standard, equipment specifications and quality control requirements).

**§ 177.407. Hours of operation.**

Emission inspection stations shall be open for business a minimum of 5 days per week, 40 hours, Monday through Friday between 7 a.m. and 8 p.m. This section may be waived by the Bureau upon written request of the inspection station owner and prior approval of the quality assurance officer. To qualify for a waiver from the provisions of this section, the station shall be open for business at least 10 business hours during the normal work week (Monday through Friday) between 7 a.m. and 8 p.m. This section does not apply to:

- (1) Commonwealth or fleet emission inspection stations.
- (2) Emission inspection stations owned and operated by more than one owner to do test-only inspections.

**§ 177.408. Certified emission inspectors.**

(a) *General rule.* Personnel who perform emission inspections at each emission inspection station will be certified by the Department as emission inspectors. The emission inspection shall be completely performed by certified emission inspectors with a valid driver's license.

(b) *Multiple stations.* A certified emission inspector may work at more than one emission inspection station.

(c) *Certified emission inspector requirements.* An inspector desiring to be certified to perform emission inspections shall:

- (1) Be 18 years of age or older.
- (2) Possess a valid Pennsylvania driver license.
- (3) Have done the following:
  - (i) Completed an emission inspection training course, approved by the Department, that included, where applicable, information on the following:
    - (A) The air pollution problem, including its cause and effects.
    - (B) The purpose, function and goal of the inspection program.
    - (C) Emission inspection regulations and procedures of the Commonwealth.
    - (D) Technical details of the test procedures and the rationale for their design.
    - (E) Emission control device function, configuration and inspection.
    - (F) Test equipment operation, calibration and maintenance.
    - (G) Quality control procedures and their purpose.
    - (H) Public relations.
    - (I) Safety and health issues related to the inspection process.
  - (ii) Passed a required written test with a minimum of 80% correct test responses.
  - (iii) Proved, through means of a computer-based training/testing (CBT) or other Department approved procedure under supervision of a certified educational instructor or other qualified Commonwealth employee or agent, the ability to perform a complete emission inspection, to properly utilize test equipment and to follow other required test procedures as prescribed in §§ 177.202,

177.202a, 177.202b, 177.203, 177.271 and 177.272, as applicable. The inability to properly conduct the test procedures shall constitute grounds for refusal of certification.

(4) Complete a refresher training course, under procedures established by the Department and pass the required test every 2 years.

(d) *Identification.* While conducting inspections, a certified emission inspector shall have in his possession a currently valid inspector emission inspection certification card issued by the Department.

(e) *Names of inspectors.* The names of certified emission inspectors and their inspector certification numbers shall be placed on the Current List of Certified Emission Inspectors form which shall be posted in a conspicuous location at the emission inspection station.

(f) *Number of inspections.* The number of inspections performed by a certified emission inspector may not exceed more than 12 subject vehicles per hour for the one or two-speed idle emission inspection, 6 inspections per hour utilizing ASM test equipment and procedures, or 12 OBD-I/M checks per hour.

**OBLIGATIONS AND RESPONSIBILITIES OF STATION OWNERS/AGENTS**

**§ 177.421. Obligations and responsibilities of station owners/agents.**

(a) *Personal liability.* It is the responsibility of the owner of an emission inspection station to:

- (1) Conduct the business of the official emission inspection station honestly and in the best interests of the Commonwealth, under the Vehicle Code and this chapter and, except in the case of a fleet or Commonwealth emission inspection station, to make every reasonable effort to inspect upon request all vehicles which the station is equipped to inspect.
- (2) Make official emission inspection regulations and supplements available for the use of all certified emission inspectors and other employees involved.
- (3) Notify within 5 days the quality assurance officer and the Vehicle Inspection Division when a certified emission inspector is hired, resigns or is dismissed.
- (4) Provide the emission inspection report to motorists after testing and to have the possible repair requirements stated on a form provided to the vehicle owner or operator.
- (5) Keep, at the station, as applicable, for 2 years, duplicate copies of completed Certificate of Emission Requisition Forms, repair order forms related to waivers and the original Certificate of Waiver Forms, and other required forms.
- (6) Assume full responsibility, with or without actual knowledge, for:
  - (i) Every emission inspection conducted at the emission inspection station.
  - (ii) Every emission inspection waiver delivered by a certified repair technician at the emission inspection station.
  - (iii) Every certificate of emission inspection issued to the emission inspection station.
  - (iv) Every violation of the Vehicle Code or this chapter related to emission inspections committed by an employee of the emission inspection station.

(v) Maintaining an adequate supply of current certificates of emission inspection and inserts for issuance.

(7) Perform, as applicable, required maintenance and calibration procedures of emission analyzers according to procedures established by the Department and perform electronic zero and span checks hourly during periods of operation and weekly leak checks.

(8) Place an emission analyzer out of service when calibration cannot be performed according to procedures established by the Department.

(9) Ensure that instrument calibration test results are entered into the VIID by the analyzer manufacturer or other approved service representative as directed by the Department.

(i) For basic emission inspection stations, the analyzer manufacturer or other approved service representative shall write maintenance and calibration information on the Emission Analyzer Maintenance and Calibration Report. This report shall be maintained at the station for 2 years.

(ii) For enhanced emission inspection stations, the information required in this paragraph shall be entered into the VIID by the analyzer manufacturer or other approved service representative as directed by the Department.

(10) Maintain adequate numbers of current certificates of emission inspection and inserts for issuance.

(i) *Data entry errors.* If a data entry error occurs, the error and the error correction shall be clearly noted.

(ii) *Voided stickers.* If it is necessary to void a sticker, the sticker number and the reason shall be clearly noted.

(b) *Certificate of appointment.* A certificate of appointment is not assignable and is valid only for the owner in whose name it is issued.

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**§ 177.422. Commonwealth emission inspection stations.**

(a) *Eligibility.* The designation, Commonwealth Emission Inspection Station, will be issued to stations owned and operated by the following:

- (1) The Federal government.
- (2) The Commonwealth.
- (3) A political subdivision of this Commonwealth.

(b) *General requirements.* An applicant for a Commonwealth emission inspection station shall meet the requirements of this chapter, including the requirements for fleet stations.

(c) *Certified emission inspector.* Each official Commonwealth emission inspection station shall have at least one certified emission inspector.

(d) *Method of inspection.* A Commonwealth emission inspection station may, by mutual agreement with another governmental body, inspect and issue certificates of emission inspection to vehicles registered in the name of that governmental body. Inspection fees, as defined in this chapter, may be charged for the inspection. Charges may be collected for repairs.

**§ 177.423. Fleet emission inspection stations.**

(a) Eligibility requirements for fleet emission inspection stations are as follows:

(1) *Minimum number of vehicles.* A fleet emission inspection station owner shall own or lease at least 15 subject vehicles.

(2) *Authorized subject vehicles.* The certificate of appointment shall authorize emission inspection of subject vehicles registered or leased by the fleet emission inspection station owner. Privately owned or registered vehicles of company officers and employees may not be emission inspected at a fleet emission inspection station, even if they are used for business purposes.

(3) *Certificate cancellation.* The fleet emission inspection certificate shall be cancelled if the number of subject vehicles owned or leased falls below 15, except for a temporary delay in ordering or receiving additional vehicles to supplement the fleet.

(b) Each fleet emission inspection station shall have at least one certified emission inspector.

(c) Requirements for fleet inspection stations shall include the following:

(1) Applicants for a fleet emission inspection station shall comply with this chapter unless specifically exempted.

(2) Inspection areas shall be large enough to accommodate the largest subject vehicle to be inspected at the fleet emission inspection facility, in addition to meeting the minimum inspection area requirements of § 177.405 (relating to emission inspection areas).

(d) Limited inspection periods and limitations on the length of service requirements are permitted if the station meets the following:

(1) Fleet vehicles subject to emission inspections are registered in the limited inspection periods, as defined in § 177.3 (relating to definitions).

(2) The station owner, in writing, requests the Department to permit a limited inspection period. This request shall specify the month in which emission inspections will be performed.

(3) The station owner submits a copy of the manufacturer/station agreement specifying regulation service commitments for the limited inspection period.

(4) The station owner is granted written Department approval after a station review and a fleet vehicle registration certification is completed. The approval will designate the months in which emission inspections shall be performed.

(5) The station owner performs emission inspections only during months designated by the Department.

(e) Limited inspection period emission analyzer service requirements with accompanying limitations as to the length of service requirements are as follows:

(1) Station owners shall ensure that required manufacturer/station service commitments are in force during this limited period.

(2) Station owners shall pay for costs to bring the approved analyzer into compliance and monthly or quarterly fees required by the manufacturer or other approved service representative during the limited inspection period.

(3) Station owners shall be responsible for notifying the quality assurance officer or the Vehicle Inspection Division of the starting and ending times for the limited inspection periods. Failure to notify the Department may result in cancellation of this privilege.

(4) Station owners may not permit emission inspections to be performed during the limited inspection period until the Department has been notified by the analyzer manufacturer or other approved Commonwealth agent or service representative that the analyzer is in compliance with all requirements and the Department so notifies the station owner. Failure to comply with this paragraph may result in cancellation of limited inspection period privileges.

**§ 177.424. General emission inspection stations.**

(a) *Eligibility.* The designation, general emission inspection station, will be issued to stations that emission inspect all subject vehicles, if the station is so equipped.

(b) *General requirements.* An applicant for a general emission inspection station shall comply with this chapter unless specifically exempted.

(c) *Certified emission inspector.* Each general emission inspection station shall have a certified emission inspector present during normal business hours.

(d) *Method of inspection.* Subject vehicles shall be inspected consistent with this chapter by a certified emission inspector.

**§ 177.425. Security.**

(a) *Unlawful possession.* A person may not knowingly possess certificates of emission inspection which have been illegally purchased, stolen or counterfeited.

(b) *Not transferable.* Emission inspection stickers are not transferable. They shall only be affixed to the subject vehicle as recorded on the Exhaust Emission Analyzer and the Vehicle Emission Inspection Report sheet or other approved recording medium.

(c) *Removal.* Certificates of emission inspection may not be removed from a vehicle for which the certificate was issued except to replace it with a new certificate of emission inspection issued under this chapter. This prohibition is not applicable to expired certificates of emission inspection on vehicles registered outside the designated areas. These expired certificates of emission inspection shall be removed only by a certified emission or safety inspector.

(1) A person replacing a windshield in a manner which requires removal of a certificate of emission inspection shall, at the option of the registrant of the vehicle, cut out the portion of the windshield containing the emission certificate and deliver it to the registrant of the vehicle or destroy the emission certificate. The vehicle may be driven up to 5 days if it displays the portion of the old windshield containing the emission certificate. Within the 5-day period an appropriate official emission inspection station may affix to the vehicle another certificate of emission inspection for the same period without re-inspecting the vehicle in exchange for the portion of the old windshield containing the certificate of emission inspection. A labor fee of no more than \$2 and the cost of the dial-up to the VIID may be charged for the exchanged certificate of emission inspection. The replacement may be made at any time prior to the expiration of the certificate of emission inspection.

(i) The portion of the windshield containing the certificate of emission inspection may be retained for audit by the quality assurance officer.

(ii) The replacement certificate of emission inspection shall be recorded on the appropriate record, either hard copy or VIID, showing all information except inspection items.

(iii) Replacement shall be marked on the reverse side of the replacement certificate of emission inspection.

(2) A certificate of emission inspection may not be removed from a vehicle until a complete inspection has been made.

(3) Only one current, valid certificate of emission inspection shall be visible on a vehicle. The old certificate of emission inspection shall be removed and completely destroyed before a new sticker can be affixed after an inspection and approval.

(d) *Lock and key.* Emission inspection stickers shall be kept under lock and key in a safe place. The station owner shall be solely responsible for their safety and shall account for all emission certificates of inspection issued to the station.

(e) *Unused.* Unused certificates of emission inspection for an expired period shall be retained by the emission inspection station until audited by the quality assurance officer. After an audit is completed, the quality assurance officer shall destroy them.

(f) *Issuance of emission certificates of inspection.* Certificates of emission inspection will not be issued by the Bureau to anyone that has not been listed on an executed Authorized Agents for Receiving Stickers Form.

(g) *Authorized agents for receiving stickers.* The Authorized Agents for Receiving Stickers Form shall be completed upon receipt as instructed on the back side of the form and submitted within 1 day of receipt to the Vehicle Inspection Division whenever:

(1) An employee, whose signature appears on the form, is no longer employed by the station.

(2) The card is defaced, torn or illegible.

(3) An authorized agent is to be added.

**QUALITY ASSURANCE**

**§ 177.431. Quality assurance.**

The Department will conduct performance audits on a periodic basis to determine whether inspectors are correctly performing the tests and other required functions.

(1) Performance audits may be of two types:

(i) Overt performance audits which may include the following:

(A) A check for appropriate document security, as required by § 177.425(d) (relating to security).

(B) A check to see that required recordkeeping practices are being followed.

(C) A check for licenses or certificates and other required display information.

(D) Observation and written evaluation of each inspector's ability to properly perform an inspection.

(ii) Covert performance which may include the following:

(A) Remote visual observation of inspector and inspection station personnel performance, which may include the use of binoculars or video cameras.

(B) Site visits using covert vehicles.

(C) Other activities deemed appropriate by the Department as necessary to maintain the level of quality assurance for the emission inspection program required by Federal law.

(2) The station owner and the employees of the station owner shall make available information requested by the Department and shall fully cooperate with Department personnel who conduct the audits and other authorized Commonwealth representatives or agents.

(3) Each quality assurance officer shall be audited on an annual basis.

**Subchapter E. EQUIPMENT MANUFACTURERS' AND CONTRACTORS' REQUIREMENTS AND OBLIGATIONS**

**EQUIPMENT MANUFACTURERS' REQUIREMENTS**

**§ 177.501. Equipment approval procedures.**

(a) The manufacturer shall meet the following conditions for approval for participation in the emission inspection program.

(1) *Emission inspection equipment.* The following requirements shall be met for equipment approval in the emission inspection program:

(i) The manufacturer shall provide a certified copy of BAR 97 approved certification or a certified document stating complete testing compliance with BAR 97 test requirements by a reputable independent testing laboratory that completed the testing, or certify that the gas analyzer meets all performance standards of California BAR 97 as they apply to the PA gas analyzer.

(ii) The manufacturer shall certify that the approved test equipment will comply with the data collection requirements of this chapter.

(iii) The manufacturer shall provide a document that the dynamometer meets all State and California BAR requirements for ASM test equipment as specified in Appendix A and California BAR 97 specifications or certify that the dynamometer meets all performance standards of California BAR 97 as they apply to the PA dynamometer and ASM test equipment.

(iv) The manufacturer shall provide certification that the description of the methods the manufacturer or distributor will use shall meet or surpass all Department analyzer and dynamometer specifications, performance commitments, financial commitments, responsibilities and agreements as required by this chapter and the Department's procedures and policies.

(v) The manufacturer shall offer as an option an equipment lease arrangement of at least 10 years to prospective equipment purchasers.

(vi) The manufacturer shall offer as an option a "fee per test" equipment financing opportunity to prospective equipment purchasers.

(vii) The manufacturer shall offer as an option a provision for installation of emission inspection test equipment, at the request of prospective equipment purchasers.

(viii) The manufacturer shall clearly identify equipment features which are listed as options but which are essential to comply with the program and equipment specifications of this chapter.

(ix) Equipment manufacturers and providers shall receive prior approval from the Department for any costs associated with program software updates or revisions.

(2) *OBD-I/M check equipment approval.* The following requirements shall be met for approval of the OBD-I/M check equipment:

(i) The manufacturer or distributor of an OBD scanner or scan tool must certify that the scan tool used for OBD-I/M checks complies with applicable versions of the following SAE standards:

(A) SAE J 1962 (Standardized Connector).

(B) SAE J 1978—OBDII (Scan Tool Functionality).

(C) SAE J 1979 (Diagnostic Test Modes (1-7)).

(D) SAE J 1850, ISO9141-2 & 14230-4 (Communication Protocols).

(E) SAE J 2012 (Standardized DTC usage).

(ii) The manufacturer or distributor shall certify that the OBD hand-held scan tool or OBD PC-based scan tool meets PA Equipment Specifications for OBD-I/M Checks, copies of which are available by contacting the Bureau.

(iii) The manufacturer or distributor shall certify that the emission-related parameters and emission-related engine parameters displayed must be able to be automatically transmitted to the VIID.

(b) *Certification.* A manufacturer shall cause a corporate officer with administration/operations management responsibility, if a corporation; the general partners, if a partnership; or the owner, if a sole proprietorship, to certify in writing and attest in affidavit form to the Department that the exhaust emission analyzer and dynamometer, OBD scan tool and equipment for the gas cap test and visual inspection, as applicable, meets the specifications of this section and quality assurance and that the manufacturer meets or surpasses stated field requirements.

**§ 177.502. Service commitment.**

(a) Manufacturers and distributors shall provide the following service commitments:

(1) Supply equipment for sale, lease or rent as specified by the purchase order.

(2) Train, at no cost, on the initial visit for installation of the emission analyzer or dynamometer, or both, all certified emission inspection inspectors employed at the time of installation regarding the proper use of the analyzer or the dynamometer, or both, and provide, within 7 days of the request by a station owner or operator, onsite training for additional inspectors for a service fee.

(3) Provide or permit test standards or procedures utilized by test equipment to be modified consistent with Federal requirements for emission inspection programs.

(4) Provide maintenance on purchased or leased equipment within 1 business day of oral or written request from the station. A fee may be charged for this service.

(b) Manufacturers and distributors shall offer to equipment purchasers the ability to contract for the following services for additional fees:

(1) Provide service for faulty equipment.

(2) Provide replacement parts and equipment while servicing faulty equipment.

(3) Provide inspections, calibrations, training or maintenance or any combination thereof on a more frequent basis than specified in subsection (a).

(c) Manufacturers or distributors shall permit equipment purchasers to contract with other Department approved service providers for the services specified in subsection (b).

(d) Replacement parts or equipment provided shall be the same as or equivalent to the parts or equipment provided by the original equipment manufacturers.

(e) Department approved equipment service representatives shall provide the following service commitments:

(1) Maintenance on equipment within 1 business day of an oral or written request from the station. A fee may be charged for this service.

(2) Replacement equipment while servicing faulty equipment. A fee may be charged for this service.

**§ 177.503. Performance commitment.**

(a) The manufacturer or distributor shall agree that, if it decides to discontinue participation in the program, or if its name is removed from the list of approved manufacturers or distributors of emission analyzers, OBD-I/M check equipment or equipment for the gas cap test and visual inspection by the Department, it will buy back all emission analyzers, dynamometers, OBD-I/M check equipment or gas cap/visual inspection equipment from the inspection stations which purchased them for an amount equal to the unamortized cost based on straight line amortization over the expected useful life of the analyzer, dynamometer, OBD-I/M check equipment or gas cap/visual inspection equipment.

(b) The manufacturer or distributor shall agree to provide a specific performance bond, irrevocable letter of credit, a certified check, or bank cashier's check drawn to the order of the Pennsylvania Department of Transportation, or other suitable financial instrument acceptable to the Department:

(1) For analyzer and dynamometer manufacturers or distributors, in the amount of \$1 million initially, and in the amount of an additional \$400,000, for every 250 analyzers sold to Pennsylvania certified emission inspection stations.

(2) For OBD-I/M check equipment manufacturers or distributors, in the amount of \$500,000.

(3) For gas cap/visual inspection equipment, in the amount of \$200,000.

(c) This security will be used:

(1) To insure that money is available to reimburse certified emission inspection stations for the reasonable value of existing emission analyzers, dynamometers or OBD-I/M check equipment in the event that the manufacturer or distributor goes out of business in this Commonwealth or is removed by the Department from the list of approved manufacturers or distributors for substantial failure to comply with the terms and conditions of the agreement or this chapter.

(2) In part or in whole in the event of nonperformance or default of the manufacturer or distributor.

(d) Other Department-approved equipment service providers shall agree to provide a specific performance bond, irrevocable letter of credit, a certified check, or bank cashier's check drawn to the order of the Pennsylvania Department of Transportation, or other suitable financial instrument acceptable to the Department, in the amount of \$200,000. These funds may be used in part or in whole in the event of nonperformance or default of the service provider.

**CONTRACTOR OBLIGATIONS**

**§ 177.521. Contractor obligations and responsibilities.**

(a) *Services to be contracted.* The Department intends to contract with a vendor to perform services, including

but not limited to, inspection station audits, inspection test data collection, on-road testing and other quality assurance efforts needed to comply with Federal law. The vendor is responsible for providing all services as specified in contracts executed with the Department, which shall be available for public review.

(b) *Subcontracts.* The vendor may subcontract any of these services, with the approval of the Department, but the vendor shall be liable to the Department for the performance of the subcontractor.

(c) *Personal liability.* The contractor, or those acting as agents of the contractor, shall assume full responsibility for:

(1) Making records available to the Department quality assurance personnel and other authorized Commonwealth personnel during periodic audits.

(2) Providing to the Department, at no cost to the Department, the results of the emission tests conducted at emission inspection stations. The requirements for data collection and transmission shall be as specified in the contract between the Department and the contractor.

(3) Providing to the Department, at no cost to the Department, the results of inspection station audits and on-road testing. The requirements for data collection and transmission shall be as specified in the contract between the Department and the contractor.

(4) Maintaining copies of test results and other data in the event that there are problems with the online transmission. The copies may be discarded only after notification by the Department that data from the original transmission has been satisfactorily transferred for data processing.

(5) Using computer control of quality assurance checks and quality control charts whenever possible.

**Subchapter F. SCHEDULE OF PENALTIES AND HEARING PROCEDURE**

**SCHEDULE OF PENALTIES AND SUSPENSIONS**

**§ 177.601. Definitions**

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

*Careless recordkeeping*—Failure to sign the emission inspection test report, missing or omitting required documentation supporting the issuance of a waiver as required by § 177.281 (relating to issuance of waiver) or data entry errors proven to have no influence on the outcome of the inspection.

*Faulty inspection*—Failure to perform an emission inspection as required by this chapter or any other deviation in the testing procedure, provided that it can be demonstrated that the outcome of the inspection would have been different if the inspection had been performed properly.

*Fraudulent recordkeeping*—A recordkeeping entry not in accordance with fact, truth or required procedure that falsifies or conceals one or more of the following:

(i) That a certificate of inspection was issued without compliance with the required inspection procedure.

(ii) The number of inspections performed.

(iii) The individuals or station that performed the inspection.

*Improper inspection*—Failure to perform an emission inspection as required by this chapter or any other deviation in the testing procedure provided that it can be demonstrated that the outcome of the inspection would have been the same if the inspection had been performed properly.

*Improper recordkeeping*—A recordkeeping entry that is not in accordance with fact, truth or required procedure.

**§ 177.602. Schedule of penalties for emission inspection stations.**

(a) *Schedule of penalties.* The complete operation of an official emission inspection station shall be the responsibility of the owner. Failure to comply with the appropriate provisions of the Vehicle Code or this chapter will be considered sufficient cause for suspension of emission inspection privileges. In addition, violators are also subject to criminal prosecution. Every general, fleet or Commonwealth emission inspection station shall be subject to the following schedule of penalties and suspension:

Type of Violation	Duration of Suspension		
	1st Offense	2nd Offense	3rd and Subsequent Offenses
<i>Category 1 (Fraudulent Activities)</i>			
(i) Issuance or possession of altered, forged, stolen or counterfeit certificate of emission inspection	1 year & \$2,500 fine	Permanent and \$5,000 fine	
(ii) Furnish, lend, give, sell or receive a certificate of emission inspection without inspection	1 year & \$2,500 fine	Permanent and \$5,000 fine	
(iii) Fraudulent recordkeeping	1 year & \$2,500 fine	Permanent and \$5,000 fine	
<i>Category 2 (Improper Activities)</i>			
(iv) Faulty inspection	3 months & \$1,000 fine	1 year and \$2,500 fine	3 years and \$5,000 fine
(v) Inspecting more subject vehicles per hour per emission inspection inspector than permitted by § 177.408(g)	3 months	6 months	1 year
(vi) Failure to produce records upon demand by Department quality assurance officer or other authorized Commonwealth representative or agent	3 months or until produced, whichever is greater	6 months or until produced, whichever is greater	1 year or until produced, whichever is greater
(vii) Inspection by uncertified inspector	3 months	6 months and \$1,000 fine	1 year and \$2,500 fine
(viii) Improper recordkeeping	2 months	6 months	1 year
(ix) Improper inspection	Warning	2 months and \$250 fine	6 months and \$500 fine
(x) Requiring or indicating unnecessary repairs for purpose of inspection	3 months	6 months	1 year
(xi) Misstatement of fact	1 month	3 months	1 year
(xii) Improper assigning of certificate of inspection	1 month	3 months	1 year
(xiii) Failure to verify registration or emission inspecting a vehicle with an expired registration	2 months	4 months	6 months
(xiv) Failure to affix certificate of inspection immediately upon successful completion of the inspection	2 months	4 months	6 months
<i>Category 3 (Careless Activities)</i>			
(xv) Inspection by emission inspector with suspended, revoked, cancelled, expired or recalled vehicle operating privilege	2 months	4 months	6 months
(xvi) Inspection by emission inspector with expired inspector certification	Warning	4 months	6 months
(xvii) Improper use of emission inspector certification	Warning	2 months and \$250 fine	6 months and \$500 fine
(xviii) Improper security of certificate of inspection	Warning	3 months	1 year



Type of Violation	Duration of Suspension		
	1st Offense	2nd Offense	3rd and Subsequent Offenses
(xix) Unclean inspection area	Warning	Warning	3 months
(xx) Careless recordkeeping	Warning	Warning	3 months
(xxi) Missing or broken tools	Warning, if repaired or replaced; if not, suspension until tools are repaired or replaced	1 month or until tools are repaired or replaced, whichever is greater	6 months or until tools are repaired or replaced, whichever is greater
(xxii) Bad Check	Warning, if amount due is paid within 10 days from date notified. If not, suspension until amount is paid	3 months or until amount due is paid, whichever is greater	6 months or until amount due is paid, whichever is greater
<i>Category 4 (Negligent)</i>			
(xxiii) Failure to report discontinuance of business	1 year	2 years	Permanent
(xxiv) Failure to notify the Department of changes of ownership, location or other changes affecting an official inspection station	3 months	6 months	1 year
(xxv) Failure to make emission inspection test printout available to customer	Warning	Warning and \$100 fine	1 month

\* \* \* \* \*

**§ 177.603. Schedule of penalties for emission inspectors.**

Emission inspectors shall assume full responsibility for their acts as emission inspectors. Failure to comply with the appropriate provisions of the Vehicle Code or this chapter will be considered sufficient cause for suspension of emission inspection privileges. A violator may also be subject to criminal prosecution. After providing the emission inspector with an opportunity for a hearing, the Department may impose suspensions or penalties upon the emission inspector according to the following schedule of offenses for violations:

Type of Violation	Duration of Suspension		
	1st Offense	2nd Offense	3rd and Subsequent Offenses
<i>Category 1 (Fraudulent Activities)</i>			
(i) Issuance or possession of altered, forged, stolen or counterfeit certificate of emission inspection	1 year	Permanent	
(ii) Furnish, lend, give, sell or receive a certificate of emission inspection without inspection	1 year	Permanent	
(iii) Fraudulent recordkeeping	1 year	Permanent	
<i>Category 2 (Improper Activities)</i>			
(iv) Faulty inspection	3 months	1 year	3 years
(v) Inspecting more subject vehicles per hour per emission inspection inspector than permitted by § 177.408(g)	3 months	6 months	3 years
(vi) Failure to produce records upon demand by Department quality assurance officer or other authorized Commonwealth representative or agent	3 months or until produced	6 months or until produced	1 year or until produced
(vii) Inspection by uncertified inspector	3 months and \$100 fine	6 months and \$500 fine	1 year and \$1,000 fine
(viii) Improper recordkeeping	Warning	2 months	6 months
(ix) Improper inspection	Warning	2 months & \$250 fine	6 months and \$500 fine
(x) Requiring or indicating repairs unnecessary for purpose of passing inspection	3 months	6 months	1 year

Type of Violation	Duration of Suspension		
	1st Offense	2nd Offense	3rd and Subsequent Offenses
(xi) Misstatement of fact	1 month	3 months	1 year
(xii) Improper assigning of certificate of inspection	Warning	2 months	6 months
(xiii) Failure to verify registration or emission inspecting a vehicle with an expired registration	2 months	4 months	6 months
(xiv) Failure to affix certificate of inspection immediately upon successful completion of the inspection	2 months	4 months	6 months
(xv) Improper security of certificate of emission inspection	Warning	2 months	6 months
<i>Category 3 (Careless Activities)</i>			
(xvi) Inspection by emission inspector with suspended, revoked, cancelled, expired or recalled vehicle operating privilege	2 months	4 months	6 months
(xvii) Inspection by emission inspector with expired inspector certification	Warning	4 months	6 months
(xviii) Improper use of emission inspector certification	Warning	2 months and \$250 fine	6 months and \$500 fine
(xix) Improper security of certificate of emission inspection	Warning	2 months	4 months
(xx) Unclean inspection area	Warning	1 month	4 months
(xxi) Careless record keeping	Warning	1 month	4 months
(xxii) Failure to make vehicle emission inspection test printout available to customer	Warning	1 month	4 months

**ADDITIONAL VIOLATIONS**

**§ 177.605. Subsequent violations.**

\* \* \* \* \*

**DEPARTMENTAL HEARING PROCEDURE**

**§ 177.651. Notice of alleged violation and opportunity to be heard prior to immediate suspension.**

Prior to the immediate suspension of any official emission inspection station, certificate of appointment, emission inspector certification or certified repair technician, the Department shall, within 3 days, provide written notice of the alleged violation and the opportunity to be heard.

**REGISTRATION RECALL PROCEDURE FOR VIOLATION OF §§ 177.301—177.305 (RELATING TO ON-ROAD TESTING)**

**§ 177.691. Registration Recall Committee.**

\* \* \* \* \*

**Appendix A**

**Acceleration Simulation Mode: Pennsylvania Procedures, Standards, Equipment Specifications and Quality Control Requirements**

**§ 1. ASM Exhaust Emission Standards and Calculations.**

(a) *ASM Emissions Standards*

(1) *ASM Start-Up Standards.* The following standards shall be used for ASM tests performed until notice by the Department that the standards in subsection (2)(i) or (2)(ii) shall apply. The exhaust emission standards for the following model years are cross referenced by the number in the column in (a)(3) below:

\* \* \* \* \*

(2) *ASM final standards.*

(i) *ASM equivalent test weight methodology.* Upon notice by the Department in the *Pennsylvania Bulletin*, the following exhaust emission standards will be used for ASM tests performed. The exhaust emissions standards for the following model years are cross-referenced by the number in the column in (a)(3) below:

(A) Light Duty Vehicles.

\* \* \* \* \*

(B) Light Duty Trucks 1 (less than 6000 pounds GVWR).

\* \* \* \* \*

(C) Light Duty Trucks 2 (greater than 6000 pounds GVWR).

\* \* \* \* \*

(ii) *ASM vehicle engine displacement methodology.* Upon notice by the Department in the *Pennsylvania Bulletin*, the exhaust emission standards used for ASM tests performed shall be in accordance with the following tables:

**LDV Exhaust Emission Standards for the ASM 5015 test**

	<i>HC</i>	<i>CO</i>	<i>NOx</i>
5015 LDV MY 1980 and newer	275 liters* ppm		
5015 LDV MY 1980 to 1982		1.3 liters*%	
5015 LDV MY 1983 and newer		1.1 liters*%	
5015 LDV MY 1980 only			8,500 liters* ppm
5015 LDV MY 1981 and newer			3,600 liters* ppm

**LDT Exhaust Emission Standards for the ASM 5015 test**

	<i>HC</i>	<i>CO</i>	<i>NOx</i>
5015 LDT MY 1980 to 1983	1,140 liters* ppm		
5015 LDT MY 1984 to 1995	537 liters* ppm		
5015 LDT MY 1996 and newer	275 liters* ppm		
5015 LDT MY 1980 to 1983		9.7 liters*%	
5015 LDT MY 1984 to 1995		5.4 liters*%	
5015 LDT MY 1996 and newer		1.1 liters*%	
5015 LDT MY 1980 to 1987			14,145 liters* ppm
5015 LDT MY 1988 to 1995			7,380 liters* ppm
5015 LDT MY 1996 and newer			6,150 liters* ppm

All 5015 cut points are applied by the following method: The vehicle's engine displacement in liters multiplied by the exhaust constituent (HC, CO, or NOx) levels in concentration (HC and NOx in ppm; CO in % ten second average values). This liter\*concentration value is compared to the appropriate cut point and if the value is above the cut point the vehicle is considered having failed the test.

(3) ASM 2525 and 5015 concentration tables follow (although both 2525 and 5015 standards are shown, the Pennsylvania test consists only of the 5015 mode):

\* \* \* \* \*

(b) *ASM Test Score Calculation*

\* \* \* \* \*

**§ 8. Software specifications and emission inspection waiver procedure.**

(a) *Software specifications.*

\* \* \* \* \*

(3) Emission inspection equipment software for the Pennsylvania emission inspection program shall be approved by the Department or its designee prior to installation and use in emission inspection equipment installed at certified emission inspection stations.

\* \* \* \* \*

(b) *Emission inspection waiver procedure.*

\* \* \* \* \*

(2) When repairs are completed, vehicle shall be returned to a certified emission inspection station.

(3) When retest is begun, repairs made and cost of repairs will be entered into the inspection equipment.

\* \* \* \* \*

(iii) If yes, inspector will be presented with waiver screen.

\* \* \* \* \*

**Appendix B**

**Department Procedures and Specifications**

**§ 1. Evaporative System Function Test.**

The evaporative system pressure test procedure shall be as follows:

\* \* \* \* \*

(3) Vehicles shall fail the evaporative system pressure test if the system cannot maintain a system pressure above 8 inches of water for 2 minutes after being pressurized to 14 +/- 0.5 inch of water or if no pressure drop is detected when the gas cap is loosened as described in this section. Additionally, vehicles shall fail the evaporative test if the canister is missing or obviously damaged, if hoses are missing or obviously disconnected, or if the gas cap is missing.

*(Editors Note: As part of this rulemaking, the Department is also deleting in their entirety the table entitled: PA Enhanced Emissions Inspector Certification (E.E.I.C.), and the flow chart entitled: PA Enhanced Emissions Inspector Training, Certification, and Recertification, which appear in 67 Pa. Code, pages 177-143 through 177-146, serial page numbers (235383) through (235386).)*

[Pa.B. Doc. No. 03-2229. Filed for public inspection November 21, 2003, 9:00 a.m.]

# PROPOSED RULEMAKING

## STATE BOARD OF EDUCATION

[22 PA. CODE CHS. 7 AND 12]

### Pupil Personnel Services and Students

The State Board of Education (State Board) proposes to delete Chapter 7 (relating to pupil personnel services) and amend Chapter 12 (relating to students) to read as set forth in Annex A. The State Board acts under the authority of The Public School Code of 1949 (code) (24 P. S. §§ 1-101—27-2702), including section 2603-B of the code (24 P. S. § 26-2603-B).

#### *Purpose*

The proposed revisions to Chapter 12 make changes to Chapter 12 and replace existing Chapter 7 by adding new sections to Chapter 12 that are now addressed in Chapter 7. The overarching purposes of the proposed changes are to update and align the regulations with current statutory provisions and relevant case law. In addition, the proposed amendments would add a new subchapter regarding student services and update the same subject matter now included in Chapter 7.

#### *Requirements of the Regulations*

Chapter 12 address student rights and responsibilities, in particular in the areas of free education and attendance; student responsibilities; discrimination; corporal punishment; exclusions from school; hearings; hair and dress; and searches.

The proposed rulemaking also address student records and student services and provisions relevant to student services that are to be deleted from the text of existing Chapter 7. A new regulatory requirement would be added that requires schools to operate student assistance programs. This proposed rulemaking would incorporate into regulations a long-standing Commonwealth policy established through section 1547(g) of the code (24 P. S. § 15-1547(g)). Due to recent changes made by the No Child Left Behind Act of 2001 (Pub. L. No. 107—110, 115 Stat. 1425) (20 U.S.C.A. § 6311), and the act of December 6, 2002 (P. L. 1317, 153) (Act 153) relative to student records, the State Board also proposes to remove from Chapter 12 the Exhibit that contains detailed, but outdated, guidelines on student records.

Specific proposed changes to the regulations include the following:

- The current Chapter 7 regulations that address pupil personnel services would be deleted in their entirety. The State Board proposes to address student services by creating a new subchapter in Chapter 12 and by renaming Chapter 12 as Students and Student Services. The State Board believes that Chapter 7 as it currently exists is too detailed and prescriptive for today's educational environment. The regulations are also inconsistent with other State Board regulations in that they limit flexibility provided to school districts and other educational entities in the planning, implementation and administration of cost effective, comprehensive student services programs.

- The modifying term "full" is proposed for deletion from § 12.1(a) (relating to free education and attendance), which would then describe a student's right to a "free" public education. In addition, language would be

added to prohibit the exclusion of students from school solely on the basis of a handicapping condition or disability.

- Homework would be added to the list of student responsibilities outlined in § 12.2(a) (relating to student responsibilities). The State Board believes that students should make a conscientious effort in completing assigned homework.

- The modifier "fair" would be deleted from the term "standards of safety and health," which appears in § 12.2(d)(3). The State Board believes that the modifier is vague when referring to student dress and grooming.

- Section 12.2(d)(9) would be revised to remove reference to courses of study prescribed by the "Commonwealth." Local school districts prescribe courses of study, not the Commonwealth.

- Section 12.2(d)(10) would be revised to reflect the use of technology as means of publishing student work by covering student work beyond that distributed through traditional hard copy publications.

- Section 12.3(b) (relating to school rules) would be amended to clarify the test that school board policies must accomplish some legitimate school purpose by deleting the vague terms "fairness and reasonableness" from the regulation.

- The term "full" would be deleted from § 12.4 (relating to discrimination) to make it consistent with § 12.1.

- Amend § 12.5 (relating corporal punishment), which now permits use of corporal punishment as a form of student discipline, to prohibit the use of corporal punishment. However, the regulation would continue to permit use of reasonable force to quell a disturbance, take possession of weapons or dangerous objects and to protect persons or property.

- Section 12.6(a) (relating to exclusions from school) would be revised to update the references to both revised Chapter 14 (relating to special education and services and programs) and Federal regulations under the Individuals With Disabilities Education Act (20 U.S.C.A. §§ 1400—1487).

- Section 12.6(d) would replace current language that permits a time extension for conducting a formal disciplinary hearing if the hearing would not be unreasonably delayed. The proposed language limits the extension to 15 days unless mutually agreed upon by both parties.

- Section 12.6(e)(2) would be revised to clarify the current obligation of parents of expelled students to notify the board of school directors within 30 days that they are unable to provide for an education for their child, whereupon the district would be obliged to provide for the student's education.

- Section 12.8(a) (relating to hearings) would be clarified to require that all elements of due process be afforded to students if they are to be excluded from school. A requirement would be added to § 12.8(b)(1)(i) that a copy of the expulsion policy, notice that the student may be represented by counsel, hearing procedures and notice of the right to appeal be provided with notice of the time and place of the hearing.

- Section 12.8(b)(1)(iv) would be revised to clarify that a student may be represented by counsel at their parents' expense and that parents or guardians may attend the hearing.

- Proposed § 12.8(b)(1)(viii) would update the section to reflect current use of technology to keep and make available a copy of the hearing record.
- Section 12.8(b)(1)(ix) would be revised to make it consistent with § 12.6(d).
- Section 12.8(b)(2), regarding appeal of the school board's determination, would be deleted as unnecessary, given the addition of § 12.8(b)(1)(ii).
- Section 12.8(c) is proposed for revision to add a subsection headed "informal hearings" to clarify the meaning and application of the subsection.
- The wording of § 12.8(c)(1) concerning the purpose of an informal hearing would be revised to clarify the meaning and intent of the regulation.
- The State Board proposes to revise § 12.11 (relating to hair and dress) to reflect new statutory authority granted to school boards that permits school boards to adopt dress codes or to require students to wear school uniforms. The section is also revised to indicate that when the length or style of hair presents a health or safety hazard, the hair shall be covered.
- Section 12.14 (relating to searches) would be revised to update language pertaining to searches of student lockers to make it consistent with current case law.
- Section 12.31 (relating to general requirements) would be revised to update language and to provide that copies of the student record plan that should be submitted only to the Department of Education (Department) upon request of the Secretary.

The State Board is also proposing to delete the guidelines for the collection, maintenance and dissemination of pupil records from Chapter 12. The State Board believes that the guidelines are outdated and cannot be updated in a timely manner to reflect court decisions and Federal and State statutory changes. Instead, the State Board would instruct the Department to issue guidelines that would be published in the *Pennsylvania Bulletin* for use of local education agencies.

The State Board proposes to add to Chapter 12 a new subchapter on student services. This subchapter would provide regulation of student services that are currently addressed in Chapter 7. New § 12.41 (relating to definitions) would provide definitions and § 12.42 (relating to students services) would provide revised requirements for the planning and implementation of a comprehensive K-12 program of student services. Local education agencies would be required to prepare a written student services plan (plan) that might include guidance counseling, health services, psychological services, social work and student attendance services. To assist in the development of the plan, the Department would be required to issue guidance to local educational agencies and to publish the guidance in the *Pennsylvania Bulletin*. In addition, the student assistance program, which has operated in this Commonwealth's secondary schools since 1991, would be added to Chapter 12.

#### *Affected Parties*

The proposed rulemaking would affect the students and professional employees of the public schools in this Commonwealth (including intermediate units, area vocational-technical schools, public charter and alternative schools).

#### *Cost and Paperwork Estimates*

The proposed rulemaking would have negligible costs. The proposed rulemaking largely would bring the regulations into alignment with current statutory provisions

and relevant case law. To comport with the new provisions of the regulations, school districts might have to change their disciplinary policies and procedures, as well as their expulsion hearing policies. School districts also might have to revise their records policies to comply with the guidelines regarding records that would be issued by the Department. There might be costs associated with all of these changes.

The student assistance program, which is currently operated under Department guidelines, would be mandated by the proposed regulations. As a result of the regulations, the Department also would be required to compile K-12 program guidelines for student services, and school districts would be required to develop a comprehensive written plan for student services. There might be costs associated with implementation of both of these programs and procedures.

Public schools might need to revise and update school district policies and practice regarding student discipline, maintenance of student records and student services as a result of the proposed rulemaking. This would include, if it does not already exist, a plan that outlines the school entity's program of student services. In addition, based on guidelines to be issued by the Department, each school entity would need to update its student records policy. Compliance with these requirements is estimated to be less than \$20,000. Actual costs incurred by each school entity for compliance with these requirements would vary from school entity to school entity. However, school entities that have updated student records policies based on Federal laws and court decisions would already meet these new requirements. Schools that currently describe student services in their strategic plans, as required by § 4.13 (relating to strategic plans), or in other documents, may currently meet this requirement as well.

By consolidating the regulations into the student services section (Chapter 12), previously addressed in Chapter 7, schools would be provided additional flexibility to deliver a comprehensive program of student services to their students. Depending upon implementation on the local level, this might lead to improving the scope and quality of services provided to students while also providing cost savings.

#### *Effective Date*

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

#### *Sunset Date*

The effectiveness of Chapter 12 would be reviewed by the State Board every 4 years, in accordance with the State Board's policy and practice respecting all regulations promulgated by the State Board. Thus, no sunset date is necessary.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 11, 2003, the State 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 House and Senate Committees on Education. 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 that have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by the State Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comments and Contact Person

Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to Patricia A. White, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333 within 30 days following publication in the Pennsylvania Bulletin.

Persons with disabilities needing an alternative means of providing public comment may make arrangements by calling Patricia A. White at (717) 787-3787 or TDD (717) 787-7367

PATRICIA A. WHITE,
Executive Director

Fiscal Note: 6-280. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subpart A. MISCELLANEOUS PROVISIONS

CHAPTER 7. [ PUPIL PERSONNEL SERVICES ]
(Reserved)

(Editor's Note: The State Board is proposing to delete Chapter 7 as it currently appears in the Pennsylvania Code, pages 7-1 to 7-6, serial pages (252439), (252440), (279547), (279548), (244443) and (244444).)

CHAPTER 12. STUDENTS AND STUDENT SERVICES

STUDENT RIGHTS AND RESPONSIBILITIES

§ 12.1. Free education and attendance.

(a) All persons residing in this Commonwealth between the ages of 6 and 21 years of age are entitled to a free [ and full ] education in [ the ] this Commonwealth's public schools.

(b) Parents or guardians of all children between the ages of 8 and 17 are required by the compulsory attendance law to ensure that their children attend an approved educational institution, unless legally excused. Students who have not graduated may not be asked to leave school merely because they have reached 17 years of age if they are fulfilling their responsibilities as students. A student may not be excluded from the public schools [ nor ] or from extracurricular activities because:

(1) The student is married [ or ].

(2) The student is pregnant.

(3) The student has a handicapping condition as identified by Chapter 15 (relating to protected handicapped students).

(4) The student is an eligible student identified under Chapter 14 (relating to special education services and programs).

§ 12.2. Student responsibilities.

(a) Student responsibilities include regular school attendance, conscientious effort in classroom work and homework, and conformance to school rules and regulations. Most of all, students are responsible to share

with the administration and faculty a responsibility to develop a climate within the school that is conducive to wholesome learning and living.

\* \* \* \* \*

(d) It is the responsibility of the students to conform [ with ] to the following:

\* \* \* \* \*

(3) Dress and groom so as to meet [ fair ] standards of safety and health, and not to cause substantial disruption to the educational processes.

\* \* \* \* \*

(9) Pursue and attempt to complete satisfactorily the courses of study prescribed by [ Commonwealth and ] local school authorities.

(10) Report accurately [ and not ] in student media.

(11) Not use [ indecent or ] obscene language in student [ newspapers or publications ] media or on school premises.

§ 12.3. School rules.

\* \* \* \* \*

(b) School boards may not make rules [ which ] that are arbitrary, capricious or outside their grant of authority from the General Assembly. [ Their rules must stand the test of fairness and reasonableness. ] A rule is generally considered reasonable if it uses a rational means of accomplishing some legitimate school purpose.

(c) Each board of school directors shall adopt a code of student conduct [ which ] that shall include policies governing student discipline and a listing of students rights and responsibilities as outlined in this chapter. This conduct code shall be published and distributed to students and parents. Copies of the code shall also be available in each school library.

§ 12.4. Discrimination.

Consistent with the Pennsylvania Human Relations Act (43 P. S. §§ 951-963), [ no ] a student [ shall ] may not be denied access to a free [ and full ] public education on account of race, religion, sex, national origin, or handicaps.

§ 12.5. Corporal punishment.

(a) Corporal punishment[, namely] is defined as physically punishing a student for an [ offense, may be administered by teachers and school officials to discipline students when authorized by, and in accordance with policies and guidelines established by, the board of school directors ] infraction of the discipline policy. Use of corporal punishment is prohibited.

(b) [ Reasonable force may be used but under no circumstances shall a student be punished in such a manner as to cause bodily injury.

(c) Where corporal punishment is authorized, school authorities shall notify all parents of this policy. Corporal punishment may not be administered to a child whose parents have notified school authorities that such disciplinary method is prohibited.

(d) In situations where a parent or school board prohibits corporal punishment reasonable force may still be used by teachers. Teachers and school authorities may use reasonable force under the following circumstances:

\* \* \* \* \*

(e) Corporal punishment should never be administered in the heat of anger. It should be recognized that corporal punishment always contains the danger of excessiveness. No disciplinary action should exceed in degree the seriousness of the offense. Students shall not be required to remove clothing when being punished.

§ 12.6. Exclusions from school.

(a) The board of school directors shall define and publish the types of offenses that would lead to exclusion from school. Exclusions affecting certain exceptional students shall be governed by [ § 14.35 (reserved) ] § 14.143 (relating to disciplinary placements) and 34 CFR 300.519—300.529 (relating to discipline procedures).

\* \* \* \* \*

(d) If it is determined after an informal hearing that a student's presence in his normal class would constitute a threat to the health, safety[, morals] or welfare of others and it is not possible to hold a formal hearing within the period of a suspension, the student may be excluded from school for more than 10 school days[, if the formal hearing is not unreasonably delayed]. A student may not be excluded from school for longer than 15 school days without a formal hearing unless mutually agreed upon by both parties. Any student so excluded shall be provided with alternative education, which may include home study.

(e) Students who are [less than] under 17 years of age are still subject to the compulsory school attendance law even though expelled[, ] and [they] must be provided an education.

(1) The initial responsibility for providing the required education rests with the student's parents or guardian, through placement in another school, [through] tutorial or correspondence study, or [through] another educational program approved by the district's superintendent.

(2) [If the parents or guardian are unable to provide for the required education, they must within] Within 30 days of action by the board of school directors, the parents or guardian shall submit to the school district written evidence [so stating] that the required education is being provided as described in paragraph (1) or that they are unable to do so. [The] If the parents or guardian are unable to provide the required education, the district then [has the responsibility to] shall make [some] provision for the student's education. [If 30 days pass without the district receiving satisfactory evidence that the required education is being provided to the student, it must recontact the parent and, pending the parents' or guardian's provision of such education, the district must make some provision for the student's education or proceed under paragraph (3) or do both.]

(3) If the approved educational program is not complied with, the school district may take action in accordance with 42 Pa.C.S. Chapter 63 [of the] (relating to the Juvenile Act) to ensure that the child will receive a proper education. See § 12.1(b) (relating to free education and attendance).

§ 12.7. Exclusion from classes—in-school suspension.

\* \* \* \* \*

(d) The student's school district has the responsibility to make [some] provision for the student's education during the period of the in-school suspension.

§ 12.8. Hearings.

(a) General. Education is a statutory right, and students [must] shall be afforded all appropriate elements of due process if they are to be excluded from school. In a case involving a possible expulsion, the student is entitled to a formal hearing[, which is a fundamental element of due process].

(b) Formal hearings. A formal hearing is required in all expulsion actions. This hearing may be held before the board of school directors or an authorized committee of the board, or a qualified hearing examiner appointed by the board. [Where] When the hearing is conducted by a committee of the board or a hearing examiner, a majority vote of the entire school board is required to expel a student.

[(1)] The following due process requirements [are to] shall be observed with regard to the formal hearing:

\* \* \* \* \*

(ii) Sufficient notice of the time and place of the hearing [must] shall be given. A copy of the expulsion policy, notice that the student may be represented by counsel, hearing procedures, and notice of the right to appeal shall be included with the hearing notice. A student may request the rescheduling of the hearing when the student demonstrates good cause for an extension.

\* \* \* \* \*

(iv) The student [has the right to] may be represented by counsel, at parents' expense, and may have his parent or guardian attend the hearing.

\* \* \* \* \*

(viii) A written or audio record [must] shall be kept of the hearing[, either by a stenographer or by tape recorder]. The student is entitled, at the student's expense, to a copy [of the transcript].

(ix) The proceeding must be held [with all reasonable speed] within 15 school days of the notification of charges, unless mutually agreed to by both parties.

[(2) Where the student disagrees with the results of the hearing, recourse is available in the appropriate court of the Commonwealth. If it is alleged that a constitutional issue is involved, the student may file a claim for relief in the appropriate Federal district court.]

(c) Informal hearings. The purpose of the informal hearing is to enable the student to meet with the

appropriate school official to explain the circumstances surrounding the event for which the student is being suspended or to show why the student should not be suspended.

(1) The informal hearing is [ meant to encourage the student's parents or guardian to meet with the principal to discuss ways by which future offenses can be avoided ] held to bring forth all relevant information regarding the event for which the student may be suspended and for students, their parents or guardians and school officials to discuss ways by which future offenses can be avoided.

\* \* \* \* \*

§ 12.9. Freedom of expression.

\* \* \* \* \*

(f) Bulletin boards shall conform [ with ] to the following:

\* \* \* \* \*

(g) School newspapers and publications shall conform [ with ] to the following:

\* \* \* \* \*

(i) School officials may set forth the time and place of distribution of materials so that distribution would not materially or substantially interfere with the requirements of appropriate discipline in the operation of the school.

(1) A proper time and place set for distribution is one [ which ] that would give the students the opportunity to reach fellow students.

\* \* \* \* \*

§ 12.11. Hair and dress.

(a) The board of directors may establish dress codes or require that students wear school uniforms. Policies may apply to individual school buildings or to all school buildings.

(b) Students have the right to govern the length or style of their hair including facial hair. Any limitation of this right shall include evidence that length or style of hair causes disruption of the educational process or constitutes a health or safety hazard. [ Where ] When length or style of the hair presents a [ problem ] health or safety hazard, some types of covering [ should ] shall be [ considered ] used.

[ (b) School officials may not impose limitations on dress unless the attire causes the disruption of the educational process or constitutes a health or safety hazard. ]

\* \* \* \* \*

§ 12.14. Searches.

[ School authorities may search a student's locker and seize any illegal materials. Such materials may be used as evidence against the student in disciplinary proceedings. Prior to a locker search the students shall be notified and given an opportunity to be present. However, where school authorities have a reasonable suspicion that the locker contains materials which pose a threat to the health, welfare and safety of students in the school, student lockers may be searched without prior warning. ]

(a) The governing board of every local education agency shall adopt reasonable policies and procedures regarding student searches. The local education agency shall notify students and their parents of the policies and procedures regarding student searches.

(b) Any illegal or prohibited materials seized during a student search may be used as evidence against the student in a school disciplinary proceeding.

(c) Prior to a locker search, students shall be notified and given an opportunity to be present. However, when school authorities have a reasonable suspicion that the locker contains materials that pose a threat to the health, welfare or safety of students in the school, student lockers may be searched without prior warning.

[ PUPIL ] STUDENT RECORDS

§ 12.31. General requirements.

(a) The governing board of every [ school district, intermediate unit and area vocational-technical school ] local education agency shall adopt a plan for the collection, maintenance and dissemination of [ pupil ] student records [ and submit the same to the Department for approval ].

(b) Copies of the [ approved ] adopted plan shall be maintained by the local educational agencies and updated as required by changes in State or Federal law. [ Copies of the updated plan shall be submitted to the Department only upon request of the Secretary. ]

(c) Copies of the plan shall be submitted to the Department only upon request of the Secretary.

§ 12.32. Elements of the plan.

(a) The plan for [ pupil ] student records shall conform to [ § 12.33 (relating to guidelines), except that a school district may modify § 12.33 with the approval of the Secretary, to conform with local policy ] guidelines issued by the Department of Education.

(b) The plan shall establish policies on [ pupil ] student records consistent with the minimum requirements of section 13(a) of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C.A. § 1232g) and in 34 CFR Part 99 (relating to privacy rights of parent and students[ . ]).

§ 12.33. [ Guidelines ] (Reserved).

[ (a) The full text of the Guidelines for the Collection, Maintenance and Dissemination of Pupil Records appears at 4 Pa.B. 1092 (June 1, 1974).

(c) Portions of Guidelines for the Collection, Maintenance and Dissemination of Pupil Records are attached hereto as Exhibit A and made a part of this chapter. ]

(Editor's Note: The State Board is proposing to delete Exhibit A and Sample Forms A—E as they currently appear in the Pennsylvania Code pages 12-13 to 12-24, serial pages (227273) to (227282), (256349) and (256350).)

SERVICES TO STUDENTS

§ 12.41. Definitions.

The following words and terms, when used in this section and §§ 12.42 and 12.43 (relating to student



services; and student assistance program), have the following meanings, unless the context clearly indicates otherwise:

**Student services**—Services designed by a local education agency entity to complement the instructional program and to help students attain their educational and career goals. Services may include guidance counseling, health services (under Article XIV of the Public School Code of 1949 (24 P. S. §§ 14-1401—14-1423) and 28 Pa. Code Chapter 23 (relating to school health), psychological services, social work and student attendance services.

**Student assistance program**—A systematic process by which school personnel can respond to referred students experiencing difficulties in school because of drug, alcohol or mental health problems.

#### § 12.42. Student services.

(a) Each local education agency shall prepare a written plan for the implementation of a comprehensive K-12 program of the student services based on the needs of its students. Services offered by community agencies in public schools shall be coordinated by and under the general direction of the local education agency. The plan shall include policies and procedures for emergency care and administration of medication and treatment under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) and guidelines issued by the Department of Health. The Department of Health guidelines are available from the Division of School Health, Department of Health, Post Office Box 90, Harrisburg, Pennsylvania 17108.

(b) Though the variety of student services offered will differ from school to school depending upon its size and the needs of its students, the following categories of services shall be provided by each local education agency in planning its student services:

(1) Developmental services for students that address their developmental needs throughout their enrollment in school.

(2) Diagnostic, intervention and referral services for students who are experiencing problems attaining educational achievement appropriate to their learning potential.

(3) Consultation and coordination services for students who are experiencing chronic problems which require multiple services by teams or specialists.

(c) Student services shall:

(1) Be an integral part of the instructional program at all levels of the school system.

(2) Provide information to students and parents about educational opportunities of the school's instructional program and how to access these opportunities.

(3) Provide career information and assessments so that students and parents might become aware of the world of work and of a variety of career options available to individual students.

(4) Provide basic health services outlined in Article XIV of the Public School Code 1949 for students and information to parents about the health needs of their children.

(d) When student assessments using individual standardized psychological tests are administered, parents shall be informed of the nature and scope of local education agencies' student tests and of their relationship to the educational program of their child. The parents shall have the right to challenge the appropriateness of any individual standardized psychological tests via procedures established by the local education agency.

(e) Persons delivering student services shall be specifically licensed or certified as required by statute or regulation.

(f) The Department will provide guidance and technical assistance to local education agencies in planning student services.

#### § 12.43. Student assistance program.

Local education agencies shall plan and provide for a student assistance program under the Early Intervention Services System Act (11 P. S. §§ 875-101—875-503).

[Pa.B. Doc. No. 03-2230. Filed for public inspection November 21, 2003, 9:00 a.m.]

## STATE BOARD OF LANDSCAPE ARCHITECTS

[49 PA. CODE CH. 15]

### Deletion of Examination Fees

The State Board of Landscape Architects (Board) proposes to amend §§ 15.1, 15.11, 15.12, 15.51, 15.52 and 15.53 to read as set forth in Annex A. The proposed rulemaking is designed to remove specific references to details of the landscape architect licensure examination process to clarify the procedures, eliminate obsolete procedures and allow the regulations to remain viable for a longer term as specific items such as fees and dates change. The proposed rulemaking deletes references to the fees charged by testing organizations from the schedule of fees for the examination and directs applicants for examination to apply and pay fees directly to the professional testing organization. The proposed rulemaking also deletes references to the specific title of the examination currently in use. The proposed rulemaking also deletes Board testing protocols and recordkeeping practices which are obsolete, as these functions are now provided by the testing administrator, rather than by the Board.

#### *Effective Date*

The proposed rulemaking is effective on final-form publication in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

Section 812.1 of The Administrative Code of 1929 (code) (71 P. S. § 279.3a) and section 4 of the Landscape Architects' Registration Law (63 P. S. § 904) set forth the powers and duties of the Board with regard to the administration of examinations.

#### *Background and Need for Proposed Rulemaking*

The proposed rulemaking deletes references to the fees for the licensing examination procedures and makes clear the fees are set by the professional testing organizations.

The proposed rulemaking also clarifies that examination applicants should apply to the professional testing organization and not to the Board.

*Description of Proposed Rulemaking*

*Provision and Submission of Applications*

The proposed amendment to § 15.1 (relating to definitions) deletes the definition of "LARE." By referencing the examination generically, the Board would not need to amend its regulations each time the particular examination changes, which it has had to do in the past. The proposed amendment to § 15.11 (relating to filing procedures) reflects that applicants apply to the professional testing organization, not the Board, to take the examination. The professional testing organization determines a candidate's eligibility to take the exam and administers the examination to eligible candidates. Section 812.1 of the code requires that the licensing examination be prepared and administered by a professional testing organization. This proposed amendment clears confusion that may result from the existing regulations that are unclear about where examination applicants should file their applications. The proposed amendment to § 15.11 also makes clear that application deadlines are set by the testing administrator and not by the Board. The proposed amendment incidentally simplifies the procedure for filing registration applications and removes a reference to refunds of exam fees and licensure fees.

*Elimination of References to Examination Fees*

The proposed amendment to § 15.12 (relating to fees) deletes references to the fees for licensure examination. These fees are set by the administrators of the examinations, not by the Board. To avoid the necessity of amending the regulations whenever the examination administrator changes the fees, the Board proposes to delete references to the fees.

*Examination Dates, Testing Procedures and Grading*

The proposed rulemaking deletes obsolete language in § 15.51 (relating to eligibility) that states that the examination will be given in June. The Council of Landscape Architectural Registration Boards (CLARB) now administers parts of the examination at least two times per year. The proposed amendment also deletes references to a "written examination" so that the regulations do not have to be amended as the technology of examination evolves. The Board also proposes to delete references to admittance and recordkeeping protocols that are established by the CLARB and not by the Board.

The proposed rulemaking deletes § 15.52 (relating to examination procedure). The first sentence is unnecessary, as the Board's obligation to provide third party testing is statutory. Section 15.52(b) and § 15.53(a) (relating to grading) are proposed to be deleted as the testing administrator, not the Board, establishes testing protocols, including proctoring and grading.

*Fiscal Impact*

The proposed rulemaking will have no fiscal impact on the Board or its licensees. The proposed rulemaking should have no fiscal impact on the private sector, the general public or political subdivisions.

*Paperwork Requirements*

The proposed rulemaking will avoid preparation of new regulations each time that an examination fee is changed and should not create additional paperwork for the private sector.

*Sunset Date*

The Board monitors its regulations on a continuing basis. 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 November 12, 2003, 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 Shirley Klinger, Administrator, State Board of Landscape Architects, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

DANIEL J. DAHLKEMPER, RLA,  
*Chairperson*

**Fiscal Note:** 16A-617. 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 15. STATE BOARD OF LANDSCAPE ARCHITECTS**

**GENERAL PROVISIONS**

**§ 15.1. Definitions.**

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

\* \* \* \* \*

[ *LARE*—The Landscape Architect Registration Examination of CLARB approved by the Board as the landscape architecture examination. ]

\* \* \* \* \*

**APPLICATION PROCEDURES**

**§ 15.11. Filing procedures.**

\* \* \* \* \*

(b) An application shall be [ **made** ] submitted on forms [ **furnished and in the manner prescribed** ] provided by the Board[ , and shall be accompanied

by the required fee, certified check, cashier's check or money order made payable to "Commonwealth of Pennsylvania." Applicants may not send cash. Refund policies for application and examination fees shall be as specified in the application ] along with the appropriate fee.

(c) An application for examination shall be submitted [ by February 10 ] directly to the professional testing organization along with the fee in accordance with the deadline provided by the professional testing organization.

\* \* \* \* \*

§ 15.12. Fees.

Following is the schedule of fees charged by the Board:

- (1) [ Application for examination..... \$40
- (2) ] Application for licensure under § 15.54(b)(1), (2) and (3) or § 15.56(a)(3) ..... \$60
- [ (3) ] (2) \* \* \*
- [ (4) ] (3) \* \* \*
- [ (5) ] (4) \* \* \*
- [ (6) Administration of examination for one section or more ..... \$45
- (7) ] (5) \* \* \*
- [ (8) ] (6) \* \* \*
- [ (9) ] (7) \* \* \*
- [ (10) ] (8) \* \* \*
- [ (11) ] (9) \* \* \*
- [ (12) ] (10) \* \* \*

EXAMINATIONS

§ 15.51. Eligibility.

An applicant qualifying under section 6(b) of the act (63 P. S. § 906(b)) is eligible to take the regular examination which will be [ a written ] an examination administered on the dates and times and at the places established by the [ Board ] professional testing organization. A copy of the instructions will be furnished to the applicant.

(1) [ Yearly examination ] Examination. The [ LARE ] examination will be given [ in June on a date selected by CLARB ] on dates selected by the professional testing organization.

\* \* \* \* \*

(4) [ Admittance. An applicant shall present his admission letter and photograph identification to the proctor for admittance to the examination.

(5) ] \* \* \*

[ (6) Inactive record. Records of applicants for registration that are inactive for 5 years will be destroyed. A record will be considered inactive if an applicant has taken the examination, has failed one or more parts of the examination and has failed to retake those failed parts of the examination for 5 years, or if an applicant has been declared eligible

to sit for the examination and fails to sit for the examination for 5 years. ]

§ 15.52. [ Examination procedure ] (Reserved).

[ (a) Examination of applicants. The Board, in consultation with the Bureau, will contract for the preparation, administration and evaluation of its licensure examination.

(b) Proctors. The professional testing organization will arrange for proctors to administer the conduct of the examination. The proctor shall confiscate the examination paper of the applicant found copying, photographing or using unauthorized materials. The applicant shall be dismissed from the examination and may be disqualified from future examinations. ]

§ 15.53. Grading.

(a) [ The examination will be graded using procedures developed by CLARB in consultation with a professional testing organization under contract to the Bureau. ] Test results will be recorded by the Board in a permanent record of the applicant.

\* \* \* \* \*

[Pa.B. Doc. No. 03-2231. Filed for public inspection November 21, 2003, 9:00 a.m.]

# STATE BOARD OF PHYSICAL THERAPY

[49 PA. CODE CH. 40]  
Certificate of Authorization

The State Board of Physical Therapy (Board) proposes to amend § 40.5 (relating to fees) and add §§ 40.61—40.63 (relating to certificate of authorization to practice physical therapy without a referral; professional liability insurance; and continuing education) to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The proposed rulemaking is authorized under section 3 of the Physical Therapy Practice Act (act) (63 P. S. § 1303) and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a). The act of February 21, 2002 (P. L. 234, No. 6) (Act 6) (63 P. S. § 1309) amended the act to permit a physical therapist to practice physical therapy without obtaining a referral from a physician if the physical therapist qualifies for and obtains from the Board a certificate of authorization to practice physical therapy without a referral. The proposed rulemaking implements Act 6.

Background and Purpose

The proposed rulemaking provides for the issuance of a certificate of authorization by the Board under Act 6. The

proposed rulemaking establishes a fee for the issuance of a certificate and otherwise establishes the requirements and conditions for obtaining and practicing under a certificate. The following is a description of the proposed amendments.

*Section 40.5*—Section 8(b) of the act (63 P. S. § 1308(b)) requires the Board to set all fees by regulation. Expenses related to applications or services which are provided directly to individual licensees or applicants are excluded from revenues and are funded through fees. The cost of providing the service forms the basis for the fee.

It was determined that upon the implementation of Act 6, approximately 5,500 applications would be submitted to the Board for initial certificates of authorization to practice physical therapy without a physician's referral with approximately 1,300 new applications being submitted each biennial cycle thereafter. The analysis undertaken by the Budget Office of the Department of State establishes a fee of \$30 for the initial certificate. It was also estimated that approximately 6,800 biennial renewal applications would be submitted each biennium and that a biennial renewal fee of \$37 should be established. The Board plans on monitoring the numbers of applications received and adjusting these fees by further regulation as necessary.

*Section 40.61*—Section 40.61 reflects the requirements and language of Act 6 pertaining to the eligibility of a licensee to obtain a certificate. Act 6 requires that an applicant must be licensed in this Commonwealth as a physical therapist. Therefore, this requirement is in § 40.61(a)(1). Also, Act 6 requires that the licensee must have either passed an examination for licensure which included testing on the appropriate evaluative procedures to treat a person without a referral or have passed an examination for licensure prior to 1990 and successfully completed a course approved by the Board on the appropriate evaluative procedures to treat a person without a referral. In implementing these statutory provisions, the Board notes that its recognized examination is the National Physical Therapy Examination (NPTE). After January 1, 1990, the NPTE included testing on the appropriate evaluative procedures to treat a patient without a referral. Prior to January 1, 1990, the NPTE did not include this testing. Therefore, § 40.61(a)(2)(ii) requires that a licensee who passed the NPTE prior to January 1, 1990, must have successfully completed within the 2 years preceding application a Board-approved course consisting of at least 10 hours on the appropriate evaluative and screening procedures to determine the need for further examination or consultation by a physician, dentist or podiatrist prior to initiating treatment without a referral. This subsection would require the Board to maintain a list of currently approved courses meeting the Board's criteria. The Board believes that requiring at least 10 hours within 2 years preceding application is the minimum number of hours acceptable to assure that licensees are fresh and knowledgeable in this area to practice safely.

In addition to the educational requirement of Act 6, the statute requires that the licensees have practiced physical therapy in this Commonwealth or in a reciprocal state in the delivery of patient care on a continuous basis for at least 2 years immediately preceding application for the certificate or through the combination of 2 years practice in this Commonwealth and a reciprocal state. These requirements are in § 40.61(a)(3).

Subsection (b) would define "continuous practice" as a minimum of 200 hours each year in the delivery of direct

patient care. The Board has determined that 200 hours each year represents approximately 10% of a physical therapist's annual practice time. Subsection (c) reflects the requirement in the act that certificates of authorization be displayed in a conspicuous manner to the public.

Act 6 requires that only a licensee holding a certificate of authorization may practice without the required referral from a physician. Subsection (d) clarifies that a physical therapist who holds a certificate cannot delegate the care of a patient to another physical therapist who does not have a certificate.

*Section 40.62*—Section 9(b)(4) of the act (63 P. S. § 1309(b)(4)) was amended by Act 6 to require that a certificate holder have professional liability insurance in the minimum amounts required to be maintained by physicians under the Health Care Services Malpractice Act (40 P. S. §§ 1301.101—1301.1006). The Board notes, in implementing this statutory provision, that the Health Care Services Malpractice Act was subsequently replaced by the Medical Care Availability and Reduction of Error (MCARE) Act (MCARE Act) (40 P. S. §§ 1303.101—1303.5108). Specifically, section 711 of the MCARE Act (40 P. S. § 1303.711) sets forth the insurance requirements. Accordingly, the Board references section 711 of the MCARE Act in § 40.62(a).

Act 6 sets forth the requirement that a licensee shall notify the Board within 30 days of the licensee's failure to be covered by the required insurance. Also, Act 6 provides for the automatic suspension of a certificate upon the failure to be covered by the required insurance and that the certificate not be restored until submission to the Board of satisfactory evidence that the licensee has the required professional liability insurance. Section 40.62(b) and (c) mirrors these statutory provisions.

Act 6 amended section 9(b)(iii) of the act to set forth the kinds of insurance satisfactory for compliance with this requirement. Section 40.62(c) reflects these options. With respect to self-insurance, section 9(b)(iv) of the act requires that the Board adopt by regulation standards and procedures established by the Insurance Commissioner for self-insurance. This has been accomplished through § 40.62(c)(1) of the proposed rulemaking.

*Section 40.63*—Act 6 requires that for a licensee to biennially renew a certificate, the licensee must complete, within the biennial period, at least 20 hours of continuing education regarding keeping the certificate holder apprised of advancements and new developments in the practice of the physical therapy profession. At least 10 of the 20 hours are required to be in appropriate evaluative procedures to treat a person without a referral. Act 6 further requires that the Board approve continuing education programs and program providers in accordance with standards and criteria approved by the Board by regulation including any fees necessary to implement these provisions.

Section 40.63 implements these provisions of Act 6. First, the Board defines appropriate terms used in this section. In particular, the term "contact hour" would be defined as "a unit of measure equaling 60 minutes of participation in an approved continuing education course or program."

Subsections (b) and (c) mirror the continuing education requirements of Act 6. Subsection (c) further provides for the keeping of continuing education records for 4 years and for the auditing of continuing education records by the Board.

Subsection (d) establishes sponsors and acceptable courses and programs. Section 40.63(d)(1) clarifies that it is the responsibility of the certificate holder to ascertain the approval status of the sponsor before taking a course. Paragraph (2) provides that even if a sponsor is approved, a course may be rejected by the Board if the course is outside the scope of practice of physical therapy. Also, this provision mirrors the act in that credit will not be given for courses in office management or practice building. Paragraph (2) provided that a certificate holder will be notified of a rejected course in writing along with the reason for the rejection.

Section 40.63(d)(3) sets forth the process for applying for approval as a sponsor of continuing education and the criteria for approval. Under § 40.63(e), home study courses would be authorized if given by approved sponsors. Subsection (f) reflects the statutory provision that the continuing education requirements do not apply until after the first renewal of the certificate of authorization.

Subsection (g) required that for a certificate to be reinstated or reactivated, continuing education compliance must be substantiated. Subsection (h) provides for waivers of the continuing education requirement due to illness or hardship as set forth in section 9(c)(2) of the act.

*Fiscal Impact and Paperwork Requirements*

The proposed rulemaking should have no fiscal impact and will not impose additional paperwork on the private sector, the general public and the Commonwealth and its political subdivisions.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 12, 2003, 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, suggestions or objections regarding the proposed rulemaking to Robert Kline, Administrative Assistant, State Board of Physical Therapy, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference No. 16A-651, Practice of Physical Therapy without Referral, when submitting comments.

JAMES J. IRRGANG,  
*Chairperson*

**Fiscal Note:** 16A-6510. 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 40. STATE BOARD OF PHYSICAL THERAPY**

**Subchapter A. PHYSICAL THERAPISTS**

**GENERAL PROVISIONS**

**§ 40.5. Fees.**

The following fees are charged by the Board:

*Physical therapist:*

\* \* \* \* \*

**Application for Certificate to Practice Physical Therapy without a referral . . . . . \$30**

**Biennial renewal of Certificate to Practice Physical Therapy without a referral . . . . . \$37**

**Application for approval of continuing education provider or program (per each course offered) . . \$40**

\* \* \* \* \*

*(Editor's Note: Sections 40.61—40.63 are new. They are printed in regular type to enhance readability.)*

**PRACTICE WITHOUT PHYSICIAN REFERRAL**

**§ 40.61. Certificate of authorization to practice physical therapy without a referral.**

(a) An applicant for certification of authorization to practice physical therapy without the referral of a licensed physician shall submit evidence satisfactory to the Board, on forms supplied by the Board, that the applicant has met the following requirements:

(1) Holds a current license to practice physical therapy in this Commonwealth.

(2) Has done one of the following:

(i) Passed the National Physical Therapy Examination (NPTE) after January 1, 1990.

(ii) Passed the NPTE prior to January 1, 1990 and successfully completed, within 2 years prior to application, a Board approved course consisting of at least 10 hours on the appropriate evaluative and screening procedures to determine the need for further examination or consultation by a physician, dentist or podiatrist prior to initiating treatment without a referral. The Board will maintain a list of currently approved courses.

(3) Has done one of the following:

(i) Practiced physical therapy in the delivery of patient care on a continuous basis for at least 2 years immediately preceding the application for certificate of authorization.

(ii) Been licensed by endorsement and practiced physical therapy in the delivery of patient care as a licensed physical therapist in the other state on a continuous basis for at least 2 years immediately preceding the application for certificate of authorization.

(iii) Provided proof of meeting these practice requirements through any combination of subparagraphs (i) and (ii).

(4) Has obtained professional liability insurance under the requirements of § 40.62 (relating to professional liability insurance).

(5) For purposes of this section, continuous practice is defined as a minimum of 200 hours each year in the delivery of direct patient care.

(b) A certificate holder shall display the certificate of authorization in a manner conspicuous to the public.

(c) A certificate holder may not delegate the care of a patient being treated without a referral to a physical therapist who is not a certificate holder.

(d) A certificate holder may treat a person without a referral as provided in this chapter for up to 30 calendar days from the date of the first treatment. A physical therapist may not treat a person beyond 30 days from the date of the first treatment unless the person has obtained a referral from a licensed physician, dentist or podiatrist. The date of the first treatment for purposes of this subsection is the date the person is treated by any physical therapist treating without a referral.

**§ 40.62. Professional liability insurance.**

(a) Beginning January 1, 2005, or upon applying for a certificate of authorization, whichever occurs earlier, a licensee who applies for and obtains a certificate of authorization shall obtain and maintain professional liability insurance coverage in the minimum amount required to be maintained by physicians under section 711 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.711).

(b) A certificate holder shall notify the Board within 30 days of the holder's lapse in coverage of the required insurance.

(c) The certificate of authorization shall automatically be suspended upon failure to be covered by the required insurance and will not be restored until submission to the Board of satisfactory evidence that the licensee has the required professional liability insurance.

(d) Satisfactory evidence of insurance coverage is any one of the following:

(1) A self-insurance plan that meets the standards and procedures established by the Insurance Department in 31 Pa. Code Chapter 243 (relating to medical malpractice and health-related self-insurance plans).

(2) Personally purchased professional liability insurance.

(3) Professional liability insurance, coverage provided by the licensee's employer.

(4) A similar type of coverage.

**§ 40.63. Continuing education**

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

*Certificate holder*—A licensed physical therapist who holds a certificate of authorization to practice physical therapy without a referral.

*Contact hour*—A unit of measure equaling 60 minutes of participation in an approved continuing education course or program.

(b) *Continuing education requirement for renewal of certificate of authorization.* Beginning after the first renewal of the certificate of authorization, as a condition of certificate renewal, a physical therapist shall have com-

pleted during the preceding biennium a minimum of 20 contact hours of physical therapy continuing education related to keeping the certificate holder apprised of advancements and new developments in the practice of the physical therapy profession. At least 10 of the 20 contact hours shall be in evaluative procedures to treat a person without a referral.

(c) *Reports to the Board.* A certificate holder shall certify compliance with the continuing education hours requirement at the time of biennial renewal of the certificate. A certificate holder shall retain for at least 4 years, certificates, transcripts or other documentation showing completion of the prescribed number of hours. These records are subject to audit by the Board.

(d) *Approved sponsors; acceptable courses and programs.*

(1) Courses and programs provided by Board-approved sponsors will be accepted as satisfying the continuing education requirement. It is the responsibility of the certificate holder to ascertain the approval status of the sponsor before undertaking a continuing education activity.

(2) Irrespective of the sponsor, the Board reserves the right to reject a continuing education course or program submitted by a certificate holder if it is outside the scope of practice of physical therapy. The Board will not accept courses or programs which are unrelated to the actual practice of physical therapy—for example, instruction in office management or practice building. A certificate holder will be notified of a rejected course or program in writing, along with the reason for the rejection.

(3) Sponsors of physical therapy continuing education seeking Board approval shall submit an application on forms provided by the Board and pay the required fee. The applicant will be notified of approval or disapproval in writing. Notifications of disapproval will set forth reasons. The Board will not approve a sponsor unless it:

(i) Offers courses or programs, or both, with specific learning objectives geared to improve the professional competence of the participant.

(ii) Verifies attendance of the course.

(iii) Provides each attendee with a certificate which includes participant's name, date, place, course title, presenter and number of contact hours.

(4) The Board may withdraw approval of a sponsor for cause. The sponsor will be notified in writing of the reasons for withdrawal of approval.

(e) *Distance education.* A certificate holder may accrue all required hours in distance education courses offered by approved sponsors of continuing education as long as the course sponsor evaluates and assesses the extent of learning that has taken place.

(f) *Reinstatement of certificate.* Reinstatement of certificate shall be subject to the following conditions:

(1) A person whose certificate has lapsed or been inactive shall show compliance with the continuing education requirement during the biennium immediately preceding the request for reinstatement.

(2) A person whose certificate has been suspended or restricted shall show compliance with the continuing education requirement during the entire period of suspension or restriction.

(g) *Waivers; exemptions for continuing education.* The Board may, in individual cases involving physical disabil-

ity or illness, or undue hardship, grant a waiver of the continuing education requirements or grant an extension of time to complete the requirements. No waiver or extension of time will be granted unless a written request is submitted by the licensee; or in cases of physical disability or illness, by a physician licensed in this state or another state or territory of the United States or the District of Columbia and whose license is in good standing, or both. All necessary documentation must be received by the Board no later than 90 days preceding the

biennial renewal. If the physical disability or illness or undue hardship for which the waiver has been granted continues beyond the period of the waiver, the licensee shall reapply for an extension of the waiver. The Board may, as a condition of any waiver granted require the applicant to make up all or part of the continuing education waived.

[Pa.B. Doc. No. 03-2232. Filed for public inspection November 21, 2003, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending November 11, 2003.

#### BANKING INSTITUTIONS

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-4-03	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Voorhees Acme 700 Haddonfield- Berlin Road Voorhees Camden County, NJ	Opened
11-3-03	Minersville Safe Deposit Bank & Trust Company Minersville Schuylkill County	100 W. Main St. Girardville Schuylkill County	Opened
11-5-03	Northwest Savings Bank Warren Warren County	1055 Baltimore St. Hanover Penn Township York County	Filed
11-5-03	Northwest Savings Bank Warren Warren County	370 West Governor Rd. Hershey Derry Township Dauphin County	Filed
11-6-03	New Century Bank Phoenixville Chester County	155 E. Lancaster Ave. (a/k/a 151 E. Lancaster Ave.) Wayne Radnor Township Delaware County	Filed

##### Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-6-03	Northwest Savings Bank Warren Warren County	<i>To:</i> 22 Franklin Village Mall East Franklin Township Armstrong County  <i>From:</i> 12 Franklin Village Mall East Franklin Township Armstrong County <i>and</i> 165 Butler Road West Kittanning Armstrong County	Filed

#### SAVINGS INSTITUTIONS

No activity.

#### CREDIT UNIONS

##### Conversions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
11-3-03	Freedom Credit Union Philadelphia Philadelphia County  Represents conversion to a community charter.	Philadelphia	Filed

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 03-2233. Filed for public inspection November 21, 2003, 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 contact office noted before the 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 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 any public hearings are held.

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

#### I. NPDES Renewal Applications

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0083933 SEW	Georgetown Area Sewer Authority 46 Quarry Road Georgetown, PA 17566	Lancaster County Bart Township	Nickel Mines Run 7K	Y

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0023604 SEW	McAlisterville Area Joint Authority P. O. Box 61 McAlisterville, PA 17049	Juniata County Fayette Township	Little Lost Creek 12B	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0222810	C. Thomas Cumberledge, Sr. P. O. Box 404 Evans City, PA 16033	Connoquenessing Township Butler County	Little Connoquenessing Creek	Y

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

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

**PA0083011**, Sewage, **Newberry Township Municipal Authority**, 400 Cly Road, York Haven, PA 17370. This facility is in Newberry Township, **York County**.

Description of activity: Renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving waters, Susquehanna River, are in Watershed 7-E and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Wrightsville Water Supply Company is on the Susquehanna River, approximately 15 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on an annual average flow rate of 1.3 MGD are:

<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 <sub>5</sub>	25	40	XXX	50
Total Suspended Solids	30	45	XXX	60
Total Phosphorus	2.0	XXX	XXX	4.0
Total Nitrogen	XXX	Monitor and 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)		10,000/100 ml as a geometric average		

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is not in effect.

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

**PA0027570**, Sewage, **Western Westmoreland Municipal Authority**, 12441 Route 993, North Huntingdon, PA 15642-0366. This application is for renewal of an NPDES permit to discharge treated sewage from Brush Creek STP in North Huntingdon Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Brush Creek, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Pennsylvania American Water Company.

*Outfall 001*: existing discharge, design flow of 4.4 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25	37.5		50
Suspended Solids	30	45		60
Gamma BHC (Lindane)	Monitor and Report			
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.0			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

**PA0095885**, Sewage, **Beverly Health Care Mountain View**, P. O. Box 138, Hillshall, PA 15746. This application is for renewal of an NPDES permit to discharge treated sewage from Beverly Health Care Mountain View STP in Montgomery Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Painters Run, which are classified as a HQ CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Pennsylvania American Water Company on the West Branch Susquehanna River.

*Outfall 001*: existing discharge, design flow of .0125 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	3			6
(11-1 to 4-30)	9			18
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**WQM Permit No. 1503423**, Sewerage, **Borough of Phoenixville**, Borough Hall, 140 Church Street, Phoenixville, PA 19460. This proposed facility is in Borough of Phoenixville, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of an 1 1/2 diameter force main to serve five houses equipped with individual grinder pumps.

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

**WQM Permit No. 6791408, Amendment 03-1**, Sewerage, **New Freedom Borough Authority**, 49 East High Street, New Freedom, PA 17349. This proposed facility is in Railroad Township, **York County**.

Description of Proposed Action/Activity: Addition of new effluent pumps in the existing chlorine contact tank to equalize flows from the SBR treatment tanks.

**WQM Permit No. 2103407**, Sewerage, **Turnpike Commission**, 700 Eisenhower Boulevard, Middletown, PA 17057. This proposed facility is in West Pennsboro Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction of a pump station at the Plainfield Service Plaza that will tie-in to the West Pennsboro Municipal System.

**WQM Permit No. 3803403**, Sewerage, **North Londonderry Township Authority**, 655 East Ridge Road, Palmyra, PA 17078. This proposed facility is in North Londonderry Township, **Lebanon County**.

Description of Proposed Action/Activity: Replacement of pump station no. 2 and installation of new force main to convey wastewater from the pump station to the Authority's existing sanitary sewer system.

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

**WQM Permit No. 0203410**, Sewerage, **Municipal Authority of the Borough of West View**. This proposed facility is in West View Borough, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewerage extension to separate flow from a combined sewage flow.

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

**WQM Permit No. 2003430**, Sewerage, **Edward C. Hajbura**, 306 Pontiac Avenue, Pittsburgh, PA 15237. This proposed facility is in Centerville Borough, **Crawford County**.

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

**WQM Permit No. 1003416**, Sewerage, **Ronald and Nancy J. Nalepa**, 2482 Oneida Valley Road, Petrolia, PA 16050. This proposed facility is in Forward Township, **Butler County**.

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

**IV. NPDES Applications for Stormwater Discharges from MS4**

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAI132231	Alburtis Borough 260 Franklin St. P. O. Box 435 Alburtis, PA 18011	Lehigh	Alburtis Borough	Swabia Creek HQ-CWF	Y
PAI132220	Plainfield Township 6292 Sullivan Trail Nazareth, PA 18064	Northampton	Plainfield Township	Little Bushkill Creek HQ-CWF	Y
PAI132228	Lower Nazareth Township 306 Kutztown Road Bethlehem, PA 18020	Northampton	Lower Nazareth Township	Monocacy Creek HQ-CWF	Y
PAI132217	Olyphant Borough 113 Willow Street Olyphant, PA 18447-1489	Lackawanna	Olyphant Borough	Lackawanna River HQ-CWF Sterry Creek CWF Eddy Creek WWF	Y
PAI132223	Hellertown Borough 685 Main Street Hellertown, PA 18055	Northampton	Hellertown Borough	Polk Valley Run CWF Silver Creek CWF Saucon Creek HQ-CWF	Y
PAI132233	Lehman Township P. O. Box 7 Lehman, PA 18627	Luzerne	Lehman Township	Harvey's Creek HQ-CWF Hunlock Creek CWF Toby's Creek CWF, TSF Pike's Creek HQ-CWF	Y
PAI132224	Lackawanna County 200 Adams Avenue Scranton, PA 18503	Lackawanna		Lackawanna River HQ-CWF Rush Brook CWF Wildcat Creek CWF Hull Creek CWF Keyser Creek CWF Unnamed tributaries to Lackawanna River and Spring Brook CWF	Y
PAI132230	Wilson Borough 2040 Hay Terrace Easton, PA 18042-4617	Northampton	Wilson Borough	Lehigh River WWF Bushkill Creek HQ-CWF	Y

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG133702	West Lebanon Township 322 North 22nd Street Lebanon, PA 17046	Lebanon	West Lebanon Township	Unnamed tributary to Swatara WWF	Y

**V. Applications for NPDES Waiver Stormwater Discharges from MS4**

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

<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
Weisenberg Township 2175 Seipstown Road Fogelsville, PA 18051	Lehigh	Weisenberg Township	Jordan Creek TSF, MF Little Lehigh Creek HQ-CWF
Pringle Borough 89 Evans Street Pringle, PA 18704	Luzerne	Pringle Borough	Tobys Creek CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG133702	West Lebanon Township 322 North 22nd Street Lebanon, PA 17046	Lebanon	West Lebanon Township	Unnamed tributary to Swatara WWF	Y

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Department Protocol (Y/N)</i>
PAG136319	Elco Borough Box 194 Elco, PA 15434	Washington	Elco Borough	Y
PAG136321	Daisytown Borough 93 Baiker Street Johnstown, PA 15902-1604	Cambria	Daisytown Borough	Y
PAG136322	Cheswick Borough 220 South Atlantic Avenue Cheswick, PA 15024	Allegheny	Cheswick Borough	Y
PAG136323	Verona Borough 736 East Railroad Avenue Verona, PA 15147	Allegheny	Verona Borough	Y
PAG136324	West Elizabeth Borough 800 Fourth Street P. O. Box 716 West Elizabeth, PA 15088	Allegheny	West Elizabeth Borough	Y

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

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011503096	Woodstone Development, Inc. The Addis Property P. O. Box 638 Uwchland, PA	Chester	West Vincent Township	Unnamed tributary Birch Run EV
PAS10T014-R2	Hough/Loew Associates, Inc. Linfield Corporate Center 55 Country Club Drive, Suite 200 Downingtown, PA 19335	Montgomery	Limerick Township	Unnamed tributary Brook Evans Creek WWF
PAI01503098	Mark B. Hallowell Lot No. 1, Asbridge Farms 123 West Wayne Avenue Wayne, PA 19087	Chester	East Goshen Township	Ridley Creek HQ-TSF

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

*Lehigh County Conservation District: Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023903043	Barry Follweiler 3372 Jordan Rd. Orefield, PA 18069	Lehigh	Weisenberg Township	Hassen Creek HQ-CWF, MF
PAI023903044	Temple Beth-El of Allentown, Inc. 1702 Hamilton St. Allentown, PA 18104	Lehigh	South Whitehall Township	Little Lehigh Creek HQ-CWF

*Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024803036	Opus East, LLC 620 W. Germantown Pike Suite 150 Plymouth Meeting, PA 19462	Northampton	Bethlehem and Lower Nazareth Townships	Monocacy Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI030050003001	Daniel A. Deichmiller P. O. Box 400 Dauphin, PA 17018	Perry	Juniata Township	Big Buffalo Creek HQ-CWF
PAI032903002	Forbes Road School District 263 Red Bird Drive Waterfall, PA 16689	Fulton	Taylor Township	Sideling Hill Creek HQ-CWF
PAI032903003	Dublin Township Supervisors 29195 Great Cove Road Fort Littleton, PA 17223	Fulton	Dublin Township	Little Aughwick Creek HQ-CWF

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

*Fayette County Conservation District: 10 Nickman Plaza, Lemont Furnace, PA 15456, (724) 438-4497.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI052603009	Aqua Filter Fresh, Inc. P. O. Box 14128 One Commerce Drive Pittsburgh, PA 15239	Fayette	Springfield Township	Tributary to Mill Run HQ-CWF

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

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

## **MS4 Notices of Intent Received**

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Department Protocol (Y/N)</i>
PAG136319	Elco Borough Box 194 Elco, PA 15434	Washington	Elco Borough	Y
PAG136320	Westmoreland County Department of Public Works R. D. 12 Box 203 Donohoe Road Greensburg, PA 15601	Westmoreland	Greensburg City	Y
PAG136321	Daisytown Borough 93 Baiker Street Johnstown, PA 15902-1604	Cambria	Daisytown Borough	Y
PAG136322	Cheswick Borough 220 South Atlantic Avenue Cheswick, PA 15024	Allegheny	Cheswick Borough	Y
PAG136323	Verona Borough 736 East Railroad Avenue Verona, PA 15147	Allegheny	Verona Borough	Y

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Department Protocol (Y/N)</i>
PAG136324	West Elizabeth Borough 800 Fourth Avenue P. O. Box 716 West Elizabeth, PA 15088	Allegheny	West Elizabeth Borough	Y

### PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act, 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 may 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 (35 P. S. §§ 721.1—721.17).

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

<b>Permit No. 4303503</b> , Public Water Supply.	
Applicant	<b>Hemlock Village MHP</b>
Township or Borough	Wolf Creek Township <b>Mercer County</b>
Responsible Official	David B. Piela, Owner R. R. 6, Box 604 New Castle, PA 16401
Type of Facility	PWS
Consulting Engineer	Robert L. Rabel, P. E. 10560 Walnut St. Albion, PA 16401
Application Received Date	November 3, 2003

Description of Action Develop PWS to service mobile home park.

<b>Permit No. 2503502</b> , Public Water Supply.	
Applicant	<b>Thomas MHP/Hickory Hill Country Village</b>
Township or Borough	Waterford Township <b>Erie County</b>
Responsible Official	Leo Pfadt, Owner 11962 US Route 19 Waterford, PA 16441
Type of Facility	PWS
Consulting Engineer	Robert L. Rabel, P. E. 10560 Walnut St. Albion, PA 16401
Application Received Date	October 30, 2003
Description of Action	Tie-in new well to existing distribution system.

### 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 mediator of the site, develop and implement a public involvement plan. Requests to be involved and comments should be directed to the mediator 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 after 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:

*Northeast Regional Field Office: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Country Boy Chevrolet**, Hallstead Borough, **Susquehanna County**. Deborah Murphy, Consultant, Environmental Products and Services of Vermont, Inc., Field Office, 13 Cherry Street, Lyons, NY 14489, has submitted a Notice of Intent to Remediate (on behalf of Matthew Botnick, Country Boy Chevrolet, Route 11, Hallstead, PA 18822) concerning the remediation of soils and groundwater found or suspected to have been contaminated with leaded gasoline constituents. The applicant proposes to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *County Transcript* on October 22, 2003.

**Betty Brite Cleaners—Plaza 1500 Shopping Center**, Blakely Borough, **Lackawanna County**. Gilbert J. Marshall, Consultant, Marshall Geoscience, Inc. has submitted a Notice of Intent to Remediate (on behalf of William and Lorraine Alaimo, Linair Farm Road, Waverly, PA 18471) concerning the remediation of soils and groundwater found or suspected to have been contaminated with chlorinated solvents. The applicant proposes to meet the Site-Specific Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Scranton Times* on October 31, 2003.

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

**Yorgey's Fine Cleaning**, Manor Township, **Lancaster County**. Gannett Fleming, Inc., P. O. Box 10185, Lancaster, PA 17605-0185, on behalf of Richard Yorgey, 328 South State Street, Ephrata, PA 17522, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with volatile organics. The applicant proposes to remediate the site to meet the Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Lancaster New Era and Intelligencer Journal* in September 2003.

## DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

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

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17101-2301.*

**General Permit Application No. WMGR081D003. Envirocycle Inc.**, P. O. Box 899, Hallstead, PA 18822-0899. For the recycling of various uncontaminated and source-separated electronic equipment and components electronics equipment by sorting, disassembling and mechanical processing (by sizing, shaping, separating and volume reduction only). The application for determination of applicability was accepted as administratively complete by the Division of Municipal and Residual Waste on October 30, 2003.

Persons interested in obtaining more information about the general permit application may contact Ronald C. Hassinger, Chief, Beneficial Use/General Permits Section, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State Operating Permit and Title V Operating Permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department



regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

### PLAN APPROVALS

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

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

**40-305-019B: Lang Filter Media LP** (603 South Church Street, Hazleton, PA 18201) for modification of an anthracite coal processing and packaging plant and an associated air cleaning device at their facility in Hazleton, **Luzerne County**.

**39-304-024: Howmet Aluminum Castings—Bethlehem** (2175 Avenue C, Bethlehem, PA 18017) for installation of three air cleaning devices (afterburners) to control emissions from three existing furnaces at their facility in Bethlehem, **Lehigh County**.

**48-328-004A: PPL Lower Mount Bethel Energy LLC** (2 North Ninth Street, GEN PL6, Allentown, PA 18101) for amendment of Plan Approval 48-328-004 to include emission reductions at their Martins Creek Steam Electric Station in Lower Mount Bethel Township, **Northampton County**.

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

**22-05007B: The Harrisburg Authority** (One Keystone Plaza, Suite 104, Harrisburg, PA 17101) for modification of the Harrisburg Materials, Energy, Recycling and Recovery Facility in the City of Harrisburg, **Dauphin County**. The proposed installations include three replacement waste combustors, emission controls and emissions monitoring systems. The modifications are subject to 40 CFR Part 60, Subpart Eb—Standards of Performance for Large Municipal Waste Combustors for Which Construction is Commenced After September 20, 1994 or for Which Modification or Reconstruction is Commenced After June 19, 1996.

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

**04-00706C: Beaver Valley Slag, Inc.** (6010 Woodlawn Road, Aliquippa, PA 15001) for installation of an addi-

tional portable screening line at Blacks Run Facility in Center Township, **Beaver County**.

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

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**23-0030: Swarthmore College** (500 College Avenue, Swarthmore, PA 19081-1397) for installation of a liquid chilling unit which will be powered by a natural gas driven engine, at Swarthmore's facility in Swarthmore Borough, **Delaware County**. This facility is a Title V facility. The Plan Approval will subsequently be incorporated into the College's Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450. The Plan Approval will include recordkeeping, operating and testing requirements to keep the facility operating within the allowable emission limits and all applicable air quality requirements.

**23-0001V: Sunoco, Inc.—R & M** (Delaware Avenue and Green Street, P. O. Box 426, Marcus Hook, PA 19061-0426) to issue a plan approval under 25 Pa. Code §§ 127.44(a) and 127.424(b) for their refinery in the Borough of Marcus Hook, **Delaware County**.

The Department intends to issue a Plan Approval to Sunoco, Inc. (R & M) to modify a fluidized catalytic cracking unit and a propane/propylene separation unit, as described in the applicant's application of June 27, 2003. The Plan Approval will subsequently be incorporated into the company's Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. PA-23-0001V is for the modification of fluidized catalytic cracking unit and propane/propylene separation unit. Based on the information provided by the applicant and the Department's own analysis, the modification of the fluidized catalytic cracking unit and the propane/propylene separation unit will result in an emission increase of 2.46 tons of VOCs per year. Emissions of SO<sub>x</sub>, NO<sub>x</sub> and PM will remain the same.

The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Copies of the application, the Department's analysis and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m., weekdays. To make an appointment, contact Records Management, (610) 832-6268.

**09-0122 and 09-0122A: ATOFINA Chemical, Inc.** (100 PA Route 413, Bristol, PA 19007) for installation of two thermal oxidizers to remove VOCs from their extrusion lines and reactors in Bristol Township, **Bucks County**. This facility is a Title V facility. This installation will result in VOC emissions to decrease. The Plan Approvals and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

**40-399-038B: Fairchild Semiconductor Corp.** (125 Crestwood Road, Mountain Top, PA 18707) for modification and operation of the Fab 8 semiconductor manufacturing process at their facility in Wright Township, **Luzerne County**. The Fab 8 process produces 8-inch diameter single crystal silicon slices (wafers). The company will expand the Fab 8 operations from the 225 wafers starts/day using 60 tools, to its final capacity of 1,200 wafers starts/day using up to 150 tools. The addition of new tools that emit acid exhausts and VOCs will be controlled by the existing acid scrubber and oxidizer. Both have copious amount of available spare capacity to accommodate the tool growth and no emission changes are expected due to these changes. Ammonia emissions will be controlled by a larger, modified scrubber to accommodate the planned growth. The efficiency of the modified scrubber will be 98%. The atmospheric emissions from the Fab 8 process will be reduced to less than or equal to 4 PPM in 12,000 SCFM, or 0.26 lb/hr, or 1.14 TPY of ammonium compounds. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**54-302-072: VanHoekelen Greenhouses, Inc.** (Route 309, P. O. Box 88, McAdoo, PA 18237-0088) for construction of one 20 mmBtu/hr coal fired boiler, one 20 mmBtu/hr fuel oil fired boiler and one emergency generator for the greenhouse in Kline Township, **Schuylkill County**. This facility is not a Title V facility. The particulate matter from the coal boiler will be controlled by a flash arrestor multiclone while SO<sub>2</sub> emissions from the boilers will be controlled by fuel sulfur content limitations. Annual emissions from the equipment will not exceed the following: 39.6 tons of NO<sub>x</sub>, 99.9 tons of SO<sub>2</sub>, 36.9 tons of CO, 14.1 tons of PM, 4.6 tons of VOC and 0.03 ton of lead. The boilers used in the operation are subject to NSPS Subpart Dc of the Federal Standards of Performance for Nonmetallic Mineral Processing Plants, 40 CFR 60.40c—60.48c. The plan approval will include all appropriate monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

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

**17-305-049: Energy Link, Inc.** (P. O. Box 602, DuBois, PA 15801) for construction of a coal stockpiling and rail car loading operation (Corman Yard Coal Pile) in Lawrence Township, **Clearfield County**.

Air contaminant emission control will be provided by the use of a water truck and trailer-mounted water tank and the implementation of various work practices (truck tarping, minimizing the front end loader bucket-to-rail car freefall height, and the like). If the water truck, trailer-mounted water tank and work practices are used/implemented, the resultant fugitive particulate matter air contaminant emissions from the respective coal stockpiling and rail car loading operation are expected to be minimal.

The Department has determined that the coal stockpiling and rail car loading operation will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. The Department conse-

quently intends to issue plan approval for the construction of the respective coal stockpiling and rail car loading operation.

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. This plan approval does not authorize the construction or installation of any crushers, screens, rotary breakers or diesel-fired stationary engines or generators.
2. No more than 85,000 tons of coal shall be processed in any 12 consecutive month period.
3. A water truck equipped with a pressured spray bar and a trailer-mounted water tank equipped with a pressurized spray nozzle or hose shall be readily available at all times and shall be used, as needed, for the control of fugitive dust from site roadways and stockpile areas.
4. All trucks entering or exiting the site from public roadways shall have their truck beds tarped unless empty. This requirement shall be posted onsite.
5. All site roadways shall have a posted speed limit of 5 miles per hour.
6. The front end loader bucket-to-rail car freefall height shall be kept to a minimum during all rail car loading.
7. Records shall be maintained of the number of tons of coal loaded into rail cars during each month. All records shall be retained for at least 5 years and shall be made available to the Department upon request.

**59-00018A: Hanson Aggregates Pennsylvania, Inc.** (P. O. Box 231, Easton, PA 18044) for construction of a diesel-fired generator at the Blossburg Quarry in Liberty Township, **Tioga County**.

The proposed generator will have a prime power rating of 572 brake horsepower but will have an average load of no greater than 400.4 horsepower averaged over a 24-hour period. The generator will emit up to 8.39 tons of NO<sub>x</sub>, 1.71 tons of SO<sub>x</sub>, 1.0 ton of CO, .15 ton of total hydrocarbons and .144 ton of particulate matter per year.

The Department has determined that the proposed generator will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. The Department consequently intends to issue plan approval for the construction of the proposed generator.

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

1. The generator shall not operate more than 4,228 hours in any 12 consecutive month period nor shall it use more than 79,200 gallons of diesel fuel in any 12 consecutive month period.
2. The generator shall not use more than 449.52 gallons of diesel fuel in any single day nor shall it have an average load of greater than 400.4 horsepower for any single day.
3. The NO<sub>x</sub> and CO emissions from generator shall not exceed 4.5 grams and .537 gram per brake horsepower-hour, respectively.
4. The sulfur content of the diesel fuel burned in the generator shall not exceed .3% by weight.

5. The visible air contaminant emissions from the generator shall not equal or exceed 10% for a period or periods aggregating more than 3 minutes in any 1 hour and shall not equal or exceed 30% at any time.

6. Records shall be kept of the amount of diesel fuel burned in the generator each day as well as the number of hours the generator operates each day. All records shall be retained for at least 5 years and shall be shown to the Department upon request.

#### OPERATING PERMITS

#### Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**06-05036: Cryovac, Inc.** (P. O. Box 295, Reading, PA 19603) for operation of an expandable polystyrene foam products manufacturing facility in Muhlenberg Township, **Berks County**. This action is a renewal of the Title V Operating Permit issued in 1999.

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

**43-00182: Wheatland Tube Co.** (One Council Avenue, Wheatland, PA 16161) for reissuance of a Title V Permit to operate a steel pipe and tubes manufacturing facility in Wheatland Borough, **Mercer County**. The facility's major emission sources include natural gas fired boilers, continuous weld furnace, galvanizing kettles, coating lines, conduit metallizer, sulfuric acid pickling, chrome treatments, coupling department, blow stations, PM threaders, pipe coating, galvanizing furnaces, miscellaneous heaters, lime silo and a wastewater evaporator. The blow stations are subject to the Compliance Assurance Monitoring rule. The facility is a major facility due to its potential to emit VOCs and NOx.

#### Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**09-00021: MRI Flexible Packaging, Inc.** (122 Penns Trail, Newtown, PA 18940) for an administrative amendment to the issued Natural Minor Operating Permit for their facility in Newtown Township, **Bucks County**. The permit is being amended to change the name and title of the responsible official and to omit the source level testing and recordkeeping conditions for the flexographic presses control device catalyst plugs. The source level conditions for the flexographic presses control device has been revised to demonstrate compliance by monitoring the flow rate on a per job and daily basis, when operating. This revision will not result in an increase of emissions from the facility. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**09-00074: P. C. R. Enterprises, Inc.** (401 Fairview Avenue, Quakertown, PA 18951) in Quakertown Borough, **Bucks County**. The permit is for a non-Title V (State-only-Synthetic Minor) facility. The facility, which includes a fiberglass lay-up room, manufactures concrete products.

The permittee has elected to take emission restrictions including 24.9 ton/year for VOCs and 10 tons/year for total HAPs. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**15-00059: Paulsonbilt, Ltd.** (1000 West 11th Ave., Chester, PA 19320) for operation of their facility in Coatesville, **Chester County**. The permit is for a non-Title V (State-only) facility. The facility's main sources include a large spray booth used to surface coat metal containers. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**36-03129: Kalas Manufacturing, Inc.** (25 Main Street, Denver, PA 175117) for operation of their manufacturing facility in East Cocalico Township, **Lancaster County**. This is a non-Title V (State-only) facility. The State-only operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**36-05011: Pittsburgh Terminals Corp.** (P. O. Box 2621, Harrisburg, PA 17105) for administrative amendment to incorporate the ownership change in State-only Operating Permit No. 36-05011 of Lancaster Terminal in Manheim Township, **Lancaster County**. This facility was formerly owned by ExxonMobil Oil Corp. This facility's major source of emissions includes a petroleum product loading rack which primarily emits VOC.

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

**37-00162: Precision Plating Co., Inc.** (407 Summit View Drive, New Castle, PA 16105) for a Natural Minor Operating Permit for a hard chrome electroplating operation in Neshannock Township, **Lawrence County**.

#### COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); and 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 the 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 the 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 same address 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 to the previous, 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 the NPDES permit require-

ments 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 those requirements.

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

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**17031301. Parkwood Resources, Inc.** (P. O. Box 552, Somerset, PA 15501-0552), to operate the Cherry Tree Mine in Burnside Township, **Clearfield County**, new mine, Surface Acres Proposed 47, Underground Acres Proposed 4,664, SCP Acres Proposed 3,531, West Branch Susquehanna River (WWF), Hazelet Run (HQ-CWF), Cush Cushion Creek and unnamed tributaries to Cush Cushion Creek (HQ-CWF), Kilns Run (CWF), unnamed tributaries to West Branch Susquehanna River (CWF), Shyrock Run and unnamed tributaries to Shyrock Run (CWF), Powell Run and unnamed tributaries to Powell Run (CWF), Cush Creek and unnamed tributaries to Cush Creek (CWF). Application received October 9, 2003.

**63901701. NPDES Permit No. PA0001147, Consolidation Coal Company** (P. O. Box 355, 172 Route 519, Eighty Four, PA 15330), to renew the permit for the Hahn Treatment Plant/Montour 4 in Cecil Township, **Washington County** and related NPDES permit, no additional discharges. Application received October 24, 2003.

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

**11880201 and NPDES Permit No. PA0598208. Ebensburg Power Company**, 2040 New Germany

Road, P. O. Box 845, Ebensburg, PA 15931, permit renewal for continued operation of a bituminous surface coal refuse reprocessing mine in Cambria Township, **Cambria County**, affecting 56.5 acres. Receiving streams: an unnamed tributary to South Branch Blacklick Creek and the South Branch of Blacklick Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received October 29, 2003.

**56753048 and NPDES Permit No. PA0119954. Gray Mining Company, Inc.**, 1134 Stoystown Road, Friedens, PA 15541, permit renewal for continued operation of a bituminous surface mine commencement, operation and restoration of a bituminous surface mine in Quemahoning and Stonycreek Townships, **Somerset County**, affecting 296.0 acres. Receiving streams: Stony Creek (WWF). The first downstream potable water supply intake from the point of discharge is Hooversville Borough Municipal Authority Stonycreek Surface Water Withdrawal. Application received October 29, 2003.

**56030108 and NPDES Permit No. PA0249530. Hoffman Mining, Inc.**, P. O. Box 130, 118 Runway Road, Friedens, PA 15541, commencement, operation and restoration of a bituminous surface and auger mine in Shade Township, **Somerset County**, affecting 33.3 acres. Receiving streams: Dark Shade Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received October 23, 2003.

#### *Noncoal Applications Received*

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

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

\* The parameter is applicable at all times.

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

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**37960302. Atlantic States Materials of PA, Inc.** (P. O. Box 269, Mercer, PA 16137). Transfer of an existing sand, gravel and topsoil operation Little Beaver Township and New Beaver Borough, **Lawrence County** affecting 70.7 acres. Receiving streams: unnamed tributary to North Fork Little Beaver Creek and North Fork Little Beaver Creek (HQ-CWF). There are no potable surface water supply intakes within 10 miles downstream. Transfer from Shamrock Minerals Corporation. Application received November 4, 2003.

*Noncoal Applications Withdrawn*

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

**4275SM19 and NPDES Permit No. PA0599204. New Enterprise Stone & Lime Company, Inc.,** P. O. Box 77, New Enterprise, PA 16664, permit revision to increase the approved pit depth from 820 feet elevation to 650 feet elevation for the southern section of the permit in Spruce Creek and Warriors Mark Townships, **Huntingdon County**, affecting 533.7 acres. Receiving streams: Little Juniata River (TSF), unnamed tributaries to Little Juniata River (WWF) and Gensimore Run (WWF). There are no potable water supply intakes within 10 miles downstream. Application received July 7, 2003. Permit withdrawn: November 5, 2003.

## 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 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 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 may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

## WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E54-311. Schuylkill County**, 401 North Second Street, Pottsville, PA 17901 in West Penn Township, **Schuylkill County**, U. S. Army Corps of Engineers, Philadelphia District.

To maintain County Bridge No. 56 across Lizard Creek (CWF) with work consisting of the following: (1) pavement milling and overlaying work on the bridge deck and roadway approaches; (2) placement of scour protection and construction of a concrete jacket around the center pier; (3) temporary installation of a clean rock causeway to provide access to the center pier; and (4) repair of concrete spalls on bridge superstructure. The bridge is along Township Road T960 (Andreas Road), approximately 0.2 mile south of SR 0895 (New Tripoli, PA Quadrangle N: 22.6 inches; W: 5.8 inches).

**E54-310. Hammer's Towing, Inc.,** 1298 Valley Road, Pottsville, PA 17901 in Cass Township, **Schuylkill County**, U. S. Army Corps of Engineers, Philadelphia District.

To place fill in 0.50 acre of PEM wetlands for the purpose of expanding an existing parking area for Hammer's Towing, Inc. The project is on the west side of SR 4002, approximately 2,000 feet north of Minersville Borough (Minersville, PA Quadrangle N: 13.0 inches; W: 0.75 inch).

**E45-455. Pocono Township**, Municipal Building, Route 611 North, P. O. Box 197, Tannersville, PA 18372 in Pocono Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing culvert extension structure and to modify and maintain the existing 16-foot by 4-foot concrete box culvert road crossing having a 1-foot culvert depression in Cranberry Creek/Cranberry Swamp (HQ-CWF). The proposed work consists of attaching a 6-foot long section of 16-foot by 4-foot concrete box culvert to the

downstream end of the existing structure. The project is along Township Road, T509 (Bog Road), approximately 0.5 mile east of SR 1001 (Mount Pocono, PA Quadrangle N: 8.2 inches; W: 1.0 inch).

**E45-456. Lake Mineola Home Owners Association, Inc.**, 47 W. Washington Street, Bethlehem, PA 18018 in Chestnut Hill Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To place 8.75 cubic yards of clean gravel in Lake Mineola for the purpose of creating a more suitable wading and swimming area around an existing private recreational dock. The project is on the eastern side of the lake approximately 0.3 mile north of the intersection of Township Road T378 and SR 0209 (Brodheads ville, PA Quadrangle N: 9.9 inches; W: 1.8 inches).

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

**E50-218: Centre Township Board of Supervisors**, P. O. Box 727, New Bloomfield, PA 17068 in Centre Township, **Perry County**, ACOE Baltimore District.

To remove the existing structure and then to construct and maintain a 42-foot by 7-foot concrete arch culvert at the channel of Little Juniata Creek on T-361 (Roth Road) to improve the traffic safety conditions about 200 feet from its intersection with SR 34 (Newport, PA Quadrangle N: 7.3 inches; W: 7.3 inches) in Centre Township, Perry County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E08-406. Borough of Wyalusing**, P. O. Box 131, 102 Senate Street, Wyalusing, PA 18853-0131. Wyalusing Creek Restoration Project in Wyalusing Borough, **Bradford County**, ACOE Baltimore District (Wyalusing, PA Quadrangle N: 8 inches; W: 0.5 inch).

The proposed project intends to create a stable pattern, dimension and profile that transport sediment with negligible aggradations and degradation. The project consists of 5,381 linear feet of natural stream channel restoration efforts incorporating five W weirs, ten J hook vanes and root wad revetment on the outside of the meander bends. The areas were the existing channel will be relocated are intended to be filled with the excavated material from the new channel configuration. Wyalusing Creek is a WWF. It is proposed that no adverse impacts to public health, safety and environment will result from this project.

**E08-407. Department of Transportation, Engineering District 3-0**, P. O. Box 218, Montoursville, PA 17754. Bridge work in Troy Township, **Bradford County**, ACOE Baltimore District (Troy, PA Quadrangle N: 16.45 inches; W: 6.70 inches).

To: (1) remove the existing reinforced concrete slab bridge which has a span of 20 feet, a curb-to-curb width of 34.1 feet, an out-to-out width of 47.3 feet, a 14-foot hydraulic opening an underclearance of 4 feet 3 inches and is on a 90 degree skew; (2) construct a prestressed concrete adjacent plank beam bridge with a clear span of 31.5 feet on a 90 degree skew, an out-to-out width of 47.3 feet and a hydraulic opening of 173 square feet; (3) excavate approximately 1,450 cubic yards of material in the floodway and shift the West Branch of Sugar Creek (WWF) 20 feet to the southwest beginning immediately downstream of the Redington Street Bridge and continuing approximately 250 feet downstream to the confluence with South Branch Sugar Creek; the proposed stream channel will be 24 feet wide with left and right bank

slopes of 1.5 to 1 and 2 to 1 respectively; and (4) construct a temporary roadway around the proposed bridge site on the near side of the bridge and a temporary bridge immediately downstream of the existing structure. The project is in the West Branch of Sugar Creek at the intersection of SR 14 and Redington Street. The project will not impact wetland while impacting approximately 300 feet of waterway. Approximately 0.66 acre of earth will be disturbed by the project.

**E08-408. West Burlington Township**, R. R. 2, Box 206, Columbia Cross Roads, PA 16914. Culvert maintenance in West Burlington Township, **Bradford County**, ACOE Baltimore District (East Troy, PA Quadrangle N: 4.0 inches; W: 8.9 inches).

To maintain an 8-foot by 60-foot long steel pipe culvert with R-8 riprap covering about 450 square feet at the culvert inlet and 700 square feet at the culvert outlet in an unnamed tributary to Sugar Creek (TSF) on TR 548, approximately 1 mile north of SR 006. The project will not impact wetlands while impacting approximately 80 feet of waterway.

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

**E32-455. P. C. Exploration, Inc.**, 502 Keystone Drive, Warrendale, PA 15086. Fabin Stream Crossing in Center Township, **Indiana County**, Pittsburgh ACOE District (McIntyre, PA Quadrangle N: 11.05 inches; W: 0.3 inch) (Latitude: 40° 33' 38.7"—Longitude: 79° 15' 8"). The applicant proposes to operate and maintain an existing 13.0-foot long single span bridge having a normal span of 23.0 feet and an underclearance of 4.0 feet across Aultman's Run (TSF) for the purpose of providing access to a natural gas well. The project is off of SR 0286, 3.7 miles south of Indiana.

**E32-456. P. C. Exploration, Inc.**, 502 Keystone Drive, Warrendale, PA 15086. Elkins Stream Crossing in Washington Township, **Indiana County**, Pittsburgh ACOE District (Plumville, PA Quadrangle N: 0.9 inch; W: 7.0 inches) (Latitude: 40° 45' 32"—Longitude: 79° 10' 32"). The applicant proposes to operate and maintain a 30.0-foot long culvert crossing consisting of two 36-inch corrugated plastic pipes in Reddings Run (CWF) authorized for construction under General Permit Authorization No. GP08320220 for the purpose of providing access to a natural gas well. The project is on LR32157, approximately 1.5 miles north of its intersection with SR 4006.

**E32-458. P. C. Exploration, Inc.**, 502 Keystone Drive, Warrendale, PA 15086. Allison Stream Crossing in East Mahoning Township, **Indiana County**, Pittsburgh ACOE District (Marion Center, PA Quadrangle N: 11.5 inches; W: 12.8 inches) (Latitude: 40° 48' 48"—Longitude: 79° 05' 33"). The applicant proposes to operate and maintain a 30.0-foot long low flow stream crossing consisting of three 12-inch pipe culverts in Ross Run (HQ-CWF) authorized for construction under General Permit Authorization No. GP083202214 for the purpose of providing access to a natural gas well. The project is off of SR 4016, 1.7 miles east of its intersection with SR 0210.

**E65-834. Derry Township Supervisors**, 650 Derry Road, Derry, PA 15627. T-932 Center Street culvert over Saxman Run in Derry Township, **Westmoreland County**, Pittsburgh ACOE District (Derry, PA Quadrangle N: 12.8 inches; W: 13.8 inches) (Latitude: 40° 18' 58"—Longitude: 79° 21' 16"). The applicant proposes to remove the existing structure and to construct and maintain an RC box culvert having a waterway opening of 18 feet wide by 6 feet high (invert depressed 1 foot) and 25.4

feet long in Saxman Run (WWF). The project is on T-932, approximately 100 feet north of T-638.

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

**E62-393, Connie Holden and Dana Holden**, P. O. Box 292, Six Mile Road, Tiona, PA 16352-0292. Sixmile Run Culvert in Mead Township, **Warren County**, ACOE Pittsburgh District (Clarendon, PA Quadrangle N: 2.6 inches; W: 5.0 inches).

The applicant proposes to remove the existing structure and to construct and maintain a 30-foot long, 6-foot diameter steel culvert in Sixmile Run (HQ CWF, perennial) on Six Mile Road approximately 1.8 miles northeast of the intersection of U. S. Route 6 and Six Mile Road. The project has been constructed. The existing structure was damaged during the storm of July 21, 2003. The project proposes to directly affect a total of 40 linear feet of stream channel.

#### ENVIRONMENTAL ASSESSMENTS

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

**D23-029EA. Delco Anglers & Conservationists**, 2320 Chestnut Avenue, Ardmore, PA 19003-3008, Chester City, **Delaware County**, ACOE Philadelphia District.

Project proposes to breach and remove an unnamed dam across Ridley Creek (WWF, MF), for the purpose of returning Ridley Creek to its natural free-flowing condition and to promote unobstructed fish passage. The dam is approximately 1,000 feet northwest of the intersection of Macdade Boulevard and Bullens Lane approximately 3/4 mile north of Chester, PA (Bridgeport, NJ-PA Quadrangle N: 22.3 inches; W: 14.9 inches).

**D27-007EA. Forest County Historical Society**, P. O. Box 546, Tionesta, PA 16353, Tionesta Township, **Forest County**, ACOE Pittsburgh District.

Project proposes to repair and replace the Tionesta Timber Crib Dam across Tionesta Creek (CWF) to restore the dam to its historical condition. Only necessary portions will be replaced or reconstructed. The dam is at the confluence of Tionesta Creek and the Allegheny River approximately 1/2 mile south of Tionesta (Tionesta, PA Quadrangle N: 20.1 inches; W: 11.2 inches).

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## ACTIONS

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

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

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

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOI for coverage under General NPDES Permits. The approval for coverage under these 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. The 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 may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

### I. NPDES Renewal Permit Actions

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

NPDES Permit No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0009971	Techneglas, Inc. 140 Industrial Drive Pittston, PA 18640	Jenkins Township Luzerne County	Lampblock Creek 5B	Y
PA0043044 Sewage	Ringtown Sewer Authority P. O. Box 202 Ringtown, PA 17967	Ringtown Borough	Dark Run 5E	Y

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

NPDES Permit No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0204960	Briselli, Incorporated Cecil-Hendersonville Road P. O. Box 35A Hendersonville, PA 15339	Washington County Cecil Township	UNT to McPherson Creek	Y

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

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

**PA0080519**, Sewage, **Antrim Township**, 10655 Antrim Church Road, P. O. Box 130, Greencastle, PA 17225-0130. This facility is in Antrim Township, **Franklin County**.

Description of activity: Amendment of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Conococheague Creek, is in Watershed 13-C and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Hagerstown, MD is on the Potomac River, approximately 30 miles downstream. The discharge is not expected to affect the water supply.

This notice reflects changes from the notice published in the *Pennsylvania Bulletin*.

1. Effluent limitation for the following parameters have been removed from the permit:

- 3,4-Benzo-fluoranthene
- Benzo (a) anthracene
- Benzo (a) fluoranthene
- Benzo (a) Pyrene
- Dibenzo (a,h) anthracene

2. Part C language pertaining to Toxic Reduction Evaluation has been removed from the permit.

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

**NPDES Permit No. PA0080748**, Sewage, **Northern Lebanon County Authority, Jonestown WWTP**, P. O. Box 434, Jonestown, PA 17038. This proposed facility is in Union Township, **Lebanon County**.

Description of Proposed Action/Activity: Authorization to discharge to Swatara Creek in Watershed 7-D.

**NPDES Permit No. PA0085405**, Sewage, **Suzinn, LLC, Baladerry Inn Bed and Breakfast**, 40 Hospital Road, Gettysburg, PA 17325. This proposed facility is in Cumberland Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary Rock Creek in Watershed 13-D.

**NPDES Permit No. PA0031135**, Sewage, **Borough of Kutztown**, 45 Railroad Street, Kutztown, PA 19536-1112. This proposed facility is in Maxatawny Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Sacony Creek in Watershed 3-B.

**NPDES Permit No. PA0083429**, Sewage, **West Cocalico Township Authority**, 156B West Main Street, Reinholds, PA 17569. This proposed facility is in West Cocalico Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Little Cocalico Creek in Watershed 7-J.

**NPDES Permit No. PA0085243**, Sewage, **Manns Choice-Harrison Township Joint Municipal Authority**, P. O. Box 28, Manns Choice, PA 15550-0028. This proposed facility is in Harrison Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to Raystown Branch Juniata River in Watershed 11-C.



**NPDES Permit No. PA0084638**, Industrial Waste, **Borough of Boyertown**, 100 South Washington Street, Boyertown, PA 19512-1599. This proposed facility is in Boyertown Borough, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary to Ironstone Creek in Watershed 3-D.

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

**NPDES Permit No. PA0239321**, Sewage, **Robert Wahlmark**, 31970 Guys Mills Road, Townville, PA 16360. This proposed facility is in Randolph Township, **Crawford County**.

Description of Proposed Action/Activity: Discharge of a single residence sewage treatment plant to an unnamed tributary to Muddy Creek.

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

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*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**WQM Permit No. 1503414**, Sewerage, **Brandywine Creek Campground**, 1091 Creek Road, P. O. Box 257, Lyndell, PA 19354. This proposed facility is in East Brandywine Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a pump station for use on campgrounds.

**WQM Permit No. 1598412**, Sewerage, **Greenhill Sewer Associates**, 1500 Greenhill Road, West Chester, PA 19380. This proposed facility is in East Goshen Township, **Chester County**.

Description of Proposed Action/Activity: Renewal of the Hershey's Mill Village STP serving the Hershey's Mill Village Retirement Community.

**WQM Permit No. 0903415**, Sewerage, **Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is in Upper Makefield Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of an eight-lot age-restricted development.

**WQM Permit No. 1503418**, Sewerage, **London Grove Township Municipal Authority**, 372 Rose Hill Road, Suite 300, West Grove, PA 19390. This proposed facility is in London Grove Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a pump station and force main tie into an existing force main.

**WQM Permit No. 2303401**, Sewerage, **Kenneth H. Hutton and Dolores M. Neill**, 719 Cheyney Road, Cheyney, PA 19319. This proposed facility is in Thornbury Township, **Delaware County**.

Description of Proposed Action/Activity: Construction and operation of an STP for a single residence.

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

**WQM Permit No. 6599415-T1-A1**, Sewerage, **MAX Environmental Technologies, Inc.**, 233 MAX Lane, Yukon, PA 15698. This proposed facility is in South Huntingdon Township, **Westmoreland County**.

Description of Proposed Action/Activity: Activated sludge sewage treatment system to serve MAX Environmental Technologies, Inc.—Yukon Plant.

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

**WQM Permit No. 2003422**, Sewerage, **Robert Wahlmark**, 31970 Guys Mills Road, Townville, PA 16360. This proposed facility is in Randolph Township, **Crawford County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

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### IV. NPDES Stormwater Discharges from MS4 Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG133506	Wernersville Borough 100 North Reber Street Wernersville, PA 19565	Berks	Wernersville Borough	Spring Creek TSF	Y
PAG133614	Womelsdorf Borough 101 W. High St. Womelsdorf, PA 19567	Berks	Womelsdorf Borough	Tulpehocken Creek CWF	Y
PAG133507	Washington Township P. O. Box 52 Barto Road Barto, PA 19504	Berks	Washington Township	West Branch of the Perkiomen TSF	Y

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<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG133526	Union Township 177 Centre Rd. Douglassville, PA 19518	Berks	Union Township	Sixpenny Creek CWF-MF Schuylkill River WWF	Y
PAG133509	Sinking Spring Borough 502 Penn Ave. Sinking Spring, PA 19608	Berks	Sinking Spring Borough	Cacoosing Creek (to the Tulpehocken Creek) WWF Tulpehocken Creek TSF	Y
PAG133508	St. Lawrence Borough 3540 St. Lawrence Ave. Reading, PA 19606	Berks	St. Lawrence Borough	Antietam Creek CWF Tributary 01801 CWF Tributary 01800 CWF Tributary 01799 CWF	Y
PAG133525	Robeson Township 237 W. Lancaster Ave. Shillington, PA 19607	Berks	Robeson Township	Allegheny Creek CWF Schuylkill River WWF	Y
PAG133510	Robeson Borough P. O. Box 191 Robeson, PA 19551	Berks	Robeson Borough	Furnace Creek CWF Tributary 01894 to Furnace Creek CWF	Y
PAG133512	Ontelaunee Township P. O. Box 746 Leesport, PA 19533	Berks	Penn Township	Schuylkill River WWF, MF Maiden Creek WWF Lake Ontelaunee WWF	Y
PAG133524	Richmond Township 11 Kehl Drive P. O. Box 474 Fleetwood, PA 19522	Berks	Richmond Township	Sacony Creek TSF Maiden Creek TSF, WWF Willow Creek CWF	Y
PAG133505	Reading Regional Airport 2501 Bernville Road Reading, PA 19605	Berks	Bern Township	Schuylkill River WWF, MF	Y
PAG133516	Exeter Township 4975 Demoss Road Reading, PA 19606	Berks	Exeter Township	Antietam Creek CWF Trout Run WWF Molasses Creek WWF Schuylkill River WWF Limekiln Creek WWF Monocacy Creek WWF Heisters Creek WWF Owatin Creek WWF	Y

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**V. NPDES Waiver Stormwater Discharges from MS4 Actions**


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

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI2011503006	Bush Associates and Company 504 Pickering Circle Chester Springs, PA 19425	Chester	Uwchlan Township	Pine Creek HQ-TSF
PAI011503065	Lincoln University 1570 Old Baltimore Pike MSC-197, P. O. Box 179 Lincoln University, PA	Chester	Lower Oxford Township	Unnamed tributary Big Elk Creek HQ-TSF-MF
PAI011503069	Eadeh Family Partnership 111 East Lancaster Avenue Devon, PA 19333	Chester	East Whiteland Township	Valley Creek EV
PAI011503076	Vantage Point Retirement Living, Inc. 2393 Kimberton Rd., Suite 200 P. O. Box 864 Kimberton, PA 19442	Chester	West Vincent Township	Pine Creek HQ-TSF
PAI011503064	Chesterpoint Development Inc. 13 Quail Hill Road Downingtown, PA 19335	Chester	West Caln Township	Unnamed tributary West Branch Brandywine Creek HQ-TSF-MF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024503001	Best Burger, Inc. 17 Stratton Road Matawan, NJ 07747	Monroe	Hamilton and Stroud Townships	Pocono Creek HQ-CWF
PAI024803024	Teramo Enterprises, LLC 6464 Ruch Road Bethlehem, PA 18017-9360	Northampton	Plainfield Township	Bushkill Creek HQ-CWF

*Cambria District: Environmental Program Manager, 286 Industrial Park Road, Ebensburg, PA 15931-4119.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI093303002	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Jefferson	Gaskill Township	Clover Run HQ-CWF

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

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

**List of NPDES and/or Other General Permit Types**

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plant
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 (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site

PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

*General Permit Type—PAG-2*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
East Nottingham and West Nottingham Townships Chester County	PAG2001503113	Headley Brothers LLC Box 23 Nottingham, PA 19362	Blackburn Run/Northeast Creek TSE, MF, WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Bethel Township Delaware County	PAG2002303013	Dickinson Development Co. 100 Baltimore Pike Chadds Ford, PA 19317	Naamans Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Upper Dublin Township Montgomery County	PAG2004603145	Upper Dublin Township 801 Loch Alsh Avenue Fort Washington, PA 19034	Pine Run TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Chadds Ford Township Delaware County	PAG2002303044	Christopher DiSabatino 265 Heyburn Road Chadds Ford, PA 19317	Unnamed tributary Brandywine Creek WWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Edgmont Township Delaware County	PAG2002303070	Samuel Dixon 1155 Lancaster Avenue Berwyn, PA 19312	Unnamed tributary Chester Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Tinicum Township Delaware County	PAR10J243	Stephen Allen 900 East Second Street Essington, PA 19029	Unnamed tributary Darby Creek MF, WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lackawanna County City of Scranton	PAG2003503014	George Parker 340 N. Washington Ave. Scranton, PA 18503	Lackawanna River CWF	Lackawanna County Conservation District (570) 281-9495
Luzerne County Hazel Township	PAG2004003041	Reverend Eleanor DeBalso P. O. Box 126 Harleigh, PA 18255	UNT to Cranberry Creek CWF	Luzerne County Conservation District (570) 674-7991
Schuylkill County N. Manheim Township	PAG2005403022	Siders Hill Dev. Inc. Steven Field Sect. Siders Hill Inc. P. O. Box 359 Pottsville, PA 17901	W. Branch Schuylkill River CWF	Schuylkill County Conservation District (570) 622-3742
Schuylkill County W. Brunswick Township	PAG2005403024	Orwigsburg Rod and Gun Club John Wandzilak 1099 High Dr. Tamaqua, PA 18252	Pine Creek to Schuylkill River CWF	Schuylkill County Conservation District (570) 622-3742

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Monroe County Chestnuthill Township	PAR10S023-R	Richard and Beverly Frantz HCR 1, Box 405 Brodheads ville, PA 18322	Sugar Hollow Creek CWF	Monroe County Conservation District (570) 629-3060
Union Township Lebanon County	PAG2003803028	Victor Diener R. D. 3 Jonestown, PA 17038	Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908
South Lebanon Township Lebanon County	PAG2003803029	Clair Zimmerman 85 Furnace Hills Road Denver, PA 17517	Quittapahilla Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908
Palmyra Borough Lebanon County	PAG2003803039	Harold R. Weaver 47 Bell Grove Road Annville, PA 17003	Killinger Creek TSF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908
Bethel Township Lebanon County	PAG2003803038	Elvin Shilling 135 Dove Road Fredricksburg, PA 17026	Deep Run WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908
Union Township Lebanon County	PAG2003803015	John Mengel Maura Building Inc. R. D. 4 Box 4075 Jonestown, PA 17038	Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908
Union Township Lebanon County	PAG2003803027	Peter Charles Moore American Legion Post 910 P. O. Box 27 Lebanon, PA 17042	Forge Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908
Union Township Lebanon County	PAG2003803040	Dane DiAngelis 646 Jonestown Road Jonestown, PA 17038	Reeds Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908
Penn Township York County	PAG2006703092	Jeffrey Garvick Penn Township 20 Wayne Avenue Hanover, PA 17331	Oil Creek/Gitts Run WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Lower Windsor Township York County	PAG2006703025	Rod Bosserman Brook Valley Estates Ext. 1811 Idylewyld Road York, PA 17402	Cabin Creek TSF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Springettsbury Township York County	PAG2006703022	Kinsley Equities II P. O. Box 131-AA Seven Valleys, PA 17360	Kreutz Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

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<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Peach Bottom Township York County	PAG2006703071	David Yohn P. O. Box 658 Orchard Road Delta, PA 17314	Susquehanna River WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Hanover Borough York County	PAG2006703128	Anna Leavy Panera Bread 6710 Clayton Road Richmond Heights, MO 63117	UNT to South Branch Conewago Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Shrewsbury Borough York County	PAG2006703074	Deer Creek Cornerstone Development Group 300 Bailey Drive Stewartstown, PA 17363	Deer Creek CWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York Township York County	PAG2006703070	Hunt Club Final Phase MGM Enterprises 1 Waterford Professional Center York, PA 17402	UNT to Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Hampden Township Cumberland County	PAG2002103040	Roth Farm Village GGF Partnership c/o Homestead Group 4075 Market Street Camp Hill, PA 17011	Pine Creek	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Centre County Penn Township	PAG2001403047	Penns Valley Area Elementary School 4528 Penns Valley Rd. Spring Mills, PA 16875	Penns Creek CWF	Centre County Conservation District 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Northumberland County Washington Township	PAG2004903020	Northumberland County Administration Center 399 South Fifth St. Sunbury, PA 17801	Schwaben Creek TSF	Northumberland County Conservation District R. R. 3, Box 238C Sunbury, PA 17801 (570) 286-7114
Northumberland County Rockefeller Township	PAG2004903021	Northumberland County Administration Center 399 South Fifth St. Sunbury, PA 17801	Little Shamokin Creek CWF	Northumberland County Conservation District R. R. 3, Box 238C Sunbury, PA 17801 (570) 286-7114
Snyder County Monroe Township	PAG2005503005	Monroe Manor II Eastern Communities Limited Partnership 7300 Denny St. Harrisburg, PA 17105	Penns Creek and UNT Susquehanna River WWF	Snyder County Conservation District 403 West Market St. Middleburg, PA 17842 (570) 837-0007 x112
Union County Lewis Township	PAG2006003010	Camp Mt. Luther 355 Mt. Luther Lake Mifflinburg, PA 17844	UNT Buffalo Creek CWF	Union County Conservation District 88 Bull Run Crossing Suite 5 Lewisburg, PA 17837 (570) 523-8782
Armstrong County Wayne Township	PAG2000303010	Dayton Agricultural & Mechanical Association P. O. Box 271 Dayton, PA 16222	Unnamed tributaries to Glade Run CWF	Armstrong County Conservation District (724) 548-3425
Beaver County Chippewa Township	PAG2000403016	Daniel Raver Chippewa Evangelical Free Church 239 Braun Road Beaver Falls, PA 125010	Brady's Run TSF	Beaver County Conservation District (724) 774-7090

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Indiana County Banks Township	PAG2093203008	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Unnamed tributary to Brady Run WWF	Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800

*General Permit Type—PAG-3*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Hanover Township Luzerne County	PAR112223	Koehler-Bright Star, Inc. 380 Stewart Road Hanover Township, PA 18706	Sugar Notch Run (Solomon Creek) CWF	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Weatherly Borough Carbon County	PAR202219	Weatherly Casting and Machining Co. P. O. Box 21 Weatherly, PA 18255	Black Creek Beaver Creek to Mouth	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

*General Permit Type—PAG-4*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Mt. Pleasant Township Westmoreland County	PAG046169	George D. Gula 3801 Slope Hill Rd. Mt. Pleasant, PA 15666	Unnamed tributary of Brush Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Rome Township Crawford County	PAG048570	Joseph A. and Ruth E. Ruggiero 39762 Kunick Road Centerville, PA 16404	Unnamed tributary to Twomile Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Ashland Township Clarion County	PAG048561	Russell J. Lander, Jr. 1347 Golf Course Road Cranberry, PA 16319	Unnamed tributary to Cogley Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Penn Township Butler County	PAG048587	W. Larry Rodgers P. O. Box 2167 Butler, PA 16003	Unnamed tributary to Thorn Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
City of Butler Butler County	PAG058342	Agway Energy Products AEP Butler Plant P. O. Box 4852 Syracuse, NY 13221	Connoquenessing Creek 20-C	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Harborcreek Township Erie County	PAG058331	Exit 9 Sunoco 6122 Station Road Erie, PA 16510	Unnamed tributary to Six Mile Creek 15	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

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<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
City of Butler Butler County	PAG058305	Shell Oil Products US P. O. Box 1243 3139 Village Drive Waynesboro, VA 22980	Connoquenessing Creek 20-C	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Sugarcreek Borough Venango County	PAG058337	Pennzoil Quaker State Company d/b/a Shell Oil Products US Goss Gas Products P. O. Box 99 260 Elm Street Oil City, PA 16301	Allegheny River 16-G	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
West Mead Township Crawford County	PAG058334	Meadville Redi Mix Concrete P. O. Box 418 Meadville, PA 16335	Unnamed tributary to French Creek 16-D	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Summit Township Butler County	PAG058346	McKitten Service Station 686 Glenwood Way Butler, PA 16001	Bonnie Brook 20-C	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
North Beaver Township Lawrence County	PAG058312	Tic Toc Food Mart 104 547 Mt. Jackson Road New Castle, PA 16102-9701	Hickory Run 20-A	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Eldred Township McKean County	PAG058313	Todd Motor Sales P. O. Box 367 Port Allegany, PA 16743	Barden Brook 16-C	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-13*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG136107	Stonycreek Township 1610 Bedford Street Johnstown, PA 15902	Cambria	Stonycreek Township	Stonycreek WWF Sams Run (tributary to Stonycreek) CWF Solomon Run (tributary to Stonycreek) CWF	Y
PAG136114	Jackson Township 513 Pike Road Johnstown, PA 15909	Cambria	Jackson Township	Hinckston Run CWF	Y
PAG136124	New Brighton Borough 610 Third Avenue New Brighton, PA 15066	Beaver	New Brighton Township	Beaver River WNF, N Blockhouse Run WWF	Y
PAG136139	Conemaugh Township 142 Janie Street Johnstown, PA 15902	Cambria	Conemaugh Township	Little Conemaugh River Stony Creek	Y
PAG136144	Vanport Township 477 State Street Beaver, PA 15009	Beaver	Vanport Township	Ohio River WWF Twomile Run WWF	Y



<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG136156	Pulaski Township 3401 Sunflower Road New Brighton, PA 15066-2639	Beaver	Pulaski Township	Cemetery Road (T-542) Storm System 3-Blockhouse Run WWF 40th Avenue (T-555) Storm System UNT to 3-Blockhouse Run	Y
PAG136218	Southmont Borough 148 Wonder Street Johnstown, PA 15905	Cambria	Southmont Borough	Cheney Run WWF	Y

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Department Protocol (Y/N)</i>
PAG138312	City of Meadville 984 Water Street Meadville, PA 16335	Crawford	City of Meadville	Y

## PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Safe Drinking Water Act 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 may 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 (35 P. S. §§ 721.1—721.17).

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

**Operations Permit** issued to **Bethlehem Authority**, City Center Administration Building, Room 502, 10 Church Street, Bethlehem, PA 18018, PWS ID 3480046, Lehigh Township, **Northampton County** on September 11, 2003, for the operation of facilities approved under Construction Permit No. 4891504.

**Operations Permit** issued to **Philip M. Buss Water Company**, 5432 St. Peters Road, Emmaus, PA 18049, PWS ID 3390076, Upper Milford Township, **Lehigh County** on October 20, 2003, for the operation of facilities approved under Construction Permit No. 3903503.

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

#### **Permit No. Minor Amendment.** Public Water Supply.

Applicant	<b>Centre Hall Borough Water System</b> <b>Lynn Dutrow,</b> <b>Operator/Manager</b> P. O. Box 54 Centre Hall, PA 16828
Township	Potter
County	<b>Centre</b>
Type of Facility	PWS—Construction of a finished water storage tank to replace the existing storage reservoir.
Consulting Engineer	Dana R. Boob, Surveying and Engineering 136 West Main Street P. O. Box 699 Millheim, PA 16854
Permit to Construct Issued	November 7, 2003

#### **Permit No. Minor Amendment.** Public Water Supply.

Applicant	<b>Kreamer Municipal Authority</b> <b>George W. Robinson,</b> <b>Chairperson</b> P. O. Box 220 Kreamer, PA 17833
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Township Middlecreek Township  
 County **Snyder**  
 Type of Facility PWS—Patching and recoating of the interior of the finished water storage tank no. 1.  
 Permit to Operate November 7, 2003  
 Issued  
**Permit No. Minor Amendment.** Public Water Supply.  
 Applicant **Jackson Realty and Mobile Homes, Inc.**  
**c/o William Them, President**  
 R. R. 2, Box 128D  
 Wysox, PA 18854

Township Wysox  
 County **Bradford**  
 Type of Facility PWS—Construction of the new sodium hypochlorite system the new sequestration pump and the new booster pumps.  
 Consulting Engineer William Sauserman, P. E.  
 Stiffler, McGraw & Associates, Inc.  
 19 N. Juniata Street  
 P. O. Box 462  
 Hollidaysburg, PA 16648  
 Permit to Construct November 7, 2003  
 Issued  
**Permit No. Minor Amendment.** Public Water Supply.  
 Applicant **Jackson Realty and Mobile Homes, Inc.**  
**c/o William Them, President**  
 R. R. 2, Box 128D  
 Wysox, PA 18854

Township Wysox  
 County **Bradford**  
 Type of Facility PWS—Operation of the new sodium hypochlorite system the new sequestration pump and the new booster pumps.  
 Consulting Engineer William Sauserman, P. E.  
 Stiffler, McGraw & Associates, Inc.  
 19 N. Juniata Street  
 P. O. Box 462  
 Hollidaysburg, PA 16648  
 Permit to Operate November 7, 2003  
 Issued

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lower Milford Township	R. D. 2, Box 499A Coopersburg, PA 18036	Lehigh

Plan Description: The approved plan provides for a 57-lot single family residential subdivision on a 231-acre tract. Individual on-lot sewage disposal systems will be utilized to treat the proposed 28,500 GPD of sewage flows

(57 lots × 500 GPD/lot = 28,500 GPD). A tested, replacement sewage disposal area has been on each lot to meet the long term sewage disposal needs of the project. All tested sewage disposal areas must remain undisturbed until sewage disposal system construction begins. Private wells will provide water to each lot. The proposed development is on Chestnut Hill Church Road and Church View Road in Lower Milford Township, Lehigh County. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

*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>
Maxatawny Township	127 Quarry Road, Suite 1 Kutztown, PA 19530	Berks

Plan Description: The approved plan provides for the construction of a sewage collection and conveyance system to serve Subareas A—C as defined in the plan when an intermunicipal agreement has been reached between Kutztown Borough and Maxatawny Township for the construction of a regional wastewater treatment facility or an expanded Kutztown treatment facility. The plan also provides for a sewage collection and conveyance system to be constructed to serve Subarea F with treatment at the Lyons Borough wastewater treatment facility. Subarea D and Subarea E will be served by the Topton wastewater treatment facility through the Topton Authority and the Allentown wastewater treatment facility through the Lehigh County Authority respectively when sewer lines are extended to within 100 feet of the municipal boundary. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Jackson Township	439 Roth's Church Road Spring Grove, PA 17362	York

Plan Description: The approved plan provides for a one-lot multifamily residential development on 57 acres with 225 housing units and 1 community center. Total estimated sewage flows are 63,000 gpd, which will be tributary to the Jackson Township Wastewater Treatment Plant. The proposed development is on the east side of Roth's Church Road, approximately 1/2 mile north of Spring Grove Borough in Jackson Township, York County. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
City of Titusville	107 North Franklin Street Titusville, PA 16354	Crawford

Plan Description: The approved plan provides for an addendum to the Phase II Upgrade Project which was previously granted Department approval by a letter dated August 2, 2002. The addendum addressed a revised project scope and associated costs. 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.

## **HAZARDOUS SITES CLEAN-UP UNDER THE ACT OF OCTOBER 18, 1988**

### **Proposed Consent Order and Agreement Dawson Road Site, Schuylkill Township, Chester County**

The Department of Environmental Protection (Department), under the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.10—6020.1305) and the Comprehensive Environmental Response, Compensation and Liability Act, has entered into an agreement with 113 Corporation, 1401 Eland Drive, Phoenixville, PA. In this agreement, 113 Corporation has agreed to take certain response actions to address the release and threatened release of hazardous substances impacting the Dawson Road HSCA Site (Site), Dawson Road, Phoenixville, Schuylkill Township, Chester County. The Site consists of certain residential and commercial properties which have been impacted by groundwater contamination. The contaminant of concern related to this site is perchloroethylene which has been detected in certain residential wells.

113 Corporation is the owner of two commercial properties within the Site area where hazardous substances were released and threatened to be released. As an owner of a portion of the Site, 113 Corporation has agreed to construct a public water supply line and lateral connections to homes impacted by the contamination plume. Impacted wells will be decommissioned after 113 Corporation completes construction of the public water supply line.

This notice is provided under section 1113 of the HSCA (35 P. S. § 6020.1113), which states that a "settlement shall become final upon the filing of the Department's response to the significant written comments." The Consent Order and Agreement (CO&A), which contains the specific terms of the agreement, is available for public review and comment. The agreement can be examined from 8 a.m. to 4 p.m. at the Department's Southeast Regional Office, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428 by contacting either David Minsker, (610) 832-6193, dminsker@state.pa.us or Gina M. Thomas, (610) 832-6300, githomas@state.pa.us. A public comment period on the CO&A will extend for 60 days from November 22, 2003. Persons may submit written comments regarding the agreement within 60 days from November 22, 2003, by submitting them to David Minsker.

## **LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**

### **UNDER ACT 2, 1995**

#### **PREAMBLE 2**

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**The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

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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 final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected.

For further information concerning a final report, contact the environmental cleanup program manager in the Department regional office after which the notice of receipt of a final 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 final reports:

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

**Pennsylvania Steel/Hahn Motor Company Site, Hamburg Borough, Berks County.** UAI Environmental, Inc., 6 Commerce Drive, Reading, PA 19607, on behalf of the County of Berks, 633 Court Street, 14th Floor, Reading, PA 19601 and Atchinson Casting Corporation, 200 East Richland Avenue, Myerstown, PA 17067, submitted a combined Remedial Investigation and Final Report concerning remediation of site soils contaminated with inorganics. The report is intended to document remediation of the site to the Site-Specific Standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Supelco, Inc., Spring Township, Centre County.** Groundwater Sciences Corporation, on behalf of Supelco, Inc., Supelco Park, Bellefonte, PA 16823-0048, has submitted a Final Report concerning groundwater contaminated with chlorinated solvents. This Final Report is intended to demonstrate remediation of the site to meet the Statewide Health Standard.

## **LAND RECYCLING AND ENVIRONMENTAL REMEDIATION**

### **UNDER ACT 2, 1995**

#### **PREAMBLE 3**

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**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).**

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Provisions of 25 Pa. Code § 250.8 and the 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 its 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 after 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:

*Northeast Region: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Electro Chemical Engineering and Manufacturing Company and Impress Industries Parcel**, Borough of Emmaus, **Northampton County**. Stephen B. Fulton, P. E., P. G., Project Manager, ARM Group, Inc., 1129 W. Governor Road, P. O. Box 797, Hershey, PA 17033-0797 submitted a combined Remedial Investigation Report and Final Report (on behalf of Electro Chemical Engineering and Manufacturing Company, 750 Broad Street, P. O. Box 509, Emmaus, PA 18049) concerning the remediation of site soils found or suspected to have been contaminated with chlorinated solvents, no. 6 fuel oil, lead and polycyclic aromatic hydrocarbons. The report documented attainment of a combination of both the Nonresidential Statewide Health and Site-Specific Standards and was approved on October 27, 2003.

**Former Penn Fuel Gas Manufactured Gas Plant—Slatington Site**, Borough of Slatington, **Lehigh County**. RETEC Group, Inc., 3040 William Pitt Way, Pittsburgh, PA 15238 submitted a Cleanup Plan (on behalf of PFG Gas, Inc., a subsidiary of PPL Gas Utilities

Corporation, Two North Ninth Street, Allentown, PA 18101) concerning the remedy design of the subject site for residual contaminants in soil, groundwater and adjacent surface water found or suspected to have been contaminated with metals, polycyclic aromatic hydrocarbons, phenolics, cyanides and BTEX compounds related to historic manufactured gas plant operations. The report was submitted in partial fulfillment of a combination of both the Statewide Health and the Site-Specific Standards and was approved on November 6, 2003.

#### HAZARDOUS WASTE TRANSPORTER LICENSE

##### **Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

##### *Hazardous Waste Transporter License Renewed*

**Action Resources, Inc.**, 355 County Road 513, Hanceville, AL 35077. License No. PA-AH 0650. Effective September 29, 2003.

**AERC.Com, Inc.**, 2591 Mitchell Avenue, Allentown, PA 18103-6609. License No. PA-AH 0687. Effective October 15, 2003.

**Emerald Environmental Services, Inc.**, 1621 St. Clair Avenue, Kent, OH 44240. License No. PA-AH 0641. Effective October 17, 2003.

**Lacy's Express, Inc.**, P. O. Box 130, Pedricktown, NJ 08067. License No. PA-AH 0243. Effective October 20, 2003.

**Midwest Environmental Transport, Inc.**, 10163 Cincinnati-Dayton Road, Cincinnati, OH 45241. License No. PA-AH 0368. Effective September 22, 2003

**Republic Services of South Carolina, LLC**, P. O. Box 62679, North Charleston, SC 29419. License No. PA-AH 0542. Effective September 24, 2003.

**Vernon Milling Company, Inc.**, P. O. Box 1617, Vernon, AL 35592. License No. PA-AH 1640. Effective October 14, 2003.

#### INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

##### **Infectious and Chemotherapeutic Waste Transporter License actions taken under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the act of July 13, 1988 (P. L. 525, No. 93) (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

##### *Infectious and Chemotherapeutic Waste Transporter License Voluntarily Terminated*

**DelVecchio Transport & Materials Handing, Inc.**, P. O. Box 480, Dunmore, PA 18512-1480. License No. PA-HC 0333. Effective July 1, 2003.

**Douglas Brothers, Inc.**, R. R. 1 Box 42, Wolcott Hollow Road, Athens, PA 18810. License No. PA-HC 0617. Effective September 24, 2003.

## HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

### Applications terminated under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

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

*Intent to Terminate Permit and Interim Status*

**Permit No. PAD000606285. Eastman Chemical Resins.** Operation of a hazardous waste container and tank storage and hazardous waste boiler facility in Jefferson Hills Borough, **Allegheny County**. Eastman's request to terminate its storage permit and boiler interim status authorization was considered for intent to approve by the Regional Office on November 7, 2003. Proposed action on a permit under the Solid Waste Management Act and regulations to operate a hazardous waste storage and treatment facility.

Persons wishing to comment on the proposed action are invited to submit a statement to the Regional Office indicated as the office responsible, within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer and concise statement to inform the Regional Office of the exact basis of any comment and the relevant facts upon which it is based. A public hearing may be held if the Regional Office considers the public response significant.

Following the 45-day comment period and/or public hearing, the Department will make a final determination regarding the proposed permit action. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

### DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

**Determination of Applicability for General Permit Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101–4000.1904) and residual waste regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.**

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

**General Permit No. WMGR069D002. John F. Martin & Sons,** 55 Lower Hillside Road, Stevens, PA 17578. General Permit Number WMGR069D002 is for the beneficial use of wastewater treatment sludge generated from the meat processing operations by land application to agricultural lands. Central Office approved the determination of applicability on November 7, 2003.

**Determination of Applicability for General Permit Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101–6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101–4000.1904) and residual waste**

**regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.**

**General Permit No. WMGR060D001. Minersville Borough Municipal Authority,** 2 E. Sunbury St., Minersville, PA 17954. For the beneficial use of drinking water treatment sludge generated by a water supply treatment facility as a soil additive to facilitate revegetation on quarries and other minelands that lack indigenous vegetation or only contain stressed vegetation due to the previous use of the land. The Department issued the determination of applicability on July 28, 2003.

Persons interested in reviewing the general permit may contact the Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 101315. Millville Solid Waste Transfer Station,** P. O. Box 208, 388 Jerseytown Road, Millville, PA 17846 in Madison Township, **Columbia County**. This permit renewal was issued by the Williamsport Regional office on October 9, 2003.

**Permit No. 101312. Adam J. Deitrick & Sons Disposal & Coal Hauling Inc.,** R. R. 3 Box 4, Unit 402086, Coal Township, PA 17866-9506, in Coal Township, **Northumberland County**. This permit renewal was issued by the Williamsport regional office on October 6, 2003.

Persons interested in reviewing a permit may contact John C. Hamilton, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

**Permit modification issued under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate solid waste processing or disposal area or site.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 101315. Millville Solid Waste Transfer Station,** R. R. 1, Millville, PA 17846-9801 in Madison Township, **Columbia County**. The permit modification for the implementation of a Radiation Protection and Action Plan was issued by the Williamsport Regional Office on November 3, 2003.

Persons interested in reviewing the permit may contact John C. Hamilton, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

**Permits issued under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate solid waste processing or disposal area or site.**

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

**Permit ID No. 101565. Waste Management of Pennsylvania, Inc., Ambridge Transfer Station**, 2197 Duss Avenue, Ambridge, PA 15003. Operation of a municipal waste transfer station in Ambridge Borough, **Beaver County**. Permit modification approves a radioactive materials detection and monitoring plan issued in the Regional Office on November 4, 2003.

**MUNICIPAL AND RESIDUAL WASTE TRANSPORTER AUTHORIZATION**

**Issued applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act (27 Pa.C.S. §§ 6201–6209) and regulations to transport municipal or residual waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.*

**Good View Inc.**, 47-53 South 20th St., Irvington, NJ 07111. Authorization No. WH5377. Effective November 5, 2003.

**Venezia Hauling Inc.**, P. O. Box 909, Royersford, PA 19468. Authorization No. WH5464. Effective November 5, 2003.

**Terrace Transportation**, P. O. Box 030312, 3249 Richmond Terrace, Staten Island, NY 10303-0312. Authorization No. WH5485. Effective November 5, 2003.

**McCardles Hauling**, P. O. Box 101, Burnham, PA 17009. Authorization No. WH5494. Effective November 5, 2003.

**Cruz & Bonilla Trucking**, 217 South St., Elizabeth, NJ 07202. Authorization No. WH5495. Effective November 5, 2003.

**G & S Transport Ltd.**, 28 Gardenia Dr., Maple Shade, NJ 08052-1405. Authorization No. WH5496. Effective November 5, 2003.

**Janet & Bert Enterprises**, P. O. Box 274, Penn, PA 15675. Authorization No. WH5497. Effective November 5, 2003.

**William C. Martin, Jr. Hauling**, 507 Nel Dr., Fairless Hills, PA 19030. Authorization No. WH5498. Effective November 5, 2003.

**Center Valley Landscapes & Hauling**, 1244 Hamilton St., Allentown, PA 18102. Authorization No. WH5510. Effective November 5, 2003.

**Jeffrey L. Taylor**, 115 Greenvale Ct., Cherry Hill, NJ 08034. Authorization No. WH5511. Effective November 5, 2003.

**J. Tennant Trucking Inc.**, P. O. Box 118, Mt. Morris, PA 15349-0118. Authorization No. WH5512. Effective November 5, 2003.

**S. Budd Chiavetta**, 31 Sutton Place, Easton, PA 18045-5740. Authorization No. WH5513. Effective November 5, 2003.

**C. I. Miller Co.**, P. O. Box 515, Kimberton, PA 19442. Authorization No. WH5514. Effective November 5, 2003.

**Keith Homes Inc.**, 2455 Park Ave., Washington, PA 15301. Authorization No. WH5515. Effective November 5, 2003.

**Omar Calicho**, Apt. 3B, 251 Gregory Ave., Passaic, NJ 07055. Authorization No. WH5516. Effective November 5, 2003.

**GH Trucking**, 83 Good Springs Road, Asbury, NJ 08802. Authorization No. WH5518. Effective November 5, 2003.

**Deer Carcass Removal Service LLC**, 140 Meirs Road, Cream Ridge, NJ 08514. Authorization No. WH5312. Effective November 7, 2003.

**Scott M. Donsecz**, 211 High St., Easton, PA 18042. Authorization No. WH5385. Effective November 7, 2003.

**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, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**09-312-036GP: Univar USA, Inc.** (200 Dean Sievers Place, Morrisville, PA 19067) on November 5, 2003, for an aboveground storage tank in Falls Township, **Bucks County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**GP1-67-03024: North Metal and Chemical Co.** (609 East King Street, York, PA 17405) on October 31, 2003, authorized to operate two small gas and no. 2 oil fired combustion units under GP1 in the City of York, **York County**.

**GP4-67-03051: Swam Electric Co., Inc.** (490 High Street, Hanover, PA 17331-2124) on October 31, 2003, authorized to operate a burn off oven under GP4 in Hanover Borough, **York County**.

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

**GP5-08-01: Belden and Blake Corp.** (5200 Stoneham Road, North Canton, OH 44720) on October 15, 2003, to authorize construction and operation of a 538 horsepower natural gas-fired reciprocating internal combustion compressor engine under the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP-5) at the Bradford West site in Athens Township, **Bradford County**.

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

**GP5-26-00553: Atlas America, Inc.** (101 McQuiston Drive, Jackson Center, PA 16133) on November 3, 2003, for installation of a natural gas combustion engine at their Bitner Compressor Station in Franklin Township, **Fayette County**.

**Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**46-0239: SEI Investments** (100 Cider Mill Road, Oaks, PA 19456) on November 5, 2003, to operate two emergency generators in Upper Providence Township, **Montgomery County**.

**46-0037N: Cabot Supermetals** (County Line Road, Boyertown, PA 19512) on November 5, 2003, to operate a fourth tantalum production line in Douglass and Colebrookdale Townships, **Montgomery and Berks Counties**.

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

**48-328-003A: PPL Generation LLC** (Two North Ninth Street, Allentown, PA 18101) on October 31, 2003, for modification of four combustion turbines at the Martins Creek SES Station, Lower Mt. Bethel Township, **Northampton County**.

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

**8-310-004: Glenn O. Hawbaker, Inc.** (711 East College Avenue, State College, PA 16823) on October 21, 2003, for construction of a sand and gravel processing plant and associated air cleaning device (a water spray dust suppression system) in Canton Township, **Bradford County**. The equipment in this plant is subject to Subpart 000 of the Federal Standards of Performance for New Stationary Sources.

**8-313-019D: OSRAM SYLVANIA Products, Inc.** (Hawes Street, Towanda, PA 18848) on October 28, 2003, for reactivation of a halo phosphor furnace (furnace 6C) and associated air cleaning devices (two fabric collectors, one cartridge collector and one absolute filter) in North Towanda Township, **Bradford County**.

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

**32-00365B: Rosebud Mining Co.** (301 Market Street, Kittanning, PA 16201) on November 4, 2003, for increased processed coal throughput of the plant from current 5 million tons to 1 million tons annually and installation of Air Jig at Dutch Run Deep/Parker Mine in Washington Township, **Indiana County**.

**56-00287A: Friend to End** (5491 Somerset Pike, Hollsopple, PA 15935) on November 7, 2003, to allow the relocation and installation of an existing animal crematory incinerator equipped with an afterburner at facility in Jenner Township, **Somerset County**.

**30-00072D: Consol Pennsylvania Coal Co.** (1800 Washington Road, Pittsburgh, PA 15241) on November 10, 2003, for upgrades to the refuse conveyor system and wash plant expansion at the Bailey Mine complex in Richhill Township, **Greene County**.

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

**10-027C: Penreco** (138 Petrolia Street, Karns City, PA 16041) on October 28, 2003, for installation of a natural gas/oil fired boiler in Karns City, **Butler County**.

**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**09-0128: East Coast Sign Ad** (5058 Route 13 North Bristol, PA 19007) on November 3, 2003, for operation of a paint spray booth in Bristol Township, **Bucks County**.

**23-0014C: Kimberly Clark PA LLC** (Front Street and Avenue of the States, Chester, PA 19013) on November 3, 2003, for operation of a wet scrubber dust control system in City of Chester, **Delaware County**.

**46-0112: Palmer International, Inc.** (2036 Lucon Road, Skippack, PA 19474) on November 11, 2003, for operation of a thermal oxidizer in Skippack Township, **Montgomery County**.

**09-0050: Better Materials Corp.** (852 Swamp Road, Penns Park, PA 18943) on November 11, 2003, for operation of one crusher and two conveyor belts in Wrightstown Township, **Bucks County**.

**23-0063A Department of Corrections—SCI Chester** (500 East 4th Street, Chester, PA 19013) on November 11, 2003, for operation of a boiler in City of Chester, **Delaware County**.

**23-0082: Liberty Electric Power LLC** (1000 Industrial Highway, Eddystone, PA 19022) on November 11, 2003, for operation of a power plant 500 mW in Eddystone Borough, **Delaware County**.

**46-0191B: Merck and Co., Inc.** (351 North Summeytown Pike, North Wales, PA 19454) on November 17, 2003, for operation of a 100 kW emergency generator in Upper Gwynedd Township, **Montgomery County**.

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

**36-03074A: Colonial Metals Co.** (217 Linden Street, Columbia, PA 17512) on October 4, 2003, to renovate their existing scrap metal recycling facility in Columbia Borough, **Lancaster County**. This facility is subject to 40 CFR Part 60, Subpart M—Standards of Performance for Secondary Brass and Bronze Production Plants. This plan approval was extended.

**67-02004: P H Glatfelter Co.** (228 South Main Street, Spring Grove, PA 17362) on July 10, 2003, for operation of three power boilers controlled by an electrostatic precipitator, a lime calciner controlled by a Venturi scrubber and a softwood fiber line and causticizing area controlled by a regenerative thermal oxidizer in Spring Grove Borough, **York County**. This plan approval was extended.

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

**55-310-002A: National Limestone Quarry, Inc.** (P. O. Box 397, Middleburg, PA 17842) on October 31, 2003, to construct various pieces of stone crushing, screening and conveying equipment until February 28, 2004, and to operate various other pieces of stone crush-

ing, screening and conveying equipment on a temporary basis until February 28, 2004, in Franklin Township, **Snyder County**. The plan approval and authorization have been extended.

**53-00005B: Dominion Transmission, Inc.** (625 Liberty Avenue, Pittsburgh, PA 15222) on October 30, 2003, to operate a 4,735 horsepower natural gas-fired reciprocating internal combustion compressor engine on a temporary basis until February 27, 2004, at the Greenlick Compressor Station in Stewardson Township, **Potter County**. The plan approval and authorization have been extended.

**60-303-003: Eastern Industries, Inc.** (220 Park Road, Winfield, PA 17889) on October 29, 2003, to operate a drum mix asphalt plant and associated air cleaning device (a fabric collector) on a temporary basis to February 28, 2004, in Buffalo Township, **Union County**. The plan approval and authorization have been extended.

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

**04-00706B: Beaver Valley Slag, Inc.** (6010 Woodlawn Road, Aliquippa, PA 15001) on November 4, 2003, for installation of a screening plant at the Black's Run Slag Mine in Center Township, **Beaver County**. This plan approval was extended.

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**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**23-00001: Sunoco, Inc.** (Delaware Avenue and Green Street, Marcus Hook, PA 19061-0426) on November 3, 2003, in Marcus Hook Borough, **Delaware County**. This amendment is to finalize changes through Plan Approvals PA-23-0001P and PA-23-0001R.

**23-00014: Kimberly-Clark Corp.** (Front and Avenue of the States, Chester, PA 19013) on November 6, 2003, in the City of Chester, **Delaware County**. The permit was revised and issued in accordance with 25 Pa. Code § 127.462 to change the pressure drop across the bin vent filter associated with the Limestone Storage Silo. The pressure drop range was changed from 2 to 6 inches water gage to 0.5 inch to 6 inches water gage. No additional monitoring or recordkeeping requirements has been added to the permit and this change will not result in an increase in the emissions from the facility.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**06-05025: Morgan Corp.** (35 Thousand Oaks Boulevard, P. O. Box 588, Morgantown, PA 19543) on October 28, 2003, for operation of a truck body manufacturing facility at their Morgantown Plant in Caernarvon Township, **Berks County**.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**46-00171: John Evans Sons, Inc.** (1 Spring Ave., Lansdale, PA 19446) on November 4, 2003, for operation of a natural minor operating permit in Lansdale Borough, **Montgomery County**.

**23-00077: County of Delaware—Fair Acres Complex** (340 North Middletown Road, Lima, PA 19037) on November 6, 2003, for operation of a synthetic minor operating permit in Middletown Township, **Delaware County**.

**23-00081: Chichester School District** (711 Market Street, Boothwyn, PA 19061) on November 6, 2003, for operation of a natural minor operating permit in Marcus Hook Borough, **Delaware County**.

**46-00200: John Middleton, Inc.** (418 West Church Road, King of Prussia, PA 19406) on November 7, 2003, for operation of a synthetic minor operating permit in Upper Merion Township, **Montgomery County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**36-05130: Masonic Homes** (1 Masonic Drive, Elizabethtown, PA 17022) on October 30, 2003, for operation of boilers and emergency generators at their retirement facility in Elizabethtown Borough, **Lancaster County**.

**44-03007: Hoenstine Funeral Home, Inc.** (75 Logan Street, Lewistown, PA 17044) on October 31, 2003, for operation of their human crematory in Lewistown Borough, **Mifflin County**.

**67-03035: Martin's Potato Chips, Inc.** (P. O. Box 28, Thomasville, PA 17364) on October 29, 2003, for operation of their snack food manufacturing facility in Jackson Township, **York County**.

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

**04-00435: Hickman, Williams and Co.** (P. O. Box 101, Monaca, PA 15061) on October 29, 2003, for operation of screening coke products at their Pittsburgh Processing Division facility in Potter Township, **Beaver County**.

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

**24-00001: Buehler Lumber Co., Inc.** (260 West Main Street, Ridgway, PA 15853) on November 5, 2003, for a Natural Minor Operating Permit to operate a sawmill and wood-fired boiler in Ridgway Borough, **Elk County**.

**42-00181: Elkhorn Field Services—Lewis Run Plant** (1371 South Avenue, Bradford, PA 16701) on November 5, 2003, for a Natural Minor Operating Permit for a natural gas processing facility in Bradford Township, **McKean County**.

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**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**09-00064: CRC Industries, Inc.** (885 Louis Drive, Warminster, PA 18974-0586) on November 4, 2003, the



permit was revised to incorporate the requirements from Plan Approval PA-09-0064 for a new fill line and eight enclosed mixing tanks. It is a non-Title V, Natural Minor facility in Warminster Township, **Bucks County**. A 15,000-gallon aboveground storage tank for toluene that was under General Permit 09-312-034GP was also incorporated into this permit. As a result of these changes, facility-wide limits of 18 tons of VOCs per year, 10 tons of a single HAP per year and 25 tons per year of a combination of HAPs were added to the permit.

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

**26-00177: Golden Eagle** (P. O. Box 945, Uniontown, PA 15401) on October 17, 2003, for their Coolspring Asphalt Plant in North Union Township, **Fayette County**. The following shall be incorporated into the State-only Operating Permit:

1. Natural gas, propane, no. 2, no. 4, no. 6 fuel oil and/or (on spec) waste derived liquid fuel may be used at this facility.
2. Total facility-wide VOC emissions shall not exceed 4.5 tons per consecutive 12-month period for gaseous fuel usage.

3. Total facility-wide emissions shall not exceed 9 tons of VOC per consecutive 12-month period for fuel oil and/or on-spec waste derived liquid fuel usage.
4. Burners shall be properly tuned at the of each season and in accordance with the manufacturer's recommendations.
5. A maintenance log for the burner shall be kept and maintained onsite.
6. No. 2, no. 4, no. 6 and/or waste derived liquid fuel usage shall be limited to a total of 1,984,665 gallons per consecutive 12-month period.
7. The sulfur content of any fuel used to fire the burner shall not exceed 0.5% by weight.
8. The owner/operator shall keep and maintain records of daily, monthly and 12-month rolling total of asphalt production.
9. The owner/operator shall keep and maintain a monthly record of gallons and type of liquid fuel used.
10. The owner/operator shall keep and maintain a 12-month rolling total of fuel usage and associated emissions.
11. Waste derived liquid fuel usage shall not exceed the following limitations and shall be analyzed by the following techniques (25 Pa. Code § 127.12b):

<i>Constituent</i>	<i>Maximum Acceptable Levels (PPM)/Analytical Technique</i>	
Arsenic	5	Atomic Absorption
Cadmium	2	Atomic Absorption
Chromium	10	Atomic Absorption
Lead	100	Atomic Absorption
Total Halides	1000	ASTM D-808-81
PCB	10	H <sub>2</sub> S <sub>04</sub> Extraction/GC with Electron Capture

12. Fuel analysis records shall be kept and maintained onsite for 5 years.
13. Stack testing requirements for each of the asphalt plants, once during the term of the permit.
14. 40 CFR Part 60.8 requirements.
15. 40 CFR Part 60.11 requirements.
16. Miscellaneous clarifications to streamline the permit.

**De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.**

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

**40-0005A: Hunlock Creek Energy Ventures** (US Route 11, P. O. Box 224, Hunlock Creek, PA 18621) for an increase in VOCs of 0.051 ton per year. The company is a Title V facility. The increase in emissions is a result of utilizing a synthetic fuel in the combustion process at their Hunlock Power Station facility on US Route 11, Hunlock Township, **Luzerne County**.

**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 Permit Actions*

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**03841305. NPDES Permit No. PA0002275, Keystone Coal Mining Corporation** (P. O. Box 219, Shelocta, PA 15774), to revise the permit for the Emilie Mine in Plumcreek Township, **Armstrong County**, to change post-mining land use and revise reclamation plans, no additional discharges. Permit issued November 3, 2003.

**17031701. NPDES Permit No. PA0235504, Lady Jane Collieries, Inc.** (2 North Ninth Street, Allentown,

PA 18101-1179), to operate the Horning Run Passive Treatment in Huston Township, **Clearfield County** and related NPDES permit, Surface Acres Proposed 7.0, Horning Run (CWF). Permit issued November 7, 2003.

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

**56950108 and NPDES Permit No. PA0213195. Fieg Brothers**, 3070 Stoystown Road, Stoystown, PA 15563, permit revision for a stream variance including a stream crossing and also for a permit boundary amendment from 112.2 to 112.25 to accommodate the haul road stream crossing in Brothersvalley Township, **Somerset County**, affecting 112.25 acres. Receiving streams: unnamed tributaries to Buffalo Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received July 21, 2003. Permit issued November 3, 2003.

**32030104 and NPDES Permit No. PA0249432. Twin Brook Coal, Inc.**, P. O. Box 225, Clymer, PA 15728, commencement, operation and restoration of a bituminous surface mine and for treated mine drainage in Green Township, **Indiana County**, affecting 61.0 acres. Receiving streams: North Branch Two Lick Creek (CWF) and Pompey Run (WTS). There are no potable water supply intakes within 10 miles downstream. Application received March 18, 2003. Permit issued November 6, 2003.

#### *Noncoal Permit Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**64030801. William Yerkes** (HC 1 Box 1204, Milanville, PA 18443-9708), commencement, operation and restoration of a quarry operation in Damascus Township, **Wayne County** affecting 5.0 acres, receiving stream: tributary to Northern Branch of Calkins Creek. Application received January 17, 2003. Permit issued November 5, 2003.

#### **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 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**67034072. Kinsley Construction** (P. O. Box 2886, 150 Leader Heights Road, York, PA 17405) and **Kesco, Inc.** (127 Oneida Valley Road, Butler, PA 16001), construction blasting at SR 0083 Section 025 in York Township, **York County** with an expiration date of June 30, 2005. Permit issued November 4, 2003.

**45034049. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting at Woods Edge in Middle Smithfield Township, **Monroe County** with an expiration date of October 8, 2004. Permit issued November 4, 2003.

**45034048. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting off Glenbrook Road in Stroud Township, **Monroe County** with an expiration date of October 8, 2004. Permit issued November 4, 2003.

**45034047. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting at Mill Creek

Estates in Barrett Township, **Monroe County** with an expiration date of October 8, 2004. Permit issued November 4, 2003.

**01034012. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Hilton Garden Inn in Straban Township, **Adams County** with an expiration date of November 27, 2004. Permit issued November 4, 2003.

**38034027. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Old Stone Way Duplex Development, North Londonderry Township, **Lebanon County** with an expiration date of November 27, 2004. Permit issued November 4, 2003.

**48034033. Schlouch, Inc.** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting at Easton Avenue Car Wash in Bethlehem Township, **Northampton County** with an expiration date of November 26, 2005. Permit issued November 5, 2003.

**39034016. Schlouch, Inc.** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Upper Macungie Township, **Lehigh County** with an expiration date of November 26, 2006. Permit issued November 5, 2003.

**45034050. E. R. Linde Construction Corporation** (R. R. 6 Box 6825, Honesdale, PA 18431), construction blasting at the Country Club of Poconos in Middle Smithfield Township, **Monroe County** with an expiration date of November 27, 2004. Permit issued November 6, 2003.

**23034017. Horst Drilling & Blasting** (141 Ranck's Church Road, New Holland, PA 17557), construction blasting at Lowry Tract in Concord Township, **Delaware County** with an expiration date of December 1, 2007. Permit issued November 6, 2003.

**15034039. Horst Drilling & Blasting** (141 Ranck's Church Road, New Holland, PA 17557), construction blasting at Steepleview in Wallace Township, **Chester County** with an expiration date of December 1, 2006. Permit issued November 6, 2003.

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

**31034005. Stone Valley Construction, Inc.**, P. O. Box 369, Pine Grove Mills, PA 16868, sewer line and utilities at The Highlands, Huntingdon Borough, **Huntingdon County**. Duration November 2003, through March 2004. Permit issued November 6, 2003.

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 may 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.

### 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 may 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 P.S. §§ 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, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**E46-946. Department of Transportation, District 6-0**, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Upper Salford and Lower Frederick Townships, **Montgomery County**, ACOE Philadelphia District.

To remove an existing six-span stone masonry arch bridge which carries Spring Mount Road (SR 1019) over the Perkiomen Creek (WWF-MF) and to construct and maintain a twin span steel girder bridge measuring a total of 222 feet long and up to 13 feet high at the same location. The removal will require a temporary cofferdam and temporary causeway impacting 0.05 acre of vegetated bars within the top of bank. The site is approximately 4,000 feet northeast of the intersection of SR 29 of Spring Mount Road (SR 1019) (Perkiomenville, PA USGS Quadrangle N: 4.5 inches; W: 11.25 inches).

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

**E13-136. Vacation Charters, Ltd.**, P. O. Box 592, One Lake Drive, Lake Harmony, PA 18624-0592. Kidder Township, **Carbon County**, Army Corps of Engineers Philadelphia District.

To construct and maintain an outfall channel with a rip-rap apron in the floodway of a tributary to Black Creek (HQ-CWF). The outfall channel is associated with the Mountain Laurel Resort project, approximately 1,500 feet west of the intersection of SR 0940 and the on-ramp of the Turnpike Northeast Extension (Hickory Run, PA Quadrangle N: 12.6 inches; W: 11.5 inches) (Subbasin 2-B).

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

**E67-733. East Manchester Township**, 5080 North Sherman Street Extended, Mount Wolf, PA 17347 in East Manchester Township, **York County**, ACOE Baltimore District.

To remove a 26-foot, 48-inch corrugated metal pipe and extend the remaining 17-foot, 48-inch reinforced concrete pipe (RCP) to the north with a 32-foot, 48-inch RCP and construct a headwall in an unnamed tributary to Hartman Run (WWF) in East Manchester Township, York County (York Haven, PA Quadrangle N: 8.9 inches; W: 12.9 inches). The total length of the culvert under Forge Hill Road (T-945) will measure 49 linear feet and have a uniform depression of 6 inches.

**E36-765. Department of Transportation, District 8-0**, 2140 Herr Street, Harrisburg, PA 17120 in West Cocalico Township, **Lancaster County**, ACOE Baltimore District.

To remove the twin culverts and then to construct and maintain a 10-foot by 5-foot concrete box culvert at the channel of Harnish Run (WWF) on SR 1057, Section 0001, Segment 0020, Offset 1434 and to fill in 0.007 acre of de minimis wetland to improve the roadway width about 0.8 mile northwest of Blainsport Village (Womelsdorf, PA Quadrangle N: 7.2 inches; W: 3.2 inches) in West Cocalico Township, Lancaster County.

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

**E12-143. Richard Gerber**, 102 Larch Lane, St. Marys, PA 15857. Gerber garage addition in Emporium Borough, **Cameron County**, ACOE Baltimore District (Emporium, PA Quadrangle N: 1.5 inches; W: 13.25 inches).

To construct, operate and maintain a 12-foot by 20-foot addition to an existing building in the floodway of the

Driftwood Branch of the Sinnemahoning Creek (CWF). The addition shall be constructed of concrete block and is permitted to have a total volume of 2,400 cubic feet. This permit was issued under section 105.13(e) "Small Projects."

**E47-077. David R. Cotner**, 418 Jerseytown Road, Danville, PA 17821. Cotner Crossing in West Hemlock Township, **Montour County**, ACOE Baltimore District (Millville, PA Quadrangle N: 7.5 inches; W: 13.6 inches).

To remove the existing 4-foot diameter culvert pipe and to construct, operate and maintain an 8-foot diameter culvert pipe 12 feet upstream of the existing pipe. The inlets and outlets will have riprap and headwalls to stabilize the banks and the bottom of the pipe shall be depressed 12 inches. This project is 5 miles east of the intersection of SR 54 and SR 642 on the east side of the road. The project is in the watershed of Mahoning Creek (CWF). This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E49-269. Nicholas and Amy Telesky**, 146 North Front St., Milton, PA 17847-1204. Water Obstruction and Encroachment Permit application in Milton Borough, **Northumberland County**, ACOE Susquehanna River Basin District (Northumberland, PA Quadrangle N: 4.0 inches; W: 14.5 inches).

To construct and maintain a 28-foot by 14-foot open deck, which is in the floodway of the West Branch of the Susquehanna River along the eastern right-of-way of North Front Street in Milton Borough, Northumberland County. This permit was issued under section 105.13(e) "Small Projects."

**E59-447. Grace Engle, Rachael and Joseph Kolb, Susan Shellman and Faith Matelski**, One Charles St., Wellsboro, PA 16901. Kolb Property Crossing in

Middlebury Township, **Tioga County**, ACOE Baltimore District (Crooked Creek, PA Quadrangle N: 14.7 inches; W: 12.6 inches).

To remove the existing twin cell 24-inch corrugated metal pipes in their entirety and to construct, operate and maintain two 3-foot by 4-foot corrugated metal arch culvert pipes. An additional 3-foot by 4-foot corrugated metal arch culvert pipe shall be placed in a braided portion of the stream. The unnamed tributary to Hills Creek is a WWF. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**SPECIAL NOTICES**

**Announcement of Resource Recovery Demonstration Grants under the Solid Waste-Resource Recovery Development Act**

In accordance with 25 Pa. Code §§ 76.13 and 76.82(c), notice is given that the Department of Environmental Protection (Department) has approved grants to the following application sponsors under the Pennsylvania Solid Waste-Resource Recovery Development Act.

The grant offerings are subject to completion of a contract with the Department in accordance with the scope of work approved by the Bureau of Land Recycling and Waste Management. Grants are limited to no more than the maximum amount provided in the grant offering, up to 75% of the total eligible demonstration project costs.

Inquiries concerning this notice should be directed to John Lundsted, Recycling Technical Assistance Coordinator, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472.

**2003 Act 198 Demonstration Grants**

<i>Development Agency</i>	<i>Description of Project</i>	<i>Amount</i>
Liberty Township	Liberty Township, in conjunction with RecycALL Inc., will develop and demonstrate a manufacturing process that utilizes mixed broken glass cullet as a raw material in concrete products.	\$100,000
Philadelphia City	Philadelphia City, in conjunction with The White Dog Café, is going to establish an onsite in-vessel food composting demonstration project in an urban setting to understand the needs and issues of an operation such as this.	\$37,600

[Pa.B. Doc. No. 03-2234. Filed for public inspection November 21, 2003, 9:00 a.m.]

**Availability of Technical Guidance**

Technical guidance documents are on the Department of Environmental Protection's (Department) website ([www.dep.state.pa.us](http://www.dep.state.pa.us)) at the Public Participation Center page. 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 2003.

*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.

*Notice of Intent to Add Technical Guidance*

DEP ID: 251-2200-503. Title: Guidance for the Application of Section 269a.(46)—Transportation Standards, Phase II Hazardous Waste Siting Criteria. Description: Section 269a.(46) provides basic transportation standards, criteria and restrictions regarding hazardous waste transportation and disposal facilities. The purpose of this document is to provide a framework for the review and analysis of the effects of truck traffic when traveling to and from a treatment and disposal facility. This document has been used by the Department as an internal guideline since 1993, but not as a technical guidance document. The Bureau of Land Recycling and Waste Management has made minor revisions to the document, including formatting, renumbering of paragraphs and updating the bureau and Department name. The document will be incorporated into the Department's inventory of technical guidance documents to make it publicly available. Effective Date: November 22, 2003. Contact: Nick Molina, (717) 787-8268, nmolina@state.pa.us.

*Draft Technical Guidance—Substantive Revision*

DEP ID: 383-3310-109. Title: Pennsylvania Drinking Water Information System (PADWIS) Inventory User's Manual. Description: The purpose of this document is to establish guidance for maintenance of a computerized public water system inventory, and to establish uniform instructions and protocol for maintaining and using a computerized inventory of public water system information. In turn, this information is used for management of the Safe Drinking Water Program. This document contains inventory data for over 10,000 of Pennsylvania's active public drinking water systems. The revisions to this existing technical guidance document include changes and/or replacements of outdated computer systems information. Comment Period Ends: December 22, 2003. Contact: Michael Mark, (717) 772-4466, mmark@state.pa.us.

*Final Technical Guidance*

DEP ID: 362-0300-002. Title: Small Flow Treatment Facilities Manual. Description: This policy provides major amendments to the existing guidance regarding the design and construction of small flow treatment facilities. The purpose of this guidance is to amend, clarify and add additional treatment facility options to the previous guidance regarding the design, permitting, installation, operation and maintenance of domestic wastewater treatment facilities with flows not greater than 2,000 gallons per day. Effective Date: November 22, 2003. Contact: Keith Bair, (717) 787-8184, kebair@state.pa.us.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 03-2235. Filed for public inspection November 21, 2003, 9:00 a.m.]

**Coastal Zone Advisory Committee Meeting Change**

The December 10, 2003, meeting of the Coastal Zone Advisory Committee has been changed to January 21, 2004. The meeting will take place on the 2nd floor Rachel Carson State Office Building rather than the usual location of Room 105. Meeting participants should be prepared to obtain visitor passes from the security guards by showing a valid form of picture identification at the guard's desk.

Questions concerning this meeting should be directed to Everal McDonald, (717) 772-5619, emcdonald@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at [www.dep.state.pa.us](http://www.dep.state.pa.us).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Everal McDonald, (717) 772-5619 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 03-2236. Filed for public inspection November 21, 2003, 9:00 a.m.]

**Proposed Revisions to Pennsylvania NPDES General Permit for Discharges from Small Flow Treatment Facilities (PAG-4)**

Under the authority of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Clean Water Act (33 U.S.C.A. §§ 1251—1376), the Department of Environmental Protection (Department) proposes to review and revise the term of its NPDES General Permit for Discharges from Single Family Residence Sewage Treatment Plants and retitle it the NPDES General Permit for Discharges from Small Flow Treatment Facilities (PAG-4). The current General Permit will expire on February 5, 2004.

The proposed revisions reflect changes due to the revisions to the Small Flow Treatment Facilities Manual (DEP ID: 362-0300-002) technical guidance document, published as final at 33 Pa.B. 5783 (November 22, 2003).

The proposed permit document package is available on the Department's website at [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Participate). The proposed permit document package is also available by contacting the Bureau of Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 783-3795, [trutrountma@state.pa.us](mailto:trutrountma@state.pa.us).

The Department invites public comments on the proposed revisions. Comments must be submitted to the Department by December 22, 2003. If there is significant public interest in the General Permit, or if requested, the comment period may be extended at the discretion of the Department for an additional 15-day period. Only comments received within the specified period will be considered in the formulation of the final documents for this General Permit. If significant issues of public interest are raised, the Department may schedule a public meeting or hearing. Written comments should be submitted to the previous address. The comments will also be accepted by e-mail to [kebair@state.pa.us](mailto:kebair@state.pa.us). Comments will not be accepted by facsimile or on voice mail.

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). Following the specified comment period, the Department will review all submitted comments, prepare a written comments and response document and prepare a final documents package for the General Permit. Availability of the final General Permit documents will be announced in the *Pennsylvania Bulletin*. Individuals who

would like to receive a copy of the final documents may request them by contacting the previous address or telephone number.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 03-2237. Filed for public inspection November 21, 2003, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Carlisle Regional Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Carlisle Regional Medical Center has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

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

Individuals 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 previously listed.

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 Director, Division of Acute and Ambulatory Care, (717) 783-8980, for speech and/or hearing impaired persons V/TT: (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 03-2238. Filed for public inspection November 21, 2003, 9:00 a.m.]

### Application of Lehigh Valley Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lehigh Valley Hospital has requested an exception to the requirements of 28 Pa. Code § 107.62 (relating to oral orders).

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

Individuals 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 previously listed.

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 Director, Division of Acute and Ambulatory Care, (717) 783-8980, for speech and/or hearing impaired persons V/TT: (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 03-2239. Filed for public inspection November 21, 2003, 9:00 a.m.]

### Application of St. Luke's Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that that St. Luke's Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 9.2.H1a (relating to corridor width).

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

Individuals 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 previously listed.

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 Director, Division of Acute and Ambulatory Care, (717) 783-8980, for speech and/or hearing impaired persons V/TT: (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 03-2240. Filed for public inspection November 21, 2003, 9:00 a.m.]

### Decisions on Requests for Exceptions to Health Care Facility Regulations

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), effective June 6, 1998, the Department of Health (Department) has published in the *Pennsylvania Bulletin* all requests by entities licensed under the Health Care Facilities Act (35 P. S. §§ 448.101—448.904b), for exceptions to regulations contained in 28 Pa. Code Part IV, Subparts B—G.

Section 51.33(d) provides that the Department will publish notice of all approved exceptions on a periodic basis. The Department has determined that it will publish notice of all exceptions, both approved and denied. The following list contains the decisions made on exception requests published in the *Pennsylvania Bulletin* from September 1, 2003, through November 30, 2003. Future publications of decisions on exception requests will appear on a quarterly basis.

Requests for additional information on the exception requests and the Department's decision should be made

to the relevant division of the Department. Inquiries regarding hospitals and ambulatory surgical facilities shall be addressed to Sandra Knoble, Director, Division of Acute and Ambulatory Care, P. O. Box 90, Harrisburg, PA 17108. Inquiries regarding long-term care facilities shall be addressed to William Bordner, Chief, Division of Nursing Care Facilities, P. O. Box 90, Harrisburg, PA 17108. Persons requiring special assistance for speech and/or hearing impairment should call V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

#### Exception Requests—Hospitals

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Saint Vincent Health Center—Erie	28 Pa. Code § 51.3(a)	notification—60 days	8/9/03	not necessary
Community Medical Center Healthcare System	28 Pa. Code § 107.61	written orders	6/21/03	granted in part
Kindred Hospital, Wyoming Valley	28 Pa. Code § 107.61	written orders	6/21/03	granted in part
Mercy Special Care Hospital—Nanticoke	28 Pa. Code § 107.61	written orders	6/21/03	granted in part
Tyler Memorial Hospital	28 Pa. Code § 107.61	written orders	6/21/03	granted in part
Moses Taylor Hospital	28 Pa. Code § 107.61	written orders	6/21/03	not necessary
St. Lukes Hospital	28 Pa. Code § 107.61	written orders	6/21/03	granted in part
Allied Services Rehab Hospital	28 Pa. Code § 107.61	written orders	6/21/03	not necessary
Geisinger Wyoming Valley Hospital	28 Pa. Code § 107.61	written orders	6/21/03	granted in part
Centre Community Hospital	28 Pa. Code § 107.61	written orders—PAs and midwives	7/26/03	granted
Doylestown Hospital	28 Pa. Code § 107.61	written orders—CRNPs and PAs	7/26/03	granted in part
Geisinger Medical Center	28 Pa. Code § 107.61	written orders—CRNPs and PAs	7/26/03	granted in part
Healthsouth Nittany Valley Rehab Hospital	28 Pa. Code § 107.61	written orders—PAs	7/26/03	granted
Marian Community Hospital	28 Pa. Code § 107.61	written orders	7/26/03	granted in part
Hazleton St. Joseph Medical Ctr.	28 Pa. Code § 107.61	written orders CRNP/PA	7/26/03	granted in part
Hazleton General Hospital	28 Pa. Code § 107.61	written orders CRNP/PA	7/26/03	granted in part
Mercy Hospital—Scranton	28 Pa. Code § 107.61	written orders CRNP/PA	7/26/03	granted in part
Mercy Hospital—Wilkes-Barre	28 Pa. Code § 107.61	written orders CRNP/PA	7/26/03	granted in part
Armstrong County Memorial Hospital	28 Pa. Code § 107.61	written orders CRNP/PA	7/26/03	granted in part
Greene County Memorial Hospital	28 Pa. Code § 107.61	written orders—PA	7/26/03	granted in part
MidValley Hospital	28 Pa. Code § 107.61	written orders CRNP/PA	8/9/03	not necessary
Moses Taylor Hospital	28 Pa. Code § 107.61	written orders CRNP/PA/CNM	8/9/03	not necessary
Punxsutawney Area Hospital	28 Pa. Code § 107.61	written orders PA/CNM	8/9/03	not necessary
Shriners Hospital for Children	28 Pa. Code § 107.61	written orders CRNP/PA	8/9/03	not necessary

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
St. Clair Hospital	28 Pa. Code § 107.61	written orders CRNP/PA	8/9/03	not necessary
Abington Memorial Hospital	28 Pa. Code § 107.61	written orders CRNP/CNM/PA	8/2/03	not necessary
Community Medical Center Healthcare System	28 Pa. Code § 107.62	oral orders	6/21/03	granted in part
Kindred Hospital, Wyoming Valley	28 Pa. Code § 107.62	oral orders	6/21/03	granted in part
Tyler Memorial Hospital	28 Pa. Code § 107.62	oral orders	6/21/03	granted in part
Moses Taylor Hospital	28 Pa. Code § 107.62	oral orders	6/21/03	not necessary
St. Lukes Hospital	28 Pa. Code § 107.62	oral orders	6/21/03	granted in part
Allied Services Rehab Hospital	28 Pa. Code § 107.62	oral orders	6/21/03	not necessary
Geisinger Wyoming Valley Hospital	28 Pa. Code § 107.62	oral orders	6/21/03	granted in part
Geisinger Medical Center	28 Pa. Code § 107.62	oral orders—CRNPs and PAs	7/26/03	granted in part
Healthsouth Nittany Valley Rehab Hospital	28 Pa. Code § 107.62	oral orders—PAs	7/26/03	granted
Marian Community Hospital	28 Pa. Code § 107.62	oral orders	7/26/03	granted in part
Uniontown Hospital	28 Pa. Code § 107.62	oral orders	7/26/03	granted
Armstrong County Memorial Hospital	28 Pa. Code § 107.62	oral orders CRNP/PA	7/26/03	granted in part
Greene County Memorial Hospital	28 Pa. Code § 107.62	oral orders—PA	7/26/03	granted in part
Punxsutawney Area Hospital	28 Pa. Code § 107.62	oral orders PA/CNM	8/9/03	not necessary
Shriners Hospital for Children	28 Pa. Code § 107.62	oral orders CRNP/PA	8/9/03	not necessary
St. Clair Hospital	28 Pa. Code § 107.62	oral orders CRNP/PA	8/9/03	not necessary
Abington Memorial Hospital	28 Pa. Code § 107.62	oral orders CRNP/CNM/PA	8/2/03	not necessary
Mercy Special Care Hospital—Nanticoke	28 Pa. Code § 107.62(b)	oral orders	6/21/03	granted in part
Hazleton St. Joseph's Medical Center	28 Pa. Code § 107.62(b)	oral orders CRNP/PA	7/26/03	granted in part
Hazleton General Hospital	28 Pa. Code § 107.62(b)	oral orders CRNP/PA	7/26/03	granted in part
Mercy Hospital—Scranton	28 Pa. Code § 107.62(b)	oral orders CRNP/PA	7/26/03	granted in part
Mercy Hospital—Wilkes-Barre	28 Pa. Code § 107.62(b)	oral orders CRNP/PA	7/26/03	granted in part
MidValley Hospital	28 Pa. Code § 107.62(b)	oral orders CRNP/PA CRNP/PA/CNM	8/9/03	not necessary
Moses Taylor Hospital	28 Pa. Code § 107.62(b)	oral orders	8/9/03	not necessary
Allegheny General Hospital	28 Pa. Code § 107.64	administration of drugs	12/14/02	granted
Forbes Regional Hospital	28 Pa. Code § 107.64	administration of drugs	3/29/03	granted in part
Bucktail Medical Center	28 Pa. Code § 109.2(b)	director of nursing	7/26/03	granted
Forbes Regional Hospital	28 Pa. Code § 117.30	emergency paramedic	3/29/03	granted in part
Indiana Hospital	28 Pa. Code § 127.32	written orders— chiropractors	11/17/01	granted
St. Clair Hospital	28 Pa. Code § 127.32	written orders diagnostic radiology CRNP/PA	8/9/03	not necessary
St. Clair Hospital	28 Pa. Code § 131.22	treatment orders for rehabilitation	8/9/03	not necessary



<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Chambersburg Hospital	28 Pa. Code § 138.2	cardiac catheterization services definitions	3/29/03	granted
Chambersburg Hospital	28 Pa. Code § 138.15	high risk cardiac catheterizations	3/29/03	granted
Jeanes Hospital	28 Pa. Code § 138.15	high risk cardiac catheterization	3/16/02	denied
Chambersburg Hospital	28 Pa. Code § 138.17(c)	emergent PTCA services	3/29/03	granted
Geisinger Medical Center	28 Pa. Code § 153.1	7.28.B8 (relating to ceiling finishes)	1/25/03	granted
Lock Haven Hospital	28 Pa. Code § 153.1	minimum standards—7.23.D4 employee	7/26/03	granted
DuBois Regional Medical Center	28 Pa. Code § 153.1	minimum standards—7.10.H3 control room	7/26/03	not necessary
Meadville Medical Center	28 Pa. Code § 153.1	minimum standards—9.5.F2(1) c Class B OR	8/9/03	granted
Suburban General Hospital	28 Pa. Code § 153.1	minimum standards—7.2.B19 Showers and bathtubs	8/23/03	granted
Hanover Hospital	28 Pa. Code § 153.1	Minimum standards—9.1.c facility access	9/20/03	denied
Edgewood Place	28 Pa. Code § 153.1	minimum standards—7.2.B19 showers and tubs	10/4/03	granted
<b>Exception Requests—Ambulatory Surgical Facilities</b>				
Altoona Hospital ASC	28 Pa. Code § 553	governing body	8/9/03	granted
Suburban Gastroenterology Assoc.	28 Pa. Code § 569.2	fire safety codes	3/29/03	not necessary
Suburban Gastroenterology Assoc.	28 Pa. Code § 571.1	minimum standards—Appendix A Table 4.3	3/29/03	not necessary
Plaza Surgical Center, Inc.	28 Pa. Code § 571.1	minimum standards—9.5.E1 soiled workroom	8/2/03	granted
Plaza Surgical Center, Inc.	28 Pa. Code § 571.1	minimum standards—9.5.F5(m) housekeeping	8/2/03	granted
<b>Exception Requests—Nursing Homes</b>				
Berwick Retirement Village Nursing Home	28 Pa. Code § 201.17	location	3/29/03	rescinded
Mercy Jeannette Hospital Skilled Nursing Center	28 Pa. Code § 201.17	locations	7/26/03	granted
Rothermel L. Caplan Transitional Care Unit	28 Pa. Code § 201.17	location	8/2/03	granted
Linden Hall	28 Pa. Code § 201.18(e)	management	8/23/03	rescinded
Beverly Healthcare Meadville	28 Pa. Code § 205.6(a)	function of building	6/21/03	rescinded
Holy Family Manor, Inc.	28 Pa. Code § 205.6(a)	function of building	7/26/03	granted
The Lebanon Valley Home	28 Pa. Code § 205.6(a)	function of building	7/26/03	granted
ManorCare Health Services—Pottstown	28 Pa. Code § 205.6(a)	function of building	7/26/03	granted
Nottingham Village	28 Pa. Code § 205.6(a)	function of building	8/9/03	granted
Marian Manor Corporation	28 Pa. Code § 205.6(a)	function of building	8/30/03	granted
Westwood Nursing & Rehabilitation Center	28 Pa. Code § 205.6(a)	function of building	9/20/03	denied
Church of the Brethren Home	28 Pa. Code § 205.9(a)	corridors	4/19/03	rescinded

<i>Facility Name</i>	<i>Regulation</i>	<i>Relating to</i>	<i>Request Published</i>	<i>Decision</i>
Bloomsburg Health Care Center	28 Pa. Code § 205.19(b)	windows and window sills	8/23/03	granted
Passavant Retirement and Health Center	28 Pa. Code § 205.24(a)	dining room	8/30/03	granted
Passavant Retirement and Health Center	28 Pa. Code § 205.27	lounge and recreation rooms	8/30/03	granted
The Wesley Village	28 Pa. Code § 205.33(a)	utility room	4/26/03	rescinded
The Wesley Village	28 Pa. Code § 205.33(b)	utility room	4/26/03	rescinded
The Wesley Village	28 Pa. Code § 205.33	utility room	4/26/03	rescinded
The Glen at Willow Valley	28 Pa. Code § 205.36(h)	bathing facilities	7/12/03	granted
Masonic Village at Sewickley	28 Pa. Code § 205.36(h)	bathing facilities	8/23/03	granted
Inglis House	28 Pa. Code § 205.36(h)	bathing facilities	8/30/03	granted
Beverly Manor of Lancaster	28 Pa. Code § 205.38(a)	toilet facilities	6/14/03	granted
Holy Family Manor, Inc.	28 Pa. Code § 205.38(b)	toilet facilities	9/6/03	granted

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

[Pa.B. Doc. No. 03-2241. Filed for public inspection November 21, 2003, 9:00 a.m.]

### Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Hamilton Arms Center  
336 South West End Avenue  
Lancaster, PA 17603

Vincentian Regency  
9399 Babcock Boulevard  
Allison Park, PA 15101-2092

The Sarah A. Reed Retirement Center  
227 West 22nd Street  
Erie, PA 16502-2689

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.66(g) (relating to special ventilation requirements for new construction):

Landis Homes  
1001 East Oregon Road  
Lititz, PA 17543

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax: (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an

alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the address or phone number listed previously or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 03-2242. Filed for public inspection November 21, 2003, 9:00 a.m.]

## DEPARTMENT OF STATE

### State Athletic Commission; Public Meetings for 2004

The State Athletic Commission (Commission) announces its schedule for regular meetings to be held at least once every 2 months in 2004 under 5 Pa.C.S. § 103 (relating to duties of commission).

All meetings will be held at 11 a.m. in Room 303, North Office Building, Harrisburg, PA 17120. These meetings are open to the public and are scheduled as follows:

February 23, 2004  
April 26, 2004  
June 28, 2004  
August 23, 2004  
October 25, 2004  
December 21, 2004

Individuals having questions regarding these meetings should contact the Commission at (717) 787-5720.

GREGORY P. SIRB,  
*Executive Director*

[Pa.B. Doc. No. 03-2243. Filed for public inspection November 21, 2003, 9:00 a.m.]

# HISTORICAL AND MUSEUM COMMISSION

## Historic Preservation Certified Local Government Grant Applications

On behalf of Governor Edward G. Rendell, the Historical and Museum Commission (Commission) announces that applications are now being received for 2004 Historic Preservation Certified Local Government (CLG) Grants through the Commission's Bureau for Historic Preservation.

Municipalities do not have to achieve CLG status by the time the grant application is due, but if awarded a grant, they must have achieved CLG status by the contract start date to receive grant funds.

Projects undertaken between August 1, 2004, and July 31, 2005, are eligible.

There are currently 30 CLGs in this Commonwealth. Many kinds of projects can be assisted by these grants to CLGs. Some examples are:

- Conduct systematic surveys to identify and evaluate the municipality's historic and archaeological resources.
- Prepare nominations for the National Register of Historic Places.
- Prepare and publish new or revised historic district design guidelines including signage guidelines.
- Develop the necessary documentation (maps, photographs, inventories, research and writing) to designate additional municipal historic districts or to enlarge a previously designated municipal historic district.
- Historic preservation training for CLG review board/commission members and staff.
- Develop and publish brochures or educational materials that explain municipal historic preservation responsibilities, activities, programs or local regulatory procedures.
- Develop a municipal historic preservation plan or develop a historic preservation plan as a component of a local government's comprehensive plan.
- Prepare predevelopment documents (architectural plans and specifications, engineering and feasibility studies and historic structure reports) for buildings or structures currently listed in the National Register (project must advance the CLG's historic preservation goals).
- Provide staffing/consultant services for CLG historic preservation program administration purposes.
- Develop historic preservation programs or activities that advance heritage park planning or project implementation

The deadline for applications is December 1, 2003. Approximately \$80,000 will be awarded through a competitive selection process contingent on availability of Federal funds.

For information on how to become a CLG or to discuss the program in detail, contact Michel R. Lefevre, (717) 787-0771.

Applicants for Commission grants are required to use the web-based electronic grant application process (eGrant). Exceptions will be made for applicants who do not have access to the Internet. Contact Ira F. Smith, (717) 783-9927 to discuss exceptions.

To apply online, visit the Commission's grants website at [www.artsnet.org/phmc](http://www.artsnet.org/phmc) and follow the directions for the electronic application process. Refer to the Guidelines for Applicants for specific grant requirements.

For general information about the Commission, including the Pennsylvania Trail of History and the Pennsylvania State Archives, visit the PA PowerPort at [www.state.pa.us](http://www.state.pa.us), PA Keyword: PHMC, or [www.phmc.state.pa.us](http://www.phmc.state.pa.us).

JOHN C. WESLEY,  
*Interim Executive Director*

[Pa.B. Doc. No. 03-2244. Filed for public inspection November 21, 2003, 9:00 a.m.]

## National Register Nominations to be Reviewed by the Historic Preservation Board

The Historic Preservation Board (Board) will hold a meeting on December 9, 2003, at 9:45 a.m. in Room 515, Historical and Museum Commission, Third and North Streets, Harrisburg, PA. Individuals with a disability who wish to attend this meeting and require an auxiliary aid, service or other accommodation to participate should contact Helena Johnson, (717) 783-2698 or the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD) to discuss how the Board can accommodate their needs. Individuals with questions or comments should contact the Bureau for Historic Preservation at (717) 783-8946.

### Great Valley and Piedmont Region

1. *Steppacher, Walter M. & Brother, Shirt Factory*, 146-150 N. 13th Street, Philadelphia.
2. *Pine Forge Mansion and Industrial Site*, Pine Forge Road and Douglass Drive (Pine Forge), Douglass Township, Berks County.
3. *Williams, Robert, House*, 1711 East Boot Road (West Chester), East Goshen Township, Chester County.
4. *Glenside Memorial Hall*, 185 Keswick Avenue (Glenside), Township of Cheltenham, Montgomery County.
5. *Breyer, Henry W., Sr., House*, 8230 Old York Road (Elkins Park), Township of Cheltenham, Montgomery County.
6. *Levittown Hall*, northwest corner of Levittown Parkway and US 13, Tullytown Borough, Bucks County.
7. *Dill's Tavern*, 227 North Baltimore Street, Dillsburg, York County.

### Allegheny Plateau

8. *Park Dinor*, 4019 Main Street, Lawrence Park Township, Erie County.
9. *Sutton-Ditz House*, 18 Grant Street, Clarion, Clarion County.

### Anthracite Region and Poconos

10. *Luzerne County Fresh Air Camp*, Middle Road, approximately 1/4 mile northeast of the intersection of Middle Road and SR 3021, Butler Township, Luzerne County.

**Ridge and Valley, Southwestern Pennsylvania**

No nominations.

JOHN C. WESLEY,  
*Interim Executive Director*

[Pa.B. Doc. No. 03-2245. Filed for public inspection November 21, 2003, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, November 6, 2003, and announced the following:

#### *Regulations Approved*

Department of Transportation #18-384: Enhanced Emission Inspection Program (amends 67 Pa. Code Chapter 177)

Department of Revenue #15-418: Personal Income Tax; Employer Withholding (amends 61 Pa. Code Chapters 113 and 121)

Department of Revenue #15-423: Repeal of Obsolete Lottery Regulations (amends 61 Pa. Code Chapters 817, 831, 867, 868 and 869)

#### Approval Order

Public Meeting held  
November 6, 2003

*Commissioners Voting:* John R. McGinley, Jr., Esq., Chairperson, by phone; Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

*Department of Transportation—Enhanced Emission Inspection Program; Regulation No. 18-384*

On September 11, 2003, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Transportation (Department). This rulemaking amends 67 Pa. Code Chapter 177. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*. On October 10, 2003, the Department tolled the review of this regulation and simultaneously submitted revisions to correct typographical errors and clarify specific provisions in the regulation.

In response to Federal standards imposed by the Clean Air Act, the Department is incorporating on-board diagnostic (OBD) testing in its emission inspection program. Annual OBD inspections of 1996 model year and newer vehicles will be required in 17 counties in the Philadelphia, Pittsburgh, Lehigh Valley and South Central regions of the state. Tailpipe testing will still be required for older vehicles in the Philadelphia and Pittsburgh regions. Annual visual inspections and gas cap tests will be required in eight counties across northern Pennsylvania.

We have determined this regulation is consistent with the statutory authority of the Department (75 P.S. §§ 4706 and 6103) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

#### Approval Order

Public Meeting held  
November 6, 2003

*Commissioners Voting:* John R. McGinley, Jr., Esq., Chairperson, by phone; Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

*Department of Revenue—Personal Income Tax; Employer Withholding; Regulation No. 15-418*

On August 17, 2001, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Revenue (Department). This rulemaking amends 61 Pa. Code Chapters 113 and 121. The proposed regulation was published in the September 1, 2001, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on September 30, 2003.

This regulation amends provisions related to the taxation of cafeteria plans and tip income. It clarifies language pertaining to liability for withheld tax. It also updates rules relating to an employer's filing responsibilities.

We have determined this regulation is consistent with the statutory authority of the Department (72 P.S. § 7354) and the intention of the General Assembly. Having considered all the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

#### Approval Order

Public Meeting held  
November 6, 2003

*Commissioners Voting:* John R. McGinley, Jr., Esq., Chairperson, by phone; Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

*Department of Revenue—Repeal of Obsolete Lottery Regulations; Regulation No. 15-423*

On September 30, 2003, the Independent Regulatory Review Commission (Commission) received this regulation from the Department of Revenue. This rulemaking amends 61 Pa. Code Chapters 817, 831, 867, 868 and 869. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted regulation deletes six obsolete on-line lottery games. The games are: Pennsylvania Lotto, Wild Card Lotto, Pennsylvania Super 7, Hearts and Diamonds, Keystone Jackpot and Pennsylvania Lottery 25th Anniversary TV Game Show.

We have determined this regulation is consistent with the statutory authority of the Department of Revenue (72 P. S. § 3761-303) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 03-2246. Filed for public inspection November 21, 2003, 9:00 a.m.]

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the Committee comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-5116	State Board of Nursing CRNP Prescriptive Authority Fees (33 Pa.B. 4462 (September 6, 2003))	10/6/03	11/5/03
10-174	Department of Health Out-of-Hospital Do-Not-Resuscitate Orders (33 Pa.B. 4450 (September 6, 2003))	10/6/03	11/5/03
16A-5211	State Board of Optometry Continuing Education, Fees, Certification to Treat Glaucoma (33 Pa.B. 4464 (September 6, 2003))	10/6/03	11/5/03

#### State Board of Nursing Regulation No. 16A-5116 CRNP Prescriptive Authority Fees November 5, 2003

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The State Board of Nursing (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on October 6, 2003. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

#### 1. General.—Statutory authority, reasonableness, clarity.

Board counsel indicated that the fees in this regulation will be applied retroactively to November 18, 2000. In addition, the Board-generated application form for Certified Registered Nurse Practitioner (CRNP) prescriptive authority also states this intent. We have two concerns.

First, there is no mention of the intended retroactive application of these proposed fees in the proposed regulation or its preamble. The Board must clearly explain its intent to the regulated community and establish a justifiable rationale for retroactive collection of fees.

Second, if the Board intends to retroactively apply these fees upon the regulated community, it must justify its statutory authority to do so.

#### 2. Section 21.253. Fees.—Fiscal impact, reasonableness, clarity.

There have been numerous comments that the proposed fees are quite costly and unreasonable. We have four related concerns.

First, the Board pointed out that many of the applications received from CRNPs for collaborative agreements for prescriptive authority are voluminous and contain unnecessary information. As a result, Board staff must undergo a more time-consuming review of the application to ensure that the required information is present and accurate.

The Board indicates that it has developed a simplified form for collaborative agreements for prescriptive authority, but this form is only used by a small percentage of applicants. To avoid the review of unnecessary information and to lower the corresponding costs on the regulated community, the Board should consider adding a provision that all applicants must use the Board-generated collaborative agreement form. This would allow the Board to lower the proposed fee.

Second, the proposed regulation is unclear on what circumstances will require the filing of additional collaborative agreements for prescriptive authority. The vagueness of this provision may cause applicants to submit additional collaborative agreements to the Board when they are not necessary, thus causing the CRNP to pay unnecessary extra fees to the Board.

The Board has indicated that an additional collaborative agreement must be filed only when the primary supervising physician changes or another primary supervising physician becomes necessary. The Board should add or amend language in § 21.285 to clearly indicate when an additional collaborative agreement for prescriptive authority must be filed.

Third, the Board stated that a collaborative agreement may have an unlimited number of substitute physicians and these can be easily added or deleted at any time without cost to the CRNP. Section 21.285(b)(1) should be

amended to clearly reflect the Board's procedures for making amendments to collaborative agreements regarding substitute physicians.

Finally, the Board has indicated that it is necessary to review and approve the collaborative agreements to ensure that all of the necessary requirements are met. In cases where the CRNP is only changing the primary supervising physician, the Board should consider reasonable filing alternatives to reduce the financial burden on the regulated community. The fee could be eliminated or a more reasonable, lesser fee could be charged because less information will need to be reviewed on the new submission.

## Department of Health Regulation No. 10-174

### Out-of-Hospital Do-Not-Resuscitate Orders

November 5, 2003

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Department of Health (Department) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on October 6, 2003. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

#### 1. Section 1005.3. Right to enter, inspect and obtain records.—Clarity.

The preamble states the Department's intention to use a reference to Subpart A. However, this reference is not shown in § 1005.3. Was it the Department's intention to publish the subsections under § 1005.3?

#### 2. Section 1051.13. Person who loses authority to function as a surrogate.—Reasonableness.

There are three questions related to the change of surrogates. First, does an out-of-hospital do-not-resuscitate (DNR) order remain valid if it was established by a surrogate who is subsequently replaced? If so, how could the new surrogate become aware of an existing out-of-hospital DNR order?

Second, this section places responsibilities on former surrogates. However, there is no parallel provision that places responsibilities on the current surrogate. Should similar responsibilities, such as contacting the attending physician, be placed on the current surrogate?

Finally, subsections (b) and (c) require a former surrogate to help the physician locate "the patient *or* the patient's current surrogate." (Emphasis added.) If the patient is unable to communicate, it may be difficult for the physician to locate the current surrogate. Should the word "or" be replaced by "and"?

#### 3. Section 1051.23. Disclosures to patient requesting out-of-hospital DNR order. Section 1051.24. Disclosures to surrogate requesting out-of-hospital DNR order.—Protection of the public health, safety and welfare.

We have three questions. First, why don't §§ 1051.23(9) and 1051.24(5) mandate a physician to contact the patient or surrogate to rescind the out-of-hospital DNR order if the physician discovers the diagnosis of the terminal condition was in error? If the premise for the

out-of-hospital DNR order is in error, an "attempt" to notify the patient or surrogate may not sufficiently protect the patient.

Second, why don't §§ 1051.23(6) and 1051.24(4) require notice to the physician if the patient or surrogate revokes the out-of-hospital DNR order without the physician's approval or knowledge? Subsequent notice to the physician should be required, particularly if a surrogate revoked the order.

Finally, to what other procedures is the Department referring in § 1051.23(5)? The Department should specify what these procedures are by cross-referencing them or delete the phrase "in accordance with other procedures" from this paragraph.

#### 4. Section 1051.26. Physician refusal to issue an out-of-hospital DNR order.—Reasonableness; Clarity.

We have two questions on paragraph (2). First, a physician who is not willing to issue an out-of-hospital DNR order is required to "offer to assist the patient or surrogate to secure the services of another physician who is willing to issue an out-of-hospital DNR order." As written, this requirement presumes that the attending physician knows what diagnosis and conclusion another physician will make. Why is the phrase "who is willing to issue an out-of-hospital DNR order" appropriate?

Second, to what degree is a physician required to assist a patient in obtaining an out-of-hospital DNR order from another physician? Will a referral be sufficient?

#### 5. Section 1051.29. Duty to contact patient or surrogate.—Protection of the public health, safety and welfare.

This section requires a physician to "make a good faith effort" to contact the patient to rescind the out-of-hospital DNR order if the physician discovers the diagnosis of the terminal condition or permanent unconsciousness was in error. If the premise for the out-of-hospital DNR order is in error, shouldn't notification of the patient or surrogate be mandatory?

#### 6. Section 1051.30. Physician destruction of out-of-hospital DNR order, bracelet or necklace.

The preamble states that a physician must have confirmation of the destruction of the out-of-hospital DNR order from a "reliable person" if they do not destroy the order themselves. Subsection (b) does not include this language. The phrase "reliable person" should be added to subsection (b) and defined in § 1051.2.

#### 7. Section 1051.51. Implementation of out-of-hospital DNR order.—Reasonableness; Clarity.

Subsection (a) of this section states "...the EMS provider shall implement the out-of-hospital DNR order only if it contains original signatures." We have two concerns.

First, why are "original signatures" required? Also, how can the emergency medical services provider readily determine if the out-of-hospital DNR order contains original signatures?

Second, commentators have suggested that prehospital practitioners should be able to accept an unaltered copy of the original out-of-hospital DNR order. Is there any reason an unaltered copy wouldn't be acceptable?

**State Board of Optometry Regulation No. 16A-5211**

**Continuing Education, Fees,  
Certification to Treat Glaucoma**

**November 5, 2003**

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The State Board of Optometry (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on October 6, 2003. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

**Section 23.205. Application procedure.—Consistency with the enabling statute.**

Section 3(a)(2.5)(I) of the Optometric Practice and Licensure Act (act) (63 P. S. § 244.3(a)(2.5)(i)) requires optometrists to maintain professional liability insurance in the amounts of \$200,000 per occurrence and \$600,000 per annual aggregate. However, therapeutically certified optometrists are required to have professional liability insurance in the amounts of \$1 million per occurrence and \$3 million per annual aggregate. See section 4b(b) of the act (63 P. S. § 244.4b(b)).

It is our understanding that when an applicant applies for a license as a therapeutically certified optometrist, the applicant must verify, by signature under a statement, that the optometrist has the greater amount of insurance coverage. However, this requirement is not in the proposed regulation. To provide sufficient notice to prospective applicants, the final-form regulation should include the greater insurance requirements established by the act.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 03-2247. Filed for public inspection November 21, 2003, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). To obtain a copy of a regulation, contact the promulgating agency.

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
12-60	Department of Labor and Industry Uniform Construction Code; Administration and Enforcement; Elevators and Other Lifting Devices	11/6/03
16A-4510	State Board of Cosmetology Examination Fees	11/12/03

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
16A-4611	State Board of Dentistry Application Fees	11/12/03

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 03-2248. Filed for public inspection November 21, 2003, 9:00 a.m.]

**INSURANCE DEPARTMENT**

**James E. Dwyer and James & Son, Inc.; Hearing**

**Order to Show Cause; Doc. No. SC03-07-048**

A hearing in this case is scheduled for January 14, 2004, at 10 a.m. in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

A jointly executed written stipulation of facts and documents must be filed with the Administrative Hearings Office on or before January 7, 2004. If either party intends to present witnesses or documents in addition to those identified at the prehearing telephone conference, the information must be presented in writing to the opposing party on or before January 7, 2004. Failure to provide this information may result in preclusion of testimony or evidence.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 03-2249. Filed for public inspection November 21, 2003, 9:00 a.m.]

**Geisinger Health Plan; Rate Filing**

On November 3, 2003, Geisinger Health Plan submitted a filing to increase the group base medical and pharmacy plan rates. The proposed rate increase for the medical plan is 19.54% and 23.87% for the pharmacy plan. The medical increase is expected to generate additional revenue of \$49.2 million and the pharmacy increase is expected to generate additional revenue of \$15.6 million annually. The proposed effective date is April 1, 2004.

This filing is available for public inspection during normal working hours at the Insurance Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Actuary, Insurance Department, Bureau of Accident and Health Insurance, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 03-2250. Filed for public inspection November 21, 2003, 9:00 a.m.]

### Keystone Insurance Company; Homeowners Rate Filing

On November 6, 2003, the Insurance Department (Department) received from Keystone Insurance Company a filing for a proposed rate level change for homeowners insurance.

The company requests an overall 4.1% increase amounting to \$739,000 annually, to be effective February 17, 2004, for new business and March 1, 2004, for renewal business.

Unless formal administrative action is taken prior to January 5, 2004, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Xiaofeng Lu, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, xlu@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 03-2251. Filed for public inspection November 21, 2003, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insured's automobile policy. The hearing will be held in accordance with the requirements of the act; 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 office in Pittsburgh, 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 Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Martin R. Picha; file no. 03-303-71926; Donegal Mutual Insurance Company; doc. no. PI03-10-034; February 5, 2004, 9 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 Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 03-2252. Filed for public inspection November 21, 2003, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by December 15, 2003. 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-00120206 (Corrected). Kids In Motion, Inc.** (2 Timber Mill Lane, Landenberg, Chester County, PA 19350), a corporation of the state of Delaware—persons in paratransit service, between points in the Township of Chadds Ford, Delaware County, and within an airline distance of 25 statute miles of the limits thereof.

**A-00120285. Daryl W. Jackson t/d/b/a Daryl Jackson Amish Pass. Svc.** (470 Houtztown Road, Myerstown, Lebanon County, PA 17067)—persons in paratransit service, between points in the County of Lebanon, and from points in said county, to points in Pennsylvania, and return, limited to the transportation of persons whose personal convictions prevent them from owing or operating motor vehicles.



**Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under the application.**

**A-00120279. Michael D. Berner t/d/b/a Hershey Mini-Storage** (1052 West Chocolate Avenue, Hershey, Dauphin County, PA 17033)—household goods in use, between points in the Township of Derry, Dauphin County, and within an airline distance of 25 statute miles of the limits thereof, excluding the City of Harrisburg, Dauphin County.

**Application of the following for amendment to the certificate of public convenience approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.**

**A-00097618, Folder 2, Am-C. H. E. Rohrer, Inc. t/d/b/a Rohrer Bus Service** (P. O. Box 100, 1515 State Road, Duncannon, Perry County, PA 17020), a corporation of the Commonwealth—discontinuance of service—(1) persons and hand baggage, on a scheduled route between Selinsgrove, Snyder County and Sunbury, Northumberland County via Hummels Wharf, Rolling Green Park, Shamokin Dam, Snyder County. *Additional Rights:* Beginning at the intersection of Third and Market Streets in the City of Sunbury, Northumberland County, thence east on Market Street to Hass Avenue, thence south on Hass Avenue to east end of Susquehanna Silk Mills and returning via same route to place of beginning; beginning at the intersection of Third and Market Streets in the City of Sunbury, Northumberland County, thence east on Market Street to Tenth Street, thence south on Tenth Street to Lenker Avenue, thence east on Lenker Avenue to west end on Susquehanna Silk Mills. *Additional Right:* To operate service as an extension of its presently authorized service in the City of Sunbury, over the following route: beginning at the intersection of Third and Market Streets in the City of Sunbury, thence over streets in the said city to the H. D. Bob Shirt Factory, and return; (2) persons from points in the certificate holder's presently certificated route south of Penn Street in the City of Sunbury, Northumberland County, to the plant of the Westinghouse Electric and Manufacturing Company in the said city, and vice versa; beginning at Market Street, thence via Front Street, Julia Street and Susquehanna Avenue to the said plant and returning via Front Street; provided that the right is granted to issue transfers with the S. & N. Transit Co. at the Public Square in the City of Sunbury for transportation to and from said plant; (3) persons on schedule, over the following alternate route in the City of Sunbury, Northumberland County; beginning at the intersection of Front and Bainbridge Streets, thence via Bainbridge Street to Second Street, thence via Second Street to Market Street; beginning at the intersection of Front and Walnut Streets, thence via Walnut Street to Lenker Avenue; beginning at the intersection of Front and Chestnut Streets, thence via Chestnut Street to Woolverton Street, thence via Woolverton Street to Tenth Street, thence via Tenth Street to Penn Street, thence via Tenth Street to Penn Street, thence via Penn Street to Lenker Avenue, thence via Lenker Avenue to Miller Street, thence via Miller Street to the plant of the Susquehanna Silk Mill Company; beginning at the intersection of Walnut Street and Fourth Street, thence via Fourth Street to Market Street; beginning at the intersection of Market Street and Woolverton Street thence via

Woolverton Street to Tenth Street; right (3) subject to the following condition: That the rights powers and privileges herein granted shall include the right to render through service between points on the previously described alternate routes and points on the certificate holder's presently certificated routes without the change of buses; (4) persons over an alternate route: beginning at the intersection of Highway Route 11 and the western end of the Bainbridge Street Bridge, thence continuing on Highway Route 11 as relocated, to its intersection with Old Highway Route 11 at the north end of the bridge crossing Penn's Creek; right (4) subject to the following condition: that the rights herein granted shall include the right to render through service between points on the alternate route and points on the applicant's presently certificated route between the Borough of Selinsgrove, Snyder County, and the City of Sunbury, Northumberland County; (5) persons and hand baggage over the following routes: *Alternate Route:* Beginning at the intersection of Market Street and Mill Street in the Borough of Selinsgrove, thence on Mill Street, Orange Street and Pine Street to the terminal at Market Street, thence continuing on Market Street, Mill Street, Orange Street and U. S. Highway Route 522 to its intersection with U. S. Highway Route 11 (15), thence returning on U. S. Highway Route 522 to Orange Street, thence on Orange Street. *Spur Routes (in either direction):* Beginning at the intersection of Market and Pine Streets, thence on Pine Street to Susquehanna University; beginning at the intersection of Pine and High Streets, thence on High Street and Bough Street to an alley at Groce's Silk Mill, thence via said alley, Sassafras Street and High Street to Pine Street, the place of beginning; Beginning at the intersection of Market and Pine Streets, thence on Market Street and Township Road 393 to the Selinsgrove Fairgrounds; and (6) persons employed at the Selinsgrove State School in the Borough of Selinsgrove, Snyder County, from the Boroughs of Montandon and Milton, Northumberland County, Lewisburg and Mifflinburg, Union County, Middleburg and Beavertown, Snyder County, and the Villages of Kratzerville, Kreamer and Kantz, Snyder County, to the said school, and vice versa. *Attorney:* Anthony J. Fsch, P. O. Box 88, Harrisburg, PA 17108.

JAMES J. MCNULTY,  
Secretary

[Pa.B. Doc. No. 03-2253. Filed for public inspection November 21, 2003, 9:00 a.m.]

## Water Service

**A-210104F0038 and A-210040F2000. Pennsylvania Suburban Water Company and Applewood Water Company, Inc.** Joint application of Pennsylvania Suburban Water Company and Applewood Water Company, Inc., for approval of: (1) the acquisition by Pennsylvania Suburban Water Company of the water system assets of Applewood Water Company, Inc.; (2) the right of Pennsylvania Suburban Water Company to begin to offer, render, furnish or supply water service to the public in portions of Dallas Township, Luzerne County; and (3) the abandonment by Applewood Water Company, Inc., of public water service within Dallas Township, Luzerne 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, Harris-

burg, PA 17105-3265, with a copy served on the applicant, on or before December 8, 2003. 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.

*Applicants:* Pennsylvania Suburban Water Company and Applewood Water Company

*Through and by Counsel:* Mark J. Kropilak, Esquire,  
762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 03-2254. Filed for public inspection November 21, 2003, 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.

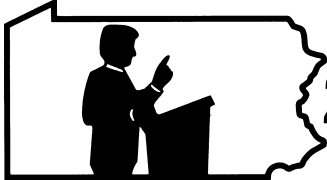
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) 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

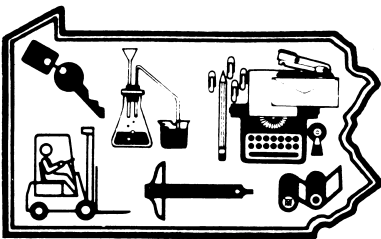
- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, 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

## PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room 201 Finance Building  
 Harrisburg, PA 17120  
 717-787-4586  
 1-800-252-4700  
 BizOutlet@patreasury.org

BARBARA HAFER,  
*State Treasurer*



### Commodities

**HUN-LAUNDRY** Cissell Dryer, 150 LB CAPACITY, Steam Heated, reversing drum, heating and cooling timers, 208/240/60/3, MODEL L50CD42S or an approved equal.

**Department:** Corrections  
**Location:** State Correctional Institution at Huntingdon, 1100 Pike St., Huntingdon, PA 16654  
**Duration:** 11/25/03 to 6/30/04  
**Contact:** Robert Jessell, Pur. Agt., (814) 643-3400

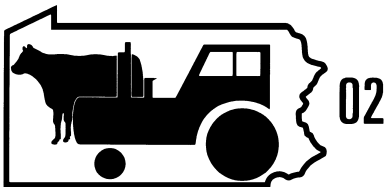
**SU-03-06** SU-03-06: Contractor to furnish and install items as manufactured by Webb Designs, Inc., P. O. Box 1405, El Cajon, CA 92022 or approved equal. Furnish and install shades at Shippensburg University, Seavers Complex Building Tower C and Tower D. Bid Price to include measurement verification of estimated sizes listed in bid. Webb Curaflame Level-Lok Window shades with 8-inch valances on front and 5-inch valance on back. Both valances will be attached to a solid 4-inch headrail. Vendors interested in receiving a bid package must fax a request to Mona Holtry, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257; Fax (717) 477-1350; or email a request to: mmholt@wharf.ship.edu. Bids are due 11/18/03 at 2:00 p.m. All responsible bidders are invited to participate including MBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257  
**Duration:** March 11, 2004  
**Contact:** Mona M. Holtry, (717) 477-1386

**SU-03-07** SU-03-07: Contractor is responsible for printing and mailing of Shippensburg University's Foundation Annual Report. Delivery to Harrisburg, PA Post Office no later than December 30, 2003. Printer to receive disks no later than December 9, 2003. Specifications will be provided with the solicitation. Vendors interested in receiving a bid package must fax a request to Mona Holtry, Fax (717) 477-1350; or email a request to: mmholt@wharf.ship.edu. Bids are due 11/25/03 by 4:00 p.m. All responsible bidders are invited to participate including MBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257  
**Duration:** December 30, 2003  
**Contact:** Mona M. Holtry, (717) 477-1386

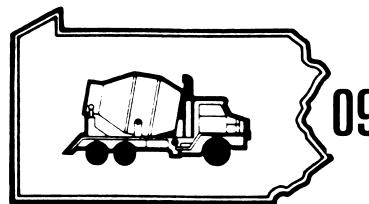
## SERVICES



### Agricultural Services

**3/3** Provide fish food used in a Statewide fish culture program during the period January 01, 2004 through March 31, 2004. Fish food products purchased in bulk and bagged quantities only from vendors who have had their products tested and accepted by the Fish and Boat Commission.

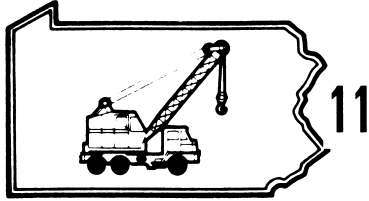
**Department:** Fish and Boat Commission  
**Location:** Statewide to various fish culture stations as requested.  
**Duration:** January 01, 2004—March 31, 2004  
**Contact:** Debbie Rose, (814) 359-5141



### Construction & Construction Maintenance

**MI-908** Remove ballasted EPDM roof and replace with adhered EPDM system. Bidding Documents: Requests are made on-line at [http://muweb.millersville.edu/~purchase/current\\_bid\\_opportunities.html](http://muweb.millersville.edu/~purchase/current_bid_opportunities.html). If bidders wish to be considered for future projects, register at [http://muweb.millersville.edu/~purchase/contractor\\_registration.html](http://muweb.millersville.edu/~purchase/contractor_registration.html).

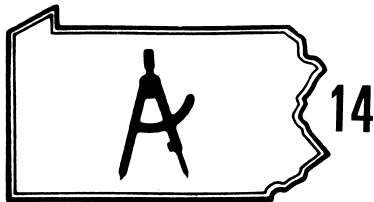
**Department:** State System of Higher Education  
**Location:** <http://muweb.millersville.edu/~muonline/direction.html>  
**Duration:** 90 calendar days  
**Contact:** Bernadette Wendler, (717) 872-3570



### Demolition—Structural Only

**051179** Notice is hereby given that the Department of Transportation is seeking bids for the demolition of two residential brick structures with garage, as a result of a highway improvement project (S.R. 78-17M). The structures are located at 436 & 532 North Fifth Street in the Borough of Hamburg. Asbestos removal will be required. For bid forms, specifications and further information please contact individual listed below. Note: All contractors must be Prequalified for this contract.

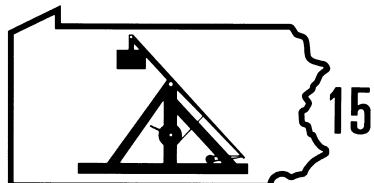
**Department:** Transportation  
**Location:** Berks County, Borough of Hamburg  
**Duration:** 30 Calendar days from Notice to Proceed Date  
**Contact:** Ken Kutchinsky, (610) 798-4271



### Engineering Services

**PennDOT-ECMS** The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at [www.dot2.state.pa.us](http://www.dot2.state.pa.us).

**Department:** Transportation  
**Location:** Various  
**Contact:** [www.dot2.state.pa.us](http://www.dot2.state.pa.us)



### Environmental Maintenance Service

**OSM 02(1706)101.1** Abandoned Mine Land Reclamation Project, Highland Avenue. The principal items of work and approximate quantities include site preparation and restoration, 565 linear feet of eight inch diameter PVC pipe, 450 cubic yards of trench excavation, 815 square yards of filter cloth, 215 cubic yard of AASHTO No. 1 coarse aggregate, and 50 square yards of rock lining with filter material. This project issues on November 21, 2003 and bids will be opened December 16, 2003 at 2:00 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds are available for this project from the \$11.5 million for Pennsylvania's 2002 AML Grant.

**Department:** Environmental Protection  
**Location:** Swissvale Borough, Allegheny County, PA  
**Duration:** 120 calendar days after official starting date.  
**Contact:** Construction Contracts Section, (717) 783-7994

**OSM 40(3213)201.1** Abandoned Mine Reclamation, Cranberry Ridge. The principal items of work and approximate quantities include 2,795,630 cubic yards of grading, 43,180 cubic yards of drainage excavation, 25,255 square yards of rock lining and 185.8 acres of seeding. This project issues on November 21, 2003 and bids will be opened December 18, 2003 at 2:00 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds are available for this project from the \$37.8 million 2001 Pennsylvania AML grant.

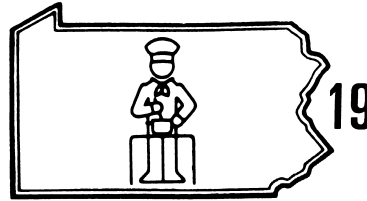
**Department:** Environmental Protection  
**Location:** Hazleton City and Hazle Township, Luzerne County, Pennsylvania  
**Duration:** 1,020 calendar days after official starting date.  
**Contact:** Construction Contracts Section, (717) 783-7994

**AMD 56(3077)102.1** Acid Mine Drainage Abatement Project, Hoffman Zion Church. The principal items of work and approximate quantities include 304,800 cubic yards of grading, 900 square yards of rock lining with filter material, 900 square yards of R-3 rock lining grout, Weir, 41 acres of seeding, and implementation of erosion and sediment pollution control plan. This project also includes the construction of a permanent pond and subsurface drain. The pond construction includes 6,170 cubic yards of pond earthwork, 380 linear feet of permanent pond PVC pipe and 2 dewatering valve and access boxes will be needed. The subsurface drain includes 3,900 linear feet of corrugated polyethylene pipe, 2,275 cubic yards of trench excavation, 8,575 square yards of filter fabric and 2,050 cubic yards of AASHTO No. 1 Coarse Aggregate. This project issues on November 21, 2003 and bids will be opened on December 16, 2003 at 2:00 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds are available for this project from the \$11.6 million for Pennsylvania's 2002 AML Grant.

**Department:** Environmental Protection  
**Location:** Jenner Township, Somerset County, Pennsylvania  
**Duration:** 240 calendar days after official starting date.  
**Contact:** Construction Contracts Section, (717) 783-7994

**FC-278H** Provide hydrogeological services and study, also use results of study to locate and drill an 8" diameter test well and provide capacity testing and downhole video of test well to ascertain if the test well can be developed (in the future under separate contract) to provide water production for hatchery operations. Site Visit: December 9, 2003 at 11:30 a.m. Bid Opening Date: December 17, 2003 at 2:30 p.m.

**Department:** Fish and Boat Commission  
**Location:** PA Fish & Boat Commission, Fairview State Fish Hatchery, 2000 Lohrer Road, Fairview, PA 16415, Erie County, PA  
**Duration:** 90 days after receipt of order  
**Contact:** Amos C. Ferguson, (814) 359-5105



### Food

**I-4-04** Meat & Meat Products. Interested vendors may fax request for bid package I-4-04 to (570) 443-4177. Please include vendor name, address, phone number, vendor number, and Federal ID number.

**Department:** Public Welfare  
**Location:** White Haven Center, 827 Oley Valley Road, White Haven, PA 18661  
**Duration:** January, February, March 2004  
**Contact:** Sandra A. Repak/PA, (570) 443-4232

**I-5-04** Miscellaneous Frozen Foods. Interested vendors may fax request for bid package I-5-04 to (570) 443-4177. Please include vendor name, address, phone number, vendor number, and Federal ID number.

**Department:** Public Welfare  
**Location:** White Haven Center, 827 Oley Valley Road, White Haven, PA 18661  
**Duration:** January, February, March 2004  
**Contact:** Sandra A. Repak/PA, (570) 443-4232

**30380** West Chester University of the State System of Higher Education is seeking proposals from qualified firms able to provide dining services for students, faculty and staff on a year round basis. Dining facilities consists of Lawrence Center Food Court, Sykes Union Ram's Head Food Court, South Campus Convenience Store and The Library Cafe. Total school enrollment is approximately 12,500 students. All responsible food service vendors are invited to participate, including MBE/WBE firms. Request for Proposal (RFP) is available from West Chester University by calling 610-436-1019, faxing to 610-436-2637 or via e-mail at [jboyd@wcupa.edu](mailto:jboyd@wcupa.edu). A Pre-proposal conference/ on site visitation is scheduled for December 5, 2003 at 8:30 a.m. in the Sykes Union Bldg. on the campus of West Chester University. Proposal due date and time is January 22, 2004 at 1:00 p.m.

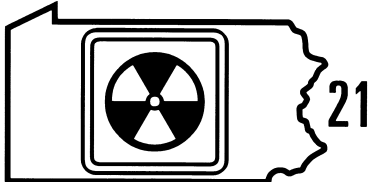
**Department:** State System of Higher Education  
**Location:** West Chester University of PA, West Chester, PA 19383  
**Duration:** Five year contract  
**Contact:** Jim Boyd, (610) 436-1019

**I-2-04** Frozen Fruits & Vegetables. Interested vendors may fax request for bid package I-2-04 to (570) 443-4177. Please include vendor name, address, phone number, vendor number, and Federal ID number.

**Department:** Public Welfare  
**Location:** White Haven Center, 827 Oley Valley Road, White Haven, PA 18661  
**Duration:** January, February, March 2004  
**Contact:** Sandra A. Repak/PA, (570) 443-4232

**I-6-04** Poultry & Poultry Products. Interested vendors may fax request for bid package I-6-04 to (570) 443-4177. Please include vendor name, address, phone number, vendor number, and Federal ID number.

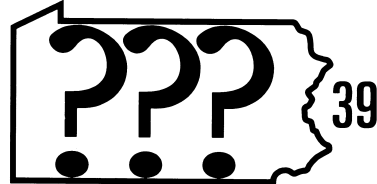
**Department:** Public Welfare  
**Location:** White Haven Center, 827 Oley Valley Road, White Haven, PA 18661  
**Duration:** January, February, March 2004  
**Contact:** Sandra A. Repak/PA, (570) 443-4232



### Hazardous Material Services

**HUN-TY** Contractor to transport and dispose of approximately 500 bags of non friable asbestos waste material. Each bag weighs approximately 35 lbs. Contractor to provide all documentation that waste was delivered to a certified asbestos disposal site. A mandatory site visit will be required.

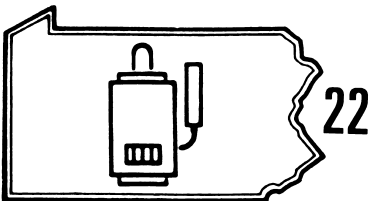
**Department:** Corrections  
**Location:** State Correctional Institution at Huntingdon, 1100 Pike St., Huntingdon, PA 16654  
**Duration:** 12-01-03 to 6-30-04  
**Contact:** Robert Jessell, Pur Agt., (814) 643-2400



### Miscellaneous

**2003-EPAI** This RFP is issued by the Education Parents' Association for the Governor's Model Child Care Program for Commonwealth of Pennsylvania employees and for children of a staff person employed by the contractor. The Parents' Association wishes to purchase high-quality, affordable worksite child care services for up to 50 children, aged 6 weeks to 5 years, to be housed in approximately 4,789 square feet of space in the Department of Education's Office Building at 333 Market Street, Harrisburg, PA. The existing facility currently serves 8 infants; 10 young toddlers; 12 older toddlers; and 20 preschoolers. The contractor must design and deliver a high-quality child care program meeting the developmental needs of the children, including their social, emotional, physical, intellectual, and creative needs; also, the contractor must meet the parents' needs for participation, information, and guidance. The contractor is to be responsible for staffing, equipping, insuring, administering, and managing the finances of the child care services. The contractor is to be legally and financially liable. On January 1, 2004, the contractor shall be ready to operate the child care service in the location specified. Bid Response Due By: Noon on December 5, 2003.

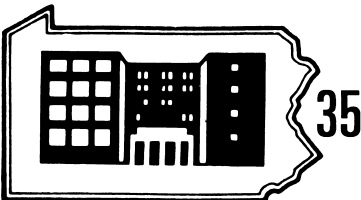
**Department:** Education  
**Location:** PA Department of Education, 333 Market Street, Harrisburg, PA 17105  
**Duration:** January 1, 2004—December 31, 2008 (5 years).  
**Contact:** Kurt E. Klapkowski/Anthony Kerchusky, (717) 783-7471/787-4368  
 [Pa.B. Doc. No. 03-2255. Filed for public inspection November 21, 2003, 9:00 a.m.]



### HVAC Services

**HUN-JWS Freezer** Freezer upgrade: Removal of two evaporators and one condensing unit, and installation of two new evaporators and one new condensing unit in a basement walk-in freezer. Scope of work includes: Replacement of refrigeration line sets, replacement of electrical supply wiring from panel, replacement of controls and control wiring. Price to include all equipment, parts and labor to complete the job and make the unit operate properly. Mandatory site visit.

**Department:** Corrections  
**Location:** State Correctional Institution at Huntingdon, 1100 Pike St., Huntingdon, PA 16654  
**Duration:** 12/01/03 to 6/30/04  
**Contact:** Robert Jessell, Pur. Agt., (814) 643-2400



### Real Estate Services

**93632** STATE-OWNED REAL ESTATE FOR SALE - LYCOMING COUNTY JOB CENTER, WILLIAMSPORT, PA. The Department of General Services will accept bids for the purchase of a 0.8485 acre parcel with a one story 97'x120' brick building located at 1300 Sheridan Street, City of Williamsport. The property is located in Loyalsock Township, Lycoming County. Bids are due January 9, 2004. Interested parties wishing to receive a copy of solicitation #93632 should view the Department of General Services' website at [www.dgs.state.pa.us](http://www.dgs.state.pa.us) under "Real Estate" to download the solicitation package or call Kathy Walter at (717) 787-5546.

**Department:** General Services  
**Location:** 500 North Office Building, Harrisburg, PA 17125  
**Contact:** Mrs. Kathy Walter, (717) 787-5546

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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DONALD T. CUNNINGHAM, Jr.  
*Secretary*





