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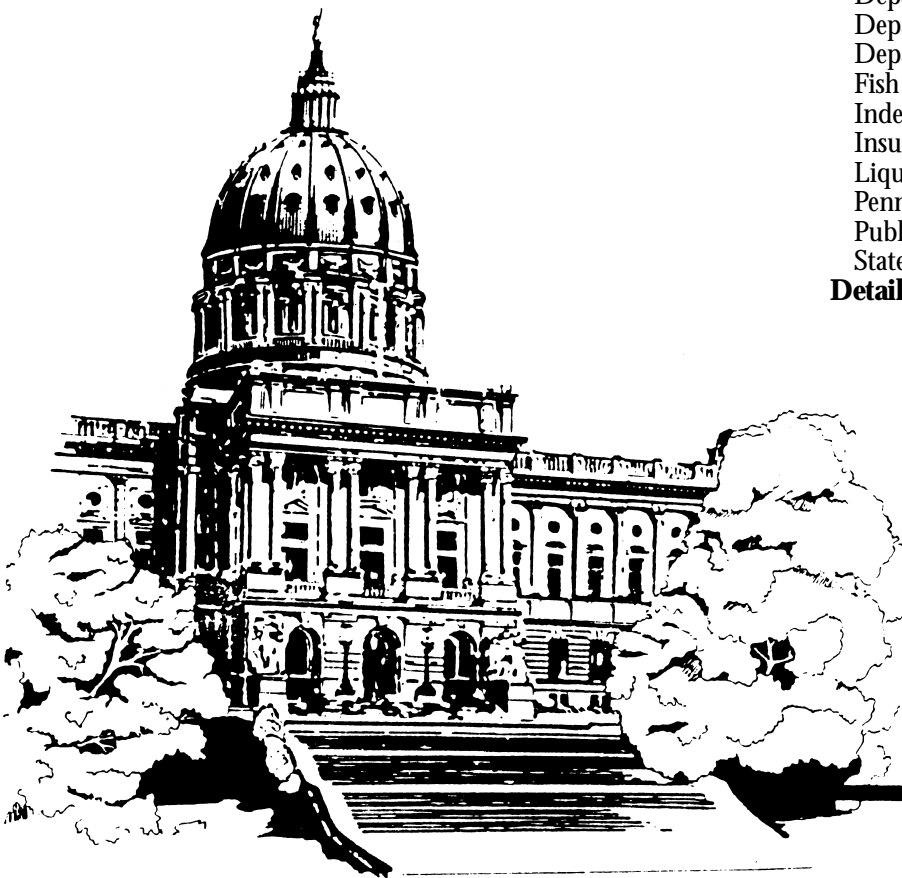
# PENNSYLVANIA BULLETIN

Volume 34  
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Number 48  
Pages 6305—6382

**Agencies in this issue:**

The General Assembly  
The Courts  
Administrative Office of Pennsylvania Courts  
Department of Banking  
Department of Environmental Protection  
Department of General Services  
Department of Public Welfare  
Department of Revenue  
Department of State  
Department of Transportation  
Fish and Boat Commission  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Pennsylvania Public Utility Commission  
Public School Employees' Retirement Board  
State Police

**Detailed list of contents appears inside.**



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

**No. 360, November 2004**

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

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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## List of Pa. Code Chapters Affected

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

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# THE GENERAL ASSEMBLY

## Cost-of-Living Factor Under the Public Official Compensation Law

Under section 4(d) of the Public Official Compensation Law (65 P. S. § 366.4(d)), for the 12-month period beginning December 1, 2004 through November 30, 2005, the salary of the members of the General Assembly shall be increased by a cost-of-living factor which is determined by increasing the amount of the salary by the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area, officially reported by the United States Department of Labor, Bureau of Labor Statistics for the period of November 1, 2003 through October 31, 2004.

The percentage increase and the new salary amount have been determined jointly by the Chief Clerk of the Senate and the Chief Clerk of the House of Representatives as follows:

CPI-U for November 1, 2003, through October 31, 2004, cumulative percentage change equals 5.2023%.

New salary amount equals \$69,647.67.

Under section 4(d.1) of the Public Official Compensation Law (65 P. S. § 366.4(d)), for the 12-month period beginning December 1, 2004 through November 30, 2005, the additional compensation of the officers and leaders of the General Assembly shall be increased by a cost-of-living factor which is determined by increasing the amount of the salary by the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the Pennsylvania, New Jersey, Delaware and Maryland area, officially reported by the United States Department of Labor, Bureau of Labor Statistics for the period from November 1, 2003, through October 31, 2004.

The percentage increase and the new compensation amounts have been determined jointly by the Chief Clerk of the Senate and the Chief Clerk of the House of Representatives as follows:

<i>Leadership Position</i>	<i>Increase</i>	<i>New Compensation</i>
Speaker/President pro tempore	5.2023%	\$39,076.79
Majority Floor Leader	5.2023%	\$13,262.91
Minority Floor Leader	5.2023%	\$31,262.91
Majority Whip	5.2023%	\$23,726.15
Minority Whip	5.2023%	\$23,726.15
Majority Caucus Chairman	5.2023%	\$14,793.46
Minority Caucus Chairman	5.2023%	\$14,793.46
Appropriations Chairman	5.2023%	\$23,726.15
Minority Appropriations Chairman	5.2023%	\$23,726.15
Majority Caucus Secretary	5.2023%	\$9,769.94
Minority Caucus Secretary	5.2023%	\$9,769.94
Majority Caucus Policy Chairman	5.2023%	\$9,769.94
Minority Caucus Policy Chairman	5.2023%	\$9,769.94
Majority Caucus Administrator	5.2023%	\$9,769.94
Minority Caucus Administrator	5.2023%	\$9,769.94

W. RUSSELL FABER,  
*Chief Clerk*  
*Senate of Pennsylvania*  
TED MAZIA,  
*Chief Clerk*  
*House of Representatives*

[Pa.B. Doc. No. 04-2098. Filed for public inspection November 24, 2004, 9:00 a.m.]

## COMMISSION ON SENTENCING

### Meetings Scheduled

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

Tuesday, December 14, 2004 2 p.m. Public Hearing  
Lincoln Memorial Room  
Wednesday, December 15, 2004 9 a.m. Quarterly Commission Meeting  
Lincoln Memorial Room

MARK H. BERGSTROM,  
*Executive Director*

[Pa.B. Doc. No. 04-2099. Filed for public inspection November 24, 2004, 9:00 a.m.]

# THE COURTS

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

[231 PA. CODE CH. 1910]

**Amendments to the Rules of Civil Procedure Relating to Domestic Relations; No. 422 Civil Procedural Rules; Doc. No. 5**

#### Order

*Per Curiam:*

And Now, this 9th day of November, 2004, Pennsylvania Rules of Civil Procedure 1910.16-2, 1910.16-4 and 1910.16-6 are amended as follows.

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

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 1910. ACTIONS FOR SUPPORT

#### Rule 1910.16-2. Support Guidelines. Calculation of Net Income.

The amount of support to be awarded is based in large part upon the parties' monthly net income.

(a) *Monthly Gross Income.* Monthly gross income is ordinarily based upon at least a six month average of all of a party's income. The term "income" is defined by the support law, 23 Pa.C.S. § 4302, and includes income from any source. The statute lists many types of income including, but not limited to:

\* \* \* \* \*

(6) [social security] Social Security disability benefits, [social security] Social Security retirement benefits, temporary and permanent disability benefits, workers' compensation and unemployment compensation:

\* \* \* \* \*

(b) *Treatment of Public Assistance, SSI Benefits and Social Security Payments to a Child Due to a Parent's Death, Disability or Retirement.*

\* \* \* \* \*

(2) If a child for whom support is sought is receiving [social security retirement or disability derivative] Social Security benefits as a result of a parent's [age] retirement, death or disability, the benefits the child receives shall be added to the combined monthly net incomes of the obligor and obligee to calculate the income available for support on the vertical axis of the basic child support schedule set forth in Rule 1910.16-3. The presumptive amount of support as set forth on the schedule at the combined income of the obligee, obligor and child's benefits shall then be reduced by the amount of the child's [social security or derivative] benefits before apportioning the remaining support obligation between the parties pursuant to Rule 1910.16-4. For purposes of determining the support obligation of a surviving parent when the child is receiving benefits as the

result of the other parent's death, the income of a non-parent obligee who is caring for a child but has no support obligation to that child shall include only those funds the obligee is receiving on behalf of the child.

*Example 1.* If the obligor has net monthly income of \$1200 per month; the obligee has net monthly income of \$800; and the child receives [social security] Social Security derivative benefits of \$300 per month as a result of either the obligor's or obligee's retirement or disability, then the total combined monthly net income is \$2,300. Using the schedule at Rule 1910.16-3 for one child, the amount of support is \$539 per month. From that amount, subtract the amount the child is receiving in [social security] Social Security derivative benefits (\$539 minus \$300 equals \$239). Then, apply the formula at Rule 1910.16-4 to apportion the remaining child support amount of \$239 between the obligor and the obligee in proportion to their respective incomes. Obligor's \$1200 net income per month is 60% of the total of obligor's and obligee's combined net monthly income. Thus, obligor's support obligation would be 60% of \$239, or \$143.40, per month.

*Example 2.* Two children live with grandmother who receives \$400 per month in Social Security death benefits for the children as a result of their father's death. Grandmother also receives \$500 per month from a trust established by father for the benefit of the children. Grandmother is employed and earns \$2,000 net per month. Grandmother seeks support from the children's mother, who earns \$1,500 net per month. For purposes of calculating mother's support obligation, grandmother's income will be \$500, the amount she receives on behalf of the children from the trust. Therefore, obligee's and obligor's combined net monthly incomes total \$2,000. Add to that the \$400 in Social Security benefits grandmother receives for the children to find the basic child support amount in Rule 1910.16-3. The basic support amount at the \$2,400 income level for two children is \$811. Subtracting from that amount the \$400 in Social Security derivative benefits grandmother receives for the children, results in a basic support amount of \$411 to be apportioned between the parties. As mother's income is 75% of the parties' combined income of \$2000, her support obligation to grandmother is \$308 per month.

\* \* \* \* \*

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

(a) The following formula shall be used to calculate the obligor's share of the basic guideline child support, spousal support and/or alimony pendente lite obligation:

#### PART I. BASIC CHILD SUPPORT

OBLIGOR OBLIGEE

\* \* \* \* \*

6. Plus Child's Monthly Social Security [Retirement or Disability] Derivative Benefit, [ \_\_\_\_\_ ] if any. (See Rule 1910.16-2(b)(2))

\* \* \* \* \*

8. PRELIMINARY BASIC CHILD SUPPORT OBLIGATION (determine from Schedule at Rule 1910.16-3 based on number of children and line 7 adjusted combined monthly net income)	[ ____ ]
9. Less Child's Monthly Social Security [ Retirement or Disability ] Derivative Benefit	[ ____ ]
10. BASIC CHILD SUPPORT OBLIGATION	[ ____ ]
* * * * *	

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

(a) *Child care expenses.* Reasonable child care expenses paid by the custodial parent, if necessary to maintain employment or appropriate education in pursuit of income, are the responsibility of both parents. These expenses shall be allocated between the parties in proportion to their net incomes and obligor's share added to his or her basic support obligation. When the custodial parent is receiving a child care subsidy through the Department of Public Welfare, the expenses to be allocated between the parties shall be the full unsubsidized cost of the child care, not just the amount actually paid by the custodial parent. However, if allocation of the unsubsidized amount would result in a support order that is overly burdensome to the obligor, deviation pursuant to Rule 1910.16-5 may be warranted.

(1) Except as provided in subsection (2), the total child care expenses shall be reduced [ **by 25%** ] to reflect the **amount of the** federal child care tax credit available to the custodial parent, whether or not the credit is actually claimed by that parent, up to [ **a** ] the maximum annual cost [ **of \$2, 400 per year for one child and \$4,800 per year for two or more children** ] allowable under the Internal Revenue Code. [ **For example, where the custodial parent incurs \$7,000 per year of reasonable child care expenses for two children, the net child care expenses subject to allocation between the parties is calculated as follows. Multiply the first \$4,800 of these expenses by .75 - \$3,600. Add the remaining child care expenses of \$2,200 to this amount for a total of \$5,800. Divide this amount by 12 months for a total of \$483 per month of net child care expenses that are subject to allocation between the parties in proportion to their net incomes.** ]

(2) The federal child care tax credit shall not be used to reduce the child care expenses subject to allocation between the parties if the custodial [ **parent's gross income (before considering any support) falls below \$1,200 per month for one child, \$1,600 per month for two children, \$1,800 per month for three children, \$2,000 per month for four children, \$2,300 per month for five children and \$2,500 per month for six children** ] parent is not qualified to receive the credit.

\* \* \* \* \*

**Explanatory Comment—2004**

Subdivision (a), relating to the federal child care tax credit, has been amended to reflect recent amendments to

the Internal Revenue Code. 26 U.S.C.A. § 21. By referring to the tax code in general, rather than incorporating current code provisions in the rule, any further amendments will be incorporated into the support calculation.

[Pa.B. Doc. No. 04-2100. Filed for public inspection November 24, 2004. 9:00 a.m.]

# Title 25—LOCAL COURT RULES

## BERKS COUNTY

### Amendments to the Rules of Civil Procedure; No. 04-380 Prothonotary

#### Order

And Now, this 12th day of November, 2004, the following amendments to the Berks County Rules of Civil Procedure are hereby adopted effective immediately, in accordance with Pa.R.C.P. No. 239(d). All previous Family Court local rules of civil procedure are hereby repealed as of the effective date of these rules. The District Court Administrator is *Ordered and Directed* to:

1. File seven (7) certified copies of this Order, including the newly adopted rules, with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Domestic Relations Procedural Rules Committee of the Supreme Court of Pennsylvania.
4. File one (1) certified copy with the Berks County Law Library.
5. Keep continuously available for public inspection and copying, one (1) copy in the Office of the Prothonotary of Berks County.

*By the Court*

ARTHUR E. GRIM,  
*President Judge*

#### Support

#### Rule 1910.4 Commencement of Action. Modification or Termination of Order.

All civil actions or proceedings brought in the Court of Common Pleas of Berks County to enforce a duty of support within the scope of Pa.R.C.P. 1910.1 shall be commenced by filing an original and three copies of a complaint with the Domestic Relations Section of the Court of Common Pleas. The form of the complaint shall be in strict compliance with the applicable Pa.R.C.P. Subsequent proceedings to modify or terminate a support order shall be initiated by filing a petition, together with three copies thereof with the Domestic Relations Section of the Court of Common Pleas. The form of the petition shall be in strict compliance with the applicable Pa.R.C.P.

#### Rule 1910.5 Order Directing Party to Appear at Conference. Service.

(a) An order shall be attached to the front of the complaint or petition directing the parties to appear before a conference officer at the time and place directed by the court.

(b) A certified copy of the complaint or petition with order shall be served upon the defendant or respondent as provided by Pa.R.C.P. 1930.4.

**Rule 1910.10 Hearing Procedure**

The action shall proceed as prescribed by the alternative procedure of Pa.R.C.P. 1910.12.

**Rule 1910.11 Rescinded**

**Rule 1910.12 Nonappearance Before Conference Officer or Support Master.**

(a) If a party fails to appear at the conference before the conference officer or at the hearing before the Support Master after notice thereof and without good cause shown, the conference or hearing may proceed without that party. If the plaintiff or petitioner fails to appear at the conference before the conference officer or at the hearing before the Support Master after notice thereof and without good cause shown, the court may dismiss the action or petition and may place the costs on the party who failed to appear.

(b) Either party may demand a hearing by filing a properly filed written demand for a hearing within ten (10) days from the date of the default order as set forth in Pa.R.C.P. 1910.12(b)(2).

**Rule 1910.15 Rescinded**

**Rule 1910.32 Subpoena**

The parties to a hearing before the Support Master shall have the right to subpoena necessary witnesses and records as provided by the law for presentation at the hearing before the Support Master. Application to enforce any such subpoenas shall be made to the court.

**Rule 1910.33 Testimony Transcriptions**

Whenever, in any support proceeding, notes of the testimony or other transcript are requested by a party or parties to be transcribed, and it is so ordered by the court, payment shall be in accordance with the Pennsylvania Rules of Judicial Administration. Failure to make payment may result in dismissal of the pending matter.

**Child Custody**

**Rule 1915.1 Scope**

These rules shall apply to actions for custody, partial custody and visitation of minor children governed by Pa.R.C.P. 1915, et seq.

**Rule 1915.2 Rescinded**

**Rule 1915.3 Commencement of Action; Filing**

(a) An action shall be commenced by filing a verified complaint and three (3) copies of same substantially in the form provided by Pa.R.C.P. 1915.15(a).

(b) An Order shall be attached to the complaint substantially in the form provided by Pa.R.C.P. 1915.15(c). The proposed Order when filed shall be completed and shall include in the space so designated the name, address and telephone number of the Lawyers' Referral Service of the Berks County Bar Association. The current address and telephone number is as follows:

LAWYERS' REFERRAL SERVICE OF BERKS COUNTY  
BAR ASSOCIATION  
544 Court Street  
Reading, PA 19601  
Telephone No.: (610) 375-4591

When filed, the Order form shall be completed except for the conciliation conference date and time and the Judge's signature and date. The Prothonotary shall then

obtain a date and time for a conciliation conference from the Custody Coordinator. The verified complaint and attached Order shall then be presented to the Judge assigned to the case for signature.

(c)(1) In the event a claim for custody, partial custody or visitation is joined with an action for divorce, a form entitled "Notice to the Prothonotary", substantially in the form provided by B.R.C.P. 1915.15(a) shall be included.

(c)(2) If a claim for custody, partial custody or visitation is asserted in a divorce complaint or in a subsequent pleading, it shall receive the same term and number as the divorce action. Such pleading shall contain the information required by Pa.R.C.P. 1915.15.

(d) An Order shall be attached to the complaint directing both parties to attend the "Children In the Middle" program, or other suitable alternative program, and pay the costs thereof. The Order shall be substantially in the form provided by B.R.C.P. 1915.15(b).

(e) No attorney shall be permitted to represent a party in custody proceedings unless a written appearance of that attorney is first filed of record.

**Rule 1915.5 Question of Jurisdiction and Venue**

All references to a hearing in the proposed Order required by B.R.C.P. 1915.3(b) shall be construed as referring to a conference before the Custody Master. If a question of jurisdiction or venue is raised by timely preliminary objections, the conference shall be continued until decision by the Court.

**Rule 1915.7 Consent Order**

If an agreement for custody, partial custody or visitation is reached prior to commencement of an action and the parties desire a consent Order to be entered, they shall submit to the Court a proposed Order bearing the written consent of the parties or counsel and shall file of record and serve a custody complaint, but shall not be required to file the proposed order otherwise required by B.R.C.P. 1915.3(b).

**Rule 1915.8 Physical and Mental Examination of Persons**

(a) The Prothonotary shall maintain a list of experts acceptable to the Court for conducting psychological and home study evaluations. The list shall be filed with the Prothonotary and shall be updated from time to time as the Court directs.

(b) In the event it is determined that a psychological or home study evaluation shall be conducted, either party or the Custody Master shall prepare a proposed Order directing the evaluation to be conducted and setting forth how the costs of the evaluation shall be paid. The form shall be substantially in the form prescribed by B.R.C.P. 1915.18.

(c) The contents of an expert report prepared pursuant to Pa.R.C.P. 1915.8 shall be disclosed to the parties, the Court, attorneys in the case and other experts involved in the case. Disclosure to an unauthorized person, including the child who is the subject of the action, may result in sanctions.

**Rule 1915.11 Appointment of Guardian Ad Litem**

(a) Court Administration shall have on file a list of attorneys deemed suitable by the Court for appointment as a guardian ad litem when it is necessary for a child involved in a custody proceeding to be independently represented by counsel.

(b) The guardian ad litem shall have the authority to interview all parties to the custody action, to interview the child, and to gain access to all documentary evidence needed for the representation of the child and such other authority as granted by the Court.

(c) The Court shall direct the manner and amount of payment of attorney's fees and costs in cases where a guardian ad litem has been appointed, including whether the fees and costs shall be paid by the parties or the County.

#### Rule 1915.15 Forms

(a) In a divorce complaint containing a count for custody, partial custody or visitation, the Notice to the Prothonotary shall be substantially in the following form:

##### NOTICE TO PROTHONOTARY

A claim for (custody, partial custody, or visitation) is asserted in this pleading. [There have been no prior proceedings between the parties, or there has been a prior proceeding between the parties which is as follows:

(Include the caption and term number and the nature of such prior proceedings)]

(b) The Order and notice requiring the parties to attend the Children in the Middle Program, or other equivalent program, shall be substantially in the following form:

(CAPTION)

##### ORDER OF COURT

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 200 , in order to minimize the effects of custody litigation upon minor children, it is hereby Ordered as follows:

1. All parties to this custody action shall complete the program known as "Children in the Middle," or an alternative approved program.

2. Each party shall register for the program by calling Family Guidance Center, 610-374-4963, 1235 Penn Avenue, Suites 205-206, Wyomissing, PA 19610, or the program of their choice as approved prior thereto by the Court, within ten (10) days of receiving this Order.

3. Registration forms shall be available in the Office of Court Administration on the Fourth Floor of the Berks County Services Center, 633 Court Street, Reading, Pennsylvania.

4. Each party shall diligently participate in and shall file a copy of the Certificate of Completion of the program in the Office of the Prothonotary of Berks County to the above docket number.

5. Each party shall bring a photocopy of the Certificate of Completion to the custody conference or hearing scheduled in this matter.

6. Failure to comply with this Order may result in dismissal of the action, striking of pleadings, or other appropriate sanctions, including citation for contempt.

7. This requirement will not be waived except upon written motion to the assigned Judge for good cause shown.

8. Parties who reside outside of Berks County may attend an equivalent program in that area, provided they furnish official information regarding the program to the Court or to the Custody Master. They shall also be

responsible for providing Certificates of Completion as set forth above.

BY THE COURT:

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

#### Rule 1915.15(b) Rescinded

#### Rule 1915.18 Form of Order Directing Expert Examination and Report

An Order of Court directing psychological or home study evaluations in a custody matter pursuant to B.R.C.P. 1915.8 shall be in substantially the following form:

(CAPTION)

##### CUSTODY EVALUATION ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 200 , upon motion of \_\_\_\_\_, Esquire, Berks County Custody Master, it is hereby ORDERED that the following persons shall be evaluated for custody: the parties, (Names), the child/children and any other people who in the discretion of the evaluator should be evaluated. Counsel for any party may submit a short letter to the evaluator to identify issues. Counsel shall have no further ex parte communication with the evaluator.

These examinations shall be performed by: (Expert). The parties shall contact the evaluator to schedule appointments within ten (10) days of the date of this Order. Should the required payment not be paid by the moving party to the evaluator within thirty (30) days of the date of this Order, without an extension having been granted for good cause shown, this action shall be dismissed. Should the required payment not be paid by the responding party to the evaluator within thirty (30) days of the date of this Order, the moving party shall have the option to follow through with his/her portion of the evaluation or request a further custody conference without an evaluation. The evaluation shall not start until payment is made by all parties or the moving party exercises the above option.

The Evaluator shall supply the Court with a copy of such evaluations directed to: Custody Coordinator, Custody Office, 633 COURT STREET, READING, PA 19601. The contents of an expert report prepared pursuant to Pa.R.C.P. 1915.8 shall be disclosed to the parties, the Court, attorneys in the case and other experts involved in the case. Disclosure to an unauthorized person, including the child who is the subject of the action, may result in sanctions. The cost of these evaluations shall be paid for as follows: The Plaintiff shall be responsible for \_\_\_\_\_ % and the Defendant shall be responsible for \_\_\_\_\_ % of the total cost of the evaluations.

BY THE COURT:

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

#### Rule 1915.26 Conciliation Conference

(a) The court shall refer all actions for custody, partial custody and visitation of minor children to a Custody Master for purposes of a conciliation conference. Applicable Pennsylvania and local Mediation Rules shall be followed.

(b) The Custody Master shall be an attorney of law authorized to practice before the Supreme Court of Pennsylvania and shall be appointed to such position by the Board of Judges of the Court of Common Pleas of Berks

County. The Custody Master shall not practice family law before a Judge, conference officer, hearing officer or permanent or standing master employed in the same Judicial District.

(c) The Custody Master shall attempt to mediate the differences between the parties, encourage amicable resolution of those differences and may recommend mediation, counseling services or physical and mental examinations of persons under Pa.R.C.P. 1915.8. The Custody Master shall attempt to negotiate a settlement by stipulation in writing, signed by the parties and counsel, for approval and entry as an Order of the Court.

(d) The Custody Master may conduct an informal hearing, take testimony of the parties under oath, and hear the position of the parties relative to custody, partial custody, and visitation. The Custody Master shall have the right to conduct oral examination of the child who is the subject matter of the proceeding. No other witnesses shall be permitted, except in extreme cases, and at the discretion of the Custody Master. The testimony shall not be recorded or transcribed. The Custody Master shall not be bound by technical rules of evidence and all evidence of reasonably probative value may be received. The Custody Master shall consider the Court-Ordered written evaluations of experts. The hearing shall not be considered a hearing of the type permitted by Pa.R.C.P. 1915.4-1 but shall be considered an extension of the conciliation process.

(e) The hearing shall be concluded on the date fixed for the hearing, except that the Custody Master may continue the hearing to a date certain for good cause shown, or to obtain investigative or evaluative reports from a social service agency or private providers.

(f) Any investigative or evaluative reports ordered and obtained shall be considered by the Custody Master.

(g) If a written settlement is not reached, by stipulation, the Custody Master shall file a recommended order. At the discretion of the Custody Master the Master may also file findings of fact, conclusions of law and a written report.

(h) Notice of the Custody Master's findings of fact, conclusions of law and/or recommended order shall be served on counsel of record, parties without counsel of record, and on any other persons without counsel of record who were given notice of the hearing before the Custody Master. The notice shall state that each party has ten (10) days from the date of notice to file written exceptions with the Prothonotary to the findings of fact, conclusions of law or recommended order, and that upon failure to file such exceptions within ten (10) days, the recommended order of the Custody Master will be submitted to the Court for entry as an Order of Court.

**Rule 1915.27 Nonappearance at Hearing Before Custody Master**

(a) If a plaintiff fails to appear, without proper cause shown, at the hearing before the Custody Master, and the Custody Master is satisfied that proper notice of the order fixing the hearing has been given to plaintiff, the Custody Master shall recommend to the Court that an order be entered dismissing the complaint with respect to that party.

(b) If a defendant or party joined in the case fails to appear, without proper cause shown, at the hearing before the Custody Master, and the Custody Master is satisfied that proper service of the order has been given to the defendant or non-appearing party, it shall be

presumed that said party has agreed to a hearing in that party's absence, and the Custody Master shall proceed to conduct a hearing and make findings of fact, conclusions of law, and recommend an order to be entered by the Court.

(c) If all parties fail to appear at a hearing before the Custody Master, and the Custody Master is satisfied that proper service has been given to all parties, the Custody Master shall recommend to the Court that an Order be entered dismissing the complaint.

**Rule 1915.28 Exceptions. Hearing By Judge.**

(a) If there are exceptions to the recommended order, a pre-trial conference followed by a hearing de novo shall be held before the Judge assigned to the case.

(b) Any exceptions shall be filed in accordance with B.R.C.P. 207.1(a), including therewith a copy for the Custody Master.

(c) The proposed Order to be submitted by the party filing the exceptions shall be in the following form:

**ORDER**

AND NOW, \_\_\_\_\_, exceptions having been filed to the Order recommended by the Berks County Custody Master, a pre-trial conference is hereby scheduled for \_\_\_\_\_ at \_\_\_\_\_ in \_\_\_\_\_ of the Berks County Courthouse/Services Center. A pre-trial conference memorandum shall be filed in accordance with B.R.C.P. 212.2 (a). The memorandum shall contain the following: (1) Summary Statement of Facts; (2) Witnesses Expected to be Called; (3) Expert Witnesses Expected to be Called; (4) Exhibits Expected to be Offered Into Evidence; (5) Legal Issues Anticipated; and (6) Special Problems.

BY THE COURT:

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

**Rule 1915.29 Scheduling of Pre-trial Conference**

A pre-trial conference will be scheduled by the Judge assigned to the case whenever a trial de novo is demanded. A Court Order will be sent to the parties advising them of the date and time for the pre-trial conference, as well as the issues to be addressed. The purpose of the pre-trial conference is to identify issues which will be the focus of the trial, to determine the time required for trial, address other pre-trial matters such as discovery requests and exchanges of expert reports, set the date for a trial and discuss other relevant matters, including settlement of the action.

A trial before the Court shall comport with the requirements for conducting nonjury trials, and the parties shall adhere to established trial procedure and the rules of evidence.

**Rule 1915.30 Pre-trial Conference**

The attorneys of record, or party if there is no attorney of record, shall be prepared to discuss the following:

(a) Whether any agreement can be reached regarding custody, partial custody and visitation of the child or children;

(b) The relative positions of the parties concerning custody, partial custody and visitation of the minor child or children;

(c) The witnesses each party intends to call to testify at the time of trial and their anticipated testimony;



(d) The expert witnesses each party intends to call to testify at the time of trial and their anticipated testimony and any reports prepared by said witnesses;

(e) A list of exhibits that each party intends to introduce at the time of trial;

(f) An estimation of the length of time the trial is expected to take;

(g) Any special legal issues which any party believes are relevant to the determination of custody, partial custody or visitation; and

(h) Whether an expedited trial is required due to the special circumstances of the case.

**Rule 1915.31 Notice of Disposition by Court**

The Prothonotary shall give notice to all counsel of record and to parties without counsel of record of all final Court Orders entered.

**Rule 1915.32 Appendix**

Any Order for custody, partial custody or visitation entered by the Court, either by stipulation or after hearing held, shall have affixed to it an appendix that shall be made a part of the Court Order. The appendix shall be substantially in the following form:

**APPENDIX TO ORDER**

Certain rules of conduct which generally apply to custody matters are set forth below and are binding on both parties, the breach of which could become the subject of contempt proceedings before this Court, or could constitute grounds for modification of this Order. If these general rules conflict with any specific provisions of the Order, the Order shall prevail.

1. In addition to the foregoing rights, both parties shall also have the following rights with respect to the children:

A. The right to reasonable telephone contact with the children when they are in the other parent's custody.

B. The right to be fully informed concerning the progress of the children in school and the children's medical status, including the right to obtain the necessary information directly from the children's school or medical practitioner; and

C. The right to be informed in advance before any important decisions are made concerning the children and the opportunity to participate in those decisions.

2. In the event of any serious illness of the children at any time, any party then having custody of the children shall immediately communicate with the other party by telephone or by any other means, informing the other party as to the nature of such illness, and during such illness, each party shall have the right to visit the children as he or she desires consistent with the proper medical care of the children.

3. Neither party shall alienate nor permit to attempt to alienate the children from the other party. While in the presence of the children neither parent shall make any remarks or do anything which is derogatory or uncomplimentary to the other and it shall be the duty of each parent to uphold the other parent as one the children should respect and love.

4. Both parties shall provide each other with their addresses and telephone numbers of their residences and anytime they take a trip with the children out of the jurisdiction of Berks County in excess of three (3) days.

5. The parties shall not conduct arguments or heated conversation when they are together in the presence of their children.

6. The parties shall at all times consider the children's best interests, and act accordingly. It is in a child's best interest to understand that he or she is trying to desperately cope with the fact of his or her parents' separation, and needs help in loving both parents, rather than interference or censure.

7. Neither party shall question the children as to the personal lives of the other parent except insofar as necessary to insure the personal safety of the children. By this we mean that the children will not be used as spies on the other party. It is harmful to a child to be put in the role of spy.

8. The parties should remember that they cannot teach their children proper moral conduct by indulging in improper conduct themselves. Children are quick to recognize hypocrisy, and the parent who maintains a double standard will lose the respect of his or her child.

9. Weekend and evening visitation shall be subject to:

A. Arrangements will be worked out beforehand between the parties without forcing the children to make choices and run the risk of parental displeasure. However, the children shall be consulted as to their schedules when appropriate.

B. Visitation rights shall be exercised at reasonable hours and under circumstances reasonably acceptable to the other party and to the need and desire of the minor children.

C. If a party finds himself or herself unable to keep an appointment, he or she should give immediate notice to the other party, so as to avoid subjecting the children to unnecessary apprehension and failure of expectations.

D. The party having custody of the children should prepare them both physically and mentally for the transfer of custody to the other party and have them available at the time and place mutually agreed upon.

E. If either party or a child has plans which conflict with a scheduled visit and wish to change such visitation, the parties should make arrangements for an adjustment acceptable to the schedules of every one involved. Pre-determined schedules are not written in stone, and both parties should be flexible for the sake of the children.

F. If a party shows up for a visit under the influence of alcohol or drugs, the visit may be considered forfeited on those grounds alone.

10. If either party feels the other party has violated this Order, they may petition the Court as set forth in Pa.R.C.P. 1915.12.

**Rule 1915.33 Continuance Requests**

Continuance requests for custody conferences before the Custody Master shall be faxed to the Custody Office in the form of a letter. The request shall include the docket number, the names of the parties, the date of the conference, the reason for the requested continuance, and an indication of whether or not the opposing party is in agreement with the request. The Custody Office shall notify the requesting party whether or not the request has been granted.

**Divorce**

**Rule 1920.21 Bill of Particulars**

No rule requiring a bill of particulars shall issue after the appointment of a Master except by agreement of counsel or by leave of court for cause shown.

**Rule 1920.22 Interim Counsel Fees and Discovery**

A party seeking interim counsel fees, or discovery under Pa.R.C.P. 1920.22(a), shall file a petition with the court, together with a proposed order for a rule to show cause, which shall be disposed of in accordance with B.R.C.P. 206-208.

**Rule 1920.31(a)(1) Filing Claims for Alimony Pendente Lite, Child Custody, Partial Custody or Visitation, Child Support or Paternity**

(A) A Confidential Family Court Cover Sheet shall be attached to any pleading under the Divorce Code, wherein a party asserts a claim for alimony pendente lite, child custody, partial custody or visitation, child support or paternity. The filing party shall certify the existence or non-existence of any former proceeding between the parties including the caption and term number thereof, and the nature of such prior proceeding on the Confidential Family Court Cover Sheet.

(B) If a claim for alimony pendente lite, child support or paternity, or pleadings responding to such claim, are filed in a divorce action, the party filing such pleading shall file such additional copies with the Domestic Relations Section as shall be required by the Berks County Rules pertaining to Support.

(C) If a claim for custody, partial custody or visitation is asserted in a divorce complaint or in a subsequent pleading, it shall receive the same term and number as the divorce action. Such pleading shall contain the information required by Pa.R.C.P. 1915.15. An additional filing fee in an amount as posted by the Prothonotary shall be required.

(D) Where pleadings under the Divorce Code asserting a claim for custody, partial custody or visitation, or pleadings responding to such claims, are filed, the party filing the same shall file such additional copies as shall be required by the Berks County Rules pertaining to child custody.

**Rule 1920.31(a)(2) Sanctions**

(A) The court may after reasonable notice enter an appropriate order if a party fails to file a timely income and expense statement and related papers required under Pa.R.C.P. 1920.31 or a sufficient inventory and appraisal required under Pa.R.C.P. 1920.33 including:

(i) An order refusing to allow the noncomplying party to support or oppose designated claims or defenses, or prohibiting such party from introducing into evidence designated documents, testimony, or other evidence, or from introducing evidence contrary to the claim of the party obtaining the order.

(ii) An order striking out pleadings, claims or parts thereof, or staying further proceedings until the order is obeyed, or entering a judgment of non pros or by default against the noncomplying party.

(iii) An order imposing punishment for contempt.

(iv) After reasonable notice to the noncomplying party, and application by the complying party, an order directing the filing of the inventory and appraisal by a date certain.

(v) Such other order as it deems just under the circumstances.

(B) If, following the refusal, objection or failure of a party to comply with any provision of this rule, the court, after opportunity for hearing, enters an order compelling compliance and the order is not obeyed, the court, in a

subsequent motion for sanctions, may, if the motion is granted, require the noncomplying party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses, including attorneys' fees, incurred in obtaining the order of compliance and the order for sanctions, unless the court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust.

(i) If the motion for sanctions is denied, the court may, after opportunity for hearing, require the moving party or the attorney advising the motion or both of them to pay the reasonable expenses incurred in opposing the motion, including attorneys' fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

(ii) If the motion for sanctions is granted in part and denied in part, the court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons.

(C) If the filing of a motion or making of an application is for the purpose of delay or in bad faith, the court may impose on the party making the motion or application, the reasonable costs, including attorneys' fees, actually incurred by the opposing party by reason of such delay or bad faith. The court may further order that a party upon whom such costs have been imposed may neither (1) take any further steps in the suit without prior leave of court so long as such costs remain unpaid, nor (2) recover such costs if ultimately successful in the action.

(D) The filing of interrogatories or answers thereof or any other discovery allowed by the court shall not relieve a party from the filing of the documents required by Pa.R.C.P. 1920.31 and 1920.33.

**Rule 1920.31(b) Disposition of Alimony Pendente Lite, Child Support and Paternity Claims**

(1) All pleadings under the Divorce Code asserting or responding to a claim for alimony pendente lite, child support or paternity shall comply with and be governed by the rules pertaining to Support. The claimant shall furnish any additional forms required by the Domestic Relations Section.

(2) Upon filing with the Domestic Relations Section as provided in subsection (1), the alimony pendente lite and/or child support claim shall proceed in accordance with the rules pertaining to Support.

**Rule 1920.32 Disposition of Child Custody, Partial Custody or Visitation Claim**

(a) All pleadings under the Divorce Code asserting or responding to a claim for child custody, partial custody or visitation shall comply with and be governed by the rules pertaining to child custody, including, but not limited to, the filing of an Order pursuant to Pa.R.C.P. 1915.3(b) at the time of the divorce filing so that the custody matter can be promptly scheduled.

(b) Upon filing of a pleading under the Divorce Code containing a claim for child custody, partial custody or visitation, the prothonotary shall deliver a copy of said pleading to the Custody Master.

(c) Upon referral to the Custody Master as provided in subsection (b), the child custody, partial custody or visitation claim shall proceed in accordance with the rules pertaining to child custody.

**Rule 1920.33(c) Sanction for Failure to File Inventory and Appraisal**

See B.R.C.P. 1920.31(a)(2).

**Rule 1920.42 Filing of Praecepte to Transmit Record**

(a) When the divorce decree is requested under Section 3301(c) of the Divorce Code, at least twenty (20) days prior to filing a praecepte to transmit the record under Pa.R.C.P. 1920.42, the moving party shall serve all counsel of record and any unrepresented party with a copy of said praecepte and the proposed decree, and written notice of the intention to file the praecepte and proposal decree, substantially in the form set forth in Pa.R.C.P. 1920.73 unless such notice is not required in accordance with Pa.R.C.P. 1920.42(e). Written objections, if any, shall be filed and served on all counsel of record and on any unrepresented party on or before the filing date.

(b) When the divorce decree is requested under Section 3301(d) of the Divorce Code, Pa.R.C.P. 1920.42(d) and 1920.72(d) shall be followed.

(c) An administrative fee of \$50.00, in addition to any fees imposed by the Commonwealth, shall be paid upon the filing of the praecepte to transmit the record.

(d) The party filing the praecepte to transmit the record shall file therewith an original and two copies of the proposed decree and stamped envelopes addressed to each attorney of record and to any unrepresented party. The envelopes shall have the return address of the Prothonotary, Berks County Courthouse, Sixth and Court Streets, Reading, PA 19601, and shall be of adequate size and bear sufficient postage for any attachments to the proposed decree.

(e) Upon submission of a praecepte to transmit the record, the file will be reviewed for procedural compliance. If procedural compliance had been achieved, a Divorce Decree will be entered in the normal course. If procedural defects are found to exist, counsel and unrepresented parties will receive a form indicating the defects found and sixty (60) days to correct the defects. If the defects are not corrected within sixty (60) days, the file will be returned to the Prothonotary's Office and a new praecepte to transmit the record together with the administrative fee will be required to be filed.

**Rule 1920.45 Request for Counseling**

(a) A request for counseling under the Divorce Code shall be made to the court by written motion, and the court shall thereafter enter an order requiring a maximum of three (3) counseling sessions within the appropriate time period provided in the Divorce Code.

(b) Where the court requires counseling as provided in the Divorce Code, a report shall be made to the court by the qualified professional stating whether the parties attended.

**Rule 1920.46 Affidavit of Non-Military Service. Appointment of Counsel for Defendant in Military Service.**

(a) The affidavit regarding military service where required to be filed under Pa.R.C.P. 1920.46 shall set forth the facts establishing that the defendant is not in the military service of the United States. If unable to file such affidavit, plaintiff shall file certifications from the five branches of the armed services that defendant is not a member.

(b) When counsel is appointed by the court for a defendant in the military service, said attorney shall file a brief report of the services performed and shall receive a fee for such services as determined by the court.

**Rule 1920.51 Divorce Masters to be Appointed**

A Divorce Master shall be appointed by the court to hear testimony and make a report and recommendation

as to divorce and annulment actions under the Divorce Code (except claims for divorce under Section 3301(c) or Section 3301(d)(1)(i) of the Divorce Code), and as to related claims except claims for child custody or visitation, child support or paternity.

**Rule 1920.51.1 Divorce Masters**

The court will maintain a list of Divorce Masters. The Divorce Masters shall be members of the bar of this court, appointed to such position by the court.

**Rule 1920.51.2 Appointment and Duties of Divorce Masters**

The court shall appoint a Divorce Master to hear contested divorce and annulment actions and ancillary claims. The Divorce Master shall hear testimony on all outstanding issues and shall file a report and recommendation in compliance with Pa.R.C.P. 1920.53 and 1920.54.

**Rule 1920.51.3 Rescinded****Rule 1920.51.4 Motion and Order for Appointment of Divorce Master**

(a) When the action is at issue any party may file a motion for the appointment of a Divorce Master substantially in the form provided by Pa.R.C.P. 1920.74.

(b) The court shall appoint a Divorce Master, in accordance with the claims to be determined as set forth in the motion.

(c) At least ten days prior to filing the motion for the appointment of a Divorce Master, the moving party shall serve all counsel of record and any unrepresented party with a copy of said motion and written notice of intention to file the motion. Written objections, if any, shall be filed and served on all counsel of record and any unrepresented party prior to the filing date. A copy of the notice shall be attached to the motion for appointment when it is filed.

**Rule 1920.51.5 Deposit of Costs to Accompany Motion for Appointment of Divorce Master**

Upon filing a motion for the appointment of a Divorce Master, the moving party shall pay a deposit of costs in the amount of \$500.00.

**Rule 1920.51.6 Rescinded****Rule 1920.51.7 Review of Pleadings by Divorce Master**

Before appointing the time and place of taking testimony, the Divorce Master shall examine the pleadings and determine whether the court has jurisdiction and whether the matter is ready for hearing, and if so shall schedule the hearing in accordance with B.R.C.P. 1920.51.8. If the matter is not ready for hearing, the Divorce Master shall either report to the court or notify counsel and suspend further action for a reasonable time to enable the necessary corrections to be made. Upon the expiration of said time without such corrections having been made, the Divorce Master shall report this to the court, and seek advice on how to proceed with the matter.

**Rule 1920.51.8 Rescinded****Rule 1920.53 Hearing by Divorce Master**

(a) The Divorce Master shall have the same powers, in reference to hearing witnesses and admitting testimony, as a judge sitting without a jury, subject to the direction of the court from time to time, upon motion of either party. When objection is made to the competency or relevancy of testimony, the Divorce Master shall rule upon its admissibility. The testimony before a Divorce

Master shall be recorded in the manner as from time to time approved by the court. The testimony shall be transcribed in the event a party files timely exceptions to the report of the Divorce Master, as set forth in B.R.C.P. 1920.55.

(b) The Divorce Master shall give at least 20 days' written notice of any hearing to all counsel of record and at least 25 days' written notice to any unrepresented party. Notice of the hearing shall be given in accordance with Pa.R.C.P. 1920.51.

(c)(i) If, at least 10 days prior to the date for hearing, a party gives all other parties written notice of intention to offer documentary evidence, including a written report, bill, statement, estimate of value, worth or cost, or report of any appraiser, medical, valuation or other expert witness, or official or certified record of any governmental or judicial body, the same may be admitted into evidence without further proof; provided, however, any other party may, at least 2 days prior to the date for hearing, object to the admission of such documentary evidence without further proof, whereupon the document may be admitted only in compliance with the rules of evidence. Costs of subpoena and production of documentary evidence may be assessed against any party or partly on each.

(ii) If the documentary evidence objected to is substantiated at the time of hearing and if it appears that the objection to the admission of said evidence was made in bad faith, the cost of producing the witness may be assessed against the party compelling the witness' production.

#### **Rule 1920.53(c) Rescinded**

#### **Rule 1020.53.1 Divorce Master's Compensation**

Divorce Masters shall be compensated as determined from time to time by the Court.

#### **Rule 1920.53.2 Preparation of Divorce Master's Report**

(a) After completion of the hearing or hearings, the Divorce Master shall prepare a report and recommendation in accordance with either Pa.R.C.P. 1920.53 or 1920.54 as applicable. The Divorce Master shall make specific findings of fact. The papers shall be submitted in the following order from top to bottom:

- (1) Decree Recommended
- (2) Index
- (3) Divorce Master's Report
- (4) Copy of Docket Entries
- (5) Consents and other relevant papers in chronological order according to filing date with the most current on top (including non-military affidavit where required).

(b) The report shall be filed no later than thirty (30) days following the date of the final hearing in accordance with Pa.R.C.P. 1931 unless a motion to extend time for decision to sixty (60) days has been granted by the assigned Judge.

(c) In the event the Divorce Master fails to file the report within the time frame set forth in (b) above, a statement shall be filed with the court setting forth the reason therefor.

#### **Rule 1920.55 Rescinded**

#### **Rule 1920.55-2 Exceptions to Divorce Master's Report**

(a) If exceptions are filed to the report of a Divorce Master, the excepting party shall within ten (10) days arrange for the transcribing of the testimony for filing

with the court and pay to the stenographer within said time the estimated cost thereof, unless the court on motion shall grant an extension for cause shown. The completed transcript shall be filed within thirty (30) days of the filing of the exceptions unless the court on motion shall grant an extension for cause shown.

(b) Absent good cause shown, failure of the excepting party to act promptly in accordance with (a) above to pay the cost and secure the transcript shall result in the dismissal of said exceptions by the court upon motion.

#### **Rule 1920.73 Rescinded**

#### **Rule 1920.74 Form of Motion for Appointment of Divorce Master**

The form of Motion for Appointment of Divorce Master shall be substantially as set forth in Pa.R.C.P. 1920.74 provided that the following shall be added:

I certify that the notice required by B.R.C.P. 1920.51.8(b) was mailed on \_\_\_\_\_ and a copy is attached hereto.

#### **Rule 1920.75 Rescinded**

#### **Rule 1920.93 Parties Continuing to Reside Together**

If the record dictates that the plaintiff and defendant are residing together, the court may conduct a hearing and issue such order or decree as it deems appropriate under the circumstances.

#### **Rule 1920.94 Bifurcation**

(a) By agreement of the parties or upon petition of either party for cause show, the court may permit bifurcation, therefore separating the divorce and economic claims. Upon separation of the claims the divorce decree may be entered upon compliance with divorce procedures even though economic claims may still be outstanding. For purposes of this rule, bifurcation means decreeing a divorce when economic claims are outstanding.

(b) Where bifurcation is allowed, the decree shall be indexed in the judgment docket to give notice of the divorced spouses' equitable interest in the property of the other.

(c) The decree in divorce in such circumstances shall give notice of the outstanding claims in the manner set forth in Pa.R.C.P. 1920.76.

(d) Bifurcation shall have no effect on any order for support or alimony pendente lite. Such order shall continue until final disposition of all outstanding claims unless modified or terminated by the court for cause shown.

#### **Rule 1920.95 Stay of Proceedings**

Except as provided in Pa.R.C.P. 1531, no stay of proceedings shall be granted by the court unless for cause shown and upon notice to all counsel of record as well as any unrepresented party with an opportunity to be heard.

#### **Rule 1930.1 Form of Pleadings. Form of Caption**

To clearly identify the type of action under the unified docketing system, all Family Court pleadings shall contain a notation in the caption as to whether the pleading pertains to PROTECTION FROM ABUSE; CHILD CUSTODY; SUPPORT; OR DIVORCE.

#### **Voluntary Mediation In Custody Actions**

#### **Rule 1940.1 Applicability of Rules to Mediation**

(a) The rules in this chapter shall apply to all court-established custody mediation programs and to any court-

ordered mediation of individual custody cases and such other family law matters as the parties may agree.

(b) Except as otherwise provided by these local rules, the court shall apply the mediation rules as set forth in Pa.R.C.P. 1940.1 et seq.

**Rule 1940.3 Order for Orientation Session and Mediation. Selection of Mediator.**

(a) Except as provided in (b), the court may order the parties to attend an orientation session at any time upon motion by a party, stipulation of the parties, or the court's own initiative.

(b) The court may not order an orientation session if a party or a child of either party is or has been the subject of domestic violence or child abuse from the other party or person affiliated with the other party either during the pendency of the action or within 24 months preceding the filing of the action.

(c) Following the orientation session and with the consent of the parties, the parties may begin mediation. The mediation may address any issues agreed to by the parties unless limited by court order.

**Rule 1940.4 Minimum Qualifications of the Mediator**

In addition to meeting the qualifications set forth in Pa.R.C.P. 1940.4, mediators in Berks County who are attorneys shall certify to the Court in their application for inclusion on the list of court-approved mediators that the attorney is a member in good standing of the Bar of the Supreme Court of Pennsylvania as of the date of the application.

**Rule 1940.10 Confidentiality of Mediation Subsequent to Initial Orientation Session**

42 Pa.C.S.A. § 5949 shall govern confidentiality in admissibility issues.

**Rule 1940.11 Certificate of Compliance**

A certificate of compliance shall be filed by the mediator with the Prothonotary's Office, confirming compliance. Such certificate shall reflect only that such party or parties have complied with these Rules without further detail (see 42 Pa.C.S.A. § 5949).

[Pa.B. Doc. No. 04-2101. Filed for public inspection November 24, 2004, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 37—LAW

### STATE POLICE

#### [37 PA. CODE CH. 23]

#### Administration of the Bureau of Liquor Control Enforcement Age Compliance Check Program

The State Police is adding Chapter 23 (relating to administration of the Bureau of Liquor Control Enforcement Age Compliance Check program) to read as set forth in Annex A.

As a requirement of section 1 of the act of December 3, 2002 (P.L. 1144, No. 141) (Act 141), this final-form rulemaking is necessary for the general administration of the age compliance program. The effective date of Act 141 was February 1, 2003. This final-form rulemaking prescribes the manner in which compliance checks are to be performed and requires officers, employees and interns of the Bureau of Liquor Control Enforcement (Bureau) to undergo approved training prior to participation in a compliance check.

#### *Statutory Authority*

This final-form rulemaking is authorized by Act 141.

#### *Effect*

This final-form rulemaking will affect the Bureau and establishments licensed to serve alcoholic beverages

#### *Effective Date/Sunset Date*

This rulemaking will go into effect upon final-form publication in the *Pennsylvania Bulletin*. The regulations will sunset when Act 141 sunsets on December 31, 2007.

#### *Comments and Responses*

The State Police did not receive any comments from the Senate Committee on Law and Justice. The State Police received the following comments from the House Judiciary Committee.

1. The Committee suggested that the training curriculum for underage buyers include a segment on alcohol abuse. The State Police accepted this suggestion and included § 23.21(b)(1)(v) (relating to required training) to require that training.

2. The Committee noted its concern with language found in § 23.22(a) (relating to age compliance schedule) which stated that age compliance checks would be conducted with no less than one Bureau officer and one underage buyer. The Committee suggested that the language be amended to read "no less than one Bureau officer for each underage buyer." The State Police adopted that suggestion and revised § 23.22(a) accordingly.

3. The Committee was concerned with the language found in proposed § 23.22(e) which stated that the Bureau officer "will endeavor to maintain visual contact with the underage buyer." The Committee felt the phrase "will endeavor" did not set a sufficiently clear standard and suggested the subsection be amended to provide that the Bureau officer "shall maintain" visual contact with the underage buyer. The State Police did not make the suggested revision because the crowded bar environment and the necessity of effective undercover operations make it impractical for a Bureau officer to maintain a "visual lock" on the underage buyer at all times. In a crowded

bar, it would not be uncommon for the Bureau officer to lose temporary visual contact as the underage buyer moves through the bar or the officer occasionally scans the crowd under normal undercover procedure. In response to the Committee's comment, the State Police has eliminated the requirement that Bureau officers endeavor to maintain contact. Instead, the State Police will enact undercover operating procedures to address this situation.

4. The Committee expressed some concerns about proposed § 23.22(j), which related to notifying the licensed premises of the compliance check results. First, the Committee recommended that the actual licensee be notified; second, that the Bureau officer who supervised the underage buyer be responsible for providing the notification; third, that written notification of compliance be made within 10 working days of the age compliance check program. With respect to the Committee's first point, the State Police believes there would be innumerable problems associated with notifying the actual licensee of the compliance check results. A liquor license can be held by an individual, a partnership or a corporation. Moreover, a management corporation can be placed under contract by the "licensee" to operate the premises; this is common practice with franchises and bars located in major hotels. In response to the Committee's concern, the State Police has provided in § 23.23 (relating to notification of results of age compliance check), that the notification will be made to the Board-approved manager or person in charge of the licensed premises. This is consistent with Liquor Control Board (Board) regulations that require a bar to have a full-time manager. See 40 Pa. Code §§ 5.16, 5.17 and 5.23 (relating to appointment of managers, distributor or importing distributor licensees; appointment of manager; and appointment of managers). With respect to the Committee's second point, the final-form rulemaking has been amended to provide that a Bureau officer will make the required notification; however, that notification does not need to be made by the same officer who supervised the underage buyer during the compliance check. The Bureau may want to use the same undercover officer to conduct additional compliance checks in that bar or to supervise the underage buyer in more than one establishment on any given day. For that reason, the State Police has chosen to retain the flexibility of using another Bureau officer to make the required notification. The State Police has accepted the Committee's recommendation that written notification of compliance be provided within 10 working days; that requirement is now contained in § 23.23(b).

The State Police received the following comments from the Independent Regulatory Review Commission (IRRC):

1. IRRC incorporated comments and concerns raised by the House Judiciary Committee. The State Police has responded to those comments as previously outlined.

2. IRRC commented that the definition of "compliance" should include references to the statutes with which the licensee needs to comply. This final-form rulemaking has been amended to include a reference to section 493(1) of the Liquor Code (47 P.S. § 4-493(1)) (Code). IRRC also questioned whether the final-form rulemaking needs to include a definition of the terms "sale or sell." The State Police decided to retain the definition of "sale or sell" to be consistent with the Code, which contains such a definition.

3. IRRC recommended including a provision specifying how the State Police will determine if required training has been completed. The State Police does not believe the provision is necessary with respect to Bureau officers who cannot become Bureau officers until they have successfully completed a 13—15 week resident training course at the State Police Academy (Academy). With respect to the training required of underage buyers, § 23.21(b)(2) of the final-form rulemaking requires underage buyers to pass an examination administered by the Bureau.

4. Section 23.22(a) of the proposed rulemaking required an age compliance check to be performed with “at least one Bureau officer and one underage buyer.” IRRC asked in what situations there would not be a one-to-one ratio. Based on comments received from the House Judiciary Committee, the final-form rulemaking provides that the age compliance check shall be conducted with at least one Bureau officer for each underage buyer.

5. IRRC expressed three concerns regarding the notice procedures and requirements contained in proposed § 23.22(j). First, IRRC noted that subsections (a)—(i) addressed how compliance checks would be implemented and that subsection (j) addressed notification requirements after the compliance check was completed. IRRC recommended that subsection (j) be separated from § 23.22 and assigned its own section. The State Police has adopted IRRC’s suggestion and moved the notification procedures to § 23.23. Second, IRRC noted that the proposed rulemaking states that notification of the results of the age compliance check would be given to the licensed premises. IRRC suggested that the final-form rulemaking should direct the Bureau officer to give written notice of the results of the compliance check to an individual such as a manager or person in charge of the premises. The State Police agrees. Section 23.23 of the final-form rulemaking states that notification will be made to the Board-approved manager or person in charge of the licensed premises. The final-form rulemaking also includes a definition of the term “Board-approved manager.” Finally, IRRC suggested that the final-form rulemaking should specify the date, time and any other information, if available, that would assist the licensee and its employees in complying with the law. In response to this suggestion, the State Police has added § 23.23(c), which requires the verbal and written notification to include the date and time of the compliance check as well as the name of the server if known.

6. IRRC suggested amending the preamble to include an expiration date of December 31, 2007, to be consistent with Act 141, which will sunset on that date. The State Police made the suggested revision.

7. IRRC pointed out that the proposed rulemaking incorrectly refers to the Liquor Code as 43 P. S. IRRC also suggested that the regulation refer to specific sections of the Liquor Code and the Crimes Code that will be addressed in training for underage buyers. As a result of IRRC’s comments, § 23.21(b) has been revised to provide that underage buyers will receive training on sections 493(1) and 493(14) of the Liquor Code (47 P. S. §§ 4-493(1) and 4-493(14)) and 18 Pa.C.S. §§ 6307—6310.3.

The Pennsylvania Tavern Association (Association) provided the House Judiciary Committee with the following comments which were subsequently forwarded to the State Police:

1. The Association suggested altering the definition of an “underage buyer” to provide that the underage buyer

must be “an individual who a reasonable person standing in the shoes of the server would believe to be underage at the time of purchase or attempt to purchase and would require the underage buyer to produce valid proof of age.” The State Police made no response to this comment. The purpose of the age compliance check is to ensure that licensed premises comply with the law, and it is illegal to serve alcohol, malted or brewed beverages to persons under the age of 21 regardless of their physical appearance.

2. The Association suggested that no more than one underage buyer should be supervised by a single Bureau officer. In response to this comment, the State Police revised § 23.22(a) to provide that a compliance check will be conducted with one Bureau officer for each underage buyer.

3. Like the House Judiciary Committee, the Association suggested that Bureau officers be required to maintain constant visual contact with the underage buyer. The State Police thoughtfully considered this suggestion but rejected it as impractical. The final-form rulemaking has been amended to omit any requirement as to maintaining eye contact; instead, that issue will be addressed in internal standard operating procedures.

4. The Association suggested that licensed establishments be given immediate notice of noncompliance. The State Police made no change in response to this comment because § 23.22(j)(2) already provided that immediate verbal notification would be made when a licensed premises is not in compliance. At IRRC’s suggestion, in the final-form rulemaking, the notification provisions were moved to a new subsection in § 23.23. The requirement of immediate notification of noncompliance has been retained and can now be found in § 23.23(a).

5. The Association also suggested that the notice of compliance or noncompliance should include the date, time and location of the compliance check as well as the name of the server. The final-form rulemaking has been amended to provide in § 23.23(c) that verbal and written notification will include the date and time of the compliance check as well of the name of the server if it is known.

Finally, the Board provided the following comments to the Senate Committee on Law and Justice, which shared them with the State Police:

1. The Board opined that the definition of the term “purchase” is used in a manner inconsistent with the definition. The State Police disagrees and no change has been made to the regulation in response to this comment.

2. The Board commented that the proposed rulemaking does not detail the training Bureau officers must complete before participating in an age compliance check. The State Police do not believe Act 141 requires Bureau officers who supervise age compliance checks to receive specific training. Given the fact that an individual must be 21 years of age to work as a Bureau officer, Bureau officers will never serve as underage buyers. Section 21.21(a) reflects the fact that to become a Bureau officer, one must complete a 13—15 week resident training program at the Academy, which will include training related to age compliance checks. The State Police has chosen not to include more specific information about the resident training program’s curriculum in the final regulation in order to retain the requisite flexibility to make changes to the training based on experience with the age compliance check program.

3. The Board questioned whether the Bureau’s failure to comply with the regulations could expose the Bureau

officer or the underage buyer to criminal liability or have consequences in a subsequent administrative action against the licensee. Internal checks and balances within the State Police will ensure that age compliance checks are conducted properly and no changes were made to the regulations based on the Board's comment.

4. The Board noted that a previous draft of House Bill 850, which ultimately became Act 141, had prohibited the underage buyer from orally misrepresenting the buyer's age. No change has been made to this final-form rulemaking based on the Board's observation. It is not uncommon for underage individuals to verbally represent that they are 21 in an effort to obtain alcohol, malt or brewed beverages. Consequently, it is entirely appropriate to allow underage buyers to make that verbal representation during an age compliance check in which the focus is the licensee's compliance with the law.

*Regulatory Review*

On December 8, 2003, copies of the proposed rulemaking were delivered to IRRC and the Majority and Minority Chairpersons of the House Judiciary Committee and Senate Law and Justice Committee. Notice of proposed rulemaking was published at 33 Pa. B. 6227 (December 20, 2003) and provided for a 30-day public comment period. In compliance with section 5(c) of the Regulatory Review Act (71 P.S. § 745.5(c)), the State Police provided IRRC and the Committees with copies of all comments received during the public comment period, as well as other documents if requested. In preparing the final-form rulemaking, the State Police has considered all comments received from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC approved the final-form rulemaking on October 7, 2004.

*Contact Person*

For further information on the final-form rulemaking, contact Syndi L. Guido, Policy Director, State Police, 1800 Elmerton Avenue, Harrisburg, PA 17110, (717) 772-0905. Individuals who are disabled and require an alternative format of this document (that is, large print, audio tape, Braille) should contact Syndi Guido so that necessary arrangements can be made.

*Fiscal Impact*

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

*Paperwork Requirements*

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

*Findings*

The State Police finds that:

(1) Public notice of intention to adopt these amendments 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 as required by law and all comments were considered and forwarded to IRRC and the Senate and House Committees.

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

*Order*

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

(a) The regulations of the State Police, 37 Pa. Code, are amended by adding §§ 23.1 and 23.21—23.24 to read as set forth in Annex A.

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

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

(d) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*. The chapter will sunset on December 31, 2007.

COLONEL JEFFREY B. MILLER  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 34 Pa.B. 5859 (October 23, 2004).)*

**Fiscal Note:** Fiscal Note 17-64 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 37. LAW**

**PART I. STATE POLICE**

**CHAPTER 23. ADMINISTRATION OF THE BUREAU OF LIQUOR CONTROL ENFORCEMENT AGE COMPLIANCE CHECK PROGRAM GENERAL PROVISIONS**

Sec. 23.1.	Definitions.
<b>COMPLIANCE CHECKS</b>	
23.21.	Required training.
23.22.	Age compliance checks.
23.23.	Notification of results of age compliance check.
23.24.	Sunset date.

**GENERAL PROVISIONS**

**§ 23.1. Definitions.**

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

*Age compliance check*—An undercover investigation of a licensed premises during which an underage buyer purchases or attempts to purchase liquor or malt or brewed beverages under the supervision of a Bureau officer.

*Board-approved manager*—A person appointed or designated by the licensee and approved by the Liquor Control Board under 40 Pa. Code § 5.16, § 5.17 or § 5.23 (relating to appointment of managers, distributor or importing distributor licensees: appointment of manager; and appointment of managers).

*Bureau officer*—A State Police officer or liquor enforcement officer who is assigned to an age compliance check.

*Compliance*—Refusing sale or service of liquor or malt or brewed beverages to the underage buyer as required by section 493(1) of the Liquor Code (47 P.S. § 4-493(1)).

*Enforcement Bureau or Bureau*—The Bureau of Liquor Control Enforcement of the State Police.



*Licensed premises*—A business licensed by the Liquor Control Board to sell liquor or malt or brewed beverages in this Commonwealth.

*Liquor*—Includes any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise alcoholic, including all drinks and drinkable liquids, preparations or mixtures, and reused, recovered or redistilled denatured alcohol usable or taxable for beverage purposes which contain more than .5% of alcohol by volume, except pure ethyl alcohol and malt or brewed beverages.

*Malt or brewed beverages*—Any beer, lager beer, ale, porter or similar fermented malt beverage containing .5% or more of alcohol by volume, by whatever name the beverage may be called.

*Purchase*—Obtaining food, nonalcoholic beverages, liquor, alcohol or malt or brewed beverages for consideration.

*Sale or sell*—The transfer of liquor, alcohol or malt or brewed beverages for consideration.

*Underage buyer*—An individual between 18 and 20 years of age who is an officer, employee or intern of the Enforcement Bureau and participates in an age compliance check.

#### COMPLIANCE CHECKS

##### § 23.21. Required training.

(a) *Bureau officers.* Before participating in an age compliance check, Bureau officers shall complete training approved by the Enforcement Bureau.

(b) *Underage buyers.* Before participating in an age compliance check, an underage buyer shall:

(1) Complete a training course prescribed by the Enforcement Bureau, which includes instruction in at least the following areas of study:

(i) Sections 493(1) and 493(14) of the Liquor Code (47 P. S. §§ 4-493(1) and 4-493(14)) and 18 Pa.C.S. §§ 6307—6310.3.

(ii) Safety protocols.

(iii) Undercover investigations.

(iv) Testifying in court.

(v) Alcohol abuse.

(2) Pass an examination administered by the Enforcement Bureau.

##### § 23.22. Age compliance checks.

(a) The age compliance check shall be conducted with at least one Bureau officer for each underage buyer.

(b) A Bureau officer shall be in charge of the age compliance check.

(c) A Bureau officer shall enter and remain inside the licensed premises during the age compliance check.

(d) The age compliance check shall be conducted at the licensed premises during regular business hours.

(e) The Bureau officer shall observe the activity inside the licensed premises and determine if it is safe and appropriate to conduct the age compliance check.

(f) Underage buyers may purchase or attempt to purchase liquor or malt or brewed beverages only during an age compliance check and only while under the direct supervision of a Bureau officer.

(g) Underage buyers may not consume liquor or malt or brewed beverages.

(h) If an underage buyer removes the liquor or malt or brewed beverages from the licensed premises, the underage buyer shall deliver the liquor or malt or brewed beverages to the Bureau officer as soon as possible, consistent with safety protocols.

##### § 23.23. Notification of results of age compliance check.

A Bureau officer will be responsible for insuring notification is made of the results of the age compliance check to the Board-approved manager or person in charge of the licensed premises.

(1) If the licensed premises is not in compliance, immediate verbal notification will be provided followed by written notification within 10 working days.

(2) If the licensed premises is found to be in compliance, written notification of compliance will be provided within 10 working days.

(3) Verbal and written notification will include the date and time of the compliance check as well as the name of the server if known.

##### § 23.24. Sunset date.

This chapter will expire on December 31, 2007.

[Pa.B. Doc. No. 04-2102. Filed for public inspection November 24, 2004, 9:00 a.m.]

## Title 58—RECREATION

### FISH AND BOAT COMMISSION

#### [58 PA. CODE CHS. 61, 65 AND 69]

#### Fishing

The Fish and Boat Commission (Commission) by this order amends Chapters 61, 65 and 69 (relating to seasons, sizes and creel limits; special fishing regulations; and fishing in Lake Erie and boundary lakes). The Commission is publishing this final-form rulemaking under 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The changes relate to the season, size and creel limit for American shad in the Schuylkill River upstream of the I-95 Bridge and its tributaries; eliminating the phrase "molded facsimiles or replicas" as used in various special fishing regulations where terminal tackle is restricted to artificial lures; changing the name of the Select Trout Stocked Lake Program to the Early Season Trout Stocked Waters Program; and the seasons, sizes and creel limits for burbot and smelt in Lake Erie, its tributaries and Presque Isle Bay.

##### A. Effective Date

This final-form rulemaking will go into effect on January 1, 2005.

##### B. Contact Person

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

### C. Statutory Authority

The amendments to §§ 61.1, 61.8 and 69.12 (relating to Commonwealth inland waters; Lehigh River and tributaries; and seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries) are published under section 2102 of the code (relating to rules and regulations). The amendments to §§ 65.1—65.3, 65.5—65.7, 65.10 and 65.24 are published under section 2307 of the code (relating to waters limited to specific purposes).

### D. Purpose and Background

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

### E. Summary of Changes

(1) *Section 61.8.* Major efforts to open or remove blockages to anadromous fish migration on the Schuylkill River are underway. Three dams are now or will be breached/removed. These dams are Plymouth Dam (River Mile (RM) 18), Vincent Dam (RM 42) and Felix Dam (RM 79). The Fairmount Dam (RM 9) has a vertical slot fishway that is to be rebuilt in 2005. On March 10, 2004, groundbreaking occurred for a fishway at Flat Rock Dam (RM 15). Norristown Dam (RM 21) will have fish passage in place by 2006, and Black Rock Dam (RM 37) will have fish passage by 2007.

The Commission has been stocking fry shad in the Schuylkill River for several years, and sampling as recent as 2003 indicates that these fish are returning as adults. With the likelihood of more and more of the river being open to passage, there is a need to implement restrictive regulations to enhance restoration efforts while providing anglers with an opportunity to fish for and harvest this exciting sport fish. The Commission believes that a one shad creel limit, which currently is in place on the Lehigh River where similar restoration work is underway, is appropriate to maintain a fishery yet not degrade restoration efforts. As anglers are able to go out and catch American shad and possibly harvest one on occasion, they should be more inclined to actively support restoration activities.

The Commission chose not to use the Fairmount Dam as the downstream limit on the Schuylkill River for this final-form rulemaking, unlike the current regulations on the Lehigh River where the Easton Dam (right at the confluence with the Delaware River) is the downstream limit of waters having the one fish creel limit. Although the several mile reach of the river from the Fairmount Dam downstream to the confluence with the Delaware River/Estuary is tidal, American shad tend to concentrate at the base of the Fairmount Dam. Thus, using the I-95 Bridge as a downstream limit for the one fish limit will provide additional protection to adult American shad having a definite interest in ascending the Schuylkill River. The Commission accordingly established a one fish creel limit for American shad in the Schuylkill River basin upstream of the bridge on I-95 at Philadelphia. Specifically, the Commission amended § 61.8 to read as set forth in the notice of proposed rulemaking.

(2) *Sections 65.1—65.3, 65.5—65.7 and 65.24.* Where terminal tackle is restricted to artificial lures, the Commission's regulations provide that fishing may be done with artificial lures only constructed of metal, plastic, rubber, or wood or with flies and streamers constructed of natural or synthetic materials. Lures may be used with spinning or fly fishing gear. Use of other gear is prohib-

ited. Specifically prohibited are the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with the other materials.

Generally, in these areas (that is, Selective Harvest, Delayed Harvest Fly-fishing Only; Heritage Trout Angling Program, Catch-and-Release, Delayed Harvest Artificial Lures Only, Trophy Trout Program and the West Branch of the Delaware River in Wayne County), the use or possession of fishbait, natural bait or baitfish and the use of a device, natural or synthetic, capable of catching fish other than artificial lures is prohibited. However, the wording varies slightly from regulation to regulation.

The phrase "molded facsimiles or replicas of insects," as used in the regulations, is difficult to apply when dealing with the vast array of processes used to create artificial fishing lures. In addition, the life forms that molded facsimiles or replicas are intended to represent further confound the interpretation of the regulations.

The Commission simplified these regulations by eliminating the specific prohibition against the use of molded facsimiles or replicas of insects, earthworms, fish eggs, fish or any invertebrate or vertebrate either singly or in combination with the other materials. The Commission also modified the regulations to state uniformly that the use or possession of any natural bait, baitfish, fishbait, bait paste and similar substances, fish eggs (natural or molded) or any other edible substances, and the use of any other lure, other than artificial lures, flies or streamers, is prohibited in these areas. In § 65.5 (relating to catch-and-release), the prohibition against barbed hooks and the requirement that barbless hooks are used will remain. The Commission amended these sections to read as set forth in the notice of proposed rulemaking.

(3) *Section 65.10 (relating to Select Trout Stocked Lake Program).* At the July 1994 meeting, the Commission approved the creation of what later became known as the Select Trout Stocked Lake Program. Through the stocking of a portion of the preseason trout allocation during the January through early March period in select lakes, reservoirs and stream sections, the Commission provides opportunities for trout angling (and harvest of three trout per day) in waters that normally would be closed to fishing during March as part of the traditional preseason stocking period. As stream sections are included in the program, a name change is warranted, particularly for use in publications, website coverage and correspondence to the angling public. Thus, without changing the intent of the program, the Commission changed the name of § 65.10 from "Select Trout Stocked Lake Program" to "Early Season Trout Stocked Waters Program." The Commission also amended § 61.1 (relating to Commonwealth inland waters) to reflect the new name of the program, which is referenced in that section. The Commission amended these sections to read as set forth in the notice of proposed rulemaking.

In accordance with § 51.5 (relating to correction of regulations), the Executive Director took immediate corrective action on the Commission's behalf to change the reference to lakes in § 65.10(a) to "waters." This section will read as set forth in Annex A.

(4) *Section 65.24 (relating to miscellaneous special regulations).* Lower Burrell Park Pond (also locally known as Holtzhauer Lake) is a 4 acre impoundment located in northwestern Westmoreland County and owned by the City of Lower Burrell (City). The impoundment was built on an unnamed tributary to Little Pucketa Creek and is

very accessible to a public road (68% within 110 yards). The entire shoreline is open to public angling, but ice fishing and boating are not permitted on the impoundment. The impoundment is located in a city park that has a walking trail around the lake, a handicap access fishing pier, several parking areas, picnic pavilions and recreational facilities. A May 2002 fish population sampling by the Commission's Area Fisheries Manager found largemouth bass to be the dominant warmwater game fish and bluegill to be the dominant panfish. The bass and bluegill fish population size structure and density are of relatively high quality.

Informal catch and release regulations have been imposed by the City at the impoundment since September 2000. The City would like to continue with the catch and release regulations and to have them enforced by the Commission. The Commission concurs with the City's request and has not heard of any complaints about the current but "informal" regulations. Because the pond is a publicly owned, highly accessible impoundment in an urban population area, it has great appeal for the trout stocking program. Commission staff will continue to work with the City on this aspect of a management plan.

The Commission amended § 65.24 to impose catch-and-release only regulations for all species at Lower Burrell Park Pond to optimize use of this waterway. Specifically, the Commission amended this section to read as set forth in the notice of proposed rulemaking.

(5) *Section 69.12.* Anglers occasionally catch burbot by hook and line in Lake Erie and Presque Isle Bay. However, burbot may only be legally taken by SCUBA divers by use of nonmechanical spears or gigs at a depth of at least 60 feet during the period, June 1 to September 30, with a daily limit of five. Although inland populations of burbot are endangered and therefore harvest is not allowed, burbot in Lake Erie are abundant enough to support commercial and sport harvest. The Commission's Bureau of Law Enforcement personnel indicate that anglers who catch burbot during the winter months rarely catch more than a couple per day. Thus, the Commission amended this section to allow burbot to be taken by hook and line with a limit of five per day and no closed season. Commission staff anticipate no adverse impacts to burbot populations as a result of the change.

As with burbot, anglers occasionally catch smelt through the ice in Presque Isle Bay. Under the Commission's current regulations, smelt are not specifically listed and have been considered baitfish. Baitfish may be taken year around with no minimum size requirement and a daily limit of 50 (combined species). To clarify the existing regulations, the Commission amended this section to list smelt separately with no closed season, no minimum length and no creel limit. Commission staff do not anticipate any adverse impacts to the smelt population as a result of the change.

Section 69.12 (relating to season, sizes and creel limits—Lake Erie and Lake Erie tributaries) with the changes described in the notice of proposed rulemaking allowed burbot to be taken by hook and line year 'round, while they could be taken by SCUBA divers by nonmechanical spears or gigs only during the season, June 1 to September 30. There is no sound fisheries management reason for this distinction. Therefore, the Commission, on final-form rulemaking, amended this section to allow the taking of burbot by nonmechanical spears or gigs year around. The Commission amended this section to read as set forth in Annex A.

#### 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

A notice of proposed rulemaking was published at 34 Pa.B. 3603 (July 10, 2004). The Commission did not receive any public comments concerning the proposed amendments to §§ 61.8 and 65.24 (with regard to Lower Burrell Park Pond). The Commission received one public comment supporting the proposed changes to §§ 65.1—65.3, 65.5—65.7, 65.10 and 65.24 (with regard to West Branch Delaware River ) and § 69.12. Copies of all public comments were provided to the Commissioners.

#### Findings

The Commission finds that:

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

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

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

#### Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 61, 65 and 69, are amended by amending §§ 61.1, 61.8, 65.1—65.3, 65.5—65.7 and 65.24 to read as set forth at 34 Pa.B. 3603 and by amending §§ 65.10 and 69.12 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Executive Director will submit this order, 34 Pa.B. 3603 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 34 Pa.B. 3603 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect January 1, 2005.

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

**Fiscal Note:** 48A-156 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

#### § 65.10. Early Season Trout Stocked Waters Program.

(a) The Executive Director, with the approval of the Commission, may designate waters as part of the Early

Season Trout Stocked Waters Program. The designation of waters as part of the Early Season Trout Stocked Waters Program shall be effective upon publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in waters designated as part of the Early Season Trout Stocked Waters Program except in compliance with the following requirements:

(1) Notwithstanding § 63.3 (relating to fishing in approved trout waters), fishing is permitted from March 1 until midnight, March 31.

(2) The daily creel limit is: three combined species during the period from the day after Labor Day until midnight, March 31 of the following year. Except during this period, the Statewide creel limits apply (See § 61.1 (relating to Commonwealth inland waters).)

(3) Except as otherwise provided in this section, Statewide regulations (including size and creel limits) apply to waters in the Early Season Trout Stocked Waters Program.

**CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES**

**§ 69.12. Seasons, sizes and creel limits—Lake Erie and Lake Erie tributaries.**

\* \* \* \* \*

(f) Subject to the provisions of subsections (d) and (e), the following seasons, sizes and creel limits apply to Lake Erie, Lake Erie tributaries and Presque Isle Bay, including peninsular waters:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
MUSKELLUNGE and MUSKELLUNGE HYBRIDS PIKE	Inland seasons apply: See § 61.1.	40 inches	1
Northern		24 inches	2
WALLEYE	January 1 to midnight March 15 and 12:01 a.m. the first Saturday in May to December 31	18 inches	4
BASS Largemouth Smallmouth	January 1 to opening day of trout season in April and first Saturday after June 11 until December 31	15 inches	4 (combined species only 2 of which may be lake trout).
	Opening day of trout season in April until first Saturday after June 11.*	20 inches	
TROUT and SALMON	First Saturday after April 11 until midnight Labor Day.	9 inches	5 (combined species only 2 of which may be lake trout).
	12:01 a.m. the day after Labor Day until midnight on the Friday before the first Saturday after April 11	15 inches	3 (combined species only 2 of which may be lake trout).
STURGEON	No open season	ENDANGERED SPECIES	
SUNFISH, CRAPPIES, CATFISH, ROCK BASS, SUCKERS, EELS, CARP, WHITE BASS	Open year round	None	50 (combined species)
YELLOW PERCH	From December 1 Through March 31	7 inches	20
	From April 1 through November 30	8 inches	20
BAIT FISH FISH BAIT	Open year round	None	50 (combined species)
BURBOT (when taken by hook and line or when taken by SCUBA divers by use of nonmechanical spears or gigs at a depth of at least 60 feet)	Open year-round	None	5
Smelt (when taken by hook and line)	Open year-round	None	None
ALL OTHER SPECIES	Inland regulations apply: See § 61.1		

\*It is unlawful to conduct or participate in a fishing tournament (as defined in § 63.40 (relating to seasons for fishing tournaments)) for bass on Lake Erie, Lake Erie tributaries or Presque Isle Bay during the period from opening day of trout season in April until the first Saturday after June 11.

[Pa.B. Doc. No. 04-2103. Filed for public inspection November 24, 2004, 9:00 a.m.]

**[58 PA. CODE CHS. 103, 105, 107 AND 111]****Boating**

The Fish and Boat Commission (Commission) by this order amends Chapters 103, 105, 107 and 111 (relating to rules of the road; operational conditions; boating restrictions; and special regulations counties). 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 relates to the definition of "slow, no wake speed" and eliminating the term "slow, minimum height swell speed" as used throughout the Commission's regulations.

**A. Effective Date**

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

**B. Contact Person**

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

**C. Statutory Authority**

The amendments to §§ 103.2, 103.3, 103.16, 105.3 and 107.5 are published under the statutory authority of section 5123 of the code (relating to general boating regulations). The amendments to §§ 111.2—111.4, 111.6, 111.9, 111.13, 111.14, 111.17, 111.20—111.25, 111.27, 111.30, 111.31, 111.36, 111.40—111.43, 111.46, 111.48, 111.49, 111.52, 111.56, 111.58, 111.59, 111.62, 111.64 and 111.66 are published under the statutory authority of section 5124 of the code (relating to particular areas of water).

**D. Purpose and Background**

The final-form rulemaking is designed to update, modify and improve the Commission's boating regulations. The specific purpose of the amendments is described in more detail under the summary of changes. The Commission's Boating Advisory Board considered the proposed amendments and recommended that the Commission adopt them as set forth in the notice of proposed rulemaking.

**E. Summary of Changes**

Historically, the Commission's regulations have used the term "slow, minimum height swell speed," as opposed to the more common term, "slow, no wake speed." Section 103.2 defines "slow, minimum height swell speed" as the "lowest engagement speed for the engine and that the wake or wash creates a minimum disturbance." The section also provides that "Buoys and signs marked 'slow, no wake' shall mean operation at slow, minimum height swell speed."

The current definition does not adequately describe what the Commission means by "slow, no wake speed." There have been misunderstandings by the boating public and problems when citations by Commission officers for wake violations have been challenged in court. Staff have reviewed the definitions for "slow, no wake speed" in other states and by the National Park Service. Other states and the Federal government do not use the term "slow, minimum height swell speed."

The Commission therefore proposed that the term "slow, minimum height swell speed" be replaced with

"slow, no wake speed" so the public better understands the term. The Commission also proposed amending the definition to reflect the accepted standards in other states. The Commission has amended § 103.2 (relating to definitions) to read as set forth in the notice of proposed rulemaking.

In addition, there are several references to slow, minimum height swell speed throughout the Commission's regulations. The Commission proposed that these references in §§ 103.3, 103.16, 105.3, 107.5, 111.2, 111.3, 111.4, 111.6, 111.9, 111.13, 111.14, 111.17, 111.20—111.25, 111.27, 111.30, 111.31, 111.36, 111.40—111.43, 111.46, 111.49, 111.52, 111.56, 111.58, 111.59, 111.62, 111.64 and 111.66 be amended to reflect the new term. The Commission amended these sections to read as set forth in the notice of proposed rulemaking. In accordance with § 51.5 (relating to correction of regulations), the Executive Director took immediate corrective action on the Commission's behalf to change the reference in § 111.48 to slow, minimum height swell speed to slow, no wake speed as set forth in Annex A.

**F. Paperwork**

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

**G. Fiscal Impact**

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

**H. Public Involvement**

A notice of proposed rulemaking was published at 34 Pa.B. 4466 (August 14, 2004). The Commission did not receive any public comments concerning the proposal.

**Finding**

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 103, 105, 107 and 111, are amended by amending §§ 103.2, 103.3, 103.16, 105.3, 107.5, 111.2—111.4, 111.6, 111.9, 111.13, 111.14, 111.17, 111.20—111.25, 111.27, 111.30, 111.31, 111.36, 111.40—111.43, 111.46, 111.49, 111.52, 111.56, 111.58, 111.59, 111.62, 111.64 and 111.66 to read as set forth in 34 Pa.B. 4466 and § 111.48 to read as set forth in Annex A.

(b) The Executive Director will submit this order, 34 Pa.B. 4466 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 34 Pa.B. 4466 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect January 1, 2005.

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

**Fiscal Note:** Fiscal Note 48A-157 remains valid for the final adoption of the subject regulations.

*(Editor's Note:* For the final text of § 111.56, see 34 Pa.B. 6333 (November 27, 2004).)

**Annex A**  
**TITLE 58. RECREATION**  
**PART II. FISH COMMISSION**  
**Subpart C. BOATING**  
**CHAPTER 111. SPECIAL REGULATIONS**  
**COUNTIES**

**§ 111.48. Northampton County.**

(a) *East Bangor Dam.* The operation of boats powered by internal combustion motors is prohibited.

(b) *Minsi Lake.* The operation of boats powered by internal combustion motors is prohibited.

(c) *Delaware River.* The operation of personal watercraft is prohibited within the Delaware Water Gap National Recreation Area (upstream from mile 209.5).

(d) *Lehigh River.* Boats are limited to slow, no wake speed in the main channel 150 feet upstream and 150 feet downstream from the Route 33 access ramp.

[Pa.B. Doc. No. 04-2104. Filed for public inspection November 24, 2004, 9:00 a.m.]

**[58 PA. CODE CH. 111]**  
**Boating**

The Fish and Boat Commission (Commission) by this order amends Chapter 111 (relating to special regulations counties). The Commission is publishing this final-form rulemaking under 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The final-form rulemaking relates to the elimination of the slow, no wake zone in the Horseshoe Curve part of the Youghiogheny River Lake, Somerset County.

**A. Effective Date**

This final-form rulemaking will go into effect on January 1, 2005.

**B. Contact Person**

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

**C. Statutory Authority**

The amendment to § 111.56 (relating to Somerset County) is published under section 5124 of the code (relating to particular areas of water). A person violating the regulations contained in Chapter 111 commits a summary offense of the third degree for which a \$50 fine is imposed.

**D. Purpose and Background**

This final-form rulemaking is designed to update, modify and improve the Commission's boating regulations. The specific purpose of the amendment to § 111.56 is described in more detail under the summary of change. The Commission's Boating Advisory Board considered the proposed amendment and recommended that the Commission adopt the amendment as set forth in the notice of proposed rulemaking.

**E. Summary of Change**

The United States Army Corps of Engineers (Corps), Pittsburgh District, requested that a provision of § 111.56(b)(1) be removed. Corps staff at Youghiogheny River Lake stated that the regulation is not necessary because usage in the Horseshoe Curve part of the lake, even during peak usage periods, does not warrant the retention of a slow, no wake zone. In addition, subsection (b) combines personal flotation device requirements in the same subsection as the slow, no wake areas. Separating these subjects into different paragraphs increases the clarity of the regulation. The Commission amended this section to read as set forth in the notice of proposed rulemaking.

As part of the proposed rulemaking package, the Commission also proposed a change to § 111.2 (relating to Allegheny County). Specifically, the Commission proposed the creation of a slow, no wake zone on the Ohio River, Allegheny County, in the back channel of Neville Island from the Coraopolis Bridge upstream to the Interstate 79 bridge from May 1 through October 1. The Commission did not adopt the proposed amendment on final-form rulemaking, and accordingly, the proposed amendment is withdrawn.

**F. Paperwork**

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

**G. Fiscal Impact**

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

**H. Public Involvement**

A notice of proposed rulemaking was published at 34 Pa.B. 4152 (August 7, 2004). The Commission did not receive any public comments concerning the proposed amendment to § 111.56.

**Findings**

The Commission finds that:

(1) Public notice of intention to adopt the amendment adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations 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 amendment of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

**Order**

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

(a) The regulations of the Commission, 58 Pa. Code Chapter 111, are amended by amending § 111.56 to read as set forth in Annex A.

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

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

(d) This order shall take effect January 1, 2005.

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

**Fiscal Note:** 48A-158. No fiscal impact; (8) recommends adoption.

*(Editor's Note: A document amending §111.56 appears at 34 Pa.B. 6333 (November 27, 2004).)*

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart C. BOATING**

**CHAPTER 111. SPECIAL REGULATIONS  
COUNTIES**

**§ 111.56. Allegheny County.**

(a) *Laurel Hill Lake.* The operation of boats powered by internal combustion motors is prohibited.

(b) *Youghiogheny River Lake.*

(1) Persons shall wear a Coast Guard approved personal flotation device at all times when on board boats less than 16 feet in length or any canoe or kayak.

(2) Boats are limited to slow, no wake speed within the following areas:

(i) *Wilkins Hollow Cove.*

(ii) *Tub Run Cove.* From a line extending in a south-westerly direction between the outermost points of land on each side of the cove as marked.

(iii) *Somerfield Recreation Area.* As marked in the vicinity of the boat launch ramp and marina.

(iv) *Fall Run Cove.*

(v) *Hall Run Cove.*

(vi) *Braddocks Run Cove.*

(vii) *Reason Run Cove.*

(viii) *Off Somerfield Hill.*

[Pa.B. Doc. No. 04-2105. Filed for public inspection November 24, 2004. 9:00 a.m.]

# PROPOSED RULEMAKING

## DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 140]  
Special MA Eligibility Provisions

The Department of Public Welfare (Department), under sections 201(2) and 403(b) of the Public Welfare Code (62 P. S. §§ 201(2) and 403(b)) and section 1902(a)(10)(A)(ii)(XVIII) of the Social Security Act (42 U.S.C.A. § 1396a(a)(10)(A)(ii)(XVIII)) (Title XIX), proposes to amend Chapter 140 (relating to special MA eligibility provisions) to read as set forth in Annex A. Title XIX of the Social Security Act provides states with the option to expand their Medicaid programs to include uninsured women who are diagnosed with and found to need treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix.

### *Purpose*

The purpose of this proposed rulemaking is to take advantage of a Federal option of the Breast and Cervical Cancer Prevention and Treatment (BCCPT) Act of 2000 (Pub. L. No. 106-354) that permits states to provide Medicaid coverage to uninsured women under 65 years of age who have been screened for breast or cervical cancer through the Centers for Disease Control and Prevention's (CDC) National Breast and Cervical Cancer Early Detection Program (NBCCEDP), and diagnosed and found to need treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix.

Consistent with the Federal enabling legislation, providers and facilities funded in full or in part by the CDC permit screening of women only. Breast cancer is the most common form of cancer diagnosed among women in this Commonwealth and the second most common cause of cancer deaths for women in this Commonwealth ([www.health.state.pa.us/stats](http://www.health.state.pa.us/stats)). Cervical cancer, while less common than breast cancer, is one of the most successfully treatable cancers, if detected at an early stage ([www.health.state.pa.us/stats](http://www.health.state.pa.us/stats)).

The BCCPT amended Title XIX of the Social Security Act. This proposed rulemaking affords states the option of providing Medical Assistance to eligible women who were screened for, diagnosed with and found to need treatment for breast or cervical cancer, or a precancerous condition of the breast or cervix. The Commonwealth has elected this option and published a Notice of Intent to implement the BCCPT at 31 Pa.B. 115 (January 5, 2002). The Commonwealth's State Plan Amendment to provide Medicaid benefits under the BCCPT to uninsured women screened and diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix, was approved on February 15, 2002, by the Centers for Medicare and Medicaid Services. The Department of Health (DOH) is the designated screening entity for the BCCPT.

Under Federal law, the DOH must agree that low-income women will be given priority in the provision of services. See 42 U.S.C.A. § 300n(a). Under its grant agreement with the NBCCEDP, the DOH HealthyWoman Project provides breast and cervical cancer screening for uninsured women who are under 65 years of age and

have a household income below 250% of the Federal Poverty Income Guidelines (FPIG). Prior to the implementation of the BCCPT in January 2002, there were no consistent avenues available to fund the ongoing treatment needs of low-income, uninsured women who were screened and diagnosed with breast or cervical cancer.

### *Need for the Proposed Rulemaking*

The proposed rulemaking is needed to establish the BCCPT, which will provide full Medicaid coverage to eligible women under 65 years of age who are diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix, and who have no insurance coverage or have insurance that does not cover treatment of breast or cervical cancer. These women may have gone without necessary treatment or may have sought treatment without the means to pay for the care received. The proposed rulemaking is part of the continuum of efforts by the Commonwealth to ensure detection, prevention and treatment of breast and cervical cancer, or a precancerous condition of the breast or cervix, among low-income, uninsured women.

### *Requirements*

The Department is proposing to add a new Subchapter D (relating to categorically needy breast and cervical cancer prevention and treatment program for qualified women) that explains the requirements for Medicaid eligibility under the BCCPT.

Eligibility for the HealthyWoman Project will be determined by the DOH based on information provided at the time of enrollment into the screening program. Eligibility for full Medicaid coverage will be determined based on both the information provided at the time of enrollment into the HealthyWoman Project and the provider's diagnosis of breast or cervical cancer, or a precancerous condition of the breast or cervix.

To become eligible for the BCCPT, a woman must go to the DOH HealthyWoman Project site, complete a BCCPT application and undergo screening for breast and cervical cancer. If cancer is detected, the woman is referred for further testing to confirm the diagnosis. If further testing confirms the need for treatment, the HealthyWoman Project forwards the completed the BCCPT application, which includes the provider's diagnosis and the need for treatment, to the County Assistance Office (CAO). If the woman meets all of the eligibility criteria, the CAO worker authorizes Medicaid for her.

A woman determined eligible under the BCCPT is entitled to full Medicaid benefits. Therefore, in addition to receiving the treatment needed for her identified breast or cervical cancer, or a precancerous condition of the breast or cervix, the woman will also have access to the full range of treatment and preventive health care available under the Medicaid Program.

Following is a summary of specific proposed regulatory amendments:

1. Section 140.601 (relating to policy on Medicaid for women with breast or cervical cancer). This section is proposed to establish the general policy for women under categorically needy the BCCPT.
2. Section 140.602 (relating to definitions). The Department is proposing to define specific terms relating



"BCCPT—Breast and Cervical Cancer Prevention and Treatment Program," "CDC—Centers for Disease Control and Prevention," "NBCCEDP—National Breast and Cervical Cancer Early Detection Program" and "uninsured."

3. Section 140.621 (relating to conditions of eligibility). This section is proposed to establish the eligibility factors under the BCCPT.

4. Sections 140.631—140.633 (relating to income, resources and verification). New § 140.631 is proposed to explain that there are no income limits under the BCCPT except those necessary to be eligible for screening by the CDC's NBCCEDP. New § 140.632 is proposed to explain that there are no resource requirements under the BCCPT. New § 140.633 is proposed to establish the verification requirements for the BCCPT.

5. Sections 140.641 and 140.642 (relating to complete redetermination and partial redetermination). These new sections are proposed to establish the redetermination and partial redetermination requirements for the BCCPT.

6. Section 140.651 (relating to benefit coverage). A new section is proposed to explain Medicaid coverage for services.

7. Section 140.661 (relating to eligibility begin date). A new section is proposed to establish the eligibility begin date under the BCCPT.

8. Section 140.671 (relating to retroactive eligibility). A new section is proposed to establish retroactive eligibility under the BCCPT.

9. Section 140.681 (relating to reporting of changes). A new section is proposed to establish the reporting requirements under the BCCPT.

10. Section 140.691 (relating to appeal and fair hearing). A new section is proposed to explain the woman's right to an appeal and fair hearing under the BCCPT.

#### *Affected Individuals and Organizations*

This proposed rulemaking gives priority to low-income (under 250% FPIG), uninsured women under 65 years of age, who are screened by the Commonwealth's CDC NBCCEDP and subsequently diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix. The Commonwealth's CDC NBCCEDP is administered through the DOH HealthyWoman Project.

There are approximately 11,600 women diagnosed with breast and cervical cancer each year in this Commonwealth ([www.health.state.pa.us/stats](http://www.health.state.pa.us/stats)). Census data was used to estimate the total number of the 11,600 women who are under 65 years of age and have income levels between 100% and 250% of the FPIG. The result of this analysis indicated that there are an additional 1,109 women who may be eligible for Medicaid each year under this option.

#### *Accomplishments/Benefits*

The Commonwealth may see a reduction in its premature mortality rates from breast and cervical cancer as a result of screening, early diagnosis and treatment. Health care providers may see a reduction in the incidence of uncompensated care for uninsured women who require treatment for breast and cervical cancer.

There has been no consistent avenue available to fund ongoing treatment needs of low-income, uninsured women diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix. As a result, many women have gone without necessary treatment that may

prevent or cure their illness. This option will provide low-income, uninsured women with Medicaid coverage that will enable them to seek necessary treatment, thereby decreasing the incidence of uncompensated care and this Commonwealth's cancer mortality rate.

#### *Fiscal Impact*

##### *Commonwealth*

The annual cost of this new program for Fiscal Year 2002-2003 was \$3.954 million (\$1.254 million in State funds). The projected costs for Fiscal Year 2003-2004 are \$7.281 million (\$2.307 million in State funds) and for Fiscal Year 2004-2005, \$9.332 million (\$3 million in State funds).

The Insurance Department may realize a savings since some women determined eligible for the BCCPT may have been eligible for medical coverage under the adult Basic Program administered by the Insurance Department and funded by tobacco settlement funds.

##### *Public Sector*

No other government entity will incur any costs or realize any savings.

##### *Private Sector*

Private hospitals and physicians who treat uninsured women with breast or cervical cancer, or a precancerous condition of the breast or cervix, may be compensated for services rendered.

##### *General Public*

Low-income (under 250% FPIG), uninsured women who may have otherwise incurred personal debt will realize a savings.

#### *Paperwork Requirements*

New application forms were created exclusively for use with BCCPT: the PA 600B—for applications; the PA 600BP—for partial redeterminations; and the PA 600BR—for annual redeterminations. These forms have been in use since the start of the BCCPT. Each form provides instructions for use by the applicant or recipient and provider. The Department has not received any adverse comments regarding these forms.

The BCCPT Program application, Form PA 600B, is a two-part application used by the HealthyWoman Project and the CAO to determine eligibility for the BCCPT. Part A of the application is completed at the DOH HealthyWoman Project screening site and contains the HealthyWoman Project enrollment, consent for release of information and the BCCPT rights and responsibilities. Part B of the application is completed by the applicant, the medical provider and the CAO. Use of a single form to document demographic information needed by both programs for an eligibility determination will reduce additional paperwork for providers, applicants and the Department.

The BCCPT Program Partial Renewal, Form PA 600BP, is completed at a partial redetermination of eligibility for women whose treatment for breast or cervical cancer is expected to last less than 12 months. The recipient, the medical provider and the CAO complete this form at the end of the initial length of treatment.

The BCCPT Form PA 600BR is completed every 12 months when continued eligibility for the BCCPT is reviewed. The recipient, the medical provider, the Office of Medical Assistance Programs and the CAO complete this form.

*Effective Date*

This proposed rulemaking will, upon adoption, be effective retroactively to January 1, 2002.

*Sunset Date*

There is no sunset date.

*Public Comment*

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to the Department of Public Welfare, Office of Income Maintenance, Edward J. Zogby, Director, Bureau of Policy, Room 431 Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4081 within 30-calendar days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Persons with a disability who require an auxiliary aid or service may submit comments by using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

*Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 16, 2004, the Department

submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a Regulatory Analysis Form prepared by the Department. A copy of this form is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has any comments, recommendations or objections to any portion of the proposed rulemaking, it may notify the Department and the Committees within 30 days after the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met. The Regulatory Review Act specifies detailed procedures for review by the Department, the General Assembly and the Governor, of any comments, recommendations or objections raised, prior to final-form publication of the regulation.

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-490. (1) General Fund;

	<i>Outpatient</i>	<i>Inpatient</i>	<i>Long Term Care</i>
(2) Implementing Year 2001-02 is	\$121,000	\$41,000	\$-0-
(3) 1st Succeeding Year 2002-03 is	\$898,000	\$353,000	\$3,000
2nd Succeeding Year 2003-04 is	\$1,663,000	\$639,000	\$5,000
3rd Succeeding Year 2004-05 is	\$2,188,000	\$805,000	\$7,000
4th Succeeding Year 2005-06 is	\$2,609,000	\$920,000	\$8,000
5th Succeeding Year 2006-07 is	\$2,884,000	\$975,000	\$9,000
(4) 2000-01 Program—	\$668,586,000	\$418,707,000	\$722,565,000
1999-00 Program—	\$622,669,000	\$392,528,000	\$693,625,000
1998-99 Program—	\$695,935,000	\$453,594,000	\$721,631,000

(7) MA—Outpatient, MA—Inpatient and MA Long-Term Care; (8) recommends adoption. Fiscal Year 2001-02 and 2002-03 costs reflect actual paid claims for this program which was implemented in January of 2002. Fiscal Year 2003-04 and 2004-05 costs are included in the respective general appropriation acts.

**Annex A**

**TITLE 55. PUBLIC WELFARE**

**PART II. PUBLIC ASSISTANCE MANUAL**

**Subpart C. ELIGIBILITY REQUIREMENTS**

**CHAPTER 140. SPECIAL MA ELIGIBILITY PROVISIONS**

**Subchapter D. THE CATEGORICALLY NEEDY BREAST AND CERVICAL CANCER PREVENTION AND TREATMENT PROGRAM FOR QUALIFIED WOMEN**

**GENERAL PROVISIONS**

- Sec.  
140.601. Policy on Medicaid for women with breast or cervical cancer.  
140.602. Definitions.

**ELIGIBILITY**

- 140.621. Conditions of eligibility.

**INCOME, RESOURCES AND VERIFICATION**

- 140.631. Income eligibility limitations.  
140.632. Resource eligibility limitations.  
140.633. Verification requirements.

**REDETERMINATION AND PARTIAL REDETERMINATION**

- 140.641. Complete redetermination.  
140.642. Partial redetermination.

**BENEFIT COVERAGE**

- 140.651. Benefit coverage.  
140.652. Eligibility begin date.  
140.671. Retroactive eligibility.

**REPORTING**

- 140.681. Reporting of changes.

**RIGHT TO APPEAL AND FAIR HEARING**

- 140.691. Appeal and fair hearing.

**GENERAL PROVISIONS**

**§ 140.601. Policy on Medicaid for women with breast or cervical cancer.**

The Department provides full Medicaid benefits to uninsured women, under 65 years of age, who have been screened and diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix, who are eligible under the Commonwealth's categorically needy BCCPT Program.

**§ 140.602. Definitions.**

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

*BCCPT—Breast and Cervical Cancer Prevention and Treatment*—A Federally-funded Medicaid option that provides full Medicaid benefits to uninsured women under 65 years of age, screened, diagnosed and in need of treatment for breast or cervical cancer, or a precancerous condition of the breast or cervix. These women have been identified through an entity funded in full or in part by CDC.

*CDC—Centers for Disease Control and Prevention*—The lead Federal agency for protecting the health and safety of people at home and abroad by applying disease prevention and control.

*NBCCEDP—National Breast and Cervical Cancer Early Detection Program*—A program established by Congress under the Breast and Cervical Cancer Mortality Act of 1990 (Pub. L. No. 101-354, 104 Stat. 409) which authorizes the CDC to promote breast and cervical cancer screening and to pay for screening services for eligible individuals.

*Uninsured*—Having no creditable coverage as the term is used under the Health Insurance Portability and Accountability Act (HIPAA) (section 2701(c) of the Public Health Service Act (42 U.S.C.A. § 300gg(c)).

**ELIGIBILITY****§ 140.621. Conditions of eligibility.**

Eligibility for Medicaid under BCCPT is based on the following:

(1) A woman shall meet the following eligibility requirements:

- (i) Chapter 125 (relating to application process).
- (ii) Chapter 148 (relating to residence).
- (iii) Chapter 149 (relating to citizenship and alienage).
- (iv) Chapter 155 (relating to enumeration).
- (v) Chapter 255 (relating to restitution).
- (vi) Chapter 257 (relating to reimbursement).

(2) Under categorically needy BCCPT, a woman shall:

- (i) Be under 65 years of age.
- (ii) Be screened under the CDC's NBCCEDP and diagnosed with either breast or cervical cancer, or a precancerous condition of the breast or cervix, and need treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix.
- (iii) Be uninsured.
- (iv) Be ineligible for any other categorically needy Medicaid program.

**INCOME, RESOURCES AND VERIFICATION****§ 140.631. Income eligibility limitations.**

There are no income limits when determining eligibility under the BCCPT except those necessary to be eligible for screening by the CDC's NBCCEDP.

**§ 140.632. Resource eligibility limitations.**

There are no resource limits when determining eligibility under the BCCPT.

**§ 140.633. Verification requirements.**

(a) Under the BCCPT, the following verification is required:

(1) Verification that the woman was screened for breast or cervical cancer, or a precancerous condition of the breast or cervix, by a provider or facility funded in full or in part by the CDC under its NBCCEDP, and diagnosed and found to need treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix. Verification of the continued need for treatment must be provided at each partial and complete redetermination.

(2) Verification that the woman is a United States citizen or qualified alien.

(3) Verification that the woman is under 65 years of age.

(4) Verification that the woman is a resident of this Commonwealth.

(5) Verification that the woman is uninsured.

(b) The verification specified in subsection (a) must be provided on a form established by the Department.

**REDETERMINATION AND PARTIAL REDETERMINATION****§ 140.641. Complete redetermination.**

(a) A complete redetermination is required at least every 12 months for women who continue to require treatment for either breast or cervical cancer, or a precancerous condition of the breast or cervix.

(b) For Categorically Needy BCCPT Program for qualified women, the redetermination/reapplication requirements in Chapter 133 (relating to redetermining eligibility) apply.

**§ 140.642. Partial redetermination.**

(a) A partial redetermination is required at the end of the initial length of treatment for a woman whose initial length of treatment is expected to last less than 12 months. The initial length of treatment is based on the diagnosing or treating physician's attestation regarding the woman's diagnosis.

(b) For Categorically Needy BCCPT Program for qualified women, the partial redetermination requirements in Chapter 133 (relating to redetermining eligibility) apply.

**BENEFIT COVERAGE****§ 140.651. Benefit coverage.**

The Department will provide full Medicaid coverage for a woman determined eligible under the BCCPT.

**§ 140.661. Eligibility begin date.**

The eligibility begin date is the date the woman is diagnosed with breast or cervical cancer, or a precancerous condition of the breast or cervix, but not prior to January 1, 2002.

**§ 140.671. Retroactive eligibility.**

The earliest possible date for retroactive BCCPT benefits to begin is the first day of the third month preceding the month of application, but not prior to January 1, 2002. The period of eligibility for retroactive BCCPT benefits begins the first day of the month in which the first medical service was incurred if the applicant was otherwise eligible during that month.

REPORTING

§ 140.681. Reporting of changes.

The recipient shall report changes in circumstances that would affect eligibility for participation in the BCCPT within 10 days from the date of the change.

RIGHT TO APPEAL AND FAIR HEARING

§ 140.691. Appeal and fair hearing.

The applicant or recipient is entitled to the appeal and fair hearing rights under Chapter 275 (relating to appeal and fair hearing and administrative disqualification hearings).

[Pa.B. Doc. No. 04-2106. Filed for public inspection November 24, 2004, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 65]

Permit Agents

The Department of Transportation (Department), under 75 Pa.C.S. §§ 6103, 6142 and 6145 (relating to promulgation of rules and regulations by department; reciprocity agreements, arrangements and declarations; proportional registration of fleet vehicles) proposes to amend Chapter 65 (relating to permit agents), to read as set forth in Annex A.

Purpose of this Chapter

The purpose of Chapter 65 is to establish rules governing the qualifications and duties of designated agents for the issuance of trip permits, hunter permits and telegrams of authority under Chapter 63 (relating to proportional registration of fleet vehicles).

Purpose of this Proposed Rulemaking

The purpose of this proposed rulemaking is to clarify the definition of "telegram of authority" and to extend the term of the telegram of authority. Currently, the regulations provide that a telegram of authority authorizes the use of a Commonwealth-based fleet vehicle under temporary registration for 30 days. Recent proposed changes to Chapter 63 propose to extend the period of temporary registration under a telegram of authority to 60 days. The purpose of this proposed rulemaking is to conform the definition of "telegram of authority" to the definition in the proposed amendment to Chapter 63.

Persons and Entities Affected

This proposed rulemaking will affect permit agents designated to issue trip permits, hunter permits and telegrams of authority under Chapter 63.

Fiscal Impact

This proposed rulemaking will not require any additional expenditure by the Bureau of Motor Vehicles or the permit agents.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Department submitted a copy of this proposed rulemaking, on November 15, 2004, to the

Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. 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-form publication of the rulemaking, by the Department, the General Assembly and the Governor of comments recommendation or objections.

Sunset Date

The Department is not establishing a sunset date for the regulation, as this regulation is needed to administer 75 Pa.C.S. (relating to Vehicle Code). The Department will continue to closely monitor this regulation for its effectiveness.

Public Comment

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

Contact Person

The contact person for this proposed rulemaking is Joseph Centurione, Manager, Customer Service Division, Bureau of Motor Vehicles, 1101 S. Front Street, Harrisburg, PA 17104, (717) 787-2780.

ALLEN D. BIEHLER, P. E., Secretary

Fiscal Note: 18-399. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE III. REGISTRATION

CHAPTER 65. PERMIT AGENTS

§ 65.2. Definitions.

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

\* \* \* \* \*

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

\* \* \* \* \*

[Pa.B. Doc. No. 04-2107. Filed for public inspection November 24, 2004, 9:00 a.m.]

# NOTICES

## ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

### Requests for Bids

The Administrative Office of Pennsylvania Courts will be accepting sealed bids for the training of District Justice Court personnel in the areas of court security and preventing workplace violence. For bid information, specifications and further information, please visit the "Site News" section of the Unified Judicial System of Pennsylvania website at <http://www.courts.state.pa.us>.

ZYGMENT A. PINES,  
*Court Administrator*

[Pa.B. Doc. No. 04-2108. Filed for public inspection November 24, 2004, 9:00 a.m.]

## 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 16, 2004.

#### BANKING INSTITUTIONS

#### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-6-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County  Purchase of assets/assumption of liabilities of three branch offices of Charter One Bank, N.A., Cleveland, OH  Located at: 1006 North Elmira Street Sayre Bradford County  1520 West 26th Street Erie Erie County  1702 East 38th Street Erie Erie County	Philadelphia	Effective
11-9-04	Minersville Safe Deposit Bank & Trust Company Minersville Schuylkill County  Assumption of deposits only of a branch of Mid Penn Bank, Millersburg  Located at: 9 East Main Street Tremont Schuylkill County	Minersville	Filed
11-12-04	Northwest Savings Bank, Warren, and First Carnegie Deposit, Carnegie Surviving Institution—Northwest Savings Bank, Warren	Warren	Effective

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
	<i>Branches Acquired by Means of Merger:</i>		
	242 East Main Street Carnegie Allegheny County	1265 West Chestnut Street Washington Washington County	
	1811 McKees Rocks Road McKees Rocks Allegheny County		

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-19-04	Indiana First Savings Bank Indiana Indiana County	915 Route 22 Highway West Blairsville Burrell Township Indiana County	Opened
11-15-04	Pocono Community Bank Stroudsburg Monroe County	Route 611 Swiftwater Pocono Township Monroe County	Approved
11-15-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Coopers Plaza Route 73 Voorhees Camden County, NJ	Approved
11-15-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	The Shoppes at Elmwood 791 East Route 70 Marlton Burlington County, NJ	Approved
11-15-04	PeoplesBank, a Codorus Valley Company York York County	150 East Main Street New Freedom York County	Approved
11-15-04	Ambler Savings Bank Ambler Montgomery County	438 West Ridge Pike Limerick Montgomery County	Approved

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 04-2109. Filed for public inspection November 24, 2004, 9:00 a.m.]

**DEPARTMENT OF ENVIRONMENTAL PROTECTION****Applications, Actions and Special Notices****APPLICATIONS**

**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT**  
**APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION**  
**SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM)**  
**PERMITS**

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater

associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

## I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0086690	Kalas Manufacturing Inc. 25 Main Street Denver, PA 17517	Lancaster County Denver Borough	Stoney Run Creek / 7-J	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0221279	Station Road Property Owners' Association SFTF 6992 Station Road Erie, PA 16510	Harborcreek Township Erie County	Six Mile Creek 15-6M	Y

## II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

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

**PA0053082**, sewage, SIC 4952, **Alexander Hionis & Partners**, P. O. Box 208, Route 52, Mendenhall, PA 19357. This proposed facility is located in Kennett Township, **Chester County**.

Description of Proposed Activity: Mendenhall Inn Sewage Treatment Plant.

The receiving stream, unnamed tributary to Brandywine Creek, is in the State Water Plan watershed 3I and is classified for warm water and migratory fishes. There is no public water supply intake downstream to this discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 20,600 gpd.

<i>Parameters</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum mg/l</i>
CBOD <sub>5</sub>		
(5-1 to 10-31)	10	20
(11-01 to 4-30)	20	40
Suspended Solids	10	20
Ammonia as N		
(5-01 to 10-31)	3	6
(11-01 to 4-30)	9	18
Phosphorous	1.0	2.0
Total Residual Chlorine	0.2	0.4
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 5.0 mg/l at all times	
pH	Within limits of 6.0—9.0 Standard Units at all times	

In addition to the effluent limits, the permit contains the following other requirements:

1. Municipal Sewers
2. Remedial Measurers
3. Small Stream Discharge
4. Change in Ownership
5. Sludge Disposal
6. No Stormwater
7. TRC Required

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

**Application No. PA 0055123**, Industrial Waste, SIC Code 4999, **Sunbeam Products, Inc.**, 2381 Executive Center Drive, Boca Raton, FL 33431.

This facility is located in Washington Township, **Berks County**.

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

The receiving stream, West Branch Perkiomen Creek and an UNT West Branch Perkiomen Creek, is in Watershed 3-E, and classified for cold water fishes, water supply, recreation and fish consumption. The nearest downstream public water supply intake is PSC Water Company located on the Green Lane Reservoir, approximately 10 miles downstream. The discharge is not expected to affect the water supply.

The proposed interim effluent limits for Outfall 001 based on a design flow of 0.317 mgd to UNT West Branch Perkiomen Creek are:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
Total Suspended Solids	Monitor & Report	Monitor & Report	Monitor & Report	Monitor & Report	XXX
Chloroform	0.005	0.010	0.002	0.004	0.005
Methylene Chloride	Monitor & Report	Monitor & Report	Monitor & Report	Monitor & Report	XXX
1,1,1-Trichloroethane	Monitor & Report	Monitor & Report	Monitor & Report	Monitor & Report	XXX
Trichloroethylene	0.008	0.016	0.003	0.006	0.007
Tetrachloroethylene	0.002	0.004	0.0007	0.0014	0.0017
1,4-Dioxane	Monitor & Report	Monitor & Report	Monitor & Report	Monitor & Report	XXX

The proposed Final effluent limits for Outfall 001 based on a design flow of 0.317 mgd to UNT West Branch Perkiomen Creek are:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
Total Suspended Solids	Monitor & Report	Monitor & Report	Monitor & Report	Monitor & Report	XXX
Chloroform	0.005	0.010	0.002	0.004	0.005
Methylene Chloride	0.016	0.032	0.006	0.012	0.015
1,1,1-Trichloroethane	Monitor & Report	Monitor & Report	Monitor & Report	Monitor & Report	XXX
Trichloroethylene	0.008	0.016	0.003	0.006	0.007
Tetrachloroethylene	0.002	0.004	0.0007	0.0014	0.0017
1,4-Dioxane	0.013	0.026	0.005	0.010	0.013

The proposed Final effluent limits for Outfall 001 based on a design flow of 0.317 mgd to West Branch Perkiomen Creek are:



Parameter	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Total Suspended Solids	Monitor & Report	Monitor & Report	Monitor & Report	Monitor & Report	XXX
Chloroform	0.563	1.126	0.213	0.426	0.532
Methylene Chloride	Monitor & Report	Monitor & Report	Monitor & Report	Monitor & Report	XXX
1,1,1-Trichloroethane	Monitor & Report	Monitor & Report	Monitor & Report	Monitor & Report	XXX
Trichloroethylene	0.267	0.534	0.101	0.202	0.252
Tetrachloroethylene	0.079	0.158	0.030	0.060	0.075
1,4-Dioxane	0.296	0.592	0.112	0.224	0.280

Persons 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 in effect.

**Application No. PA 0247570**, Sewage, **Fredericksburg Sewer and Water Authority**, P. O. Box 161, Fredericksburg, PA 17026. This facility is located in Swatara Township, **Lebanon County**.

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

The receiving stream, Swatara Creek, is in Watershed 7-D and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Lebanon Water Authority is located on the Swatara Creek, approximately 5.2 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.100 mgd are:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
Total Residual Chlorine	0.5		1.6
Dissolved Oxygen		Minimum of 5.0 at all times	
pH		From 6.0 to 9.0 inclusive	
Fecal Coliform		200/100 ml as a geometric average	
(5-1 to 9-30)		100,000/100 ml as a geometric average	
(10-1 to 4-30)			

Persons may make an appointment to review the Department 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.*

**PAS226103**, Industrial Waste, SIC, **Whetsell Lumber Company**, 118 Academy Drive, Addison, PA 15411.

This application is for renewal of an NPDES permit to discharge untreated storm water from Whetsell Lumber Company in Addison Borough, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, unnamed tributary to Youghiogheny River, classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply, and recreation. The first existing/proposed downstream potable water supply is Ohiopyle Borough Municipal Waterworks, located at Ohiopyle, approximately 18 miles below the discharge point.

*Outfall 001: existing discharge, design flow of varied mgd.*

Parameter	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Suspended Solids					Monitor and Report
Oil & Grease					Monitor and Report
Arsenic					Monitor and Report
Chromium					Monitor and Report
Copper					Monitor and Report
NH <sub>3</sub> -N					Monitor and Report

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)

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

**WQM Permit No. 4804201**, Industrial Waste, **Grand Central Sanitary Landfill, Inc.**, 1963 Pen Argyl Road, Pen Argyl, PA 18072. This proposed facility is located in Plainfield Township, **Northampton County**, PA.

Description of Proposed Action/Activity: The project involves modifications to the existing leachate treatment system to increase the design capacity to 100,000 gpd.

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

**WQM Permit No. 0604413**, Sewerage, **Exeter Township Berks County Authority**, 4975 DeMoss Road, Reading, PA 19606. This proposed facility is located in Exeter Township, **Berks County**.

Description of Proposed Action/Activity: Approval for replacing/expanding sanitary sewer in the Shelborne Road, Schoffers Road and Boyertown Road areas.

**WQM Permit No. 2804405**, Sewerage, **Greene Township Municipal Authority**, 4182 Sunset Pike, Chambersburg, PA 17201. This proposed facility is located in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Approval for replacing/expanding sewer and pumping station No. 9 on Blakewood Drive.

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

**WQM Permit No. 6504406**, Sewerage, Derry Township Municipal Authority, P. O. Box 250, New Derry, PA 15671. This proposed facility is located in Derry Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of a raw sewage pumping station as part of the McGee Run sanitary sewer project.

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

**WQM Permit No. 2489202**, Industrial Waste Amendment No. 4, **Onyx Greentree Landfill, LLC**, 635 Toby Road, Kersey, PA 15846. This proposed facility is located in Fox Township, **Elk County**.

Description of Proposed Action/Activity: This project is for the addition of a clarifier to reduce solids.

**WQM Permit No. 3301402**, Sewerage Amendment No. 1, **Big Run Area Municipal Authority**, R. D. 2, Box 126A, Punxsutawney, PA 15767. This proposed facility is located in Big Run Borough, **Jefferson County**.

Description of Proposed Action/Activity: This project is for the relocation of a pump station and to change the chlorine facilities to a UV system.

**WQM Permit No. 2504419**, Sewerage, **Millcreek Township Sewer Authority**, 3608 West 26th Street, Erie, PA 16506-2509. This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a pump station and sewer extension to serve the Chapel Hill Subdivision.

**WQM Permit No. 2504418**, Sewerage, **Harborcreek Township Sewer Authority**, 5601 Buffalo Road, Harborcreek, PA 16421. This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a pump station and sewer extension to serve the Harbor Ridge Development which will include single family homes, single family patio home condominiums and townhouse condominiums with an 18 hole golf course.

**WQM Permit No. 3304401**, Sewerage, **Young Township Supervisors**, 1517 Walston Road, P. O. Box 125, Walston, PA 15781. This proposed facility is located in Young and Bell Townships, **Jefferson County**.

Description of Proposed Action/Activity: This project is for sewer extensions and a pump station to serve 86 residential customers.

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**IV. NPDES Applications for Stormwater Discharges from MS4**

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**V. Applications for NPDES Waiver Stormwater Discharges from MS4**

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAG136362	Franklin Borough 1125 Main Street Johnstown PA 15909	Cambria	Franklin Borough		Y

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032104005	BPC Condominium Development PBC Partners, Inc. 620 N. Reading Road Ephrata, PA 17522	Cumberland County	Silver Spring Township.	Trindle Spring Run/HQ-CWF

Centre Conservation District: 414 Holmes Ave., Suite 4, Bellefonte, PA 16823, (814) 355-6817.

## NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI041404015	Gary Wilt 1044 Zion Road Bellefonte, PA 16823	Centre	Howard Borough	Foster Joseph Sayers Lake HQ-CWF
PAI041404016	Marlin Fultz 178 Jackson Hill Road Bellefonte, PA 16823	Centre	Haines Township	Unt. Pine Creek HQ-CWF

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

Conservation District: Erie Conservation District, (814) 825-6403.

## NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use
PAI062504001	Grace Baptist Church SR 4011 Grubb Road 3902 West 38th Street Erie, PA 16506	Erie	McKean Township	Thomas Run (HQ-CWF, MF)

### 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.

## NPDES

Permit No.	Applicant Name & Address	County	Municipality	Receiving Water/Use	DEP Protocol (Y/N)
PAG136362	Franklin Borough 1125 Main Street Johnstown PA 15909	Cambria	Franklin Borough		Y

## PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

Following the comment period, the Department will make a final determination regarding the proposed permit. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### SAFE DRINKING WATER

#### Applications Received under the Pennsylvania Safe Drinking Water Act

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

#### Application No. 2404502, Public Water Supply

Applicant	<b>St. Marys Area Water Authority</b>
Township or Borough	St Marys, Elk County
Responsible Official	Dwight Hoare, Authority Manager
Type of Facility	PWS
Application Received Date	11/09/2004
Description of Action	Construction of 1.3 mg water storage tank at Rosely Rd location.

## MINOR AMENDMENT

### Applications received under the Pennsylvania Safe Drinking Water Act

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

**Application No. 3000501-A1**, Minor Amendment.

Applicant	<b>East Dunkard Water Association</b> , P. O. Box 241, Dilliner, PA 15327
Township or Borough	East Dunkard
Responsible Official	James Holbert, East Dunkard Water Association, P. O. Box 241, Dilliner, PA 15327
Type of Facility	Water treatment plant
Consulting Engineer	
Application Received Date	November 11, 2004
Description of Action	Delpac

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of

the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

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

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

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

**Former Wolfs Head Prop South Parcel**, Sugar creek Borough, **Venango County**. Steve Zbur, CORE Env. Svc. Inc. 4068 Mnt Royal Blvd, Ste 225 Gamma Bldg., Allison Park PA 15101 on behalf of Harry Perrine, Pennzoil-Quaker State Co d/b/a SOPUS, P. O. Box 99, 260 Elm St., Oil City PA 16301 has submitted a Notice of Intent to Remediate. The site was part of Wolfs Head refinery, which was operated by Pennzoil Co. from the 1950's until the refinery closed in 1977. Refining operations at the site date back to the 1880's. Site contamination is attributed to the routine refining operations that occurred for almost 100 years. Intended future use of property is non-residential. Anticipated date of publication in the Oil City Derrick is November 15, 2004.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on

a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act (act) and regulations adopted under the act.

#### PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Mark Wejkszner, New Source Review Chief, (570) 826-2531.*

**40-320-025: Prime Time Rewind, Inc.** (446 New Grove Street, Wilkes-Barre, PA 18702) for installation of an air cleaning device (regenerative thermal oxidizer) to control the atmospheric emissions from the printing operation at their facility in Hanover Township, **Luzerne County**.

**35-399-038A: Flexible Foam Products, Inc.** (P. O. Box 126, 220 Elizabeth Street, Spencerville, OH 45887) for installation of air cleaning devices to control emissions from a foam manufacturing process at their facility in Archbald Borough, **Lackawanna County**.

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

**36-05027F: RR Donnelley and Sons Co.** (216 Greenfield Road, Lancaster, PA 17601-5885) for expansion of their current solvent recovery system for control of VOC emissions from a newly permitted rotogravure printing press at their Lancaster East facility in Lancaster City, **Lancaster County**. This application is subject to 40 CFR Part 60, New Source Performance Standard Subpart QQ and 40 CFR Part 63, MACT Subpart KK.

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

**33-033C: Owens Brockway Glass Containers** (Cherry Street, Brockport, PA 15823) for minor modification of plan approval 33-033B for their three decorating ACL Lehrs in the Borough of Brockway, **Jefferson County**. The facility is a Title V Facility.

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

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**46-0246: Covco, Inc.** (1810 West High Street, Stowe, PA 19464) for installation of three Paint Spray Booths and control equipment at their Covco Kitchen manufacturing plant in West Pottsgrove Township, **Montgomery County**. The facility is a State Only facility. These booths are for the coating of kitchen cabinets manufactured Covco facility. The surface coatings are subject to requirements of 25 Pa. Code § 129.52(b)(1) for wood furniture manufacturing operations. This new surface coating process is also subject to the requirements of best available control technology. The booth installation will result in 9.5-ton VOC emissions from the facility per year. 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.

**46-0147A: Chemalloy Co., Inc.** (P. O. Box 350, 996 Railroad Avenue, Bryn Mawr, PA 19010) for installation of four manganese compound material grinding and milling lines 2-1, 2-2, 2-3 and 2-4 and associated control equipment at their manufacturing facility on Conshohocken Road in Plymouth Township, **Montgomery County**. The facility currently operates under a State Only Operating Permit (SOOP-46-00147). Total post control particulate matter emissions from these process lines are 6.1 tons per year. 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.

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

**10-148B: Ervin Industries, Inc.** (681 East Butler Road, Butler, PA 16002) for collection of nuisance dust from drying and screening steel shot in Summit Township, **Butler County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection intends to issue a plan approval to replace a bag-house to collect nuisance dust from drying and screening steel shot in Summit Township, **Butler County**. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State Only operating permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

**10-030B: Concast Metal Products Co., Inc.** (Myoma Road, Mars, PA 16046) for installation of an additional bag-house to supplement existing controls on their induction melting furnaces in Adams Township, **Butler County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval to install an additional bag-house to supplement existing controls on their induction melting furnaces in Adams Township, **Butler County**. This plan approval will, in accordance

with 25 Pa. Code § 127.450, be incorporated into a State Only operating permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

**33-107A: Beverage Air—Brookville Plant** (Progress Street, Brookville, PA 15825) for application of solvent wiping by hand on sheet metal and metal parts prior to packaging and shipment in Brookville Borough, **Jefferson County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue a plan approval for application of solvent wiping by hand on sheet metal and metal parts prior to packaging and shipment. This plan approval will restrict VOC emissions from the source to 8.17 TPY, require monthly record keeping based on mass balance, and will include good housekeeping and work practice standards to minimize VOC emissions. In addition, the plan approval will require other requirements to ensure the source is operated in compliance with the Department's regulations contained in 25 Pa. Code Chapters 121 through 143 and the requirements of the Federal Clean Air Act. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State Only Operating Permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval.

#### OPERATING PERMITS

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

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

**06-05004: Baldwin Hardware Corp.** (P. O. Box 15048, Reading, PA 19612) for operation of a brass hardware manufacturing facility in the City of Reading, **Berks County**. Several sources at the facility are subject to 40 CFR Part 63, Subpart T, National Emission Standards for Hazardous Air Pollutants for Halogenated Solvent Cleaning. This action is a renewal of the Title V Operating Permit issued in 1999 and amended in 2004.

**67-05022: Leisters Furniture, Inc.** (433 Ridge Avenue, Hanover, PA 17331) for operation of a wood furniture manufacturing facility in Hanover Borough, **York County**. This is a renewal of the Title V Operating Permit issued in 2000.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.*

**V04-005: Cardone Industries, Inc.** (5501 Whitaker Avenue, Philadelphia, PA) for operation of an automotive parts re-manufacturing facility in the City of Philadelphia, **Philadelphia County**. The company's air emission sources include 14 spray booths, 50 combustion units, 15 burnout ovens, 40 cold cleaning degreasers, and 10 shot blasting units.

The operating permit will be issued under the Pennsylvania Code Title 25, Philadelphia Code Title 3 and Air Management Regulation XIII. Permit copies and other supporting information are available for public inspection at AMS, 321 University Ave., Philadelphia, PA 19104. For further information, contact Edward Wiener (215) 685-9426.

Persons wishing to file protest or comments on the above operating permit must submit the protest or comments within 30 days from the date of this notice. Any protests or comments filed with AMS must include a concise statement of the objections to the permit issuance and the relevant facts upon which the objections are based. Based upon the information received during the public comment period, AMS may modify the operating permit or schedule a public hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a local newspaper at least 30 days before the hearing.

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

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson Facilities Permitting Chief, (814) 332-6940.*

**33-00157: National Fuel Gas Supply Corp.** (Fisher Road, Siegel, PA 15860) for re-issuance of a Natural Minor Permit to perform natural gas transmission at their Eldred compressor station in Eldred Township, **Jefferson County**.

**24-00147: National Fuel Gas Supply Corp.** (Forest Road 136, Kane, PA 16735) for re-issuance of a Natural Minor Permit to perform natural gas transmission at the Owl's Nest compressor station in Highland Township, **Elk County**.

**24-00146: National Fuel Gas Supply Corp.** (Township Road 330, Brockway, PA 15824) for re-issuance of a Natural Minor Permit to perform natural gas transmission at their Boone Mountain compressor station in Horton Township, **Elk County**.

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Norman Frederick, Facilities Permitting Chief, (570) 826-2409.*

**48-00078: Chrin Brothers, Inc.** (635 Industrial Drive, Easton, PA 18042) for a quarry/stone crushing plant located in Williams Township, **Northampton County**. The facility's main sources include stone crushing, screening and conveying equipment. The facility has the potential to emit major quantities of particulate matter (PM). The facility is taking an elective restriction on the number of hours operated to keep emissions below the Title V threshold. The facility has the potential to emit VOCs, HAPs, NOx, SOx and CO below the major emission thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

**35-00053: Mekote Laminated Products, Inc.** (1151 Union Street, Taylor, PA 18517) for a sheet metal facility located in Taylor Borough, **Lackawanna County**. The facility's main source is a vinyl to metal laminating process line. The facility has the potential to emit major quantities of VOCs and HAPs. The facility is taking emission restrictions to keep below Title V thresholds. The facility has the potential to emit NOx, SOx, PM and CO below the major emissions thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

**40-00083: KAMA Corporation** (600 Dietrich Avenue, Hazelton, PA 18201) for a plastics film/sheet manufactur-

ing facility located in Hazelton City, **Luzerne County**. The facility's main sources include ten polystyrene extrusion lines, one tank farm and two polymerization plants. The facility has the potential to emit VOCs above Title V emission thresholds. The facility uses thermal oxidizer control devices to keep below major emission thresholds. The facility has the potential to emit HAPs, NOx, SOx, PM and CO below the major emissions thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

**45-00030: United Huxley Envelope** (P. O. Box 37, Industrial Park Drive, Mount Pocono, PA 18344) for an envelope manufacturing facility located in Coolbaugh Township, **Monroe County**. The facility's main sources include 21 envelope folding/printing machines, 8 offset printing machines and 3 parts washers. The facility has the potential to emit VOCs, HAPs, NOx, SOx, PM and CO below the major emissions thresholds. The proposed operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

### COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particu-

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

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

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

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

#### *Coal Applications Received*

#### *Effluent Limits*

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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Maganese (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 <sup>1</sup>		greater than 6.0; less than 9.0	

alkalinity greater than acidity<sup>1</sup>

<sup>1</sup> The parameter is applicable at all times.

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

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

**32040202 and NPDES Permit No. PA0249670. Robindale Energy Services, Inc.**, 224 Grange Hall Road, P. O. Box 228, Armagh, PA 15920, commencement, operation and restoration of a refuse reprocessing mine in East Wheatfield Township, **Indiana County**, affecting

34.5 acres. Receiving stream: Conemaugh River classified for the following use: warm water fishery. There are no potable water supply intakes within 10 miles downstream. Application received November 4, 2004.

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

**03000101 and NPDES Permit No. PA0202711. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Renewal application for reclamation only of an existing bituminous surface mine, located in Plumcreek Township, **Armstrong County**, affecting 233 acres. Receiving streams: unnamed tributaries to Cherry Run and Cherry Run; classified for the following use: CWF. There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received: November 10, 2004.

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

**16920107 and NPDES Permit No. PA0211435. RFI Energy, Inc.** (555 Philadelphia Street, Indiana, PA 15701). Revision to an existing bituminous surface strip and tippel refuse disposal and beneficial use of coal ash operation in Perry and Licking Townships, **Clarion County**. Receiving streams: Unnamed Tributaries to Cherry Run, classified for the following uses: CWF. The first downstream potable water supply intake from the point of discharge is West Freedom Water Association. Revision to change the permit acreage from 547 acres to 249 acres. Application received: November 3, 2004.

**5974-16920107-E-1. RFI Energy, Inc.** (555 Philadelphia Street, Indiana, PA 15701). Application for stream encroachment to temporarily remove and reconstruct a section of Unnamed Tributary to Cherry Run No. 1 for the purpose of mining and reclamation of pre-act spoil in Perry and Licking Townships, **Clarion County** affecting 249 acres. Receiving streams: Unnamed Tributaries to Cherry Run, classified for the following uses: CWF. The first downstream potable water supply intake from the point of discharge is West Freedom Water Association. Application received: November 3, 2004.

#### *Noncoal Permit Applications Received*

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

**37030303. Atlantic States Materials of PA, Inc.** (P. O. Box 269, Mercer, PA 16137). Transfer of an existing sand, gravel, and topsoil operation in North Beaver Township, **Lawrence County** affecting 37.0 acres. Receiving streams: Beaver River, classified for the following uses: WWF. There are no potable surface water supply intakes within 10 miles downstream. Transfer from S & S Processing, Inc. Application received: November 8, 2004.

*Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**6276SM6C6 and NPDES Permit No. PA0223484. Bear Gap Stone, Inc.,** (R. D. 1 Box 138, Elysburg, PA 17824), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Ralpho Township, **Northumberland County**, receiving stream: unnamed tributary to South Branch Roaring Creek, classified for the following use: cold water fishes. Application received November 5, 2004.

**8073SM1C7 and NPDES Permit No. PA0614602. Highway Materials, Inc.,** (1750 Walton Road, Blue Bell,

PA 19422), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Marlborough Township, **Montgomery County**, receiving stream: Unami Creek, classified for the following use: trout stock fishery. The first downstream potable water intake is Limerick SES. Application received November 5, 2004.

**58920802. Michael and Robert Pavelski,** (P. O. Box 86, Susquehanna, PA 18847), Stage I & II bond release for a quarry operation in Jackson Township, **Susquehanna County** affecting 5.0 acres on property owned by Lyn Joines. Application received November 10, 2004.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection. 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 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit, or the approval of an Environmental Assessment must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted above 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. Each individual 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 the hours of 8 a.m. and 4 p.m. on each working day at the office noted above the application.

If you are a person with a disability and wish to attend the hearing and you require an auxiliary aid, service or other accommodation to participate in the proceedings, please contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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**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 Federal Water Pollution Control Act (33 U.S.C.A. §§ 1341(a)).**

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### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E09-880. Mr. Mark Oakes,** Township of Middletown, 4930 Magnolia Avenue, Oakford, PA 19053, Nockamixon Township, **Bucks County**, ACOE Philadelphia District.



To maintain a triple 24-inch CMP culvert across an unnamed tributary to Beaver Run (EV) associated with the driveway access to a proposed residential dwelling in Bridgeton Township. The road crossing was constructed under an authorized Temporary Road Crossing, General Permit Registration No. GP080904302. The site is located just east of the intersection of Blue Spruce Way and Bridgeton Hill Road (Riegelsville, PA-NJ USGS Quadrangle N: 7.9 inches; W: 1.6 inches).

**E15-728. Penn Dot District 6**, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Honey Brook Township, **Chester County**, ACOE Philadelphia District.

Supplee Road (SR 4012, Section 42M) Bridge Replacement Project in Honey Brook Township The Project proposes to replace the existing single span timber beam bridge carrying Supplee Road over the West Branch of the Brandywine Creek (HQ, TSF, MF) with a reinforced concrete box culvert. The proposed culvert measures 20 feet long with an underclearance of 3 feet 9 inches. The work will involve the following activities:

1. To construct and maintain a temporary ford crossing to accommodate free passage of cattle down stream of the existing bridge.

2. To place fill within approximately .01 acre of palustrine wetlands to accommodate roadway widening.

3. To construct and maintain a temporary diversion dike and ditch to facilitate bridge construction activities.

4. To perform minor grading and filling activities within the floodway associated with roadway approach widening.

The project will temporarily affect .010 acre, and permanently affect .003 acre of wetlands while temporarily impacting approximately 95 linear feet of stream and permanently impacting approximately 50 linear feet of stream. The site is located approximately 2,243 feet southwest of the intersection of Pleasant View and Supplee Roads in Honey Brook Township, Chester County, (Honey Brook, PA Quadrangle N: 16.91 inches; W: 2.97 inches).

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

**E21-366. Tim and Darlene McCurdy**, 1449 Cockley's Meadow Drive, Boiling Springs, PA 17007 in Monroe Township, **Cumberland County**, ACOE Baltimore District

To construct and maintain a 26-foot by 27-foot addition to an existing garage within the floodway of the Yellow Breeches Creek (HQ-CQF), for the purpose of expanding storage space, located at 1449 Cockley's Meadow Road (Mechanicsburg, PA Quadrangle N: 4.3 inches); W: 13.0 inches) in Monroe Township, Cumberland County.

**E67-773. York County Board of Commissioners**, One West Marketway, 4th Floor, York, PA 17401, Springfield Township, **York County**, ACOE Baltimore District

To remove an existing low head dam and a gabion basket wall section then to construct and maintain several in-stream rip-rap rock structures (rock cross vanes, rock vanes and bank protection) to prevent stream bank erosion all located in or along an unnamed tributary to the East Branch Codorus Creek (CWF) at a point where it flows through Nixon Park (York, PA Quadrangle

N: 1.6 inches; W: 14.9 inches in Springfield Township, York County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E08-420. Johnson Quarries, Incorporated**, RR1, Box 179A-1, Wyalusing, PA 18853, Gravel Removal, in Wilmont Township, **Bradford County**, ACOE Baltimore District (Laceyville, PA Quadrangle N: 2.35 inches; W: 14.9 inches).

To obtain a 5 year permit to remove gravel from Sugar Run Creek on an as-needed basis from eight locations beginning about 1,400 feet south, southwest of the confluence of Sugar Run with the Susquehanna River and ending about 5,500 feet south, southwest of the above confluence. The proposed activities will take place in Sugar Run. The project will not impact wetlands while impacting about 2,800 feet of waterway and disturbing about 2.7 acres of earth. Sugar Run is a CWF stream.

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

**E02-1483. Gregory J. Bittner**, 1409 Mt. Royal Boulevard, Glenshaw, PA 15116. Construct an office building in Hampton Township, **Allegheny County**, Pittsburgh ACOE District. (Glenshaw, PA Quadrangle N: 10.0 inches; W: 13.5 inches and Latitude: 40° 33' 01"—Longitude: 79° 58' 30"). The applicant proposes to remove an existing building and to construct and maintain a medical office building and underground storage system on the right bank of an unnamed tributary to Pine Creek (TSF). The project is located on the south side of Ferguson Road, just west from the intersection of Ferguson Road and Mt. Royal Boulevard.

**E03-428. Jack Claypoole**, R. D. 2, Box 153, Dayton, PA 16222. Construct three culverts in Cowanshannock Township, **Armstrong County**, Pittsburgh ACOE District. (Rural Valley, PA Quadrangle N: 13.0 inches; W: 4.2 inches and Latitude: 40° 15' 79"—Longitude: 79° 16' 50"). The applicant proposes to remove the existing structures and to construct and maintain three 48-inch culverts having lengths of 120 feet, 65 feet and 50 feet in South Branch Pine Creek (HQ-CWF) for the purpose of constructing a horse track. The project is located off of Bucktail Road.

**E32-464. P.C. Exploration, Inc.**, 502 Keystone Drive, Warrendale, PA 15086. Construct a culvert crossing in Grant Township, **Indiana County**, Pittsburgh ACOE District. (Rochester Mills, PA Quadrangle N: 6.0 inches; W: 8.1 inches and Latitude: 40° 46' 57"—Longitude: 78° 55' 57"). The applicant proposes to remove the existing structure and to construct and maintain a culvert crossing consisting of two 36-inch corrugated plastic pipes, and two 1.0 foot depressed, 48-inch corrugated plastic pipes in Rairigh Run (HQ-CWF) for the purpose of providing access to a gas well. The project is located off of T-830, approximately 2,650 feet east of its intersection with T-880.

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

**E42-312. University of Pittsburgh at Bradford**, 300 Campus Drive, Bradford, PA 16701. Gravel Bar Removal and Bank Protection in Bradford Township, **McKean County**. ACOE Pittsburgh District (Bradford, PA Quadrangle N: 13.4 inches; W: 5.9 inches).

To (1) remove approximately 40 feet of vegetated gravel bar and install and maintain a rock channel deflector in Marilla Brook (CWF) located on the campus of the University of Pittsburgh at Bradford approximately 200 feet from the confluence of Marilla Brook and West Branch Tunungwant Creek and to (2) remove approximately 50 feet of vegetated gravel bar and install and maintain approximately 50 feet of R-7 rock along the west stream bank of West Branch Tunungwant Creek (CWF) located on the campus of the University of Pittsburgh at Bradford approximately 1,000 feet downstream from the Dorothy Lane bridge.

*Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.*

**D01-069EA. Borough of Chambersburg**, P. O. Box 1009, Chambersburg, PA 17201-0909. Franklin Township, **Adams County**, ACOE Baltimore District.

Project proposes to breach and remove Birch Run Dam located across Conococheague Creek (CWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The dam is considered unsafe due to structural and spillway inadequacies and will be removed to protect downstream residents. The dam is located along SR 233 approximately

1.5 miles Northeast of the intersection of SR 233 and US 30 (Caledonia Park, PA Quadrangle N: 8.0 inches; W: 11.15 inches).

**D28-005EA. Wilson College**, 1015 Philadelphia Ave., Chambersburg, PA 17201. Chambersburg Borough, **Franklin County**, ACOE Baltimore District.

Project Proposes to breach and remove Wolf Lake Dam across Conococheague Creek (WWF) for the purpose of eliminating a threat to public safety and restoring the stream to a free flowing condition. The dam is located approximately 3,700 feet North of the intersection of US11 and US30 (Chambersburg, PA Quadrangle N: 12.90 inches; W: 4.95 inches).

**D11-019EA. Highland Sewer and Water Authority**, 120 Tank Drive, Johnstown, PA 15904. Adams and Summerhill Townships, **Cambria County**, ACOE Pittsburgh District.

Project proposes to breach and remove Lloydell Intake Dam across South Fork Little Conemaugh River (HQ-CWF) to eliminate a threat to public safety and to restore the stream to a free flowing condition. The dam is located approximately 3/4 of a mile Southeast of the town of Lloydell. (Beaverdale, PA Quadrangle N: 10.10 inches; W: 8.15 inches).

**ACTIONS**

**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT  
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE  
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY  
MANAGEMENT (WQM) PERMITS**

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483.

This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

### I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0085511 (SEW)	West Hanover Township Water and Sewer Authority 7901 Jonestown Road Harrisburg, PA 17112	Dauphin County West Hanover Township	Unt Manada Creek/7-D	Y
PA0038920 (SEW)	Burnham Borough Authority 200 First Avenue Burnham, PA 17009	Mifflin County Burnham Borough	Kishaquillas Creek/12-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0090557 Sewage	Extencicare Health Services, Inc. 257 Georgetown Road Beaver Falls, PA 15010	Beaver County South Beaver Township	Swale of Painter Run	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0100200	Reynolds Disposal Co. 301 Arlington Drive Greenville, PA 16125-8214	Pymatuning Township Mercer County	Unnamed Tributary to Shenango River	Y
PA0102547	Oak Springs Mobile Home Park, Inc. P. O. Box 9122 Cranberry Township, PA 16066-0035	Cranberry Township Butler County	Unnamed Tributary to Brush Creek	Y

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

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

**NPDES Permit No. PA0243981**, Sewage, **Elizabeth Zimmer**, 1080 Old Sumneytown Pike, Harleysville, PA 19438. This proposed facility is located in Upper Salford Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval to discharge 800 gpd of treated sewage from a single family residential STP into Vaughn Run in Watershed 3E.

**NPDES Permit No. PA0057738**, Sewage, **PA DCNR Bureau of State Parks**, 11 Lodi Hill Road, Upper Black Eddy, PA 18972-9540. This proposed facility is located in Solebury Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 800 gpd of treated sewage from Virginia Forest STP discharging in the Delaware River in Watershed 2E.

**NPDES Permit No. PA0026786**, Sewage, **Pottstown Borough Authority**, 100 East High Street, Pottstown, PA 19464. This proposed facility is located in Pottstown Borough, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage into the Schuylkill River 3-E.

**NPDES Permit No. PA0056065**, Sewage, **ENSERV Inc.**, 1145 King Road, Immaculata, PA 19345-0631. This proposed facility is located in East Whiteland Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from a STP serving Immaculata University and Camilla Hall into an unnamed tributary to Valley Creek in Watershed 3F.

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

**NPDES Permit No. PA0021849**, Sewage, **Millerstown Borough Council**, P. O. Box 200, Millerstown, PA 17062-2000. This proposed facility is located in Greenwood Township, **Perry County**.

Description of Proposed Action/Activity: Authorization to discharge to the Juniata River in Watershed 12-B.

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

**NPDES Permit No. PA0020257**, Sewage, **Borough of Grove City Sewage Treatment Plant**, P. O. Box 110, Grove City, PA 16127-0110. This proposed facility is located in Borough of Grove City, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Wolf Creek in Watershed 20-C.

**NPDES Permit No. PA0023167**, Sewage, **Borough of Kane**, Pine Street Wastewater Treatment Plant, 112 Bayard Street, Kane, PA 16735. This proposed facility is located in Wetmore Township, **McKean County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to West Run in Watershed 16-F.

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

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

**WQM Permit No. 6371408-A2**, Sewerage, **Mid Mon Valley Water Pollution Control Authority**, P. O. Box 197, 1 Anderson Street, Allenport, PA 15412. This proposed facility is located in Allenport Borough, **Washington County**.

Description of Proposed Action/Activity: Sewer separation and improvements at the Mid Mon Valley Sewerage Treatment Plant and Pump stations.

**WQM Permit No. 6571417-A4**, Sewerage, **Kiski Valley Water Pollution Control Authority**, 1200 Pine Camp Road, Leechburg, PA 15656. This proposed facility is located in Allegheny Township, **Westmoreland County**.

Description of Proposed Action/Activity: for construction of modifications to existing pump stations and existing sludge press.

**IV. NPDES Stormwater Discharges from MS4 Permit Actions**

**V. NPDES Waiver Stormwater Discharges from MS4 Actions**

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10F106 Minor Modification	Rob Cooper Penn State University 101P Office of Physical Plant University Park, PA 16802	Centre	College Township	Trib. to Slab Cabin Run HQ-CWF
PAS105509-1	Pa. DCNR Roger Fickes P. O. Box 8451 Harrisburg, PA 17105-8451	Potter	West Branch Township	Lyman 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 Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site

PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

*General Permit Type—PAG-02*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Centre County College Township	PAG2001404013	P. Jules Patt Benner Pike Shops, L. P. 422 Allegheny St. Hollidaysburg, PA 16648	Unt. Spring Creek CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Centre County Spring Township	PAG2001404016	Pleasant Gap Fire Co. 119 East College Ave. Pleasant Gap, PA 16823	Unt. Logan Branch CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Cambria County Cambria Township	PAG2001104013	Bruna Scansaroli 1075 Chestnut St. Nanty Glo, PA 15943 and Dino Persio 129 South Center St. Ebensburg, PA 15931	Unnamed Tributary to South Branch Blacklick Creek (CWF)	Cambria County CD (814) 472-2120
Fayette County North Union Twp.	PAG2002604034	CHL Development Corp. 145 Windwoods Drive Hopwood, PA 15445	Tributary to Redstone Creek/ Redstone Creek (WWF)	Fayette County CD (724) 438-4497
Indiana County Conemaugh Twp.	PAG2003204015	Art Grgruric Blacklegs Creek Watershed Association P. O. Box 59 Clarksburg, PA 15725	Big Run (CWF)	Indiana County CD (724) 463-8547
Indiana County White Twp.	PAG2003204016	Gary Hankinson The Rod Shop 629 S. 13th Street Indiana, PA 15701	Ramsey Run (CWF)	Indiana County CD (724) 463-8547
Westmoreland County Municipality of Murrysville	PAG2006504015	Walnut Capital Partners 5500 Walnut Street Suite 300 Pittsburgh, PA 15323	Turtle Creek (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Municipality of Murrysville	PAG2006504041	Murrysville Dek Hockey 3481 Treeline Drive Murrysville, PA 15668	Turtle Creek (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Rostraver Twp.	PAG2006504042	Rostraver Public Library 800 Fellsburg Road Belle Vernon, PA 15012	Pollock Run (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Sewickley Twp.	PAG2006504044	Sewickley Creek Watershed P. O. Box 322 Youngwood, PA 15697	Sewickley Creek (WWF)	Westmoreland County CD (724) 837-5271

## NOTICES

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Erie County North East Borough	PAG2002504031	Thornton Subdivision Dave Thornton 10650 W. Main Road P. O. Box 569 North East, PA 16428	UNT to Brady Wine-WWF	Erie Conservation District (814) 825-6403
Erie County Millcreek Township	PAG2002504035	Erie Water Works 340 W. Bayfront Park Erie, PA 16507	Lake Erie-CWF	Erie Conservation District (814) 825-6403
Erie County Millcreek Township	PAG2002504036	Presque Isle State Park 1 Peninsula Drive Admin Bldg. RT 832 N Erie, PA 16505	Lake Erie-WWF	Erie Conservation District (814) 825-6403
Erie County Harborcreek Township	PAR10k143R	Harbor Ridge Subdivision John Schaefer 4720 Wattsburg Road Erie, PA 16504	UNT to Six & Seven Mile Creeks CWF; MF	Erie Conservation District (814) 825-6403
Butler County Venango Township	PAG2091004007	Stream Restoration, Inc. 3016 Unionville Road Cranberry Township, PA 16066	Seaton Creek (CWF)	PA DEP Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800

*General Permit Type—PAG-3*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lancaster County Denver Borough	PAR203533	Kalas Manufacturing Inc. 25 Main Street Denver, PA 17517	Little Cocalico Creek /TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-4*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Berks County Bern Township	PAG043508	Michael J. McDermott 1113 Seifrit Lane Bernville, PA 19506	UNT to Plum Creek /WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-5*

<i>Facility Location: Municipality &amp; County</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Phone No.</i>
Lower Pottsgrove Township Montgomery County	PAG050061	Sanatoga Oil Company 21 Spring Street P. O. Box 473 Berger, NY 14416	Sprogles Run-WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Caln Township Chester County	PAG050059	Motiva Enterprises, LLC P. O. Box 1243 Waynesboro, VA 22980	Valley Run, Tributary to Beaver Creek CWF, MF Brandywine Creek Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401

*General Permit Type—PAG-8*

<i>Facility Location &amp; County/Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Site Name &amp; Location</i>	<i>Contact Office &amp; Phone No.</i>
Quincy Twp. Franklin Co.	PAG083590	Mont Alto Municipal Authority Mont Alto WWTF Box 430 Mont Alto, PA 17237-0430		DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

**PUBLIC WATER SUPPLY (PWS)  
PERMITS**

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

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

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

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

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act**

**Permit No. 1090074, Minor Amendment.** Public Water Supply.

Applicant	<b>Pennsylvania-American Water—Yardley</b> 4 Wellington Boulevard Wyomissing, PA 19610 Lower Makefield Township and Yardley Borough
County	<b>Bucks</b>
Type of Facility	PWS
Consulting Engineer	Entech Engineering, Inc. 4 South Fourth Street Reading, PA 19603

Permit to Construct Issued November 5, 2004

**Permit No. 4604505, Minor Amendment.** Public Water Supply.

Applicant	<b>Collegeville Park Water Associates</b> 3607 Baker Street Collegeville, PA 19426
Borough	Collegeville
County	<b>Montgomery</b>
Type of Facility	PWS
Consulting Engineer	Ruby Engineering 201 N. Chestnut Street, Apt. 305 Palmyra, PA 17078

Permit to Operate Issued November 9, 2004

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

**Permit No. Minor Amendment—Construction** Public Water Supply.

Applicant	<b>Pennsylvania-American Water Company</b>
Township or Borough	Milton Borough
County	<b>Northumberland</b>
Responsible Official	William C. Kelvington Vice President, Operations Pennsylvania-American Water Company 800 Hersheypark Drive Hershey, PA 17033
Type of Facility	Public Water Supply-Construction
Consulting Engineer	Scott M. Thomas, P. E. Pennsylvania-American Water Company 800 Hersheypark Drive Hershey, PA 17033

Permit Issued Date 11-09-04  
Description of Action Replacement of the underdrain system in Milton Filter No. 2.

**Permit No. Minor Amendment—Operation** Public Water Supply.

Applicant	<b>Whiskey Run Water Association</b>
Township or Borough	Colebrook Township
County	<b>Clinton</b>

Responsible Official Betty Barton, Secretary  
Whiskey Run Water Association  
2924 Farrandville Road  
Farrandville, PA 17745

Type of Facility Public Water Supply-Operation

Consulting Engineer Alfred Benesch & Company  
400 One Norwegian Plaza  
Pottsville, PA 17901

Permit Issued Date 11-09-04

Description of Action Operation of the recently  
rehabilitated Spring No. 1  
collection reservoir.

**Permit No. 5583501-T1 and 5589503-T1** Public Water Supply.

Applicant **Aqua Pennsylvania, Inc.**

Township or Borough Penns Township

County **Snyder**

Responsible Official Mark J. Kropilak  
Vice-President, Corporate  
Development & Corporate  
Council  
Aqua Pennsylvania, Inc.  
762 West Lancaster Avenue  
Bryn Mawr, PA 19010

Type of Facility Public Water Supply-Operation

Consulting Engineer Richard Subasic  
Aqua PA, Inc.  
204 East Sunbury Street  
Shamokin, PA 17872

Permit Issued Date 11-10-04

Description of Action Permit No. 5583501-T1 allows  
operation of Well No. 1,  
disinfection, transmission line  
and the distribution system.  
Permit No. 5589503-T1 allows  
operation of Well No. 2,  
disinfection, transmission line  
and the water storage tank.

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

**Permit No. 1104501**, Public Water Supply.

Applicant **Country Living Estates, Inc.**  
313 Humbert Road  
Sidman, PA 15955

Borough or Township Croyle Township

County **Cambria**

Type of Facility New community water system

Consulting Engineer Keller Engineers  
420 Allegheny Street  
P. O. Box 61  
Hollidaysburg, PA 16648

Permit to Construct Issued November 8, 2004

**Operations Permit** issued to: **East Dunkard Water Association**, Box 241, Dilliner, PA 15327, (PWSID No. 5300012) East Dunkard Township, **Greene County** on November 8, 2004 for the operation of facilities approved under Construction Permit No. 3000501.

**Operations Permit** issued to: **Torrance State Hospital**, P. O. Box 111, Torrance, PA 15779, (PWSID No. 5650036) Derry Township, **Westmoreland County** on November 10, 2004 for the operation of facilities approved under Construction Permit No. 6500502.

**Operations Permit** issued to: **Lower Indiana County Municipal Authority**, P. O. Box 44, Black Lick, PA 15716, (PWSID No. 5320028) Center and Burrell Townships, **Indiana County** on November 10, 2004 for the operation of facilities approved under Construction Permit No. 3202501.

**Permit No. 0381501-T2, Minor Amendment.** Public Water Supply.

Applicant **K H Real Estate, LLC**  
P. O. Box 100, Worthington, PA  
16262

[Borough or Township] West Franklin Township

County **Armstrong**

Type of Facility Transfer of the Shadyside Village  
Water System

Consulting Engineer

Permit to Operate Issued October 27, 2004

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION UNDER ACT 2, 1995 PREAMBLE 2

**The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information con-



cerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

**Rockel Residence**, Newtown Borough, **Bucks County**. Michelle Harrison, React Environmental Svc., Inc., 6901 Kingsessing Ave., Philadelphia, PA 19142, on behalf of Lee Brahin, Garnet Assoc., LLC, 1533 Chestnut Street, Philadelphia, PA 19102 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**201 South Caln Road**, Caln Township, **Chester County**. Michael S. Welsh, P. E., Applied Environmental Management, Inc., 16 Chester County Commons, Malvern, PA 19355 on behalf of Tim Townes, Southdown Prop., Inc., 55 Country Club Dr., Downingtown, PA 19335 has submitted a Final Report concerning remediation of site soil contaminated with metals. The report is intended to document remediation of the site to meet the Site-Specific Standard.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Pennsylvania Department of Transportation former Bloomsburg Maintenance Facility**, Town of Bloomsburg, **Columbia County**. Apex Environmental, Inc., 269 Great Valley Parkway, Malvern, PA 19355 on behalf of Pennsylvania Department of Transportation, Engineering District 3-0, 715 Jordan Avenue, P. O. Box 218, Montoursville, PA 17754 has submitted a Final Report concerning soil contaminated with BTEX, MTBE, cumene, naphthalene and pryrene and groundwater contaminated with lead, BTEX and MTBE. This Final Report is intended to demonstrate attainment of the Statewide Health Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

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

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling

methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

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

The Department has received the following plans and reports:

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

**Fairway Shopping Center**, Upper Dublin Township, **Montgomery County**. Gilbert J. Marshall, P. G., Marshall Geoscience, Inc., 219 W. Main St., Trappe, PA 19426 on behalf of Don S. Ginsburg, Ginsburg Prop. Group, P. O. Box 605, Plymouth Meeting, PA 19462 has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final report did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department on November 8, 2004.

**East Rockhill Township Spill Site**, East Rockhill Township, **Bucks County**. Samuel Kucia, Environmental consulting, Inc., 500 E. Washington St., Norristown, PA 19401 on behalf of Steve Funk, East Rockhill Township, 1622 Ridge Rd., Perkasio, PA 18944 has submitted a Final Report concerning the remediation of site soil contaminated with petroleum. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 3, 2004.

**Tioga Pipe Supply Co.**, City of Philadelphia, **Philadelphia County**. Darryl Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004 on behalf of David Keiser, Geaux Investment, Inc./Keiser, General Partnership, 2450 Wheatshaf Ln., Philadelphia, PA 19137 has submitted a Remedial Investigation/Risk Assessment/Cleanup Plan Report concerning the remediation of site soil and groundwater

contaminated with No. 2 fuel oil. The Remedial Investigation/Risk Assessment/Cleanup Plan Report was approved by the Department on November 2, 2004.

**Bryn Mawr Rehabilitation**, Willistown Township, **Chester County**. Robert A. White and Paul Gruntmyer, Lewis Environmental Group, P. O. Box 639, Royersford, PA 19468 on behalf of Bryn Mawr Hospital, 414 Paoli Pike, Malvern, PA has submitted a Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 22, 2004.

**Blosinenski Farm**, East Brandywine Township, **Chester County**. Michael S. Welsh, P.E. on behalf of Andrew Ruskay and Anthony Wilson, ACR Machine, Inc., 21 North 10th St., Coatesville, PA 19320 has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with glass, metal and ash. The Remedial Investigation Report was approved by the Department on November 3, 2004.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

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

**GP3-38-03046: Reading Materials, Inc.** (P. O. Box 1467, Skippack, PA 19474) on November 9, 2004, for Portable Nonmetallic Mineral Processing Plants under GP3, in North Lebanon Township, **Lebanon County**.

**GP6-67-03012: New Formprest, Inc.** (52 North Ridge Avenue, York, PA 17403) on November 5, 2004, for Petroleum Dry Cleaning under GP6, in the City of York, **York County**.

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

**43-315: Russell Standard Corp.—Mercer** (1210 Perry Highway, Mercer, PA 16137) on October 30, 2004, to operate three storage tanks in Springfield Township, **Mercer 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.**

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

**22-03052B: Harman Stove Co.** (352 Mountain Road, Halifax, PA 17032) on November 9, 2004, to construct of two paint booths for a stove coating operation in Jackson Township, **Dauphin County**.

**44-05014B: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) on November 9, 2004, to add a wet processing section to their existing crushing plant at their Hostetler Quarry in Armagh Township, **Mifflin 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.**

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**17-305-051: Parkwood Resources, Inc.** (P. O. Box 552, Somerset, PA 15501) on November 4, 2004, to correct two (2) erroneous coal stockpile size designations in Burnside Township, **Clearfield County**.

**19-00006B: Del Monte Corp.** (6670 Low Street, Bloomsburg, PA 17815) on November 5, 2004, to operate two (2) 26.6 million BTU per hour natural gas/No. 6 fuel oil-fired boilers on a temporary basis, until March 5, 2005, in South Centre Township, **Columbia County**. The plan approval has been extended.

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

**37-306A: Atlantic States Materials of PA, Inc.—Taylor Run Mine** (Route 108, Mercer, PA 16137) on October 31, 2004, for their sand and gravel processing facility in Scott Township, **Lawrence County**.

**37-319A: Atlantic States Materials of PA, Inc.—Wampum Plant** (Route 18, Mercer, PA 16137) on October 31, 2004, for their sand and gravel processing facility in North Beaver Township, **Lawrence County**.

**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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

**36-05127: Martin Limestone, Inc.** (P. O. Box 550, Blue Ball, PA 17506-0550) on November 8, 2004, to operate their Burkholder Asphalt Plant in Earl Township, **Lancaster County**.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**25-00383: Erie Hard Chrome, Inc.** (1570 East 12th Street, Erie, PA 16511) on November 4, 2004, for a Natural Minor Operating Permit for their hard chromium electroplating facility in the City of Erie, **Erie County**.

**37-00321: New Castle Recycling, Inc.** (215 Gardner Avenue, New Castle, PA 16101) on November 2, 2004 for a Natural Minor Permit to operate a scrap steel cutting operation in the City of New Castle, **Lawrence County**.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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

**01-05017: Quebecor World Fairfield, Inc.** (100 North Miller Street, Fairfield, PA 17320) on November 8, 2004, to operate their lithographic printing facility in Fairfield

Borough, **Adams County**. The State-only Operating Permit was administratively amended to incorporate the provisions of Plan Approval No. 01-05017C. This is Revision No. 2.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**24-00132: Elk County Heat Treaters, Inc.** (316 Battery Street, Saint Marys, PA 15857) on November 4, 2004, to revise their Natural Minor Operating Permit to note a transfer of ownership in St. Marys, **Elk 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 Permits Actions*

*California District Mining Office: 25 Technology Drive, Coal Center, PA 15423.*

**32991301. NPDES Permit No. PA0215228, DLR Mining, Inc.**, (3065 Airport Road, Indiana, PA 15701), to revise the permit for the Nolo Deep Mine in Buffington, Brushvalley, Cherryhill, and Pine Townships, **Indiana County** to add permit and subsidence control plan acres. Underground Acres Proposed 940, SCP Acres Proposed 462. No additional discharges. Permit issued November 8, 2004.

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

**56040102 and NPDES Permit No. PA0249564. Mountaineer Mining Corporation**, 1010 Garrett Shortcut Road, Berlin, PA 15530, commencement, operation and restoration of a bituminous surface mine in Brothersvalley Township, **Somerset County**, affecting 51.3 acres. Receiving streams: Swamp Creek and Uts to Swamp Creek classified for the following use: cold water fishery. There are no potable water supply intakes within 10 miles downstream. Application received June 1, 2004. Permit issued: November 9, 2004.

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

**03020103 and NPDES Permit No. PA0250074. Original Fuels, Inc.** (P. O. Box 343, Punxsutawney, PA 15767). Transfer of permit formerly issued to Alverda Enterprises, Inc., for continued operation and reclamation of a bituminous surface mining site located in South Bend Township, **Armstrong County**, affecting 20.3 acres. Receiving streams: unnamed tributaries to Big Run and

Whiskey Run. Application received: August 19, 2004. Transfer permit issued: November 8, 2004.

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

**17000102 and NPDES Permit No. PA 0242888. Northern Son, Inc.** (R. R. 6, Box 231, Kittanning, PA 16201). Transfer of an existing bituminous surface mine permit from Johnson Brothers Company. The permit is located in Bell Township, **Clearfield County** and affects 131.3 acres. Receiving streams: unnamed tributaries of Whiskey Run to Whiskey Run and unnamed tributaries of South Branch Bear Run to South Branch Bear Run, both to West Branch Susquehanna River. Application received: June 5, 2002. Application returned: November 8, 2004.

**14980101 and NPDES Permit No. PA 0238007. Sky Haven Coal, Inc.** (5510 State Park Road, Penfield, PA 15849). Renewal of an existing bituminous surface mine permit in Snow Shoe Township, **Centre County** affecting 207.4 acres. Receiving streams: Sandy Run to the West Branch of the Susquehanna River. Application received: June 10, 2004. Permit issued: November 3, 2004.

**17020106 and NPDES Permit No. PA 0243264. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650). Transfer of an existing bituminous surface mine-auger permit from Moravian Run Reclamation Co., Inc. The permit is located in Girard Township, **Clearfield County** and affects 169 acres. Receiving stream: unnamed tributary A to unnamed tributary B to Deer Creek to the West Branch of the Susquehanna River to the Susquehanna River. Application received: July 27, 2004. Permit issued: November 3, 2004.

**17950119 and NPDES Permit No. PA 0220221. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650). Transfer of an existing bituminous surface mine-auger permit from Moravian Run Reclamation Co., Inc. The permit is located in Pike Township, **Clearfield County** and affects 168 acres. Receiving streams: unnamed tributaries of Little Clearfield Creek, to Little Clearfield Creek, to Clearfield Creek, to West Branch Susquehanna River. Application received: July 27, 2004. Permit issued: November 3, 2004.

**17940116 and NPDES Permit No. PA 0219908. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650). Transfer of an existing bituminous surface mine permit from Moravian Run Reclamation Co., Inc. The permit is located in Penn Township, **Clearfield County** and affects 247 acres. Receiving streams: Poplar Run. Application received: July 27, 2004. Permit issued: November 3, 2004.

**17030115 and NPDES Permit No. PA 0243612. Hilltop Coal Company** (12 Dutchtown Road, Houtzdale, PA 16651). Commencement, operation and restoration of a bituminous surface mine-auger permit in Bigler Township, **Clearfield County** affecting 199 acres. Receiving streams: Japling Run and unnamed tributaries, and unnamed tributary to Muddy Run. Application received: October 14, 2003. Permit issued: November 3, 2004.

**17030103 and NPDES Permit No. PA 0243442. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650.) Commencement, operation and restoration of a bituminous surface mine-auger permit in Lawrence Township, **Clearfield County** affecting 80.2 acres. Receiving streams: Hogback Run. Application received: June 23, 2003. Permit issued: November 3, 2004.

*Noncoal Permits Actions*

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

**33042805. Glen Gery Corporation** (1166 Spring Street, P. O. Box 7001, Wyomissing, PA 19610) Commencement, operation and restoration of a small noncoal shale operation in Oliver Township, **Jefferson County** affecting 10.5 acres. Receiving streams: Unnamed tributary to Beaver Run. Application received: August 4, 2004. Permit Issued: November 3, 2004.

*Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**40040802. Bernard Golomb** (1 McCullough Road, Plains, PA 18702), commencement, operation and restoration of a quarry operation in Plains Township, **Luzerne County** affecting 1.0 acre. Receiving stream: Susquehanna River. Application received September 3, 2004. Permit issued November 8, 2004.

**58040859. William C. Burchell** (249B Harford Road, New Milford, PA 18834), commencement, operation and restoration of a quarry operation in New Milford Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: Meylert Creek. Application received September 10, 2004. Permit issued November 8, 2004.

**58042806. Douglas G. Kilmer**, (RR 1 Box 85K, Uniondale, PA 18470), commencement, operation and restoration of a quarry operation in Harford Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received September 22, 2004. Permit issued November 9, 2004.

**58040801. RD Smith Flagstone** (115 Montrose Terrace Park, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Bridgewater Township, **Susquehanna County** affecting 3.0 acres. Receiving stream: Pettis Creek. Application received January 2, 2004. Permit issued November 9, 2004.

**40042803. Dotzel Trucking** (1898 Slocum Road, Mountaintop, PA 18707), commencement, operation and restoration of a quarry operation in Salem Township, **Luzerne County** affecting 5.0 acres. Receiving stream: Unnamed Tributary to the Susquehanna River. Application received June 21, 2004. Permit issued November 9, 2004.

**58040849. Milan and Arvin Hibbard**, (RR 1 Box 12C, Springville, PA 18844), commencement, operation and restoration of a quarry operation in Dimock Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received August 6, 2004. Permit issued November 10, 2004.

## ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

*Blasting Permits Actions*

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

**65044008. Brentzel Contracting, Inc.** (217 Fifth Street, Irwin, PA 15642). Blasting activity permit for construction to install underground utilities, located in

North Huntingdon Township, **Westmoreland County**, with an expected duration of 180 days. Permit issued: November 9, 2004.

*Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**28044045. Hempt Brothers, Inc.**, (205 Creek Road, Camp Hill, PA 17011) and Kesco, Inc., (127 Oneida Valley Road, Butler, PA 16001), construction blasting at PADOT SR 30-16 Highway Reconstruction in Guilford Township, **Franklin County** with an expiration date of May 31, 2005. Permit issued: November 9, 2004.

**50044101. M & J Explosives, Inc.**, (P. O. Box 608, Carlisle, PA 17013), construction blasting for Pole Barn in Rye Township, **Perry County** with an expiration date of November 30, 2005. Permit issued November 9, 2004.

**22044102. Hall Explosives, Inc.**, (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Southpoint Meadows in Derry Township, **Dauphin County** with an expiration date of December 30, 2005. Permit issued November 10, 2004.

**35044103. Hayduk Enterprises**, (P. O. Box 554, Dalton, PA 18414), construction blasting for Wasko Project in Olyphant Borough, **Lackawanna County** with an expiration date of March 31, 2005. Permit issued November 10, 2004.

**36044117. Keystone Blasting Service**, (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for manure storage in Earl Township, **Lancaster County** with an expiration date of December 30, 2005. Permit issued November 10, 2004.

**36044118. Gerlach's Drilling & Blasting**, (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Willow Wene Farm in West Lampeter Township, **Lancaster County** with an expiration date of November 10, 2005. Permit issued November 10, 2004.

**40044104. Hayduk Enterprises**, (P. O. Box 554, Dalton, PA 18414), construction blasting at Eagle Rock Resort in Black Creek, Hazle and North Union Townships, **Luzerne and Schuylkill Counties** with an expiration date of December 31, 2005. Permit issued November 10, 2004.

**52044102. Hayduk Enterprises**, (P. O. Box 554, Dalton, PA 18414), construction blasting for Kintner Modular Homes in Greene Township, **Pike County** with an expiration date of December 31, 2005. Permit issued November 10, 2004.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301–303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311–1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P.S. § 7514) and 2 Pa.C.S. §§ 501–508 and 701–704

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

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

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

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**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

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*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

**WATER OBSTRUCTIONS AND ENCROACHMENTS**

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

**E15-718. Borough of Avondale**, P. O. Box 247, Avondale, PA 19311, Avondale Borough, **Chester County**, ACOE Philadelphia District.

To modify and maintain three reaches of stream as part of the White Clay Creek Restoration Project in Avondale Borough, Chester County (West Grove, PA USGS Quadrangle; N: 13.4 inches; W: 4.5 inches). Work will include the following activities:

1. To restore a 750-linear foot reach of Indian Run (CWF) between West State Street Bridge and its confluence with the East Branch of White Clay Creek by installing four treatment areas consisting of branch packing stabilization and boulder toe stabilization systems.
2. To restore a 225-linear foot reach of the East Branch of White Clay Creek (CWF) located immediately east of the terminus of Miller Drive by installing two treatment areas consisting of boulder toe stabilization system and tree revetment.
3. To restore a 2,034-linear foot reach of the East Branch of White Clay Creek between Third Street Bridge and SR 0041, by installing cross vane structures, j-hook structures, modifying the channels cross-section and relocating approximately 1,720-linear feet of channel to add sinuosity to a reach with a linear meander geometry using natural channel design methods.

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

**E46-960. Penn Dot District 6-0**, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Cheltenham and Springfield Townships, **Montgomery County**, ACOE Philadelphia District.

To rehabilitate, maintain, and reconstruct an approximately 10-mile segment of the Fort Washington Expressway (PA Route 309). The project has been divided into four design/construction sections (100, 101, 102 and 103) and the limit for the entire project is between Ogontz Avenue in Cheltenham Township (Germantown, PA, Quadrangle N: 14.6 inches; W: 5.0 inches) and Welsh Road (PA Route 63) in Lower Gwynedd Township (Ambler, PA, Quadrangle N: 14.2 inches; W: 13.9 inches) and traverses through Springfield, Upper Dublin, Whitemarsh, and Horsham Townships, Montgomery County. The project includes provisions for the construction of replacement wetlands and rehabilitating stream reaches at various locations along the Sandy Run in Springfield and Whitemarsh Townships with the construction of the first segment, Section 100, Permit No. E46-921.

This permit is for Section 102 and is the 3rd submission for the PA 309 Expressway Improvement Project. The limit of the work extends between Cheltenham Avenue (Germantown, PA, Quadrangle N: 14.6 inches; W: 5.0 inches) in Cheltenham Township to Hawes Lane (Germantown, PA, Quadrangle N: 19.3 inches; W: 10.2 inches) in Springfield Township.

The reconstruction and rehabilitation work in Section 102 includes the following activities:

1. To extend and maintain an existing 10-foot wide by 9.3-foot high single cell brick arch enclosure that carries an unnamed tributary to Tacony Creek (WWF) under SR 309 at Station 0+909. The enclosure will be extended approximately 20.3 feet by connecting a 10-foot by 10.5-foot single cell reinforced concrete box at downstream end. This extension will accommodate the proposed embankment of SR 309.
2. To extend and maintain an existing 12-foot wide by 12-foot high single cell reinforced concrete arch enclosure, that carries Tacony Creek (WWF) under SR 309 at Station 3+145. The enclosure will be extended approximately 8.4 feet by connecting a 12-foot by 12-foot single cell cast-in-place reinforced concrete box at the downstream end. This extension will accommodate the widening of the existing lanes and shoulder of S. R. 309.
3. To impact approximately 43 linear feet of the unnamed tributary to Tacony Creek (WWF) with the construction of the rock outlet protection for an 18-inch stormwater outfall pipe and restoration of the existing embankment to accommodate the widening of existing lanes and shoulders of SR 309 between Station 3+150 to Station 3+260.
4. To place fill and impact 0.03 acres of wetlands MLE22 (PFO) associated with the embankment fill accommodating the widening of SR 309 from Station 3+200 to Station 3+385. The work includes 0.01 acres of temporary impacts.
5. To impact approximately 440 linear feet of an unnamed tributary to Tacony Creek and to divert the flow through the existing culverts which will be extended, associated with the Easton Road interchange and con-

struction of Ramp C from Station 2+275 to Station 2+615. In addition, 0.12 acres of wetlands MLW17 and MLW18 (PEM) will be impacted for the embankment fill at Station 2+275 to Station 2+330 and Station 2+430 to Station 2+490, respectively.

6. To place fill and impact 0.05 acres of wetlands MLE18 (PSS) for the construction of the retaining wall along the northbound side of S. R. 309 and the construction of the outlet for proposed drainage improvements at Station 4+180 to Station 4+340 and Station 4+340, respectively.

7. To place fill and impact 0.16 acre of wetlands MLW20 (PEM) and associated drainage channel on the southbound (SB) side associated with the realignment and widening of SR 309 through the area of Willow Grove Avenue from Station 4+000 to Station 4+230.

8. To impact approximately 125 linear feet of intermittent tributary to Wissahickon Creek (TSF) and adjacent floodplain and to expand the existing pond located at Shepherd's Pond Subdivision for the proposed stormwater management improvement located north of Station 4+375.

9. To impact 341 linear feet of intermittent tributary to Wissahickon Creek (TSF) on the southbound side and to impact 0.04 acre of associated wetlands (SWM-1 and SWM-2) for the construction of the stormwater management facility on the Karr Associated Property at Station 4+760 of SR 309.

10. To modify, improve and maintain approximately 829 linear feet of drainage channel for the stormwater management improvements at Stations 4+167 to 4+246 and 4+575 to 4+765 on the northbound side of SR 309 and Stations 5+037 to 5+102 and 5+297 to 5+446 associated with Paper Mill Road Interchange on Ramp F and Ramp G, respectively.

11. To extend and maintain an existing 6.2-foot diameter CMP enclosure, in and along an unnamed tributary to Wissahickon Creek (TSF) under SR 309 at Station 4+250. The enclosure will be extended approximately 8 feet at the downstream end. This extension will accommodate the widening of the existing lanes and shoulder of SR 309.

The project also includes relocation of a 30-inch water line for Aqua Pennsylvania that will temporarily impact 13 linear feet of stream channel and 0.18 acre of associated wetlands (MLE 18, PFO). General Permit No. 5 (DEP File No. GP054604356) will be authorized under separate cover to Aqua Pennsylvania for this activity.

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

**E05-326. Colerain Township Supervisors**, 3017 Centennial Road, Bedford, PA 15522 in Colerain Township, **Bedford County**, ACOE Baltimore District.

To extend the concrete abutments and center pier of the existing Colerain Township Bridge No. 2 over Cove Creek (EV) at a site (Rainsburg, PA Quadrangle N: 5.4 inches; W: 4.9 inches) approximately 6,000 feet upstream from the SR 326 bridge crossing of Cove Creek in Colerain Township, Bedford County for the purpose of improving the bridge's carrying capacity.

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

**E59-458. Nelson Township Authority**, P. O. Box 100, Lakeview Drive, Nelson, PA 16940. Nelson Water Treatment Facility, in Nelson Township, **Tioga County**, ACOE Baltimore District (Elkland, PA Quadrangle N: 19 inches; W: .75 inches).

To construct, operate and maintain a river intake structure that would be submerged under the existing bed of the Cowanesque River, construction of a wet well within the floodway of the Cowanesque River and to construct a 35 foot by 60 foot pump station in the floodway of the Cowanesque River. The project will impact 270 square feet the Cowanesque River, which is designated as a Warm Water Fishery. This project is located at the intersection of SR 49 and Barney Hill Road. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E04-303. Rochester Borough**, 300 West Park Road, Rochester, PA 15074-2252. Construct a boat dock in Rochester Borough, **Beaver County**, Pittsburgh ACOE District. (Beaver, PA Quadrangle N: 14.8 inches; W: 5.6 inches and Latitude: 49° 42' 23"—Longitude: 80° 17' 25"). To construct and maintain a boat dock along the left bank side of the Beaver River (WWF) (Beaver, PA Quadrangle N: 14.7 inches; W: 5.6 inches and Latitude: 40° 42' 21"—Longitude: 80° 17' 25") and a 28 ft. wide x 80 ft. long pole building in the left bank floodplain of the Beaver River (Beaver, PA Quadrangle N: 14.8 inches; W: 5.6 inches and Latitude: 49° 42' 23"—Longitude: 80° 17' 25"). The boat dock and pole building are located on the west side of Water Street between the Bridgewater and Rte. 68/51 bridges. To construct and maintain a 40 ft. x 40 ft. stage in the right bank floodplain of the Ohio River (WWF) (Beaver, PA Quadrangle N: 13.3 inches; W: 4.6 inches and Latitude: 40° 41' 54"—Longitude: 80° 16' 59"). The stage is located near river mile 25.3, on the east side of the Monaca/Rochester Bridge. All three sites are located in Rochester Borough, Beaver County.

**E30-209. Greene County Board of Commissioners**, 93 East High Street, Waynesburg, PA 15370. Rehabilitate Greene County Bridge No. 60 in Center Township, **Greene County**, Pittsburgh ACOE District. (Rogersville, PA Quadrangle N: 2.2 inches; W: 10.6 inches and Latitude: 39° 53' 14"—Longitude: 80° 19' 32"). To (work authorized as stated on permit) rehabilitate and maintain the Greene County Covered Bridge No. 60 having a clear span of 43.5 feet and an underclearance of 9.7 feet across South Fork Tenmile Creek classified as a high quality warm water fishery located on T-424 at a point approximately 600 feet south of SR 21.

**E30-210. Greene County Board of Commissioners**, 93 East High Street, Waynesburg, PA 15370. Rehabilitate Greene County Bridge No. 18 in Greene Township, **Greene County**, Pittsburgh ACOE District. (Garards Fort, PA Quadrangle N: 10.3 inches; W: 8.5 inches and Latitude: 39° 48' 24"—Longitude: 80° 03' 38"). To rehabilitate and maintain the Greene County Bridge No. 18 having a clear span of 67 feet and an underclearance of 7.5 feet across Whiteley Creek classified as a TSF located on T-604.

**E56-329. Hidden Valley Resort, LP**, One Craighead Drive, Hidden Valley, PA 15502. Construct timber bridges in Jefferson Township, **Somerset County**, Pittsburgh

ACOE District. (Bakersville, PA Quadrangle N: 11.8 inches; W: 16.93 inches and Latitude: 40° 03' 54"—Longitude: 79° 14' 46"). To seasonally, between November 15 and March 15 of each year, construct and maintain timber bridges, across Kooser Run (HQ-CWF) and an adjoining, abandoned fish hatchery, to create a snow tubing trail over these watercourses. Two 70-foot × 20-foot bridges, separated by 40 feet will be seasonally constructed over Kooser Run, while one 180-foot × 15-foot bridge will be seasonally constructed over the abandoned fish hatchery. These structures will temporarily affect approximately 0.07 acre of adjacent wetlands. The timber bridges will be replaced by timber deck structures, as the logs for the timber bridges deteriorate and need to be replaced. In addition, the applicant will construct approximately 0.13 acre of wetland, by partially removing fill from a former pond that was affected by a previously, unauthorized activity. The site is located in Hidden Valley's Outback Park area, which is located along SR 0031, approximately 0.25 miles past the main entrance to the Hidden Valley Resort.

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

**E10-398, Robert W. Barr**, 149 Weston Lane, Sarver, PA 16055. Barr Residence Driveway Crossing (Curtisville, PA Quadrangle N: 18.21 inches; W: 1.89 inches), in Buffalo Township, **Butler County**, ACOE Pittsburgh District

To maintain a single span bridge having an approximate clear span of 20 feet, an instream length of 20 feet and a minimum under clearance of 5 feet constructed by authorization of Emergency Permit EP-10-04-604 at a point across Sarver Run (HQ-TSF) approximately 1,800 feet northwest of the intersection of SR 0228 and SR 0356, 200 feet south of Coal Hollow Road.

**E33-222, PA Department of Transportation, District 10-0**, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701-0429. SR 28, Section 513 Roadway Widening Project, in Pinecreek and Warsaw Townships, **Jefferson County**, ACOE Pittsburgh District.

To conduct the following activities associated with the realignment and widening of SR 28, Section 513 extending north of I-80:

1. Remove the existing culvert and to install and maintain a 127-foot long, 48-inch diameter reinforced concrete pipe stream enclosure and fill 0.091 acre of adjoining wetland (Brookville, PA Quadrangle N: 11.5 inches; W: 2.4 inches).

2. Fill 0.091 acre of wetlands associated with widening of the roadway approximately 800 feet east of T-434 (Milliron Road) (Brookville, PA Quadrangle N: 11.2 inches; W: 3.3 inches).

Project includes use of the PA Department of Transportation's Jefferson County Wetland Mitigation Bank in Snyder Township for the total of 0.091 acre of wetland impact.

#### WATER QUALITY CERTIFICATIONS

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Certification Request Initiated By: Sunoco, Inc.**, 1801 Market Street, Ten Penn Center, Philadelphia, PA 19130-1699.

**Project Description:** The practice of "Obstruction Leveling" at the Marcus Hook Refinery facility's mooring

area, as an interim maintenance practice will not violate water quality standards, provided the following conditions are met:

A. Any mechanically removed dredge material generated will be, transported and disposed of at the Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, New Jersey.

B. A copy of the approved 401 WQC for disposal of dredge material at Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, New Jersey will be provided prior to any maintenance dredging.

C. A copy of any sample results required by New Jersey as a condition of your 401 Water Quality Certification are to be submitted to: Chief, Soils and Waterways Section, Water Management, Pennsylvania Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401

**Final Action on Request:** Certification Granted

**Certification Request Initiated By: Sunoco Logistics**, 1801 Market Street, Ten Penn Center, Philadelphia, PA 19130-1699.

**Project Description:** The practice of "Obstruction Leveling" at the Hog Island Wharf facility's mooring area, as an interim maintenance practice will not violate water quality standards, provided the following conditions are met:

A. Any mechanically removed dredge material generated will be, transported and disposed of at the Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, New Jersey.

B. A copy of the approved 401 WQC for disposal of dredge material at Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, New Jersey will be provided prior to any maintenance dredging.

C. A copy of any sample results required by New Jersey as a condition of your 401 Water Quality Certification are to be submitted to: Chief, Soils and Waterways Section, Water Management, Pennsylvania Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401.

**Final Action on Request:** Certification Granted

**Certification Request Initiated By: Sunoco Logistics**, 1801 Market Street, Ten Penn Center, Philadelphia, PA 19130-1699.

**Project Description:** The practice of "Obstruction Leveling" at the Point Breeze Wharves facility's mooring area, as an interim maintenance practice will not violate water quality standards, provided the following conditions are met:

A. Any mechanically removed dredge material generated will be, transported and disposed of at the Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, New Jersey.

B. A copy of the approved 401 WQC for disposal of dredge material at Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, New Jersey will be provided prior to any maintenance dredging.

C. A copy of any sample results required by New Jersey as a condition of your 401 Water Quality Certification are to be submitted to: Chief, Soils and Waterways



Section, Water Management, Pennsylvania Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401.

**Final Action on Request:** Certification granted.

**Certification Request Initiated By: Sunoco, Inc.,** 1801 Market Street, Ten Penn Center, Philadelphia, PA 19130-1699.

**Project Description:** The practice of "Obstruction Leveling" at the Girard Point Wharf facility's mooring area, as an interim maintenance practice will not violate water quality standards, provided the following conditions are met:

A. Any mechanically removed dredge material generated will be, transported and disposed of at the Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, New Jersey.

B. A copy of the approved 401 WQC for disposal of dredge material at Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, New Jersey will be provided prior to any maintenance dredging.

C. A copy of any sample results required by New Jersey as a condition of your 401 Water Quality Certification are to be submitted to: Chief, Soils and Waterways Section, Water Management, Pennsylvania Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401.

**Final Action on Request:** Certification granted.

**Certification Request Initiated By: Sunoco Logistics,** 1801 Market Street, Ten Penn Center, Philadelphia, PA 19130-1699.

**Project Description:** The practice of "Obstruction Leveling" at the Fort Mifflin Terminal facility's mooring area, as an interim maintenance practice will not violate water quality standards, provided the following conditions are met:

A. Any mechanically removed dredge material generated will be, transported and disposed of at the Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, New Jersey.

B. A copy of the approved 401 WQC for disposal of dredge material at Weeks Marine—American Dredging Companies, Whites Basin Disposal Area, Logan Township, New Jersey will be provided prior to any maintenance dredging.

C. A copy of any sample results required by New Jersey as a condition of your 401 Water Quality Certification are to be submitted to: Chief, Soils and Waterways Section, Water Management, Pennsylvania Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401.

**Final Action on Request:** Certification granted.

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## SPECIAL NOTICES

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### Application Announcement for the Recycling Markets Infrastructure Development Grant

Applications for the 2005 Recycling Markets Infrastructure Development Grant (Grant) are now available from the Department of Environmental Protection (Department). Grants will be awarded on a competitive basis to qualified existing for-profit businesses and non-profit organizations that seek to purchase machinery or equipment that will result in increased consumption of recy-

clable materials recovered in this Commonwealth. The Department will accept Grant applications until 4 p.m. on March 4, 2005.

The success of recycling programs is directly related to demand for recyclable goods. Strong, profitable recycling based businesses are good for the environment and the economy in this Commonwealth. The grant aims to build strong markets for recycled materials in Pennsylvania by assisting existing businesses or non-profit organizations with increasing their use of recyclable materials in the production of finished products.

Applications for the 2005 grant program may be obtained by contacting Jeff Bednar, Bureau of Waste Management at (717) 787-7382 or by e-mail at [jbednar@state.pa.us](mailto:jbednar@state.pa.us) or by visiting the Department's website at: <http://www.state.pa.us> (DEP Keyword: Market Development).

### Application Announcement for the Compost Infrastructure Development Grant Program

Applications for the 2005 Compost Infrastructure Development Grant Program (Program) are now available from the Department of Environmental Protection (Department). Under the program, qualified existing and operating for-profit business entities and non-profit organizations in the Commonwealth will be awarded grants to increase the quantity of yard waste and/or food wastes collected in this Commonwealth. The goal of this program is to increase the quantity of organic materials collected and composted to further increase this Commonwealth's recycling rate. Applications for the grant program will be accepted by the Department until 4 p.m. on March 4, 2005.

The municipal waste stream consists of over 30% organic materials that could be recycled and diverted from the waste stream and managed by composting. These organic waste streams such as yard and food wastes can become a resource to compost facilities that use these materials as feedstocks. Composting of organic wastes helps to lessen the burden on landfill capacity and creates a beneficial soil conditioner that can be marketed.

Applications for the 2005 Program may be obtained by contacting Patricia Olenick, Bureau of and Waste Management at (717) 787-7382 or by e-mail at [polenick@state.pa.us](mailto:polenick@state.pa.us). Applications are also available electronically on the Department's website at <http://www.dep.state.pa.us> (directLINK: Compost).

[Pa.B. Doc. No. 04-2110. Filed for public inspection November 24, 2004, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are available on the Department of Environmental Protection's (Department) website at [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Participate). The "Current Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2004.



### Ordering Paper Copies of Department Technical Guidance

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

### Changes to Technical Guidance Documents

Following is the current list of recent changes. Persons who have questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### Final Technical Guidance:

DEP ID: 383-2129-002 Title: Guidance for Evaluating Alternate Recycle Return Locations Proposed under the Filter Backwash Recycling Rule. Description: The Interim Enhanced Surface Water Treatment Rule and the Long Term 1 Enhanced Surface Water Treatment Rule require all systems utilizing surface water or groundwater under the direct influence of surface water to achieve at least 2-log removal of *Cryptosporidium*. To insure that the practice of recycling does not adversely affect the ability of a plant to meet this requirement, the Filter Backwash Recycling Rule (FBRR) requires that certain recycle flows in conventional and direct filtration facilities be returned to a location in the plant so the recycle flow passes through all of the treatment processes by June 8, 2004. The FBRR also allows the return of recycle flows to a location other than the head of the plant if the Department determines that use of the alternate location will not adversely affect the ability of the plant to achieve 2-log *Cryptosporidium* removal. This guidance was developed to aid permitting staff in evaluating requests to recycle to alternate locations and was issued as Interim Final Guidance at 34 Pa.B. 2890 (May 29, 2004) with provision for a 30-day public comment period, which concluded on June 28, 2004. The Department did not receive any comments on the Interim Final Guidance. The Final Guidance will apply to public water systems that utilize conventional or direct filtration and desire to recycle spent filter backwash, thickener supernatant or liquids from dewatering processes to a location other than the head of the plant. Effective Date: November 27, 2004.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-2111. Filed for public inspection November 24, 2004, 9:00 a.m.]

### Radiation Protection Advisory Committee Meeting

The Department of Environmental Protection's (Department) Radiation Protection Advisory Committee will hold a special meeting on December 8, 2004, from 9 a.m. to 3 p.m. in the 12th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg. The purpose of the meeting is to discuss proposed revisions to the Bureau of Radiation Protection's (Bureau) Compliance and Enforcement Policy (Guidance No. 291-4100-001) and draft regulatory language that would link fees levied by the Bureau for radiation-producing machines and radioac-

tive material licenses to a Consumer Price Index. Also scheduled for discussion will be the implementation of quality assurance requirements for radiation-producing machine registrants and licensees and the challenges facing the Department in implementing a consistent statewide radiation protection program.

Questions concerning the meeting should be directed to Louis Ray Urciuolo at (717) 783-9730 or [lurciuolo@state.pa.us](mailto:lurciuolo@state.pa.us). The agenda and meeting materials for this meeting will be available through the Public Participation Center on the Department's website at <http://www.dep.state.pa.us> (DEP Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Donielle Skelton at (717) 787-3720, or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-2112. Filed for public inspection November 24, 2004, 9:00 a.m.]

### Stream Redesignation Evaluation; Water Quality Standards Review

Under 25 Pa. Code § 93.4d (relating to processing of petitions, evaluations and assessments to change a designated use) the Department of Environmental Protection (Department) gives notice that evaluations will be conducted on the stream sections listed as follows:

<i>Stream Name</i>	<i>County</i>	<i>Tributary To</i>
<i>Deer Creek</i> —Basin, from its headwaters in Shrewsbury Township and other municipalities to the Pennsylvania/Maryland state line.	York	Susquehanna River
<i>Little Falls</i> —Basin, from its headwaters in Shrewsbury Township and New Freedom Borough to the Pennsylvania/Maryland state line.	York	Gunpowder Falls

Persons who have technical data concerning the water quality, instream habitat or biological condition of either of these stream sections are encouraged to make it available to the Department for consideration in the assessments. These assessments may lead to recommendations to the Environmental Quality Board (Board) for redesignation.

Data should be submitted to Bob Frey, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467, e-mail [rofrey@state.pa.us](mailto:rofrey@state.pa.us). Data should be submitted no later than December 27, 2004. Questions concerning this evaluation should be directed to Bob Frey at (717) 787-9637.

This assessment is being conducted in response to two rulemaking petitions submitted to the Board by the Shrewsbury Township Supervisors. The portion of the Deer Creek basin to be evaluated is currently designated Cold Water Fishes (CWF). The portion of Little Falls basin to be evaluated is currently designated Warm Water

Fishes (WWF). The petitioners are requesting redesignation to High Quality-Cold Water Fishes (HQ-CWF) for both basins.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Bob Frey directly at the number previously listed or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY  
Secretary

[Pa.B. Doc. No. 04-2113. Filed for public inspection November 24, 2004, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Lucky Day Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Lucky Day.
2. *Price:* The price of a Pennsylvania Lucky Day instant lottery game ticket is \$3.
3. *Play Symbols:* Each Pennsylvania Lucky Day instant lottery game ticket will feature a "COORDINATES FOR LUCKY GRID" area and a "LUCKY GRID" area. The play symbols located in the "COORDINATES FOR LUCKY GRID" area are: The letters A through F, each with the numbers 1 through 6. The play symbols located in the "LUCKY GRID" area are: Horseshoe Symbol; Star Symbol; Rainbow Symbol; Rabbit's Foot Symbol; 7 (Numeral Seven) Symbol; Clover Leaf Symbol; Chest Symbol; Gold Bar Symbol; Pot Of Gold Symbol and Diamond Symbol.
4. *Prizes:* The prizes that can be won in this game are \$3, \$6, \$9, \$12, \$18, \$30, \$60, \$300, \$3,000 and \$60,000. The player can win up to three times on each ticket.
5. *Approximate Number of Tickets Printed For the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Lucky Day instant lottery game.
6. *Determination of Prize Winners:*
  - (a) Holders of tickets where the player uncovers three matching Diamond play symbols using only the letter-

number combinations found in the "COORDINATES FOR LUCKY GRID" area, on a single ticket, shall be entitled to a prize of \$60,000.

(b) Holders of tickets where the player uncovers three matching Pot Of Gold play symbols using only the letter-number combinations found in the "COORDINATES FOR LUCKY GRID" area, on a single ticket, shall be entitled to a prize of \$3,000.

(c) Holders of tickets where the player uncovers three matching Gold Bar play symbols using only the letter-number combinations found in the "COORDINATES FOR LUCKY GRID" area, on a single ticket, shall be entitled to a prize of \$300.

(d) Holders of tickets where the player uncovers three matching Chest play symbols using only the letter-number combinations found in the "COORDINATES FOR LUCKY GRID" area, on a single ticket, shall be entitled to a prize of \$60.

(e) Holders of tickets where the player uncovers three matching Clover Leaf play symbols using only the letter-number combinations found in the "COORDINATES FOR LUCKY GRID" area, on a single ticket, shall be entitled to a prize of \$30.

(f) Holders of tickets where the player uncovers three matching 7 (Numeral Seven) play symbols using only the letter-number combinations found in the "COORDINATES FOR LUCKY GRID" area, on a single ticket, shall be entitled to a prize of \$18.

(g) Holders of tickets where the player uncovers three matching Rabbit Foot play symbols using only the letter-number combinations found in the "COORDINATES FOR LUCKY GRID" area, on a single ticket, shall be entitled to a prize of \$12.

(h) Holders of tickets where the player uncovers three matching Rainbow play symbols using only the letter-number combinations found in the "COORDINATES FOR LUCKY GRID" area, on a single ticket, shall be entitled to a prize of \$9.

(i) Holders of tickets where the player uncovers three matching Star play symbols using only the letter-number combinations found in the "COORDINATES FOR LUCKY GRID" area, on a single ticket, shall be entitled to a prize of \$6.

(j) Holders of tickets where the player uncovers three matching Horseshoe play symbols using only the letter-number combinations found in the "COORDINATES FOR LUCKY GRID" area, on a single ticket, shall be entitled to a prize of \$3.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Win with Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds 1 In:</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
3-Horseshoes	\$3	9.09	660,000
3-Stars	\$6	16.67	360,000
3-Rainbows	\$9	50	120,000
3-Horseshoes + 3-Stars	\$9	50	120,000
3-Rabbit's Feet	\$12	200	30,000
3-Horseshoes + 3-Rainbows	\$12	200	30,000
3-7 Symbols	\$18	200	30,000
3-Horseshoes + 3-Stars + 3-Rainbows	\$18	200	30,000
3-Clover Leaves	\$30	200	30,000

<i>Win with Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds 1 In:</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
3-Rabbit's Feet + 3-7 Symbols	\$30	200	30,000
3-Chests	\$60	315.79	19,000
3-Gold Bars	\$300	60,000	100
3-Pots Of Gold	\$3,000	120,000	50
3-Diamonds	\$60,000	1,200,000	5

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Lucky Day instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Lucky Day, prize money from winning Pennsylvania Lucky Day instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Lucky Day instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Lucky Day or through normal communications methods.

GREGORY C. FAJT,  
*Secretary*

[Pa.B. Doc. No. 04-2114. Filed for public inspection November 24, 2004, 9:00 a.m.]

## DEPARTMENT OF STATE

### State Athletic Commission; Public Meetings for 2005

The State Athletic Commission (Commission) announces its schedule for regular meetings to be held at least once every 2 months in 2005 under 5 Pa.C.S. § 103 (relating to duties of commission).

All meetings will be held in Room 303, North Office Building, Harrisburg, PA 17120, at 11 a.m. These meetings are open to the public and are scheduled as follows:

- February 28, 2005
- April 25, 2005
- June 27, 2005
- August 22, 2005
- October 31, 2005
- December 19, 2005

Individuals having questions regarding these meetings should contact the State Athletic Commission at (717) 787-5720.

GREGORY P. SIRB,  
*Executive Director*

[Pa.B. Doc. No. 04-2115. Filed for public inspection November 24, 2004, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed 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>
35-29	Pennsylvania Commission on Crime and Delinquency, Office of Victims' Services Crime Victims Compensation 34 Pa.B. 5032 (September 11, 2004)	10/12/04	11/12/04
14-489	Department of Public Welfare Subsidized Child Care Eligibility 34 Pa.B. 5044 (September 11, 2004)	10/12/04	11/12/04

**Pennsylvania Commission on Crime and  
Delinquency, Office of Victims' Services Regulation  
# 35-29 (IRRC #2428)**

**Crime Victims Compensation**

**November 12, 2004**

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Office of Victims' Services (OVS) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on October 12, 2004. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

**1. Section 411.2. Definitions.—Legislative intent; Consistency with statute; Need; Clarity.**

*Cleaning*

The House Judiciary Committee (House Committee) commented that this term should be defined to clarify the intent to "... ensure that payment may be made to cover the cost associated with the clean-up of blood and stains caused by other bodily fluids as a direct result of the crime. . . ." We agree.

*Dependent child*

This definition contains the phrase "eighteen years of age or younger." Section 11.702(b)(2)(ii) of the Crime Victims Act (Act) (18 P. S. § 11.702(b)(2)(ii)) includes the language "under 18 years of age" to describe an individual who is not an adult. For clarity, OVS should use the phrase "under 18 years of age" to define a "dependent child."

*Loss of earnings and Stolen benefit cash*

The House Committee commented on both of these regulatory definitions. We agree that these definitions are confusing. We have two concerns.

First, the regulatory term "stolen benefit cash" is confusing because it is virtually identical to the statutory definition of "loss of earnings." Subsection (b) states "[t]he definitions in section 103 of the act (18 P. S. § 11.103) are incorporated by reference." Hence, why is the regulatory term "stolen benefit cash" needed?

Second, if the term "stolen benefit cash" is needed, why does it vary from the statutory definition of "loss of earnings"? The definition of "stolen benefit cash" uses the term "direct victim" in place of the term "victim." The statute defines both the term "victim" and "direct victim" differently. The statute uses the term "victim" in its definition of "loss of earnings."

OVS should either explain the need for the term "stolen benefit cash" or delete it from the definitions and the regulation. In its place, the term "loss of earnings" should be amended to be consistent with the statute.

**2. Section 411.11. Filing procedures.—Consistency with statute; Clarity.**

*Time limits*

This section does not include a time limit for filing claims for compensation with OVS. The regulation should include the time limits in Section 702(b) of the Act (18 P. S. § 11.702(b)).

*Subsection (a)*

This subsection states, "A claim may be filed by a person eligible under the act." Subsection (a) should also reference Section 411.3(a) of this Chapter.

*Subsection (e) and Subsection (g)*

Subsections (e)(2)(v) and (g)(3) allow OVS to consider "other circumstances deemed appropriate by OVS." What "other circumstances" will OVS consider?

*Subsection (h)*

This subsection describes violations of a protection from abuse order involving an eligible crime. To fulfill the requirements of this subsection, the eligible crime must be reported in a "timely manner." What is considered a "timely manner"?

*Subsection (i)*

The House Committee suggests adding language to Paragraph (i)(7) to determine whether damage as a result of the crime is covered by homeowners insurance, similar to provisions in Subsections (i)(2)(iv) and (i)(6)(iv). We agree.

Additionally, this subsection states, "when requested by OVS, the claimant shall submit copies of documents that are needed to process the particular type of claim, which include the following. . . ." Under the list of provisions, Paragraph (6)(v)(A) Witness., would require the claimant to submit "a police report obtained by OVS." If OVS obtained the police report, why is the claimant required to submit a copy?

**3. Section 411.14. Determinations.—Reasonableness; Clarity.**

*Subsection (a)*

This subsection states a claimant may provide "additional information or clarification on the claim post-marked no later than 30 days from the date of OVS's initial determination. . . ." Does this mean the date on which the claimant receives notice of the initial determination?

*Subsection (c)*

This subsection includes a list of individuals that may receive a copy of OVS' final determination. The House Committee suggests that the district attorney having jurisdiction where the crime occurred should be added to this list. Title 18 Section 1106(c)(4) (18 Pa.C.S. § 1106(c)(4)) requires district attorneys to make recommendations to the sentencing court for the amount of restitution. Notice from OVS regarding a claim determination will assist the district attorney in meeting this requirement. We agree.

**4. Section 411.15. Actions affecting awards.—Consistency with statute; Clarity.**

*Subsection (a)*

This subsection sets standards for consideration of whether the conduct of the direct victim or intervenor contributed to the injury. The standard in Paragraph (3) is the direct victim or intervenor "used poor judgment resulting in the placement of the direct victim or intervenor into a situation likely to result in injury." The standard of "poor judgment" is subjective. This standard should be deleted or amended to more closely relate to the conduct of the direct victim or intervenor.

*Subsection (c)*

The intent of this subsection is not clear. How will the victim of a driving under the influence crime be treated differently? How does driving without a license differ from the conduct standards in Subsection (a)?

*Subsection (g)*

Subsection (g) states OVS may consider a failure to cooperate with law enforcement and OVS justified when a number of situations occur. However, this subsection does not include minors. Are minors able to cooperate with OVS?

*Subsection (g) and Subsection (h)*

Subsections (g)(3) and (h)(5) allow OVS to consider other circumstances deemed appropriate by OVS or other factors that OVS deems relevant. What other circumstances or factors will OVS consider?

**5. Section 411.16. Reductions, offsets and limitations.—Clarity.***Subsection (a)*

This subsection states, “an award made under the act and this chapter shall be reduced by the amount of any payments received or to be received. . . .” Paragraph (1) includes any payment from or on behalf of the individual who committed the crime. The House Committee commented that “any decision by OVS to reduce, offset or limit an award to a claimant should only be made after first considering the ability of the Board to exercise its right to subrogation and restitution.” We agree.

*Subsection (e)*

This subsection includes a citation to the federal Medicare Program. This program is found at 42 U.S.C. § 1395 et. seq. For clarity, the Commission should cite the sections that deal specifically with Medicare reimbursement allowances as a result of a motor vehicle incident.

**6. Section 411.31. Reconsideration.—Reasonableness.***Subsection (a)*

This subsection allows a claimant to contest OVS's determination “by submitting a written request for reconsideration post-marked no later than 30 days from the date of determination.” There are two concerns.

First, how will the claimant know when the 30-day period began? Section 704(d) of the Act (18 P. S. § 11.704(d)) requires OVS to promptly notify the claimant of its final decision. We also note that the 30-day period for judicial review under 18 P. S. § 11.705 begins 30 days after the claimant receives a copy. The regulation should specify that the claimant has 30 days from receipt of OVS' determination.

Second, the requirement of a post-mark would limit the method of filing. This subsection should be amended to be similar to Section 411.11(c) which allows several methods of filing, including electronic means.

**7. Section 411.32. Hearing.—Clarity.***Subsection (h)*

This subsection requires the claimant to “provide written confirmation to OVS of the claimant's intent to attend the hearing, including a list of witnesses and documentary exhibits to be presented. . . .” The House Committee requests this section be amended to clarify whether the submission of a list of documentary exhibits will satisfy this requirement, or if the actual documentary exhibits

must be provided. We agree with the House Committee, and request the OVS clarify this subsection in the final-form regulation.

*Subsection (j)*

This subsection states “a hearing will not be rescheduled more than once.” Shouldn't the hearing examiner have the flexibility to review the reason the claimant did not attend and, based on that information, make a determination on whether another hearing should be scheduled?

*Subsection (l)*

This subsection allows a hearing officer to “issue subpoenas for attendance of witnesses or for the production of documentary evidence.” The House Committee suggested procedures for requesting subpoenas be included in Section 411.32(k). We agree.

**8. Section 411.33. Final decision after hearing.—Reasonableness; Clarity.**

This section does not contain any timeframe for the hearing officer to deliver the report or for OVS action on the report. Should timeframes be added to ensure claims are processed in a timely manner?

**9. Section 411.42. Out-of-pocket loss.—Reasonableness; Clarity.***Dollar amount of allowed expenses*

Commentators have said that the \$200 amount for the loss of eyeglasses in Section 411.42(d)(1) is too low. Additionally, commentators stated the \$5,000 limit for funeral expenses in Section 411.42(c) is not enough. OVS should explain how the dollar amounts were derived, and why they are reasonable.

*Preapproval*

A commentator requested that this regulation include pre-approval of dental care, plastic surgery, vision or eye care, prosthetics and pharmacy costs because victims are denied non-emergency care when they cannot guarantee payment. Is there a way for a victim to demonstrate need for non-emergency medical care before the procedure is done? Can a provider be paid directly?

*Subsection (g)*

This subsection states, “OVS will reimburse expenses associated with travel to obtain medical care or counseling and, in the case of an injury that results in death, for travel in connection with making the funeral arrangements and transport of the body.” The House Committee commented that travel expenses for funeral arrangements should be allowed as out-of-pocket loss, but should also be required to be “reasonable and necessary.” We agree.

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**Department of Public Welfare Regulation #14-489  
(IRRC #2429)**

**Subsidized Child Care Eligibility****November 12, 2004**

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Department of Public Welfare (Department) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on October 12, 2004. If the final-

form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

**1. Additional responsibilities of eligibility agencies and costs for currently enrolled children.—Fiscal impact.**

The Department has indicated that this rulemaking will allow an additional 3,388 children to receive subsidized child care annually. The estimated cost of this rulemaking is \$5.5 million for the remainder of the 2004-2005 fiscal year and \$9.9 million per year thereafter. The Department has indicated that these costs relate only to day care for new children eligible for subsidized child care. We have two concerns related to the fiscal impact of this regulation.

First, some child care information service (CCIS) agencies have commented that the rulemaking will increase their administrative duties and costs of operating. They claim their costs will rise due to new requirements of record keeping and verifying eligibility factors. Since none of the additional funding will be dedicated to these program costs, how will the CCIS agencies be reimbursed for additional expenses they may incur under this regulation?

Second, the rulemaking will allow families currently enrolled in the subsidized child care program to qualify for more hours of care. In addition, parents/caretakers in education programs who work fewer hours could pay lower co-payments which would result in higher costs to the Department. How much additional funding is needed to serve the children currently enrolled in the subsidized child care program? How will these costs be funded?

**2. Policy revisions.—Fiscal impact; Reasonableness.**

The Department has proposed numerous policy changes in an effort to accomplish its stated goals of making high quality child care more accessible to families, promoting family self-sufficiency and promoting parental choice of child care options. Some CCIS agencies have expressed opposition to or concern with the following policy changes:

- Eliminating the existing requirement for the parent or caretaker to seek court-ordered child support;
- Eliminating the cap on the number of hours of subsidy in a seven-day period;
- Allowing receipt of subsidy for child care to cover travel time and sleep time (§§ 3041.14(a)(1) and (2));
- Increasing the time period during which a parent/caretaker may continue to receive subsidy from the date of an involuntary loss of work, the date a strike begins or the date the parent/caretaker completes an education program from 30 days to 60 days;
- Eliminating a live-in companion's income from the family income determination;
- Including only a portion of a stepparent's income in the family income determination (§ 3041.33(5));
- Reducing the minimum required number of work hours from 25 to 20 per week, or a combination of 10 hours per week of work and 10 hours per week of training (§ 3041.43(a) and (c)); and
- Eliminating the requirement that the parent/caretaker earn at least minimum wage.

The commentators are concerned that these changes will: raise the Department's and CCIS agencies' costs of administering the subsidized child care program; discourage families from becoming self-sufficient; and significantly increase waiting lists. We request the Department further explain how these proposed policy changes will achieve its stated goal of promoting family self-sufficiency. We also request that the Department explain how these proposed changes will meaningfully increase access to care if waiting lists are expanded.

**3. Section 3041.3. Definitions—Reasonableness.**

The term "self-certification" is defined as, "A written statement provided by a parent or caretaker for the purpose of establishing selected factors of nonfinancial eligibility." The Department has noted that "self-certification" will make it easier for families to apply and qualify for subsidized child care. Given that self-certification does not require follow-up documentation, is there a risk that non-eligible families may obtain subsidized child care to which they are not entitled?

**4. Section 3041.16. Subsidy limitations.—Clarity.**

Subsection (d) allows a family with two parents or caretakers to be eligible for subsidized child care if one of the parents or caretakers is unable to care for the child because of a physical or mental disability. This subsection should include a cross-reference to Section 3041.71, relating to verification of permanent inability to work.

**5. Section 3041.20. Subsidy continuation during breaks in work.—Reasonableness.**

This section allows a family's eligibility for subsidized child care to continue during specified interruptions of work. Maternity leave is not included in the list of interruptions. Based on discussions with Department staff, we understand that the Department intended to include maternity leave. Therefore, the final-form regulation should be amended to reflect the Department's intent.

**6. Section 3041.22. Subsidy disruption.—Reasonableness.**

Under Subsection (c), if subsidized care is disrupted because the eligibility agency does not have sufficient State or Federal funding, the subsidy for children whose families have the highest income is disrupted first. Since family sizes vary, we question the reasonableness of basing disruption of subsidy solely on income level. The Department should explain the rationale for this approach.

**7. Section 3041.43. Work, education and training.—Reasonableness; Clarity.**

Subsection (d) provides that a parent or caretaker who misses work due to "illness, injury, employer closings, holidays, temporary work slow-downs, emergencies or domestic violence" remains eligible for subsidy if he or she is normally scheduled to work 20 hours per week. We recognize that this subsection was written with the purpose of providing CCISs the flexibility to meet the particular needs of the families they serve. However, it contains vague language which may make it difficult for this provision to be administered consistently and uniformly throughout the Commonwealth. We have three concerns.

First, the term "temporary work slow-downs" is unclear. The final-form regulation should include the criteria the

Department will use to determine what qualifies as a “temporary work slow-down.” Additionally, the Department should specify at what point a “temporary work slow-down” becomes a permanent reduction in work hours.

Second, the final-form regulation should specify for how long a person can have fewer than 20 hours per week of work and remain eligible for subsidized child care.

Finally, the term “emergency” is open to interpretation. The Department should either define this term or specify the criteria it will use to determine if a situation qualifies as an emergency.

#### **8. Section 3041.46. Immunization.—Clarity.**

Subsection (c) states, “The parent’s or caretakers’ self-certification on the application or on another form provided by the Department is verification of immunization or exemption from immunization requirements.” Section 3041.67 relating to Verification of immunization also provides that acceptable verification of immunization is the parent’s or caretaker’s self-certification.

These provisions could be interpreted as allowing children to enter child care facilities without documentation that they have the required immunizations, or an exemption from immunizations. Based on discussion with Department staff, we understand that this is not the intent. The purpose of the provisions in this regulation is to avoid duplication of paperwork requirements. Parents or caretakers will still have to provide immunization records to the child care provider as required by 55 Pa. Code § 3270.131(d)(5). The clarity of Section 3041.46(c) and Section 3041.67 could be improved by adding a cross-reference to the requirements in 55 Pa. Code § 3270.131(d)(5).

#### **9. Section 3041.65. Verification of residence.—Reasonableness.**

This section allows a parent or caretaker to self-certify their residency status on applications or eligibility re-determination forms. Self-certification does not require the applicant to supply documentation to support their claim. However, self-declaration does require an applicant to provide documentation within 30 days. Therefore, we recommend that this section be amended to allow a parent or caretaker to self-declare their residency status.

#### **10. Section 3041.85. Record retention.—Need; Reasonableness.**

Subsection (b) requires eligibility agencies to maintain records for at least seven years. The existing regulation requires records to be kept for four years. The Department should explain why it is necessary to increase record retention to seven years.

#### **11. Section 3041.145. Self-declaration and reporting.—Clarity**

Paragraph (1) requires Temporary Assistance for Needy Families (TANF) and former TANF parents or caretakers to self-declare several eligibility factors. We note that Subsection (d) of Section 3041.63, relating to Self-declaration, requires the parent or caretaker “to provide another form of acceptable verification no later than 30 calendar days following the date the written self-declaration is accepted. . . .” Section 3041.145(1), however, does not require this follow-up verification.

Based on discussions with Department staff, we understand that for families who move immediately from TANF

to the subsidized child care program, follow-up verification is unnecessary because extensive records are maintained by the TANF program. These records would simply transfer to the subsidized child care eligibility agent. However, the regulation does not address follow-up verification for families who do not immediately transfer from TANF to subsidized child care. The final-form regulation should address the verification requirements for these families.

#### **12. Miscellaneous clarity issues.**

- Sections 3041.14(b) and 3041.32(1) use the phrase “biological or adoptive parent or stepparent.” This phrase is not defined and differs from the phrase “parent or caretaker” which is used throughout the remainder of the regulation. The final-form regulation should be amended to consistently use the phrase “parent or caretaker.”
- Section 3041.64, relating to verification of income, uses the terms “earned income” and “unearned income.” The final-form regulation should define these terms.
- Section 3041.101, relates to general co-payment requirements. Subsection (e) states that a co-payment is due on the first day of the family’s first full-service week. This conflicts with § 3041.104(f), relating to parent or caretaker co-payment requirements, which states that the co-payment is due on the first day of the service week. The final-form regulation should make these two provisions consistent.
- As published in the *Pennsylvania Bulletin*, there is a typographical error in the heading of the section relating to Notice of overpayment. The numeric heading for this section is printed as “§ 3040.167.” This should be changed to § 3041.167. (Emphasis added.)
- Section 3041.171(6) references “§ 3040.21.” This reference should be changed to § 3041.21. (Emphasis added.) Similarly, Section 3041.171(7) references “§ 3040.22.” This reference should be changed to § 3041.22. (Emphasis added.)

[Pa.B. Doc. No. 04-2116. Filed for public inspection November 24, 2004, 9:00 a.m.]

## **INSURANCE DEPARTMENT**

### **Geisinger Health Plan Individual, Grange and Association Base Medical and Pharmacy Rate Filing**

On November 8, 2004, the Insurance Department (Department) received from Geisinger Health Plan a filing for a rate increase ranging from -7.56% to 10.61% for the medical plan and -5.81% to 8.59% for the pharmacy plan. The magnitude of the rate increase will be determined by the subscriber’s age, gender and contract type. The following uniform benefit changes are proposed:

- Implementation of a \$500/\$1,500 deductible (for nonoffice visits).
- 30% coinsurance (for nonoffice visits)—with a \$1,500/\$3,000 out-of-pocket maximum.

- The \$20 specialist office visit copay is increased to \$35.
- Only the 50% coinsurance option will be offered for the pharmacy plan.

The company requests an average increase of 5.68% (medical and pharmacy), to be effective April 1, 2005. This filing will impact approximately 9,900 medical contracts and 4,165 pharmacy contracts.

Additional revenue of \$1.77 million will be generated from the medical increase and \$114,676 from the pharmacy increase.

Unless formal administrative action is taken prior to February 9, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at [csandersjo@state.pa.us](mailto:csandersjo@state.pa.us)) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-2117. Filed for public inspection November 24, 2004, 9:00 a.m.]

### **IDS Life Insurance Company; Rate Increase Filing for Long-Term Care Policy Form 30240-PA**

The IDS Life Insurance Company is requesting approval to increase the premium 35% for the Long-Term Care Form 30240-PA and the associated riders. The average premium will increase from \$849 to \$1,146 and will affect 1,987 policyholders of this Commonwealth.

Unless formal administrative action is taken prior to February 10, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page, and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actua-

ry, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us)) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-2118. Filed for public inspection November 24, 2004, 9:00 a.m.]

### **IDS Life Insurance Company; Rate Increase Filing for Long-Term Care Policy Forms 30225-PA, 30225-PA1 and 30225A-PA1**

The IDS Life Insurance Company is requesting approval to increase the premium 35% for the Long-Term Care Forms 30225-PA, 30225-PA1, 30225A-PA1 and the associated riders. The average premium will increase from \$892 to \$1,204 and will affect 1,987 policyholders in this Commonwealth.

Unless formal administrative action is taken prior to February 10, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website at [www.ins.state.pa.us](http://www.ins.state.pa.us). Scroll down the home page and click on "Consumer Information" located on the left side. Next scroll down to "General Information," located in the middle of the page and click on "Notices." The pdf copy of this filing is located at the link "Filing.pdf" following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions, or objections to James Laverty, Actuary, Pennsylvania Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120 (e-mail at [jlaverty@state.pa.us](mailto:jlaverty@state.pa.us)) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-2119. Filed for public inspection November 24, 2004, 9:00 a.m.]

## **LIQUOR CONTROL BOARD**

### **Expiration of Leases**

The Liquor Control Board seeks the following new lease:

Montgomery County, Wine & Spirits Shoppe No. 4645, 196 West Ridge Pike, Limerick, PA 19468.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 7,000 to 8,000 net useable square feet of new or existing retail commercial space in a 1-mile radius of the intersection of Ridge Pike and Sunset Road, Limerick Township.



*Proposals due:* December 22, 2004, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128  
**Contact:** Robert Jolly, (215) 482-9671

The following Liquor Control Board lease will expire:

Lehigh County, Wine & Spirits Shoppe No. 3919, K-Mart Plaza, 4777 Tilghman Street, Allentown, PA 18104-3211.

*Lease Expiration Date:* January 31, 2007

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,500 to 5,000 net useable square feet of new or existing retail commercial space along Tilghman Street in South Whitehall Township.

*Proposals due:* December 22, 2004, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661  
**Contact:** Ronald Hancher, Jr., (717) 657-4228

JONATHAN H. NEWMAN,  
*Secretary*

[Pa.B. Doc. No. 04-2120. Filed for public inspection November 24, 2004, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Telecommunications

**A-311322F7001. Verizon North Inc. and CommPartners, LLC.** Joint petition of Verizon North Inc. and CommPartners, LLC for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon North Inc. and CommPartners, LLC, by its counsel, filed on October 8, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and CommPartners, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-2121. Filed for public inspection November 24, 2004, 9:00 a.m.]

### Telecommunications

**A-311322F7000. Verizon Pennsylvania Inc. and CommPartners, LLC.** Joint petition of Verizon Pennsylvania Inc. and CommPartners, LLC for approval of adoption of an interconnection agreement under section 252(i) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and CommPartners, LLC, by its counsel, filed on October 8, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of adoption of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and CommPartners, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-2122. Filed for public inspection November 24, 2004, 9:00 a.m.]

### Telecommunications

**A-310183F7000. Verizon Pennsylvania Inc. and Sprint Communications Company L. P.** Joint petition of Verizon Pennsylvania Inc. and Sprint Communications Company L. P. for approval of amendment no. 2 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Sprint Communications Company L. P., by its counsel, filed on October 22, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 2 to an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Sprint Communications Company L. P. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-2123. Filed for public inspection November 24, 2004, 9:00 a.m.]

# PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

## Hearing Scheduled

A hearing has been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of Claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

December 15, 2004      Grant McCormick      1 p.m.  
   (Multiple Service)

Individuals with a disability who wish to attend the hearing and require an auxiliary aid, service or other

accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties in each respective case may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,  
*Executive Director*

[Pa.B. Doc. No. 04-2124. Filed for public inspection November 24, 2004, 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



① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department:	General Services			
Location:	Harrisburg, Pa.			
Duration:	12/1/93-12/30/93			
Contact:	Procurement Division			
	787-0000			

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
 Vendor Services Section  
 717-787-2199 or 717-787-4705

#### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.  
  
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

**PA TREASURY BUSINESS OUTLET—PLUG INTO IT!**

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except for the cost of photocopying contracts (15 cents per page); postage; redaction, and certified copies. The bureau may assess reasonable fees for labor and other expenses necessary to comply with the request. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room 201 Finance Building  
 Harrisburg, PA 17120  
 717-787-4586  
 1-800-252-4700  
 BizOutlet@patreasury.org

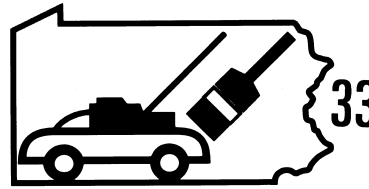
BARBARA HAFER,  
*State Treasurer*

**SERVICES**

**Janitorial Services**

**FM 8863** Furnish all labor, equipment and materials to perform janitorial services three (3) days per week at the PA State Police, Fern Ridge Station. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

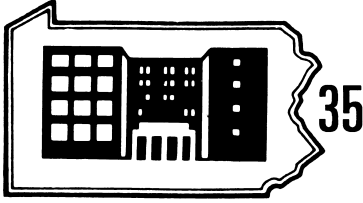
**Department:** State Police  
**Location:** Troop N, Fern Ridge Station, 11 Park Ave., New Ventures Park, Blakeslee, PA 18610  
**Duration:** 01/01/05 to 06/30/07  
**Contact:** Sandy Wolfe, (717) 705-5951



**Property Maintenance**

**FM 8862** Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas at the PA State Police, Fern Ridge Station. Totals are based on estimated snow removal and granular deicing material in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Troop N, Fern Ridge Station, 11 Park Ave., New Ventures Park, Blakeslee, PA 18610  
**Duration:** 01/01/05 to 06/30/07  
**Contact:** Sandy Wolfe, (717) 705-5951



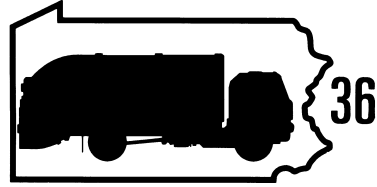
### Real Estate Services

**93742** Lease office space to the Commonwealth of PA. Proposals are invited to provide the Department of Labor and Industry with 32,910 useable square feet of office space with a minimum parking requirement for 8 ADA vehicles within the boundaries: North: Vine Street; South: Spruce Street; East: 8th Street; West: 18th Street, Philadelphia, Philadelphia County, PA. Downtown locations will be considered. For more information on SFP #93742 which is due on January 3, 2005 visit [www.dgs.state.pa.us](http://www.dgs.state.pa.us) and click on "Real Estate" or call (717) 787-7412.

**Department:** Labor and Industry

**Location:** 505 North Office Building, Harrisburg, PA 17125

**Contact:** Mr. Jennings K. Ward, (717) 787-7412



### Sanitation

**CN00011765** Contractor shall furnish, deliver, install and service an estimated ten handicap accessible portable toilet units at various locations on Polk Center grounds. The units will be needed for various time frames between the beginning of April and the end of November each year of the contract.

**Department:** Public Welfare

**Location:** Polk Center, P. O. Box 94, Polk, PA 16342

**Duration:** April, 2005 to November, 2009

**Contact:** Amy Tatarek, (814) 432-0229

[Pa.B. Doc. No. 04-2125. Filed for public inspection November 24, 2004, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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DONALD T. CUNNINGHAM, Jr.  
*Secretary*







