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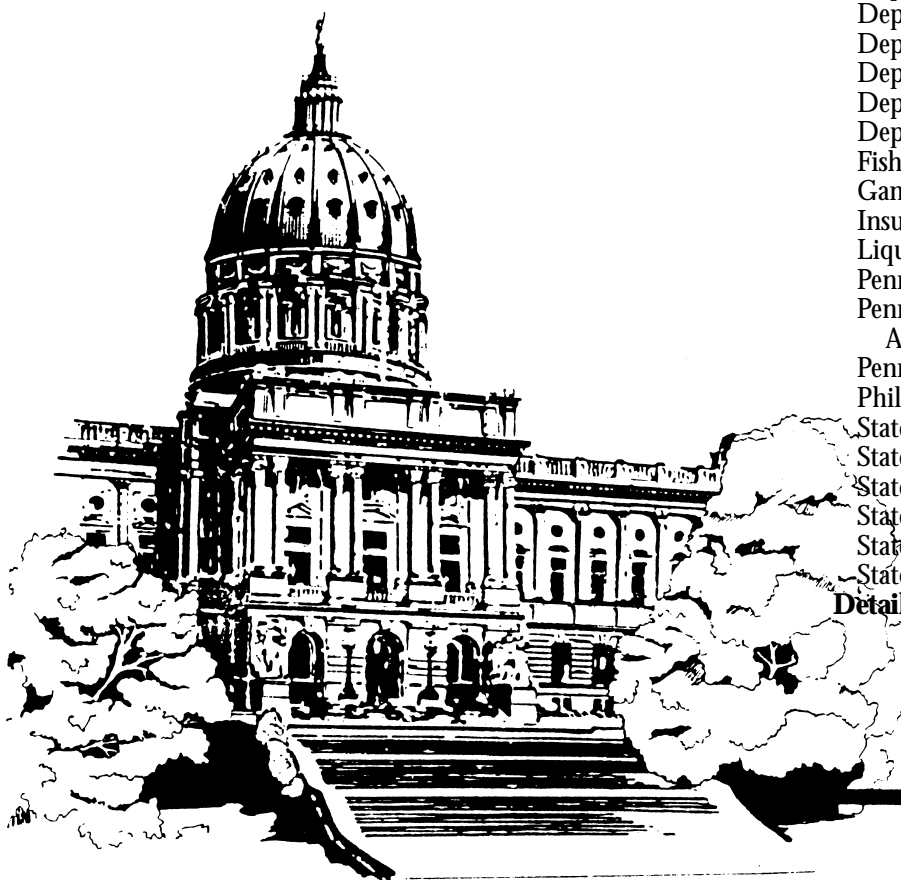
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State Real Estate Commission

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

No. 373, December 2005

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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GENERAL ASSEMBLY

Recent Actions during the 2005 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2005 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2005 GENERAL ACTS ENACTED—ACT 064 through 067					
064	Nov 10	HB0746	PN2136	60 days	Crimes Code (18 Pa.C.S.)—luring a child into motor vehicle or structure
065	Nov 10	HB1179	PN2953	Immediately	Military and Veterans Code (51 Pa.C.S.)—Military Family Relief Assistance Program and Military Family Relief Assistance Fund
066	Nov 10	HB1717	PN2918	Immediately*	Crimes Code (18 Pa.C.S.) and Domestic Relations Code (23 Pa.C.S.)—omnibus amendments
067	Nov 10	SB0361	PN1240	Immediately	Public School Code of 1949—home education programs

*denotes an effective date with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

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

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

[Pa.B. Doc. No. 05-2190. Filed for public inspection December 2, 2005, 9:00 a.m.]

Recent Actions during the 2005 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2005 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2005 GENERAL ACTS ENACTED—ACT 068 through 072					
068	Nov 16	HB0127	PN2996	60 days	Resource Family and Adoption Process Act—enactment
069	Nov 16	HB0761	PN2998	60 days	Crimes Code (18 Pa.C.S.) and Judicial Code (42 Pa.C.S.)—invasion of privacy and actions involving products or services used to invade privacy
070	Nov 16	HB1361	PN1636	Immediately	Community Services Block Grant Act—expiration date

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
071	Nov 16	HB1743	PN2944	Immediately	Second Class County Code—assessment limits and effective appeal, escrow and payment under protest
072	Nov 16	HB1956	PN3104	Immediately	Judicial Code (42 Pa.C.S.), Legislature (46 Pa.C.S.) and State Government (71 Pa.C.S.)—omnibus amendments and reenacting and amending Public Official Compensation Law

*denotes an effective date with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

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

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

[Pa.B. Doc. No. 05-2191. Filed for public inspection December 2, 2005, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CHS. 83, 89 AND 93]

Amendments to the Pennsylvania Rules of Disciplinary Enforcement and to the Rules of the Board

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering recommending to The Supreme Court of Pennsylvania that it amend Pennsylvania Rule of Disciplinary Enforcement 208(g) as set forth in Annex A to provide that the Board may impose an administrative fee to be paid by the respondent-attorney in cases that result in the imposition of any form of discipline more serious than an informal admonition.

The amount of the administrative fee would be set by the rules of the Board. The Board is proposing that 204 Pa. Code § 93.111 be amended as set forth in Annex B to set the administrative fee initially at \$250.

The administrative fee would be part of the expenses of the proceeding that may be taxed against the respondent-attorney. To assist in the collection of expenses that are taxed in formal proceedings that result in public discipline, the Board is also proposing that Pa.R.D.E. 208(g) be amended to make clear that an order of the Supreme Court taxing expenses is a judgment for the amount of the expenses. A similar provision is not required in cases that result in private discipline because those proceedings are not completed and the discipline is not imposed until all taxed expenses have been paid.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before January 13, 2006.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Secretary of the Board

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 208. Procedure.

* * * * *

(g) *Costs.*

(1) The Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposi-

tion of discipline shall be paid by the respondent-attorney. All expenses taxed under this paragraph shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney. **An order of the Supreme Court taxing expenses is a judgment for the amount of the expenses.**

(2) In the event a proceeding is concluded by informal admonition or private reprimand, the Board in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of the proceeding shall be paid by the respondent-attorney. All expenses taxed by the Board under this paragraph shall be paid by the respondent-attorney on or before the date fixed for the appearance of the respondent-attorney before Disciplinary Counsel or the Board for informal admonition or private reprimand. The expenses which shall be taxable under this paragraph shall be prescribed by Board rules.

(3) The expenses taxable under paragraph (1) or (2) may include an administrative fee prescribed by Board rules except that an administrative fee shall not be included where the discipline imposed is an informal admonition.

* * * * *

Annex B

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 89. FORMAL PROCEEDINGS

Subchapter D. ACTION BY BOARD AND SUPREME COURT

§ 89.209. Expenses of formal proceedings.

Enforcement Rule 208(g)(1) provides that the Supreme Court in its discretion may direct that the necessary expenses incurred in the investigation and prosecution of a proceeding which results in the imposition of discipline shall be paid by the respondent-attorney, [and] that all expenses so taxed shall be paid by the respondent-attorney within 30 days of entry of the order taxing the expenses against the respondent-attorney, **and that an order of the Supreme Court taxing expenses is a judgment for the amount of the expenses.**

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter G. FINANCIAL MATTERS

TAXATION OF COSTS

§ 93.111. Determination of reimbursable expenses.

* * * * *

(c) *Administrative fee.* Enforcement Rule 208(g)(3) provides that the expenses taxable under § 89.209 or § 89.205(b) may include an administrative fee prescribed by Board rules except that an administrative fee shall not be included where the discipline imposed is an informal admonition. The administrative fee shall be \$250.

[Pa.B. Doc. No. 05-2192. Filed for public inspection December 2, 2005, 9:00 a.m.]

**PART V. PROFESSIONAL ETHICS AND CONDUCT
[204 PA. CODE CHS. 91 AND 93]**

Amendments to the Rules of Organization and Procedure of the Board Relating to the Procedure for Challenging Subpoenas

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania is considering amending its Rules of Organization and Procedure as set forth in Annex A to specify the time periods within which challenges to subpoenas are to be handled.

Section 91.3 of the rules of the Board designates the person who is to hear a challenge to a subpoena, but does not provide any time limits for the filing or service of motions and answers, or the scheduling of a hearing. The Board believes that its procedures could be improved if those issues were addressed in its rules as set forth in Annex A.

Interested persons are invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before January 13, 2006.

By The Disciplinary Board of the Supreme Court of Pennsylvania

ELAINE M. BIXLER,
Secretary of the Board

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

CHAPTER 91. MISCELLANEOUS MATTERS

**Subchapter A. SERVICE, SUBPOENAS, DEPOSITIONS AND RELATED MATTERS
IN GENERAL**

§ 91.3. Determination of validity of subpoena.

(a) *In general.* Enforcement Rule 213(d) provides that any attack on the validity of a subpoena issued under these rules shall be handled as follows:

* * * * *

(b) *Procedure.*

(1) A motion attacking a subpoena must be filed with the Office of the Secretary within ten business days after service of the subpoena. A copy of the motion must be served on the other party to the investigation or proceeding.

(2) Any answer to the motion must be filed with the Office of the Secretary within ten business days after service of the motion on the other party under paragraph (1).

(3) The Office of the Secretary must transmit the motion and any answer to the person designated in subsection (a)(1) or (2) to hear the motion, who must schedule a hearing on the motion within ten business days after the date by which an answer must be filed. A report with findings of fact and conclusions of law must be filed with the Office of the Secretary within ten business days after the conclusion of the hearing.

CHAPTER 93. ORGANIZATION AND ADMINISTRATION

Subchapter B. THE DISCIPLINARY BOARD

§ 93.23. Powers and duties.

(a) *General rule.* Enforcement Rule 205(c) provides that the Board shall have the power and duty:

* * * * *

(7) To assign periodically, through its Secretary, senior or experienced hearing committee members within each disciplinary district to:

* * * * *

(ii) hear and determine attacks on the validity of subpoenas issued pursuant to § 91.2 (relating to subpoenas and investigations), as provided in § [91.3(2)] 91.3(a)(2) (relating to determination of validity of subpoena); or

* * * * *

[Pa.B. Doc. No. 05-2193. Filed for public inspection December 2, 2005, 9:00 a.m.]

**Title 255—LOCAL
COURT RULES**

BERKS COUNTY

Administrative Order Relative to Amendment of Berks County Rules of Criminal Procedure; No. 98-8009 Prothonotary; No. 1-MD-2005 Clerk of Courts

Order

And Now, this 7th day of November 2005, the undersigned Judges of the Berks County Court of Common Pleas hereby adopts the amended Berks County Rules of Criminal Procedure last revised October 7, 2005, as the Rules of this Court. All prior Berks County Rules of Criminal Procedure are rescinded as of the effective date of the new Rules. It is further ordered that these Rules shall take effect 30 days after publication in the *Pennsylvania Bulletin*.

The District Court Administrator of Berks County is further *Ordered* and *Directed* to provide copies to the appropriate offices and departments as stated in the Rules:

1. File ten (10) certified copies of this Order with the Administrative Office of Pennsylvania Courts for distribution in accordance with Pa.R.J.A. 103(c);
2. File two (2) certified copies of this Order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
3. File one (1) certified copy of this Order to the Criminal Procedural Rules Committee.
4. File one (1) certified copy of this Order with the Berks County Law Library;
5. File one (1) certified copy of this Order with the Clerk of Courts.

By the Court

ARTHUR E. GRIM,
President Judge

**BERKS COUNTY
RULES OF CRIMINAL PROCEDURE
TITLE AND CITATION OF RULES**

Rule 10

These rules shall be known as Berks County Rules of Criminal Procedure and shall be cited as "B.C.R.Crim.P."

**ADDRESS AND TELEPHONE NUMBER CHANGES
OF DEFENDANTS**

Rule 15 Duty to Notify of Change in Address and/or Telephone Number

(A) Before arraignment pursuant to Pa.R.Crim.P. 571, as a condition of bail, or his or her release without bail, a Defendant shall notify in writing the issuing authority, the District Attorney and the County bail agency of any change in said Defendant's address and/or telephone number, if any, within forty-eight (48) hours after the change of address and/or telephone number first occurs.

(B) After arraignment pursuant to Pa.R.Crim.P. 571, as a condition of bail, or his or her release without bail, a Defendant shall notify in writing the Clerk of Courts, the District Attorney and the county bail agency of any change in said Defendant's address and/or telephone number within forty-eight (48) hours after the change of address and/or telephone number first occurs.

Rule 16 Filing of Change of Address and/or Telephone Number

Upon receipt of notice from the Pennsylvania Board of Probation and Parole, the Berks County Probation Office, the District Attorney, the county bail agency, or a Defendant himself or herself that the Defendant has changed his or her address and/or telephone number, the Clerk of Courts shall immediately file said change of address and/or telephone number notice in the Defendant's file, if not already filed therein, and promptly notify the criminal court computer office with court administration of said change of address and/or telephone number.

Rule 20 Witness Fees

A witness for the Commonwealth in a criminal case shall be entitled to only one (1) witness fee per day and to mileage for only one (1) round trip per session, regardless of the number of cases for which he has been subpoenaed and regardless of the number of days he appears in court. Where the witness has been subpoenaed for more than one (1) case, his fee and mileage shall be prorated among the cases for which he has appeared during such session. It shall be the duty of the Clerk of Courts to keep a list of the witnesses and of the cases for which a witness has appeared. The Clerk of Courts shall charge and prorate the witness fee and mileage in accordance with this Rule.

Rule 30 Computation of Time

In computing the time within which anything is to be done under these Rules or any special order, where such time does not exceed five (5) days, Saturdays, Sundays and legal holidays shall be excluded, otherwise they shall be included.

Rule 40 Priority of Criminal and Juvenile Proceedings

Whenever an attorney is scheduled to appear before more than one Judge during the same time period, the procedure as set forth by Berks County Rule of Judicial Administration (B.R.J.A.) 102 shall be followed.

Rule 50 Presence of Prosecuting Officer

Except for good cause shown, the prosecuting police officer shall not be subject to a sequestration order at any

stage of criminal proceedings. The prosecuting police officer shall be permitted to sit at counsel table and fully assist in preparation and presentation of the Commonwealth's case. Where multiple criminal dockets have been joined or where there are multiple prosecuting police officers on a single criminal docket, all prosecuting police officers shall be permitted to sit in front of the bar of the court and, to the extent space allows, at counsel table.

TRIAL LIST

Rule 60 Assignment of Case to Judge

Each criminal case shall be assigned to a particular Judge of the Court of Common Pleas at arraignment. The Court of Common Pleas Judge to whom it is assigned shall handle the case throughout all its proceedings, unless reassigned by Order of the Court.

Rule 61 Preparation of Trial List

Absent specific order of the assigned judge, the District Attorney of Berks County is solely responsible for determining when cases are brought to trial in each courtroom.

Rule 62 Deadline for Continuances

Each Judge of the Court of Common Pleas shall from time to time designate the last day on which he or she will entertain motions for routine continuances of matters set for trial. No continuance requested after that date will be granted, unless required by law or unless the reason for the continuance first arose after the date designated.

Rule 63 Unavailability of Counsel

If counsel in a case listed for trial expects to be unavailable on a particular day or days on which the case could be called for trial, he shall make application to the assigned Judge of the Court of Common Pleas, after advance reasonable written or oral notice of intention so to do to opposing counsel, to excuse him for that day or days. The Common Pleas Judge shall determine whether or not counsel has valid reason for being unavailable and shall either refuse or grant the request to be excused.

Rule 113 Notice and Docketing of Orders, Decrees and Opinions

In addition to the requirements of Pa.R.Crim.P. 113 applicable to the Clerk of Courts, the Clerk of Courts shall serve written notice of every order, decree, appointment and copy of every opinion entered by the court to affected counsel of record and parties without counsel, and shall note the name of the individual who made the service, the date, time and method of service, the party served, the name of the individual who was handed the document, and the place at which service was made, or the address to which mailed, on the subject document and shall note on the docket the date, time and method of service and the name of the party served.

ACCELERATED REHABILITATIVE DISPOSITION

Rule 310 Application

All applications for consideration for Accelerated Rehabilitative Disposition shall be filed, upon order of the court, with the Clerk of Courts not later than seven (7) days after arraignment. The application shall be on the form prescribed by the court and shall set forth, inter alia, the name and address of the Defendant, date complaint filed, if arraigned on information the date of arraignment, criminal charges set forth in the information, or if not yet filed the criminal charges for which Defendant was held for court by the issuing authority, criminal court number, or if not yet available the OTN number, and shall be signed by the applicant, i.e., the

District Attorney, or by Defendant and defense counsel who has entered a written appearance.

Rule 310.1 Action by District Attorney

If the application is filed by other than the District Attorney, within seven (7) days after such filing, the District Attorney shall determine whether or not the application merits consideration. During that time period, the District Attorney may request the Adult Probation Officer to furnish any additional information concerning Defendant, and within thirty-five (35) days after the original filing date of the application the District Attorney shall either (1) reject the application, or (2) approve the application. The application form indicating either rejection or approval and the reason(s) therefore shall be filed with the Clerk of Courts.

Rule 310.2 Expedited Procedure

(A) The District Attorney shall supply to the issuing authorities of Berks County, and the Court, a list of the types of offenses approved for the expedited procedure authorized by this rule.

(B) The application for consideration for the Accelerated Rehabilitative Disposition Program on the form prescribed by the Court in B.C.R.Crim.P. 310 shall be filed by the Defendant or his counsel with the issuing authority immediately after the charges are either waived into Court or after hearing held, bound over to Court. The issuing authority shall establish a hearing date and subpoena the Defendant for an Accelerated Rehabilitative Disposition Hearing in accordance with the Court of Common Pleas calendar and written instruction from the Court Administrator.

(C) If the District Attorney, after review of the application and information supplied by the Probation Office decides to reject the application, the District Attorney shall submit an Order to the Court striking the case from the Accelerated Rehabilitative Disposition Hearing List and fixing a date for Arraignment of the Defendant.

Rule 320 Experiment of the Arrest Record upon Successful Completion of the A.R.D. Program

(A) A Defendant presenting a motion for dismissal of the charges against him/her upon successful completion of the A.R.D. Program pursuant to Pa.R.Crim.P. 319 shall file with the motion a proposed order for expungement of his/her arrest record substantially in the form set forth in B.C.R.Crim.P. 320.2 The moving party shall also file an adequate number of copies of the proposed order for distribution.

(B) The moving party shall list in the proposed order all criminal justice agencies that will be served with a certified copy of the order for expungement.

Rule 320.1 Service of the Order for Expungement

The Clerk of Court shall serve certified copies of the order for expungement upon the District Attorney, the Magisterial District Judge and Defendant's attorney or unrepresented Defendant, and expunge his own record. The moving party shall serve certified copies of the order upon all other criminal agencies listed in the order.

Rule 320.2 Form of Proposed Order for Expungement

ORDER OF DISMISSAL AND EXPUNGEMENT

AND NOW, this _____ day of _____, 20____, pursuant to Pa.R.Crim.P. 320, it is hereby ORDERED AND DECREED that:

1. The specific charge(s) as appearing on the (Complaint/Information), of:

arising from the Defendant's arrest on _____, made by _____ the Police Department, (is/are) hereby DISMISSED by the virtue of the Defendant's successful completion of the ARD program.

2. FURTHERMORE, in light of the Defendant's successful completion of the ARD Program and the above dismissal of the charges, it is ordered that all information collected by criminal justice agencies concerning the individual, and arising from the initiation of this criminal proceeding, consisting of identifiable descriptions, dates and notations of the arrest, in indictments, informations or other formal criminal charges and any dispositions arising therefrom be RETRIEVED AND EXPUNGED in regard to:

Defendant Name:	
Date of Birth:	Social Security #
Court of Common Pleas Docket #	OTN
Magisterial District Judge	Magisterial District #
Docket #	

3. In the event the Defendant was arrested for an offense enumerated in 75 Pa. C.S.A. § 3802 (relating to the offense of Driving under the Influence of Alcohol or Controlled Substance) this Order does not apply to the Department of Transportation pursuant to 75 Pa.C.S.A. § 1534(b).

4. The Berks County District Attorney's Office shall, and the Berks County Adult Probation Office may, maintain a list of the persons whose records are required by this court to be expunged upon the successful completion of any partial or post-trial diversion or probation program. Such information shall be used solely for the purpose of determining subsequent eligibility for such programs. 18 Pa.C.S.A. § 9122(c).

5. The Clerk of Courts shall seal the entire record and Court Information Management shall seal the electronic records to prohibit public access to them.

6. This order shall be served on and applies to the following:

(1) The Pennsylvania State Police Department; (2) _____ Police Department; (3) Berks County Adult Probation; (4) Berks County Central Warrant Agency; (5) Berks County Sheriff; (6) Berks County Bail Agency; (7) Berks County District Attorney's Office; (8) _____, Attorney for the Defendant; (9) Defendant's last known address of _____.

BY THE COURT:

RULE 507. APPROVAL OF POLICE COMPLAINTS AND ARREST WARRANT AFFIDAVITS BY ATTORNEY FOR THE COMMONWEALTH

The District Attorney of Berks County having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging:

- A. Murder (all types)—18 Pa.C.S.A. § 2502,
- B. Voluntary Manslaughter—18 Pa.C.S.A. § 2503,
- C. Involuntary Manslaughter—18 Pa.C.S.A. § 2504,
- D. Causing or Aiding Suicide—18 Pa.C.S.A. § 2505,
- E. Drug Delivery Resulting in Death—18 Pa.C.S.A. § 2506,
- F. Murder of an Unborn Child (all types)—18 Pa.C.S.A. § 2604,
- G. Voluntary Manslaughter of Unborn Child—18 Pa.C.S.A. § 2605,

- H. Homicide by Vehicle—75 Pa.C.S.A. § 3732,
- I. Homicide by Vehicle while DUI—75 Pa.C.S.A. § 3735,
- J. Homicide by Watercraft while Operating Under Influence—30 Pa.C.S.A. § 5502.1,
- K. Homicide by Watercraft—30 Pa.C.S.A. § 5502.2; or
- L. Any inchoate form of the foregoing—Criminal Attempt—18 Pa.C.S.A. § 901, Criminal Solicitation—18 Pa.C.S.A. § 902, Criminal Conspiracy—18 Pa.C.S.A. § 903

shall not hereafter be accepted by any judicial officer unless the complaint and affidavit has the approval of an Attorney for the Commonwealth prior to filing.

BAIL

Rule 530 County Bail Agency

(A) BCPS Pretrial Services, is hereby designated as the county bail agency. Its duties and powers shall be as follows:

(1) To investigate and evaluate the bail risk of Defendants accused of crimes for purposes of nominal bail or percentage cash bail programs.

(2) To be surety on certain nominal bail bonds or percentage cash bail bonds.

(3) To furnish the results of such investigations to a Defendant applying for percentage cash bail or nominal bail, to the Magisterial District Judge and to the court, as may be appropriate, for release of said Defendant on nominal or percentage cash bail, such recommendation to include any special conditions for release that should be imposed in connection with such release.

(4) To keep account of the whereabouts and supervise the activities of the Defendants released on such nominal bail or percentage cash bail programs.

(5) To make reasonable rules and regulations to enable it to carry out its functions as bail agency, such rules and regulations being subject to review by the court.

(6) The sum of money furnished as percentage cash bail shall be retained by the County of Berks and applied to the cost of operating the percentage cash bail program, including, but not limited to, the cost incurred by the county bail agency in supervising and monitoring Defendants in the percentage cash bail program.

(7) Each Defendant who posts percentage cash bail shall accept, as a condition of said bail, monitoring and supervision by the county bail agency and shall report in person to the county bail agency not later than 11:00 A.M. on the first working day after his or her release on percentage cash bail and shall follow all of the supervisory and monitoring regulations of the county bail agency, so long as such Defendant remains free on percentage cash bail.

(B) Any information obtained by the county bail agency in carrying out its duties as bail agency which was obtained from, or concerns, a Defendant shall not be disclosed to any person or entity other than the Defendant, counsel for the Defendant, the Magisterial District Judge or the Court, and then only to the extent necessary or helpful in determining whether bail should be allowed, and if so, the amount and type of bail.

(C) A Magisterial District Judge or the Court may impose such special conditions for release of Defendant as deemed necessary with special conditions shall be set forth in the bail bond and may include supervision of Defendant by BCPS Pretrial Services as bail agency in accordance with bail agency rules and regulations. The

county bail agency shall inform the Magisterial District Judge or the Court, as appropriate, of any violation by a Defendant of any of the terms or conditions of his or her release and such Defendant shall be brought before the Magisterial District Judge or the Court by the bail agency to determine if bail should be revoked or forfeited or additional bail should be required. If a Defendant cannot be produced or otherwise fails to appear when wanted, the Magisterial District Judge or the Court may take appropriate action for requiring compliance by Defendant, including the revocation or forfeiture of bail.

Rule 531 (A) (6)—(9) Qualifications of Surety

(6) Corporate Surety.

(a) Every corporate surety company duly authorized to do business in Pennsylvania may become surety on any bail bond required to be filed in the Court provided that a current Certificate of Authority issued to it by the Insurance Department of the Commonwealth of Pennsylvania, evidencing such right, along with the current financial statement, shall be filed with the Clerk of Courts. No bond shall be executed by any corporate surety after May 15 of any year until such a certificate is issued after March 31 of the same year and the financial statement shall have been filed with the Clerk of Courts.

(b) No bond shall be executed by any corporate surety where the aggregated maximum amount of unsettled and outstanding bail forfeitures, as determined by the Berks County Solicitor, is Five Hundred Thousand (\$500,000.00) Dollars. The County Solicitor shall immediately notify the Clerk of Courts, the District Attorney and the Magisterial District Judges of Berks County, of any corporate surety having reached this maximum limit. The Clerk of Courts and Magisterial District Judges shall immediately cease executing bonds by the corporate surety. When appropriate financial settlement has been made with the County of Berks, as determined by the County Solicitor, he shall notify the Clerk of Courts and Magisterial District Judges that execution of bonds by the corporate surety may resume.

(7) Surety Agents.

(a) Every agent, acting on behalf of a corporate surety, may execute a bail bond required to be filed in this Court provided that a Power of Attorney issued by the corporate surety setting forth the maximum limit of liability per bail along with proof of licensing by the Insurance Department of the Commonwealth of Pennsylvania, shall be filed with the Clerk of Courts. No bond shall be executed by any surety agent after the expiration of such Power of Attorney until a new Power of Attorney shall have been filed with the Clerk of Courts.

(b) No bond shall be executed by a surety agent of any corporate surety authorized to do business in Berks County where the aggregate maximum amount of unsettled and outstanding bail forfeitures for all corporate sureties for which the surety agent is writing bonds, as determined by the Berks County Solicitor, is Five Hundred Thousand (\$500,000.00) Dollars. The County Solicitor shall immediately notify the Clerk of Courts, the District Attorney and the Magisterial District Judges of Berks County, of any surety agent having reached this maximum limit. The Clerk of Courts and Magisterial District Judges shall immediately cease executing bonds by the surety agent. When appropriate financial settlement has been made with the County of Berks, as determined by the County Solicitor, he shall notify the Clerk of Courts and Magisterial District Judges that execution of bonds by the surety agent may resume.

(8) Professional Bail Bondsman.

(a) Every professional bail bondsman, duly authorized to do business in Pennsylvania, may become surety on any bail bond required to be filed in this Court, provided that a currently valid registration and license from the Insurance Department of the Commonwealth of Pennsylvania, pursuant to 42 Pa.C.S. § 5742, evidencing such right shall be filed with the Clerk of Courts. Every professional bail bondsman must present proof that he or she maintains an office in Berks County from which his or her business is conducted pursuant to 42 Pa.C.S. § 5744, and he or she must post and maintain as security with the Clerk the sum of Fifty Thousand (\$50,000.00) Dollars in United States currency or securities of the United States Government.

(b) No bond shall be executed by any professional bail bondsman where the aggregate maximum amount of unsettled and outstanding bail forfeitures, as determined by the Berks County Solicitor is Five Hundred Thousand (\$500,000.00) Dollars. The County Solicitor shall immediately notify the Clerk of Courts, the District Attorney and the Magisterial District Judges of Berks County of any professional bail bondsman having reached this maximum limit. The Clerk of Courts and Magisterial District Judges shall immediately cease executing bonds by the professional bail bondsman. When appropriate financial settlement has been made with the County of Berks, as determined by the County Solicitor, he shall notify the Clerk of Courts and Magisterial District Judges that execution of bonds by the professional bail bondsman may resume.

Rule 531(C) Spouse of Issuing Authority Ineligible

In addition to the limitations of Pa.R.Crim.P. 531(C), the husband or wife of any issuing authority shall not be permitted in any proceeding to become surety in an individual capacity or as a professional bondsman under 42 Pa.C.S.A. § 5741, or to execute as an officer, agent, attorney or employee of a surety company, any bail entered before any issuing authority of Berks County or entered before the court.

Rule 537 Professional Bondsmen

(A) A professional bondsman, licensed under Chapter 57, Subchapter B, of the Judicial Code, 42 Pa.C.S. §§ 5741—49, before acting as a surety in any proceeding pending before this court, shall post cash and/or own real estate in the amounts herein set forth and shall comply with the following procedures:

(1) Cash

(a) A professional bondsman may post cash with the Clerk of Courts as security for bail to be written, and the clerk shall receive said cash and give the professional bondsman a receipt therefor.

(b) The Clerk of Courts shall deposit all sums that a professional bondsman has posted with said clerk into a federally insured interest bearing account with any federally insured financial institution. The clerk shall deposit said funds, subject to withdrawal upon thirty (30) days written notice to the financial institution, or subject to such longer period of notice, not exceeding one (1) year, as the professional bondsman may direct.

(c) The clerk shall pay the interest from time to time received on such deposit to the professional bondsman, who deposited the same, less any amount which the clerk is by law authorized to retain.

(d) A professional bondsman may, at any time, upon ten (10) days notice to the clerk, and upon presentation

and surrender of the clerk's receipt for the sum deposited, withdraw the whole or any part of the cash deposited, not required for bail then written and outstanding on the security thereof, less any penalty for early withdrawal charged by the financial institution in which the clerk has deposited said sum, and less any amount which the clerk is, by law, authorized to retain. If the professional bondsman does not withdraw the entire sum, which he or she deposited, the clerk shall issue to the professional bondsman a new receipt for the remaining balance of the deposit.

(e) A professional bondsman, may, at any time, increase the cash on deposit with the clerk. Whenever the professional bondsman increases his or her cash on deposit, he or she shall surrender the clerk's receipt for the sum therefore deposited and the clerk shall issue to the professional bondsman a new receipt for the new total balance on deposit.

(f) If a professional bondsman loses or is otherwise unable to produce the clerk's receipt for cash deposited, he or she shall petition the court and the court, upon being satisfied that the receipt cannot be produced, may direct the clerk to issue to the professional bondsman a duplicate receipt for the amount deposited. The clerk shall clearly and legibly mark or stamp the duplicate receipt "DUPLICATE" and shall note thereon the date on which the original receipt was issued, the date on which the duplicate was delivered, and the date of the court order authorizing said duplicate.

(g) Whenever a professional bondsman desires to write bail on the security of cash deposited with the clerk and thereby act as surety in any case pending before the Magisterial District Judge, he or she shall file with the Magisterial District Judge a copy of the clerk's current receipt for said cash, and in addition, an affidavit sworn to before any official authorized to administer oaths, setting forth the then total amount of cash then on deposit with the clerk, the total amount of bail offered and accepted on the security of said cash and still in force, the amount of bail then desired to be written, and the total fee, premium and/or charge which the bondsman has received and/or is entitled to receive for the bail about to be written.

(h) Whenever a professional bondsman desires to write bail on the security of cash deposited with the clerk and thereby act as surety in any cash pending in the Court of Common Pleas, he or she shall file with the clerk an affidavit sworn before any official authorized to administer oaths, setting forth the then total amount of cash then on deposit with the clerk, the total amount of bail offered and accepted on the security of said cash, and still in force, the amount of bail then desired to be written, and the total fee, premium and/or charge which the bondsman has received and/or is entitled to receive for the bail about to be written.

(i) No bail shall be accepted from any professional bondsman at any time when the total amount of bail then written on the security of cash deposited with the clerk is, or when added to the bail about to be written, will exceed ten times the cash then on deposit.

(2) Real Estate

(a) A professional bondsman who desires to write bail against real estate shall record the deed or deeds for such real estate in the county or counties where the same is situated and shall file with the Clerk of Courts a statement, under oath, approved by the court, listing the real estate owned by him or her and situated in Pennsylvania. Such statement shall also set forth:

i. The description of each tract of real estate, its location by county, municipality and post office address, if any, the deed book volume and page where a copy of the deed is recorded and the acreage or square footage contained in each tract;

ii. An averment that the professional bondsman filing the statement is the sole equitable and legal owner of said real estate and the exact name in which said bondsman holds title;

iii. The fair market value of each tract of real estate as of the date of said statement as determined by an experienced real estate broker and appraiser. The professional bondsman shall attach a copy of said appraisal to the statement;

iv. The cost of each tract of real estate when first acquired, the latest assessed valuation for county tax purposes, the mortgages, liens and encumbrances against the real estate, and the balance unpaid on each encumbrance as of the date of the statement;

v. The net value of said real estate. (The total fair market value of all tracts of real estate less the total of all encumbrances against the same.)

(b) The professional bondsman shall file the statement required by subsection (a) hereof before writing any bail on the basis of said real estate, and thereafter on or before January 31st of each year. If the ownership of any tract or tracts of real estate set forth on said statement changes after the statement has been filed, or if the mortgages, liens and encumbrances increase in principal amount after the statement has been filed, the professional bondsman shall file a revised statement setting forth each such change not later than ten (10) days after such change first occur.

(c) Whenever a professional bondsman desires to write bail on the security of said real estate and thereby act as surety in any case pending before a Magisterial District Judge, he or she shall file with the Magisterial District Judge a copy of his or her latest statement filed with the Clerk of Courts pursuant to subsection (a) hereof, and in addition an affidavit sworn to before any official authorized to administer oaths, setting forth the then total amount of bail offered and accepted against said real estate and still in force, the amount of bail then desired to be written, and the total fee, premium and/or charge which the bondsman has received and/or is entitled to receive for the bail then about to be written.

(d) Whenever a professional bondsman desires to write bail on the security of said real estate and thereby act as surety in any case pending in the Court of Common Pleas, he or she shall file, in addition to the statement required to be filed with the Clerk of Courts pursuant to subsection (a) hereof, an affidavit sworn to before any official authorized to administer oaths, setting forth the then total amount of bail offered and accepted against said real estate, and still in force, the amount of bail then desired to be written, and the total fee, premium and/or charge which the bondsman has received and/or is entitled to receive for the bail then about to be written.

(e) No bail shall be accepted from any professional bondsman whenever the total amount of bail written on the security of the professional bondsman's real estate is, or when added to the bail then about to be written will, exceed five (5) times the net value of said real estate as the net value has been determined pursuant to subparagraph (A)(2)(a) hereof.

(B) Neither the Clerk of Courts nor any Magisterial District Judge shall accept bail from any professional

bondsman if the fee, premium and/or charge received, or to be received, by said professional bondsman for writing said bail exceeds the amount from time to time authorized by the Judicial Code.

Comment to (B):

The Judicial Code presently limits the fees which can be charged by a professional bondsman to ten (10%) percent of the first one hundred (\$100.00) dollars of bail written in any case and five (5%) percent of any amount in excess of one hundred (\$100.00) dollars. Section 5748(a).

(C) The Magisterial District Judge shall make the copy of the receipt and the affidavit filed by a professional bondsman pursuant to subsection (A)(1)(g) hereof, or the statement and affidavit filed with him by a professional bondsman pursuant to subsection (A)(2)(c) hereof, a part of the proceedings in the case in which the same was filed and shall forward said receipt copy and affidavit, or said statement and affidavit with the other papers in said case to this court at the same time as the transcript of the proceedings in said case are returned to this court, and the same shall become a part of the record of the case.

(D) Whenever any bail written by a professional bondsman has been forfeited, the professional bondsman shall not write any additional bail until he or she had made settlement for the forfeiture obligation and paid the same or the forfeiture has been remitted by the court.

(E) A professional bondsman shall not accept or receive, in addition to the fee permitted by law, any cash, securities, assets and/or property of any kind, whether to secure compliance with the terms of the bail or for any other reason relating to his or her writing bail.

(F) No bail shall be accepted from any professional bondsman at any time when such bondsman is not in full compliance with the provisions of this rule.

Rule 543 Evidence of Summary Offenses at Preliminary Hearings

(A) The Commonwealth shall have no duty to present evidence to establish a prima facie case for summary offenses at a preliminary hearing. As long as at least one Felony or Misdemeanor charge is bound over to the Court of Common Pleas, all summary charges shall also be bound over to the Court of Common Pleas.

(B) Should all Felony and Misdemeanor charges be dismissed at a preliminary hearing, the issuing authority shall schedule a separate hearing for evidence on the summary offenses to be heard.

Rule 560 Initiation of Proceedings

Initiation of criminal proceedings in the court shall be by Information filed by the District Attorney instead of grand jury indictment, in accordance with 42 Pa.C.S.A. § 8931 and the Pennsylvania Rules of Criminal Procedure.

ARRAIGNMENT

Rule 571 Arraignment

Each Defendant in a criminal case shall be arraigned before a Judge of the Court of Common Pleas or before the court administrator or a deputy court administrator or a criminal court master when such court administrator or deputy is designated and authorized by an order of the president judge.

Rule 571.1 Time for Arraignment

Arraignment shall take place within ten (10) days after the filing of the Information at a time fixed from time to time by the court calendar or by special order of the court.

Rule 571.2 Waiver of Arraignment

The provisions of B.C.R.Crim.P. 571 notwithstanding, in all cases in which a Defendant is charged with crime, other than murder, the Defendant, if represented by counsel who has entered his appearance in writing, may enter a plea of "not guilty", or by notation on the Information stands mute in the presence of counsel without appearing at arraignment court. Where a notation is made that the Defendant stands mute, the Clerk of Courts shall enter a plea of "not guilty" on behalf of the Defendant. Such plea or notation that the Defendant stands mute may be entered in the District Attorney's office at any time prior to 5:00 P.M. of a day preceding arraignment court, providing the Defendant enters the plea of "not guilty" in writing upon the face of the information, or in the case where the Defendant stands mute enters such notation in writing upon the face of the information, and that the attorney who has appeared for the Defendant approves such action by likewise endorsing his name upon the information; and providing further that the Defendant and his counsel sign a waiver of the right to arraignment; further, Defendant shall be furnished documents required by the applicable Pennsylvania Rules of Criminal Procedure and Defendant and his counsel shall execute a receipt therefore.

Rule 571.3 Arraignment Before Court Administrator, Deputy Court Administrator or a Criminal Court Master

(A) Whenever arraignments are held before the court administrator or a deputy court administrator, or a criminal court master, designated and authorized by order of the president judge, and the Defendant stands mute, the clerk is authorized and directed to enter a plea of not guilty for the Defendant.

(B) Whenever arraignments are held before the court administrator or a deputy court administrator, or a criminal court master, designated and authorized by order of the president judge, and the Defendant fails to appear, the court administrator, or deputy court administrator, or criminal court master, shall report such fact in writing to a Judge of the Court of Common Pleas, and the court may authorize that a bench warrant be issued for the apprehension and arrest of the Defendant so that he or she may be brought before the court.

Rule 571.4 Appearance of Defendant at Arraignment Without Counsel

(A) Whenever a Defendant appears for arraignment without counsel, such Defendant shall be advised of his or her right to counsel of his or her own choice, and that if he or she cannot afford counsel of his or her own choice, that counsel will be provided free without charge to such Defendant.

(B) Whenever a Defendant appears for arraignment without counsel, he or she shall be considered to have stood mute, and the clerk is authorized and directed to enter a plea of not guilty on such Defendant's behalf.

Rule 571.5 Place and Manner of Arraignment

Arraignment shall take place at the Berks County Courthouse, at the Berks County Prison in Bern Township, Berks County, Pennsylvania, or at such other places

in the County of Berks as may from time to time be designated by a Judge of the Court of Common Pleas and may be conducted by means of video conferencing.

Rule 571.6 Change of Address and Telephone Number Noted

At arraignment the Defendant shall be asked on the record if his or her address and telephone number has been changed from the last address and/or telephone number as shown in the record, and if so, shall be asked to give his or her then current address and telephone number, if any. Such information shall be noted in the Defendant's court file.

Rule 571.7 Requirement to Notify of Change in Address and/or Telephone Number

At arraignment the District Attorney shall advise the Defendant in writing that, as a condition of bail, the Defendant is required to notify in writing the Clerk of Courts, the District Attorney and the county bail agency of each change in Defendant's address and/or telephone number within forty-eight (48) hours after the change of address and/or telephone number first occurs.

MOTIONS**Rule 575 Form**

Except for motions made orally during a trial or hearing, all motions, petitions and applications shall be written, shall contain a caption setting forth the name of the court, the number of the action, nature of the proceeding and names of the parties, and the motion, petition or application shall contain the name of counsel presenting the motion, petition or application, and if there is no counsel of record, the name of the party making the pro se motion, petition or application, with the name of such counsel or party without counsel endorsed thereon together with an address within the Commonwealth at which papers may be served. Only the proposed order then being sought shall be presented with the motion. These requirements are in addition to the requirements of Pa. R.Crim.P. 575(A).

Rule 575.1 Presentation of Motions, Petitions and Applications

(A) All motions, petitions and applications, including omnibus pretrial motions for relief, petitions for writ of habeas corpus, motions for change of venue or change in venue motion for new trial, motion in arrest of judgment, and all other motions which can be filed as a matter of right, except emergency motions, petitions and applications and except motions for continuance, shall be filed in the office of the Clerk of Courts for transmission to the assigned Judge of the Court of Common Pleas for disposition.

(B) All emergency motions, petitions and applications and motions for a continuance shall be made in the courtroom of the Common Pleas Judge assigned to the case either at 9:30 A.M. or 1:30 P.M. on a day he is scheduled to sit. If the motion, petition or application is of such nature that the opposing party has a right to be heard, the moving party shall give such opposing party at least forty-eight (48) hours notice of the time when the moving party will appear and present such motion, petition or application, unless the emergency nature of the motion prevents such notice. In the latter situation the moving party shall give as much notice as is reasonably possible.

(C) If a case has not been assigned to a particular Common Pleas Judge, the emergency motion, petition or

application shall be made in the courtroom of the emergency motions judge either at 9:30 A.M. or 1:30 P.M.

(D) No emergency motion, petition or application shall be made or presented to the judge assigned to the case in chambers without pre-arrangement with that judge. No request for appointment in chambers shall be granted except for compelling reasons.

(E) All emergency motions, petitions or applications which require immediate action in cases where the assigned judge is unavailable or in cases where no Common Pleas Judge has been assigned to the case, shall be presented to the emergency motions judge in his courtroom at 9:30 A.M. or 1:30 P.M., or by pre-arrangement with the emergency motions judge in his chambers.

(F) A party filing or presenting a motion, petition or application for an order shall file with the motion, petition or application a proposed form of the order sought, together with one copy of such proposed order for the moving party and one copy for each other party and one copy for the criminal court computer office as well as a certification directed to the Clerk of Courts setting forth the names and addresses of those to be served.

(G) If a party presents a motion, petition or application without the required number of copies, the clerk shall file and docket said motion, petition or application, but the court need not act upon the same until the required number of copies is provided.

Rule 576 Papers Presented by Persons Unauthorized by State Rules

Any papers or documents that are submitted on behalf of a Defendant by someone other than the Defendant's attorney of record as defined by Pa.R.Crim.P. 120 or by the Defendant pro se where the Defendant is represented by counsel, shall be accepted by the Clerk of Courts as a communication only and no further action shall be taken. Such papers will not be forwarded to the assigned Common Pleas Judge for further consideration. A copy of the papers accepted will be sent to the Defendant's attorney of record or the Defendant if no attorney has entered an appearance for the Defendant. The following notice shall be attached to the returned copies:

NOTICE:

The attached papers were accepted on (date). These papers were not forwarded to the assigned judge due to failure to the failure to comply with B.R.J.A. 401.1, Pa. R.Crim.P. 576 and B.C.R.Crim. P. 576.

Comment: This rule serves to clarify B.R.J.A. 401.1 for criminal cases. The rule is written to be consistent with Pa.R.Crim.P. 576(A)(4) and (C), its main purpose is to add the requirement of the written notice to be included on returned documents.

Rule 580 Evidence of Summary Offenses at Omnibus Pretrial Hearings

(A) Unless specifically ordered by a Judge of the Court of Common Pleas after a motion by a Defendant, the Commonwealth shall have no duty to present evidence to establish a prima facie case for summary offenses at a hearing on an Omnibus Pretrial Motion. As long as at least one Felony or Misdemeanor charge remains pending after the hearing, all summary charges shall remain pending and be scheduled for trial or other disposition.

(B) Should all Felony and Misdemeanor charges be dismissed after an Omnibus Pretrial Hearing, the Court shall either schedule a disposition hearing on the sum-

mary charges or remand the summary charges to the appropriate Magisterial District Judge for disposition.

COSTS

Rule 706 Costs to be Paid by Defendant

In all criminal cases where the Defendant shall have been sentenced to pay the costs of the proceeding, or where by order the court has directed the Defendant to pay certain costs, the Clerk of Courts shall deliver a copy of the bill of costs as stated to the adult probation and parole office of the court. The amount of the bill of costs as rendered shall be the amount to be collected from the Defendant, subject, however, to the right by any party to have the costs retaxed in accordance with the rules of court.

Rule 706.1 Taxation of Costs

Exceptions Decision Appeal Collection

(A) A bill of costs drawn, certified and filed in accordance with these rules, shall be taxed in the first instance by the Clerk of Courts.

(B) Exceptions to such bill of costs must be filed with the Clerk of Courts, accompanied by an affidavit of the truth of the allegations made therein within five (5) days after such bill of costs is filed with the Clerk of Courts. Within five (5) days after the exceptions are filed, the Clerk of Courts shall issue a rule for retaxation and shall forthwith notify the parties of the time and date for hearing on such retaxation. The hearing shall be held not less than five (5) days after notice is served on the parties.

(C) The Clerk of Courts shall serve a copy of his decision on the parties within five (5) days of the hearing. Any party may file an appeal to the court from such decision or retaxation within ten (10) days after receipt thereof by filing a specification of items to which objection is taken along with the grounds for such objection in the office of the Clerk of Courts. Upon filing of such appeal, the Clerk of Courts shall file a written report in which he shall set forth the facts upon which he based his decision. Objections not raised before the Clerk of Courts shall be deemed abandoned.

(D) Neither a rule for retaxation nor an appeal therefrom shall prevent the collection of the costs, but upon application, the court may direct that the costs to which objections have been taken are not to be paid without order of court.

(E) At any time prior to payment, either party may file exceptions to any costs taxed by the Clerk of Courts other than those shown on a party's bill of costs. such exceptions shall be accompanied by an affidavit of the truth of the allegations contained therein. Thereafter, the proceedings for retaxation shall be in accordance with the rules pertaining to the retaxation of items listed on a party's bill of costs.

[Pa.B. Doc. No. 05-2194. Filed for public inspection December 2, 2005, 9:00 a.m.]

FAYETTE COUNTY

Local Rule 1301: Compulsory Arbitration: Cases Covered; Civil Division No. 2754 of 2005 GD

Order

And Now, this 8th day of November, 2005, pursuant to Rule 239 of the Pennsylvania Rules of Civil Procedure, it is hereby ordered that the previously stated Local Rule is amended as set forth as follows.

The Prothonotary is directed as follows:

- (1) Seven certified copies of the Local Rule shall be filed with the Administrative Office of Pennsylvania Courts.
(2) Two certified copies and diskette of the Local Rule shall be distributed to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.
(3) One certified copy of the Local Rule shall be sent to the State Civil Procedural Rules Committee.
(4) One certified copy shall be sent to the Fayette County Law Library.
(5) One certified copy shall be sent to the Editor of the Fayette Legal Journal.

This Local Rule shall be continuously available for public inspection and copying in the Office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule.

This Local Rule shall be effective January 1, 2006.

By the Court

CONRAD B. CAPUZZI,
President Judge

Rule 1301. Compulsory Arbitration: Cases Covered

(a) Any civil action where the amount in controversy is Thirty-five Thousand (\$35,000) Dollars or less and title to real estate is not involved, shall be submitted to compulsory arbitration pursuant to Section 7361 of the Judicial Code, 42 Pa.C.S. Section 7361, and Rules 1301 to 1314 of the Pennsylvania Rules of Civil Procedure, as well as these rules.

(b) The amount in controversy in any action shall be deemed to exceed Thirty-five Thousand (\$35,000) Dollars if any count in the complaint or counterclaim demands an amount in excess of Thirty-five Thousand (\$35,000) Dollars.

(c) Notwithstanding the amount demanded, if the Court determines that the amount in controversy does not exceed Thirty-five Thousand (\$35,000) Dollars for the purposes of these rules; the Court shall order the matter to arbitration.

(d) If separate actions are consolidated for trial and the amount in controversy in any of these actions exceeds Thirty-five Thousand (\$35,000) Dollars, arbitration shall not apply.

(e) If the same transaction or occurrence, or series of transactions or occurrences, give rise to more than one cause of action and separate actions have been commenced, all such actions shall be consolidated for arbitration and heard together. Before proceeding with any

hearing, the board of arbitration shall inquire of the parties whether any other action has been commenced.

[Pa.B. Doc. No. 05-2195. Filed for public inspection December 2, 2005, 9:00 a.m.]

WESTMORELAND COUNTY

Rules W1041.1 and W1018; No. 3 of 2005

Order

And Now this 14th day of November, 2005 it is hereby Ordered that new Westmoreland Rule of Civil Procedure W1014.1 is adopted. Current Westmoreland Rule of Civil Procedure W1018 is rescinded and new Rule 1018 is adopted.

By the Court

DANIEL J. ACKERMAN,
President Judge

W1041.1 Asbestos Litigation. Special Provisions.

(1) Assignments. Upon the filing of a case in asbestos, the Prothonotary shall assign the case to one of the civil court judges, who will preside over all proceedings relating to the case, including, but not limited to, discovery motions, argument court and trial.

(2) Captions. All pleadings, motions, briefs, memoranda and proposed orders shall include a caption conforming to Westmoreland County Rule of Civil Procedure W1018(d).

(3) Case Management Orders. In all asbestos cases, the course of the litigation shall be governed by the terms of a case management order (CMO).

(a) Any party may, by motion, present a CMO to the Court for approval within sixty (60) days of the filing of the complaint. The proposed CMO shall set forth the actual dates on which each stage of the litigation must be completed.

(b) If no CMO is approved by the Court and filed of record at the expiration of sixty (60) days from the filing of the complaint, the Court will enter the following CMO:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL DIVISION—ASBESTOS

Plaintiff(s))
vs. No. _____ of 2 _____
Defendants)

CASE MANAGEMENT ORDER NO. _____

AND NOW, this _____ day of _____, 200 _____, it is hereby ORDERED that:

1. This Case Management Order (CMO) is entered and is applicable to the above-captioned case pending in the Court of Common Pleas of Westmoreland County, Pennsylvania.

2. Plaintiff's Answers to Standard Short Form Interrogatories shall be served on all defense counsel within eight (8) months of the date of filing of the above action, specifically on _____, 200 _____.

3. Discovery shall be completed within eighteen (18) months of the date of filing of the above action, i.e., on _____, 200 _____.

4. All Motions for Summary Judgment shall be filed within twenty (20) months of the date of filing of the above action, i.e., on _____, 200____, in accordance with Westmoreland County Rule of Civil Procedure W1035.2(a)(1).

5. Plaintiff's Responses to Motions for Summary Judgment shall be filed within twenty-one (21) months of the date of filing of the above action, i.e., on _____, 200____, in accordance with Rule W1035.2(a)(2).

6. Plaintiff may thereafter file a Certification of Readiness for Trial pursuant to Rule W212.1.

7. Pursuant to Rule W212.1(c), upon the Court's receipt of the Certification of Readiness for Trial, the Court shall issue an Order addressing the deadlines for filing Pre-Trial Statements and Case-Specific Expert Reports, the date of the Pre-Trial Conference, and such other matters as may aid in the disposition of the case.

8. Following entry of such Order, the case shall proceed in accordance with Rule W212.3.

9. This Case Management Order may be modified by agreement of all parties (subject to Court approval) or by Court approval upon motion of any party for good cause shown.

BY THE COURT:

ASSIGNED JUDGE

(4) *Selection of Lead Defense Counsel.*

(a) Within sixty (60) days of the filing of the complaint, defendants shall select one of their number to act as lead counsel for all defendants. Lead defense counsel shall notify the Court in writing of their selection to act as lead defense counsel within sixty (60) days of the filing of the complaint.

(b) In the event lead defense counsel ceases to act in that capacity, for any reason, during the course of litigation, the defendants shall select replacement lead counsel within thirty (30) days. Replacement lead defense counsel shall notify the court in writing of their selection to act as replacement lead defense counsel within thirty (30) days.

(5) *Filing of All Orders of Court.* It is the responsibility of the moving party to file all original Orders in the Office of the Prothonotary unless a moving party receives notice from the Court that the Court has filed an original Order,

(6) *Service of All Orders of Court.* It is the responsibility of the moving party to serve copies of all Orders upon all counsel of record in each case. If the Court serves copies of any Order, such service shall be made to counsel for the moving party, counsel for the plaintiff(s) and lead counsel for the defendants.

Note: Motions procedure is governed by Westmoreland County Rules of Civil Procedure W208.2(e) and W208.3(a).

Note: Argument court matters, such as preliminary objections, judgment on the pleadings, motions for summary judgment and motions for post-trial relief, are governed by Westmoreland County Rules of Civil Procedure W1028(c), W1034(a), W1035.2(a) and W227.1, respectively.

W1018 Caption.

The caption for all matters filed in Divorce, Support, Custody, Partial Custody, Visitation, Asbestos and Medical Professional Liability shall be as follows:

(a) The caption in Divorce matters shall be:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION—DIVORCE

(b) The caption in Support matters shall be:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION—SUPPORT

(c) The caption in Custody, Partial Custody or Visitation matters shall be:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION—CUSTODY

(d) The caption in Asbestos matters shall be:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION—ASBESTOS

(e) The caption in Medical Professional Liability matters shall be:

IN THE COURT OF COMMON PLEAS OF
WESTMORELAND COUNTY, PENNSYLVANIA
CIVIL ACTION—MEDICAL PROFESSIONAL
LIABILITY ACTION

[Pa.B. Doc. No. 05-2196. Filed for public inspection December 2, 2005, 9:00 a.m.]

RULES AND REGULATIONS

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 130b]

Nutrient Management Certification

The Department of Agriculture (Department), under section 7(a) and (b) of the Nutrient Management Act (act) (3 P. S. § 1707(a) and (b)), amends Chapter 130b (relating to nutrient management certification). The Department published a notice of proposed rulemaking at 35 Pa.B. 2101 (April 9, 2005). On July 6, 2005, Governor Rendell signed the act of July 6, 2005 (P. L. 112, No. 38) (Act 38), codified at 3 Pa.C.S. Chapters 3 and 5 (relating to local regulation; and nutrient management and odor management). Among other things, Act 38 consolidates the act (3 P. S. §§ 1701—1718) and adds provisions prohibiting and providing for enforcement of unauthorized local government unit actions, providing for nutrient management and odor management certification and maintaining, but recodifying, many of the provisions of the Nutrient Management Act in 3 Pa.C.S. Chapters 3 and 5. The Department amends Chapter 130b under the specific authority in 3 Pa.C.S. § 508(a) (relating to nutrient management certification program and odor management certification program).

Authority

The Department has the power and authority to promulgate and adopt this final-form rulemaking. This authority is established in 3 Pa.C.S. § 508(a), which charges the Department, in consultation with the State Conservation Commission (Commission), with the duty of establishing “. . . a nutrient management certification program for the purpose of certifying individuals who have demonstrated the competency necessary to develop nutrient management plans. . . .” The Department, or its designees, is charged under 3 Pa.C.S. § 508(a) with the duty of developing “. . . such written testing procedures, educational requirements and examinations as it deems appropriate to carry out its responsibilities under this section. The Department shall by regulation establish fees and terms and conditions of certification as it deems appropriate. The Department shall establish individual, commercial and public certification categories, including a certification category for farmers to develop and certify nutrient management plans. . . on their own operations.” Under the authority originally in section 7 of the act, the Department promulgated nutrient management certification regulations published at 26 Pa.B. 4723 (September 28, 1996). The current regulations in Chapter 130b set forth the criteria for certification and establish criteria for interim certification as required by section 7(b) of the act.

Need for the Final-Form Rulemaking

These amendments to Chapter 130b are required to bring the Nutrient Management Certification Program (NMCP), created by the current regulations, into compliance with changes in the industry and pending changes to 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management). The final-form rulemaking adds definitions to provide clarity, streamline and redefine the certification process and make other changes in response to problems, concerns and input from those administering the NMCP over the past 9 years and from persons currently certified under the regulations. The final-form

rulemaking also deletes the section setting forth interim certification requirements, since interim certification is no longer necessary.

Comments

Notice of proposed rulemaking was published at 35 Pa.B. 2101 and provided for a 30-day public comment period. The Department did not receive any comments from the general public or the Senate or House Agricultural and Rural Affairs Committees regarding the proposed rulemaking. The Department did receive comments from the Independent Regulatory Review Commission (IRRC). The Department acknowledges those comments and thanks IRRC for its review and its insightful comments which should help to clarify and streamline the final-form rulemaking. IRRC's comments and the Department's responses are available upon request.

Fiscal Impact

Commonwealth

The final-form rulemaking will impose no additional fiscal impacts on the Commonwealth. The final-form rulemaking will not require the Department to commit any additional amount of time and manpower to review of applications or the certification process.

Political Subdivisions

The final-form rulemaking will not impose costs or fiscal impact upon political subdivisions. The final-form rulemaking does not impose any additional burden of enforcement or review on political subdivisions.

Private Sector

The final-form rulemaking will not impose significant costs on the private sector. The only additional costs to the regulated community may be in increased fees necessary to administer the NMCP.

General Public

The final-form rulemaking will not impose costs or have fiscal impact on the general public.

Paperwork Requirements

The final-form rulemaking will not result in a substantial increase of paperwork. The Department will not have to develop new application forms or review procedures.

Contact Person

Further information is available by contacting the Department of Agriculture, Nutrient Management Certification Program, Attn: Johan Berger, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 772-4189.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 30, 2005, the Department submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2101, to IRRC and the Chairpersons of the House and the Senate Agriculture and Rural Affairs Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing

the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on November 2, 2005, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 3, 2005, and approved the final-form rulemaking.

Findings

The Department finds that:

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

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

(3) The amendments that were made to the final-form rulemaking in response to comments received do not enlarge the purpose of the proposed rulemaking published at 35 Pa.B. 2101.

(4) The adoption of the amendments in the manner provided in this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The regulations of the Department, 7 Pa. Code Chapter 130b, are amended by deleting § 130b.4; by amending §§ 130b.2, 130b.3, 130b.11, 130b.12, 130b.21, 130b.22, 130b.31 and 130b.41; and by adding § 130b.5 to read as set forth in Annex A.

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

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

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

DENNIS C WOLFF,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 6390 (November 19, 2005).)

Fiscal Note: Fiscal Note 2-147 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 7. AGRICULTURE

PART V. BUREAU OF PLANT INDUSTRY

CHAPTER 130b. NUTRIENT MANAGEMENT CERTIFICATION

Subchapter A. GENERAL PROVISIONS

§ 130b.2. Definitions.

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

Act—3 Pa.C.S. §§ 311—522.

Agricultural operations—The management and use of farming resources for the production of crops, livestock or poultry.

BMP—Best management practice—

(i) A practice or combination of practices determined by the Commission to be effective and practicable (given technological, economic and institutional considerations) to manage nutrients to protect surface and groundwater taking into account applicable nutrient requirements for crop utilization.

(ii) The term includes:

(A) Conservation tillage.

(B) Crop rotation.

(C) Soil testing.

(D) Manure testing.

(E) Diversions.

(F) Manure storage facilities.

(G) Stormwater management practices.

(H) Nutrient application.

(I) Practices set forth in the nutrient management regulations.

Certificate year—The period from January 1 to December 31.

Certification—The completion of all requirements of a nutrient management specialist contained in this chapter.

Commission—The State Conservation Commission established by the Conservation District Law (3 P. S. §§ 849—864).

Competency—Demonstrating a high level of technical or scientific knowledge as evidenced by successfully meeting the requirements of § 130b.11 (relating to determination of competence) for commercial and public nutrient management specialists, or meeting the requirements of § 130b.21 (relating to determination of competence) for individual nutrient management specialists.

Conservation district—A county conservation district established under the Conservation District Law.

Department—The Department of Agriculture of the Commonwealth.

Designee—A person chosen or appointed by the Secretary of the Department to carry out the Secretary's duties under this chapter.

Nutrient—

(i) A substance or recognized plant nutrient, element or compound which is used or sold for its plant nutritive content or its claimed nutritive value.

(ii) The term includes livestock and poultry manures, compost as fertilizer, commercially manufactured chemical fertilizers, sewage sludge or combinations thereof.

Nutrient management plan—A written site-specific plan which incorporates BMPs to manage the use of plant nutrients for crop production and water quality protection consistent with the criteria established in sections 504 and 506 of the act (relating to powers and duties of commission; and nutrient management plans).

Nutrient management regulations—The regulations in 25 Pa. Code Chapter 83, Subchapter D (relating to nutrient management).

Nutrient management specialist—

(i) *Individual*—A person certified to develop nutrient management plans for his agricultural operation.

(ii) *Commercial*—A private sector person certified to develop nutrient management plans for another person's agricultural operation.

(iii) *Public*—A State, Federal or other public employee certified to develop or review, or both, nutrient management plans and make recommendations for approval or denial of nutrient management plans to a conservation district or the State Conservation Commission, or both.

(A) *Review specialist*—A public nutrient management specialist certified to review nutrient management plans and make recommendations for approval or denial of nutrient management plans.

(B) *Dual specialist*—A public nutrient management specialist certified to review and develop nutrient management plans for another person's agricultural operation and make recommendations for approval or denial of nutrient management plans which the specialist has not personally written or developed.

Precertification training—The initial nutrient management training courses which shall be completed by persons seeking to become nutrient management specialists.

Provisional certification—The level of certification obtained by a nutrient management specialist applicant who has successfully completed the precertification training and passed the written examination, but has not yet developed or reviewed, or both, the required number of nutrient management plans.

Recertification training—The completion of continuing education and training requirements in § 130b.31 (relating to recertification).

§ 130b.3. Fees.

(a) *Certification fees*. Certification fees are nonrefundable. The Department establishes the following certification fees for each level of nutrient management specialist:

- (1) Individual nutrient management specialist—\$15.
- (2) Commercial nutrient management specialist—\$200.
- (3) Public nutrient management specialist:
 - (i) Review specialist—\$25.
 - (ii) Dual specialist—\$50.

(b) *Examination fees*. Examination fees are nonrefundable. The Department establishes the following examination fees for each level of nutrient management specialist:

- (1) Individual nutrient management specialist—No charge
- (2) Commercial nutrient management specialist—\$50
- (3) Public nutrient management specialist:
 - (i) Review specialist—\$50
 - (ii) Dual specialist—\$50

§ 130b.4. (Reserved).

§ 130b.5. Certification authority.

(a) *Individual certification authority*. A person certified under this chapter as an individual nutrient management specialist is authorized to develop nutrient management plans for his own agricultural operation. An individual nutrient management specialist has no authority to develop a nutrient management plan for another person or review and recommend action on a nutrient management plan.

(b) *Commercial certification authority*. A person certified under this chapter as a commercial nutrient management specialist is authorized to develop nutrient management plans for another person's agricultural operation. A commercial nutrient management specialist has no authority to review or recommend action on a nutrient management plan.

(c) *Public certification authority*. A public employee certified as a public nutrient management specialist has authority to review and recommend action or develop a nutrient management plan for another person, or both, dependent on the certification requirements he has successfully completed.

(1) *Public nutrient management review specialist*. A person certified under this chapter as a public nutrient management review specialist is authorized to review nutrient management plans and make recommendations for approval or denial of nutrient management plans.

(2) *Public nutrient management dual specialist*. A person certified under this chapter as a public nutrient management dual specialist is authorized to review and develop nutrient management plans for another person's agricultural operation and make recommendations for approval or denial of nutrient management plans which the specialist has not personally developed.

Subchapter B. CERTIFICATION

COMMERCIAL AND PUBLIC NUTRIENT MANAGEMENT SPECIALISTS

§ 130b.11. Determination of competence.

(a) *Commercial nutrient management specialist*. Determination of competence for a commercial nutrient management specialist shall be based on the successful completion of precertification training and examinations as set forth in this section. Precertification requirements for a commercial nutrient management specialist include an orientation training course, a nutrient management plan writing course and a written examination approved by the Department. As advancements in science and technology make new nutrient management techniques and BMPs available and after these techniques and BMPs are approved by the State Conservation Commission, the precertification requirements may include other course work related to those techniques and best management requirements, as well as, any new requirements set forth in the nutrient management regulations, as part of the certification course and training requirements. The new techniques and BMPs will not become part of the final certification requirements until after training manuals and course work have been modified to include the information necessary to impart knowledge of these new techniques and BMPs. Nutrient management plans developed under this subsection shall be determined to be adequate by the Department or its designee.

(b) *Public nutrient management specialist*. Determination of competence for a public nutrient management specialist shall be based on the level of certification sought to be attained.

(1) *Public nutrient management review specialist*. To be certified as a public nutrient management review specialist the applicant shall successfully complete precertification training and examinations as set forth in this section. The precertification requirements for a public nutrient management review specialist include an orientation training course, a nutrient management plan review course, a nutrient management plan writing course and a written examination approved by the Department.

As advancements in science and technology make new nutrient management techniques and BMPs available and after these techniques and BMPs are approved by the State Conservation Commission, the precertification requirements may include other course work related to those techniques and best management requirements, as well as, any new requirements set forth in the nutrient management regulations, as part of the certification course and training requirements. The new techniques and BMPs will not become part of the examination until after training manuals and course work have been modified to include the information necessary to impart knowledge of these new techniques and BMPs. Nutrient management plan reviews completed and nutrient management plans developed under this subsection will be determined to be adequate by the Department or its designee.

(2) *Public nutrient management dual specialist.* To be certified as a public nutrient management dual specialist, the applicant shall successfully complete precertification training and examinations set forth in this section. The precertification requirements for a public nutrient management dual specialist include an orientation training course, a nutrient management plan review course, a nutrient management plan writing course and a written examination approved by the Department. As advancements in science and technology make new nutrient management techniques and BMPs available and after these techniques and BMPs are approved by the State Conservation Commission, the precertification requirements may include other course work related to those techniques and best management requirements, as well as, any new requirements in the nutrient management regulations, as part of the certification course and training requirements. The new techniques and BMPs will not become part of the final certification requirements until after training manuals and course work have been modified to include the information necessary to impart knowledge of these new techniques and BMPs. Nutrient management plan reviews completed and nutrient management plans developed under this subsection will be determined to be adequate by the Department or its designee.

(c) *Precertification.* The precertification training courses must, at a minimum, consist of the following areas of nutrient management planning:

- (1) Nutrient application including:
 - (i) Determination of the cropping system and crop nutrient requirements.
 - (ii) Determination of sources of nutrients available for application on the farm.
 - (iii) Determination of additional nutrients required to obtain realistic expected crop yields.
 - (iv) Application records.
- (2) Manure management.
- (3) Excess manure alternatives.
- (4) Stormwater runoff control.
- (5) Applicable laws and regulations.
- (6) Proper nutrient management plan review procedures (public nutrient management specialists only).
- (7) Proper nutrient management plan writing procedures (commercial, public nutrient management specialists only).

(8) Other areas and course work related to requirements set forth in the nutrient management regulations, as determined appropriate by the Department.

(d) *Examination.* The written examination will be proctored by the Department or its designee. The Department will administer the examination at least twice per year, or more often as deemed necessary by the Department. At a minimum, the successful completion of the examination will demonstrate an examinee's technical knowledge relating to nutrient management planning and nutrient management plan development in the following areas:

- (1) Competency in soil science and soil fertility.
- (2) Competency in nutrient application and management.
- (3) Competency in crop production.
- (4) Competency in soil and manure testing and interpretation.
- (5) Understanding in determining needed BMPs related to proper utilization of nutrients and stormwater management.
- (6) Competency in fertilizer materials and their characteristics.
- (7) Understanding of environmental and economic impacts associated with nutrient management.
- (8) Understanding of the act and other applicable laws and regulations.
- (9) Other areas related to new technology and BMPs that become available and are approved by the State Conservation Commission, as well as, new requirements set forth in the nutrient management regulations. These other areas will not become part of the final certification requirements until training manuals and course work have been modified to include information necessary to impart knowledge of these new techniques and BMPs.

(e) *Other examinations.* The Department may approve the use of written examinations other than the Pennsylvania nutrient management examination, if the written examinations meet the requirements in subsection (d).

(f) *Provisional certification.* Upon the successful completion of the requirements in subsections (c) and (d), the applicant for certification as a commercial or public nutrient management specialist will be issued the appropriate provisional certification. The holder of a provisional certification is qualified, dependant on the type of provisional certification attained, to develop or review, or both, nutrient management plans for the purpose of satisfying the requirements of this section regarding final certification. Provisional certification is valid for 3 years ending on the last day of the month from the date of issuance.

(g) *Final certification requirements.* Once provisional certification has been granted the provisionally certified specialist shall complete one of the following dependant on the type of provisional certification granted and final certification sought.

(1) *Commercial nutrient management specialist.* To attain final certification, a provisionally certified commercial nutrient management specialist shall develop three approved nutrient management plans which meet the requirements of section 6(e) of the act (relating to nutrient management plans). Nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

(2) *Public nutrient management specialist.* To attain final certification, a provisionally certified public nutrient

management specialist shall do one of the following dependant upon the level of provisional certification attained and the level of final certification sought.

(i) *Public nutrient management review specialist.* To attain final certification, a provisionally certified public nutrient management review specialist shall successfully review two nutrient management plans and develop one approved nutrient management plan which meets the requirements of section 6(e) of the act. Nutrient management plan reviews completed and nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

(ii) *Public nutrient management dual specialist.* To attain final certification, a provisionally certified public nutrient management dual specialist shall successfully review two nutrient management plans and develop two approved nutrient management plan in accordance with section 6(e) of the act. Nutrient management plan reviews completed and nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

(h) *Public nutrient management specialist to commercial nutrient management specialist.* A certified public nutrient management specialist may obtain certification as a commercial nutrient management specialist. To attain this certification, a certified public nutrient management review specialist shall develop two approved nutrient management plans or a certified public nutrient management dual specialist shall develop one approved nutrient management plan in accordance with section 6(e) of the act. The certified public nutrient management specialist seeking this certification shall submit the nutrient management plans or plan to the Department or its designee for review and approval.

(i) *Public nutrient management review specialist to public nutrient management dual specialist.* A certified public nutrient management review specialist may obtain certification as a public nutrient management dual specialist. To attain this certification, the certified public nutrient management review specialist shall develop one approved nutrient management plan in accordance with section 6(e) of the act. The applicant seeking to attain this certification shall submit the nutrient management plan to the Department or its designee for review and approval.

(j) *Commercial nutrient management specialist to public nutrient management specialist.* A certified commercial nutrient management specialist who wishes to obtain certification as a public nutrient management specialist shall complete a nutrient management plan review course covering proper nutrient management plan review procedures and shall successfully review two nutrient management plans in accordance with section 6(e) of the act. The applicant seeking to attain this certification shall submit the nutrient management plan reviews to the Department or its designee for review and approval.

§ 130b.12. Final certification.

(a) *Application for final certification.* Upon completion of all the requirements of this chapter, a commercial nutrient management specialist or a public nutrient management specialist may submit an application to the Department for final certification. The appropriate certification fee, as set forth in § 130b.3(a) (relating to fees) shall accompany the application for final certification.

(b) *Eligibility for final certification.* A person is eligible to apply for final certification as a commercial or public nutrient management specialist upon fulfilling the appli-

cable requirements established under § 130b.11 (relating to determination of competence). An application for final certification may be obtained from the Department.

(c) *Time period for filing application.* An application for final certification shall be filed with the Department within 120-calendar days of notification by the Department of meeting the appropriate requirements in § 130b.11. If the applicant fails to file an application with the Department within the prescribed 120-calendar days, that person shall again satisfy the appropriate competency requirements as provided in § 130b.11.

(d) *Time period final certification is valid.* A final certification is valid for 3 years ending on December 31 of the third year following the date of final certification. However, the Department will authorize an additional year when the certification is issued during the last 2 months of the initial certificate year.

INDIVIDUAL NUTRIENT MANAGEMENT SPECIALISTS

§ 130b.21. Determination of competence.

(a) Determination of competence for an individual nutrient management specialist shall be based on the completion of precertification training which includes an orientation training course and a written examination approved by the Department.

(b) The orientation training course shall at a minimum consist of the same requirements as in § 130b.11(c) (relating to determination of competence).

(c) The written examination will be proctored by the Department or its designee. The Department will administer the examination on an as needed basis, which will be determined by the number of requests for the testing. At a minimum, the successful completion of the examination will demonstrate an examinee's technical knowledge relating to nutrient management planning and nutrient management plan development in the following areas:

- (1) Competency in nutrient application and management.
- (2) Competency in crop production.
- (3) Competency in soil and manure testing and interpretation.
- (4) Understanding in determining needed BMPs related to proper utilization of nutrients and stormwater management.
- (5) Understanding of soil science and soil fertility.
- (6) Understanding of fertilizer materials and their characteristics.
- (7) Understanding of environmental and economic impacts associated with nutrient management.
- (8) Understanding of the act and other applicable laws and regulations.
- (9) Other areas and coursework related to the requirements in the nutrient management regulations as determined appropriate by the Department.

(d) The Department may approve the use of written examinations other than the Pennsylvania nutrient management examination, if the written examinations meet the requirements in subsection (c).

(e) Individual nutrient management specialists are exempt from the nutrient management plan preparation requirement.

§ 130b.22. Final certification.

(a) A person is eligible to apply for final certification as an individual nutrient management specialist upon fulfilling the requirements under § 130b.21 (relating to determination of competence). An application for certification may be obtained from the Department. The appropriate fee shall accompany the specialist's application for certification.

(b) An application for certification shall be filed with the Department no later than 120-calendar days after the applicant's completion of the competency requirements. If the applicant fails to file an application with the Department within the prescribed 120-calendar days, that person shall again satisfy the competency requirements as provided in § 130b.21(a)—(d).

(c) A certificate is valid for 3 years ending on December 31 of the third year following the date of certification. However, the Department will authorize an additional year when the certification is issued during the last 2 months of the initial certificate year.

RECERTIFICATION

§ 130b.31. Recertification.

(a) At intervals of 3 years, final certified commercial, public or individual nutrient management specialists shall provide written documentation of having received continuing education and training in Department-approved training courses in nutrient management planning and nutrient management plan development. Training must address the specific areas in § 130b.11(c) and (d) (relating to determination of competence) for commercial and public specialists and § 130b.21(b) and (c) (relating to determination of competence) for individual specialists.

(b) Recertification credits approved by the Department will be given on the basis of attendance at approved training sessions, as provided in subsection (a). The Department will evaluate the training and assign the appropriate credits. Commercial and public specialists are required to obtain 20 credits with one quarter or 5 of those credits being obtained through Department or Commission conducted courses. Individual specialists are required to obtain 6 credits during the recertification interval. The Department may, if deemed necessary, require specific training for certified nutrient management specialists, in addition to the required training in §§ 130b.11 and 130b.21. The Department will provide written notification to the certified nutrient management specialists of required specific training.

(c) Training will be approved for recertification credits at the rate of 1 credit per hour of applicable instruction, exclusive of coffee breaks, lunches, visits to exhibits, and the like. Credits will be assigned to each training session based upon the subjects covered and the amount of time expended on each subject. Credits assigned may be modified if either the content or length of the training substantially differs from the originally approved course.

(d) Sponsors of recertification training shall first submit a written request for course approval to the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408. A request shall be submitted to the Department at least 15 working days prior to the training date and include the following information:

(1) The name and phone number of the contact person who is coordinating the training.

(2) The specific location of the training.

(3) The date of the training.

(4) A listing of the speakers, subject matter and time allotted to each subject.

(5) A statement whether the training is open to the public and if there is a charge to attend.

(e) A recertification training course will be approved if at a minimum it consists of the same requirements as set forth in § 130b.11(c) and (d) and is conducted or sponsored by an educational institution, an association, a business, a governmental agency or other qualified source. Preapproval of recertification courses is vested solely with the Department.

(f) Falsification by a course sponsor of information required under this section may result in the withdrawal of credits or course approval, or both.

(g) If the Department or its designee is unable to monitor the training, the sponsor shall be responsible for verifying attendance and shall compile a list of Pennsylvania certified specialists in attendance. The list shall be returned to the Department within 10 working days following the training date and include the name of each person attending and their certification number.

(h) If a nutrient management specialist allows his final certification to expire and does not obtain recertification in accordance with this chapter, his final certification shall be suspended and the specialist must refrain from all duties relating to his certification until all delinquent recertification credits are acquired as described in subsection (b).

(i) If a nutrient management specialist whose final certification has been suspended as set forth in subsection (h) fails to complete delinquent recertification credits within 1 year from the expiration date of his final certification, then his final certification shall be revoked and that person shall again satisfy the requirements of § 130b.11 and § 130b.12 (relating to eligibility) for commercial and public specialists, and § 130b.21 and § 130b.22 (relating to final certification) for individual specialists.

RECIPROCITY

§ 130b.41. General.

(a) A person who has a valid certificate or license from another state may obtain certification in this Commonwealth if:

(1) The state in which that person is certified has a reciprocal agreement with the Department.

(2) The applicant satisfies the required precertification training as set forth in § 130b.11(c) (relating to determination of competence). The applicant will not be required to take a written examination to determine competence if the applicant satisfies the requirements of this subsection.

(b) Upon the successful completion of the requirements in subsection (a), the applicant for certification as a commercial or public nutrient management specialist will be issued provisional certification and shall complete the requirements in § 130b.11(g). Provisional certification is valid for 3 years ending on the last day of the month from the date of issuance.

(c) In addition to the requirements in subsection (a), if the applicant is a commercial nutrient management specialist, that person shall develop three approved nutrient management plans which meet the requirements of

section 6(e) of the act (relating to nutrient management plans). If the applicant is a public nutrient management review specialist, that person shall successfully review two nutrient management plans and develop one approved nutrient management plan which meets the requirements of section 6(e) of the act. If the applicant is a public nutrient management dual specialist, that person shall successfully review two nutrient management plans and develop two approved nutrient management plans which meet the requirements of section 6(e) of the act. Nutrient management plan reviews completed and nutrient management plans developed by the applicant shall be submitted to the Department or its designee for approval.

(d) The applicant shall complete all requirements for reciprocity in the manner and within the time frames established in § 130b.11 and § 130b.12 (relating to final certification).

DENIAL, SUSPENSION AND REVOCATION OF CERTIFICATES

§ 130b.51. Denial, suspension and revocation of certificates.

(a) The Department may, after notice, including a statement of the reasons therefore, deny, suspend or revoke a commercial, public or individual nutrient management specialists certification for any of the following:

- (1) A violation of the act or this chapter.
- (2) Failure to obtain the required recertification credits.
- (3) Inconsistency and demonstration of a lack of knowledge of nutrient management plan writing and review skills.
- (4) Three or more occurrences within a 3-year period of delay or noncommunication with landowner or review agency during plan development or review.
- (5) Falsifying information.
- (6) Misrepresentation of the Nutrient Management Act Program.
- (7) A violation of program policy established by the Department, its designee or the State Conservation Commission.

(b) An applicant or nutrient management specialist may request a hearing, in writing, within 15 days of receipt of notice of the denial, suspension or revocation from the Department. The request shall be sent to the Bureau of Plant Industry, Agriculture Building, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110.

[Pa.B. Doc. No. 05-2197. Filed for public inspection December 2, 2005, 9:00 a.m.]

Title 22—EDUCATION

STATE BOARD OF EDUCATION [22 PA. CODE CHS. 7 AND 12] Students and Student Services

The State Board of Education (Board) deletes Chapter 7 and amends Chapter 12 (relating to students and student services) to read as set forth in Annex A. Notice of

proposed rulemaking was published at 33 Pa.B. 5735 (November 22, 2003) with an invitation to submit written comments.

Chapter 12 addresses student rights and responsibilities and student services. The final-form rulemaking amends Chapter 12 and replaces Chapter 7 by adding new sections to Chapter 12. The overarching purpose of the final-form rulemaking is to update and align the regulations with current statutory provisions and relevant case law. In addition, the final-form rulemaking adds a subchapter regarding student services and updates the same subject matter now included in Chapter 7.

Statutory Authority

The Board takes this action under the authority granted to it by section 2603-B of the Public School Code of 1949 (code) (24 P. S. § 26-2603-B) and other sections of the code.

Background

Chapter 7 sets forth the requirements for pupil services in public schools. Chapter 12 sets forth the requirements for students' rights and responsibilities. The final-form rulemaking consolidates the two chapters and generally reflects statutory changes that have been made, Department of Education policies and practices and court decisions that have been rendered since Chapter 12 was last amended in 1984. In addition, the Board is amending some provisions to afford public schools additional flexibility. The amendment to § 12.5 (relating to corporal punishment) reflects a change in Board policy, which the Board is authorized to make under the regulatory authority delegated to it in the code.

Summary of Amendments

Title. The title of Chapter 12 has been changed from "Students" to "Students and Student Services." In all of its regulations, the Board is using the term "students," rather than "pupils," to conform to common usage. The addition of "student services" to the title reflects the consolidation of Chapter 7 into Chapter 12.

Chapter 7. The Board believes the Chapter 7 regulations are too prescriptive in today's educational environment. The regulations are inconsistent with other Board regulations in that they limit flexibility provided to school entities in the planning, implementation and administration of cost effective, comprehensive student services programs.

The Board has reinserted the term "full" into § 12.1(a) (relating to free education and attendance). In addition, in subsection (b)(3), the term "handicapping condition" has been replaced with the term "disability" to reflect current usage.

The Board has added homework to the student responsibilities listed in § 12.2 (relating to student responsibilities).

The Board has amended § 12.3 (relating to school rules) to provide that school policies may not be discriminatory.

In § 12.4 (relating to discrimination), the Board has reinserted the term "full" to state that students may not be denied access to a "free and full public education." The Board also has added language to provide that students may not be subject to disciplinary action because of race, sex, color, religion, sexual orientation, national origin or disability.

The Board has amended § 12.5 (relating to corporal punishment) to prohibit use of corporal punishment as a

form of student discipline. The section permits use of reasonable force to quell a disturbance, take possession of weapons or dangerous objects and to protect persons or property.

Section 12.6(a) (relating to exclusions from school) has been amended to update cross-references to Chapter 14 (relating to special education services and programs) and Federal regulations under the Individuals With Disabilities Education Act (IDEA) (20 U.S.C.A. §§ 1400—1482).

Section 12.6(d) replaces current language that permits time extensions for conducting a formal disciplinary hearing if the hearing would not be unreasonably delayed. New language limits the extension to 15 days unless mutually agreed upon by both parties.

Section 12.6(e)(2) has been amended to clarify the obligation of parents of expelled students to notify their board of school directors within 30 days if they are unable to provide for the education of their children. The school entity is then obligated to provide for the student's education. New language has also been added to clarify that a student with a disability must be provided educational services as required by IDEA.

Section 12.8(b)(1)(ii) (relating to hearings) provides that students be given at least 3 days' notice of the time and place of a formal disciplinary hearing. This section also provides that students may be represented by counsel at their parents' expense and that parents or guardians may attend the hearing.

Section 12.8(b)(1)(viii) has been updated to reflect current technology used to record and maintain a record of the formal hearing. The Board also has added a requirement that a copy of the hearing record be provided at no cost to a student who is indigent.

Section 12.8(b)(1)(ix) requires a formal hearing to be held within 15 school days of notification of the charges except when one of the following is needed: laboratory reports from law enforcement; evaluations, court or administrative proceedings regarding rights under IDEA are pending; or it is in the best interests of the victim of a sexual assault or victim of serious bodily injury. The section also provides that notice of appeal rights must be provided with the expulsion decision.

Section 12.8(c) has been amended to add the subsection heading "informal hearings" to clarify the meaning and application of the subsection.

Section 12.9(a) (relating to freedom of expression) has been amended to remove the legal reference to the *Tinker v. Des Moines Community School District*, 393 U. S. 503 (1969), decision of the United States Supreme Court and to replace it with a general statement that student rights to freedom of expression are guaranteed by the Constitution of the United States and the Constitution of the Commonwealth. The United States Supreme Court has issued additional decisions that further clarify and define student rights to free expression since the *Tinker v. Des Moines Community School District* decision was issued in 1969. Rather than list each of these cases, the Board has rewritten the subsection to refer to the basic source of student free speech rights, the Federal and State constitutions.

In amending § 12.9, the Board does not intend to restrict or limit the long-held tradition of the Commonwealth to provide to students free speech rights that might be somewhat broader than those that are guaranteed by the United States Constitution. The Board intends to maintain this tradition as a matter of policy. In

fact, to better reflect the Board's intent, the Office of General Counsel, in reviewing the amendments to § 12.9 for form and legality after the Board approved the final-form rulemaking, directed the Board to use the word "guarantee" in subsection (a) in place of the word "established" and to add "shall" to subsection (b). These two amendments make clear that § 12.9 establishes students rights to freedom of expression, with the Constitution of the United States and the Constitution of the Commonwealth guaranteeing rights cannot be denied to students by any public school entity, official or employee.

Section 12.9(b) has been amended in response to comments received by the Board during the official public comment period and during a hearing of the House Education Committee. The amended language provides that students may express themselves unless the expression materially and substantially interferes with the educational process, threatens serious harm to the school or community, encourages unlawful activity or interferes with another individual's rights. The term "serious" has been inserted to assure that student speech that presents a serious threat, regardless of whether the threat is "immediate," a term that the Board deleted from § 12.9(b), is not speech protected by the regulation. The term "serious" is to be interpreted as used in the opinion of the Supreme Court of Pennsylvania in its ruling in *J.S. v. Bethlehem School District*, 569 Pa. 638, 807 A.2d 847 (2002). The Court in that case held that if the communication were a serious expression of intent to inflict harm, a court would consider the statements, the context in which they were made, the reaction of listeners and others, as well as the nature of the comments in determining whether the communications constitute a true threat.

Section 12.11 (relating to hair and dress) has been amended to reflect recent statutory authority that provides school boards authority to adopt dress codes or to require that students wear school uniforms. The section also has been amended to indicate when the length or style of hair presents a health or safety hazard, the hair shall be covered.

Section 12.14 (relating to searches) has been amended to update language regarding searches of student lockers to make it consistent with current case law.

Section 12.16 (relating to definitions) has been added to include definitions of "corporal punishment," "governing board," "school entity," "student assistance program" and "student services."

Section 12.31 (relating to general requirements) has been amended to provide that copies of the student record plan be submitted to the Department only upon request of the Secretary of Education (Secretary).

Section 12.32 (relating to elements of the plan) has been amended to require that student records plans conform to applicable State and Federal laws, regulations and directives.

Section 12.41(a) (relating to student services) requires that school entities prepare a written plan for the implementation of a comprehensive and integrated K-12 program of student services. The plan must be prepared and revised consistent with strategic planning requirements outlined in Chapter 4 (relating to academic standards and assessment).

Section 12.41(b) describes the developmental services; diagnostic, intervention and referral services; and consultation and coordination services that must be provided by each school entity.

Section 12.41(c) describes additional requirements for student services programs.

Section 12.41(d) addresses the rights of students and parents to refuse to participate in surveys covered under section 445 of the General Education Provisions Act (20 U.S.C.A. § 1232h), regarding the Protection of Pupil Rights amendment.

Section 12.42 (relating to student assistance program) has been added to require school entities to plan and provide for a student assistance program.

Summary of Public Comments and Changes

The proposed amendments were published at 33 Pa.B. 5735. The proposed rulemaking was also published on the Department's website at www.pde.state.pa.us. The Board accepted formal written comments within a 30-day public comment period after publication of the proposed rulemaking.

The Board received comments from members and staff of the House Education Committee and the Independent Regulatory Review Commission (IRRC). In addition, comments were received from 14 commentators during the 30-day public comment period. These included comments submitted by: the Education Law Center; the Pennsylvania School Boards Association (PSBA); the Pennsylvania Parent Teacher Association (PTA); the Pennsylvania Psychological Association; the Colonial School District; Goehring Rutter & Boehm—Attorneys at Law; the Behavioral Health Training and Education Network; the National Coalition to Abolish Corporal Punishment in Schools; the National Center for the Study of Corporal Punishment and Alternatives at Temple University; the Center for Safe Schools; and four private citizens—Terry Hasenauer, Harold Smith, Hosla Carter and Eloise C. Stoehr. Comments were also received after the official comment period but before the Board adopted the final-form rulemaking from the School District of Philadelphia, the Pennsylvania State Education Association (PSEA) and scores of private citizens.

Following is a summary of the comments and the Board's response to those comments:

§ 12.1. Free education and attendance.

Comment: The Education Law Center supports the amendment.

§ 12.4. Discrimination.

Comment: The Education Law Center and IRRC suggested replacing the term "handicaps" with "disabilities."

Response: The Board amended the term as suggested.

§ 12.5. Corporal punishment.

Comment: Letters in support of the Board's action to ban corporal punishment were received from: the Democratic Chairperson of the House Education Committee; the Education Law Center; the PTA; the Pennsylvania Psychological Association; the National Coalition to Abolish Corporal Punishment in Schools; the National Center for the Study of Corporal Punishment and Alternatives at Temple University, Center for Safe Schools; the Colonial School District; and two private citizens.

A letter opposing the ban and recommending that use of corporal punishment be permitted was received from a private citizen. The PSBA suggested the issue was one that should be addressed by the General Assembly, not the Board. The House Education Committee also provided comments from several of its members who expressed concern that corporal punishment can be an effective

method of improving student behavior and should not be eliminated. The letter suggested language that would permit continued use of corporal punishment under carefully defined circumstances. In addition, at a hearing held on February 23, 2005, members of the House Education Committee, supported by a memorandum of the House Education Committee's staff, suggested that the ban on corporal punishment contradicts statutory provisions in the code.

Response: The Board believes the use of corporal punishment, as a method of student discipline in public schools, is ineffective and unsupported by research. Research shows that corporal punishment is used more often on poor children and minorities. Schools where corporal punishment is used generally have poorer academic achievement, higher truancy, greater school violence and higher dropout rates. Research also shows that corporal punishment is frequently used as the first method of discipline for minor misbehaviors rather than a form of discipline of the last resort. Corporal punishment is a risk factor for a number of negative outcomes. It also does not model good adult behavior as it teaches children that it is permissible to hit someone smaller and weaker when they are not compliant.

The Board also believes that it has the statutory authority under Article XXVI-B of the code (24 P.S. §§ 26-2601-B—26-2606-B) to define and prohibit corporal punishment in the public schools. In *Girard School District v. Pittenger*, 481 Pa. 91, 99-100, 392 A.2d 261, 265 (1978), the Supreme Court of Pennsylvania held that "in issuing the regulations on 'Student Rights and Responsibilities[.]' the State Board [of Education] was acting within the field of education and, as such, was not exceeding the authority of the General Assembly's grant of legislative rule-making power . . ." Inasmuch as there is no provision of the code expressly empowering school districts or school personnel to inflict corporal punishment as part of its policy of disciplining students, the Board believes that it has the statutory authority to ban the practice of corporal punishment, as that term is defined in new § 12.16.

Comment: During a hearing held on February 23, 2005, members of the House Education Committee shared concerns that without a definition of "corporal punishment," any type of physical activity could be construed to be corporal punishment.

Response: The Board agrees and has included a definition of "corporal punishment" in § 12.16.

§ 12.6. Exclusions from school.

Comment: In subsection (a), IRRC suggested changing the term "exceptional students" to "students with disabilities."

Response: The Board amended the regulation as suggested.

Comment: The Education Law Center supports the amendment to subsection (d).

Comment: The PSBA suggested retaining the current language in subsection (d) and suggested that there are situations when the 15-day time frame to hold a hearing is problematic.

Response: The Board believes a 15-day time frame is reasonable and appropriate. Sufficient flexibility is provided to school entities while also ensuring that students are not excluded from school for long periods without appropriate due process.

Comment: The Education Law Center commented that it believes the language in subsection (e), though an improvement over current regulation, is too weak to ensure that an expelled child receives a sufficient educational program. It also suggested including a statement that students with a disability are entitled to a Free Appropriate Public Education (FAPE) as provided by IDEA.

Response: The Board believes standards established by court rulings have addressed this matter and does not believe it should prescribe additional requirements beyond those established by the courts. The Board has added language stating that students with a disability are entitled to FAPE.

Comment: IRRC recommended the Board clarify when a school district is required to begin providing educational services after being notified by the parent that they are unable to provide their child with an education.

Response: The Board added language that requires school districts to provide educational services within 10 days of notification.

§ 12.8. Hearings.

Comment: IRRC suggested identifying the minimum time period that qualifies as sufficient notice.

Response: The Board established 3 days as sufficient notice.

Comment: The Education Law Center suggested the notice of a right to appeal the expulsion decision should be provided with notification of expulsion decision, not with the notification of charges as proposed. It also suggested that a copy of the hearing transcript be provided at no cost to a student who cannot afford it.

Response: The Board agrees and made both changes.

Comment: The School District of Philadelphia expressed concerns about the 15-day time frame and noted situations where the time frame is not practical. It suggested exceptions to the time frame, such as when laboratory tests are needed from law enforcement, an administrative hearing or judicial proceeding is pending resulting from the student invoking their rights under IDEA or a victim of a sexual assault or serious bodily injury is not available due to their physical or emotional condition.

Response: The Board agrees and incorporated the exceptions to the regulation.

Comment: The PSBA expressed a number of concerns and raised questions about the regulation. It recommended that the Board maintain the existing language. Goehring, Rutter and Boehm also expressed concerns that providing a copy of the expulsion policy to students together with notification of charges would provide a small but additional paperwork burden on schools.

Response: The Board believes expulsion hearings are serious matters in which students should be entitled to information relevant to the rules and procedures followed by the school entity. The Board believes the additional paperwork requirement is minimal and justified given the serious action contemplated by the governing board. Except for the changes to this section previously noted, the Board has retained the regulation as proposed.

§ 12.9. Freedom of expression.

Comment: IRRC recommended that in subsection (a), the citation to Supreme Court's *Tinker* decision issued in 1969 be replaced with a citation to the Supreme Court's 1986 opinion in *Bethel School District v. Fraser*; 478 U. S.

675. The PSBA also expressed its concerns that *Bethel School District and Hazelwood School District v. Kulmeier*; 484 U. S. 260, from 1988 are relevant to this section and are needed to reflect accurately the rulings of the United States Supreme Court on the subject.

Response: The Board amended the regulation to reflect that the Constitution of the United States and the Constitution of the Commonwealth guarantee students a right to freely express themselves in school. This language will ensure that its meaning and intent is preserved when additional court rulings are issued regarding student freedom of expression in the future.

Comment: The PSBA expressed a concern that, in subsection (b), the term "immediate harm" might suggest that there must be an immediacy of harm before a threat falls outside the protection of the First Amendment. It suggested deletion of the word "immediate." In addition, at a hearing held by the House Education Committee on February 23, 2005, a number of its members expressed concern about this subsection, particularly about the term "immediate and serious harm to the welfare of the school or community."

Response: The Board agrees with comments submitted by the PSBA and by members of the House Education Committee. The Board amended the clause to read "serious harm to the school or community." The Board believes this new language appropriately balances the rights of students with the need of school officials to maintain a well-ordered educational environment.

Comment: The PSBA expressed concern that the regulation is contrary to a 1989 court decision that ruled the hallways of a public school during the school day are not considered public forums. In addition, the PSBA stated the regulations encroach upon authority declared by the United States Supreme Court in its *Hazelwood* decision.

Response: The Board believes that the regulation provides sufficient authority to school officials to regulate student conduct and the distribution of materials in public schools buildings.

§ 12.14. Searches.

Comment: The PSBA expressed concern that the regulation provides a more stringent standard for locker searches than is constitutionally required.

Response: The Board chose to maintain the long-standing standard as outlined in the regulation.

§ 12.16. Definitions.

Comment: At a hearing of the House Education Committee, some members expressed concern that "corporal punishment" was not defined in the regulation.

Response: The Board agrees and has added a definition of "corporal punishment."

Comment: A private citizen commented that the definition for "student assistance program" should be amended to state that the program is designed to assist students who are experiencing a barrier to learning consistent with language contained in a Department Basic Education Circular.

Response: The Board believes that it is the purpose and function of all student services to address barriers to learning. It is not solely the purview of the student assistance program, which was first established to address substance abuse issues in schools.

§ 12.32. Elements of the plan.

Comment: IRRC expressed concerns to the Board about the requirement for the Department to issue guidelines

on student services because guidelines are not binding. The PSBA recommended that the Board create regulations since delegating issuance of guidelines to the Department would not allow for public input.

Response: The Board amended this section using language suggested by IRRC.

§ 12.41. Student services.

Comment: Several members of the House Education Committee, the Pennsylvania Psychological Association and a private citizen recommended that the descriptors for educational specialists outlined in Chapter 7 be retained, or that Chapter 7 itself be retained. These commentators share a concern that the quality and effectiveness of student services would be reduced as a consequence of the proposed rulemaking.

Response: The Board believes that Chapter 7 is too prescriptive in today's educational environment. The regulations are inconsistent with other Board regulations in that they limit flexibility provided to school entities in the planning, implementation and administration of cost effective, comprehensive student services programs. The Board believes that the final-form rulemaking provides an appropriate balance between defining what services school entities must provide while providing them flexibility in delivery of the services.

Comment: The PSBA, the Education Law Center, the Pennsylvania Psychological Association, a private citizen and IRRC commented that subsection (d) was unclear and needed additional work, or may even be unnecessary.

Response: The Board agrees and has rewritten subsection (d) to address parental and student rights under the Federal Protection of Pupil Rights amendment.

Comment: IRRC suggested clarity would be improved in subsection (a) by defining developmental, diagnostic, intervention, referral, consultation and coordination services. The PSEA and a private citizen also commented that the proposed language suffers from a lack of specificity and suggested that the Board restore the descriptors in Chapter 7.

Response: The Board concurs that the regulation required additional clarity and has described the activities more fully in the final-form rulemaking. However, the Board believes that the descriptors in Chapter 7 are too detailed and limit the flexibility of school entities in the design of a comprehensive system of student support services.

Comment: A private citizen commented that the Board should clarify who may administer medications in schools.

Response: School health regulations and guidance generally fall under the authority of the Department of Health. Therefore, it would not be appropriate for the Board to issue regulations on this issue.

Comment: The PSBA commented that subsection (e), which states that student services staff must be specifically licensed or certified, is unnecessary since Chapter 49 (relating to certification of professional personnel) provides for certification and that the proposed language can only restrict staffing decisions by school officials.

Response: The Board believes that it is important that personnel, both those employed by the school entity and those employed by community agencies, be properly licensed or certified. Chapter 49 and Department policies describe the qualifications and scope of responsibilities for professional school employees. With staff from community agencies now providing services to students in schools on

a routine basis, the Board believes that all individuals providing services to students should be properly credentialed.

Comment: The Pennsylvania Psychological Association and the Colonial School District support the addition of language to clarify that outside agencies providing services in schools are to be coordinated by and under the general direction of the school entity.

Additional Comments.

Comment: IRRC suggested clarity would be improved through consistent use of a single term when referring to a school board, board of school directors, governing board, and the like. The Education Law Center also suggested that it be made clear that charter schools must follow Chapter 12 regulations.

Response: The Board concurs and is using the term "governing board" throughout the regulations and has included it in the definitions in § 12.16. The definition includes charter schools to clearly indicate these regulations apply to charter schools.

Comment: IRRC suggested using the term "parents" or "guardians" consistently throughout the regulations.

Response: The Board has amended the regulations to reflect this suggestion.

Comment: A private citizen suggested that the Board address school policies regarding off-campus student conduct, as many school entities now have these policies. These policies principally address acceptable off-campus student conduct as a condition of student participation in extracurricular activities, such as intramural and inter-scholastic sports, clubs and related activities that are considered privileges, not entitlements.

Response: The General Assembly has delegated broad authority to school boards to "prescribe, adopt, and enforce such reasonable rules and regulations as it may deem proper regarding [extracurricular activities]." See section 510(a) of the code (24 P. S. § 5-510(a)). Therefore, the Board has chosen not to regulate on this issue.

Application of Education Empowerment Act

In consolidating the regulations in Chapter 7 into Chapter 12, the question arose: How does the Board's reorganization affect those chapters under the Mandate Waiver Program established by section 1714-B of the Education Empowerment Act (EEA) (24 P. S. § 17-1714-B)?

Under the Mandate Waiver Program, the Department is empowered to waive certain statutory and regulatory mandates in response to applications of a school district, intermediate unit or area vocational-technical school. The EEA expressly exempts from the Department's waiver authority certain specified statutes and regulations. Among the regulations exempted from the waiver program is Chapter 12. See section 17-1714-B(h) of the EEA.

The Board previously considered the effect of moving regulatory language from one chapter to another and its effect on the Mandate Waiver Program. The Board established Chapter 16 (relating to special education for gifted students) after having previously addressed gifted education as part of Chapter 14. In that case, the Secretary asked the Department's Office of Chief Counsel to render an opinion on the issue. The Office of Chief Counsel advised the Secretary that because the General Assembly clearly intended to exempt from the Mandate Waiver Program all of Chapter 14, including the provisions governing gifted education, new Chapter 16 governing

gifted education would also be exempt from the Mandate Waiver Program under section 1714-B(h) of the EEA. The change in numbering of the regulations by the Board would not alter the clear legislative intent to exempt from the program all Board regulations contained in Chapter 14 at the time the EEA went into effect.

The Board believes this principle also applies to the consolidation of Chapters 7 and 12. The General Assembly clearly intended to include Chapter 7 in the Mandate Waiver Program, including all of the provisions governing pupil personnel services. The change in numbering or title of the regulations by the Board would not alter the clear legislative intent to permit inclusion in the program all Board regulations in Chapter 7 at the time the EEA went into effect. Therefore, the Board submits its final-form rulemaking with a statement of its understanding that § 12.41 would be eligible for waiver under the Mandate Waiver Program established by the EEA, on application of a school district, intermediate unit or area vocational-technical school to the Department.

Fiscal Impact and Paperwork Requirements

Because the final-form rulemaking largely reflects changes in Federal and State statutes, Federal regulations and court decisions, costs associated with compliance with the final-form rulemaking should be negligible. The final-form rulemaking is aligned with current statutory provisions and relevant case law. To comport with the new provisions of the final-form rulemaking, school districts might have to change their disciplinary policies and procedures, as well as their expulsion hearing policies. School districts also might have to revise their student records policies to comply with the guidance provided by the Department. There may be limited costs associated with each of these changes.

The student assistance program, which is currently operated under Department guidelines, is mandated by the regulations. This change should not result in additional costs. The regulations require the Department to issue program guidelines for student services programs. This includes the development of a comprehensive written plan for student services. Since school entity strategic planning requirements in Chapter 4 already require school entities to address student support services as part of the overall strategic plan, costs associated with this final-form rulemaking should be minimal.

School entities may need to revise and update school district policies regarding student discipline and the maintenance of student records due to these regulations. Based on guidance to be provided by the Department, each school entity would need to update its student records policy. Compliance with these requirements is estimated to be less than \$20,000. Actual costs incurred by each school entity for compliance with these requirements will vary from school entity to school entity. However, school entities that have updated student records policies based on Federal laws and court decisions already meet these new requirements. Schools that currently describe student services in their strategic plans, as required by § 4.13 (relating to strategic plans), or in other documents, may currently meet this requirement as well.

By consolidating the regulations into the new student services section of Chapter 12, previously addressed in Chapter 7, schools will be provided additional flexibility to deliver a comprehensive program of student services to their students. Depending upon implementation on the

local level, this might lead to improving the scope and quality of services provided to students while also providing cost savings.

Effective Date

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

Sunset Date

In accordance with its policy and practice respecting all regulations promulgated by it, the Board will review the effectiveness of Chapter 12 after 4 years. Therefore, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 30, 2003, the Board submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 5735, to IRRC and the Chairpersons of the House and Senate Committees on Education for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 5, 2005, the final-form rulemaking was approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 6, 2005, and approved the final-form rulemaking.

Contact Person

The official responsible for information on the final-form rulemaking is Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787, TDD (717) 787-7367.

Findings

The Board finds that:

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

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

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

Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 22 Pa. Code Chapters 7 and 12, are amended by deleting §§ 7.1, 7.2, and 7.11—7.14 and 12.33 and Exhibit A and Sample Forms A—D of Chapter 12; and by amending §§ 12.1—12.9, 12.11, 12.12, 12.14, 12.31 and 12.32; and by adding §§ 12.16, 12.41 and 12.42 to read as set forth in Annex A.

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

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

(d) This order is effective upon final publication in the *Pennsylvania Bulletin*.

JIM BUCKHEIT,
Executive Director

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 5893 (October 22, 2005).)

Fiscal Note: 6-280. (1) General Fund; (2) Implementing Year 2004-05 is \$5,000; (3) 1st Succeeding Year 2005-06 is \$0; 2nd Succeeding Year 2006-07 is \$0; 3rd Succeeding Year 2007-08 is \$0; 4th Succeeding Year 2008-09 is \$0; 5th Succeeding Year 2009-10 is \$0; (4) 2003-04 Program—\$26,219,000; 2002-03 Program—\$26,674,000; 2001-02 Program—\$27,820,000; (7) General Government Operations; (8) recommends adoption. This is a onetime cost associated with consulting with stakeholders in the development of guidelines for maintenance of student records and for student support services.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subpart A. MISCELLANEOUS PROVISIONS

CHAPTER 7. (Reserved)

§ 7.1. (Reserved).

§ 7.2. (Reserved).

§§ 7.11—7.14. (Reserved).

CHAPTER 12. STUDENTS AND STUDENT SERVICES

STUDENT RIGHTS AND RESPONSIBILITIES

§ 12.1. Free education and attendance.

(a) All persons residing in this Commonwealth between the ages of 6 and 21 years are entitled to a free and full education in the Commonwealth's public schools.

(b) Parents or guardians of all children between the ages of 8 and 17 are required by the compulsory attendance law to ensure that their children attend an approved educational institution, unless legally excused. Students who have not graduated may not be asked to leave school merely because they have reached 17 years of age if they are fulfilling their responsibilities as students. A student may not be excluded from the public schools or from extracurricular activities because:

- (1) The student is married.
- (2) The student is pregnant.
- (3) The student has a disability as identified by Chapter 15 (relating to protected handicapped students).
- (4) The student is an eligible student identified under Chapter 14 (relating to special education services and programs).

§ 12.2. Student responsibilities.

(a) Student responsibilities include regular school attendance, conscientious effort in classroom work and homework, and conformance to school rules and regulations. Most of all, students are responsible to share with the administration and faculty a responsibility to develop a climate within the school that is conducive to wholesome learning and living.

(b) No student has the right to interfere with the education of fellow students. It is the responsibility of each student to respect the rights of teachers, students, administrators and all others who are involved in the educational process.

(c) Students should express their ideas and opinions in a respectful manner.

(d) It is the responsibility of the students to conform to the following:

(1) Be aware of all rules and regulations for student behavior and conduct themselves in accordance with them. Students should assume that, until a rule is waived, altered or repealed in writing, it is in effect.

(2) Volunteer information in matters relating to the health, safety and welfare of the school community and the protection of school property.

(3) Dress and groom to meet standards of safety and health, and not to cause substantial disruption to the educational processes.

(4) Assist the school staff in operating a safe school for the students enrolled therein.

(5) Comply with Commonwealth and local laws.

(6) Exercise proper care when using public facilities and equipment.

(7) Attend school daily and be on time at all classes and other school functions.

(8) Make up work when absent from school.

(9) Pursue and attempt to complete satisfactorily the courses of study prescribed by local school authorities.

(10) Report accurately in student media.

(11) Not use obscene language in student media or on school premises.

§ 12.3. School rules.

(a) The governing board has the authority to make reasonable and necessary rules governing the conduct of students in school. The rulemaking power, however, is not unlimited; it must operate within statutory and constitutional restraints. A governing board has only those powers that are enumerated in the statutes of the Commonwealth, or that may reasonably be implied or necessary for the orderly operation of the school.

(b) Governing boards may not make rules that are arbitrary, capricious, discriminatory or outside their grant of authority from the General Assembly. A rule is generally considered reasonable if it uses a rational means of accomplishing some legitimate school purpose.

(c) Each governing board shall adopt a code of student conduct that includes policies governing student discipline and a listing of students' rights and responsibilities as outlined in this chapter. This conduct code shall be published and distributed to students and parents or guardians. Copies of the code shall also be available in each school library.

§ 12.4. Discrimination.

Consistent with the Pennsylvania Human Relations Act (43 P. S. §§ 951—963), a student may not be denied access to a free and full public education, nor may a student be subject to disciplinary action on account of race, sex, color, religion, sexual orientation, national origin or disability.

§ 12.5. Corporal punishment.

(a) Corporal punishment is defined as physically punishing a student for an infraction of the discipline policy. Use of corporal punishment is prohibited.

(b) Teachers and school authorities may use reasonable force under the following circumstances:

- (1) To quell a disturbance.
- (2) To obtain possession of weapons or other dangerous objects.
- (3) For the purpose of self-defense.
- (4) For the protection of persons or property.

§ 12.6. Exclusions from school.

(a) The governing board shall define and publish the types of offenses that would lead to exclusion from school. Exclusions affecting certain students with disabilities shall be governed by § 14.143 (relating to disciplinary placements) and 34 CFR 300.519—300.529 (relating to discipline procedures).

(b) Exclusion from school may take the form of suspension or expulsion.

(1) Suspension is exclusion from school for a period of from 1 to 10 consecutive school days.

(i) Suspensions may be given by the principal or person in charge of the public school.

(ii) A student may not be suspended until the student has been informed of the reasons for the suspension and given an opportunity to respond. Prior notice of the intended suspension need not be given when it is clear that the health, safety or welfare of the school community is threatened.

(iii) The parents or guardians and the superintendent of the district shall be notified immediately in writing when the student is suspended.

(iv) When the suspension exceeds 3 school days, the student and parent shall be given the opportunity for an informal hearing consistent with the requirements in § 12.8(c) (relating to hearings).

(v) Suspensions may not be made to run consecutively beyond the 10 school day period.

(vi) Students shall have the responsibility to make up exams and work missed while being disciplined by suspension and shall be permitted to complete these assignments within guidelines established by the governing board.

(2) Expulsion is exclusion from school by the governing board for a period exceeding 10 school days and may be permanent expulsion from the school rolls. Expulsions require a prior formal hearing under § 12.8.

(c) During the period prior to the hearing and decision of the governing board in an expulsion case, the student shall be placed in his normal class except as set forth in subsection (d).

(d) If it is determined after an informal hearing that a student's presence in his normal class would constitute a threat to the health, safety or welfare of others and it is not possible to hold a formal hearing within the period of a suspension, the student may be excluded from school for more than 10 school days. A student may not be excluded from school for longer than 15 school days without a formal hearing unless mutually agreed upon by

both parties. Any student so excluded shall be provided with alternative education, which may include home study.

(e) Students who are under 17 years of age are still subject to the compulsory school attendance law even though expelled and shall be provided an education.

(1) The initial responsibility for providing the required education rests with the student's parents or guardian, through placement in another school, tutorial or correspondence study, or another educational program approved by the district's superintendent.

(2) Within 30 days of action by the governing board, the parents or guardians shall submit to the school district written evidence that the required education is being provided as described in paragraph (1) or that they are unable to do so. If the parents or guardians are unable to provide the required education, the school entity shall, within 10 days of receipt of the notification, make provision for the student's education. A student with a disability shall be provided educational services as required by the Individuals With Disabilities Education Act (20 U.S.C.A. §§ 1400—1482).

(3) If the approved educational program is not complied with, the school entity may take action in accordance with 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act) to ensure that the child will receive a proper education. See § 12.1(b) (relating to free education and attendance).

§ 12.7. Exclusion from classes—in-school suspension.

(a) A student may not receive an in-school suspension unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective.

(b) Communication to the parents or guardian shall follow the suspension action taken by the school.

(c) When the in-school suspension exceeds 10 consecutive school days, an informal hearing with the principal shall be offered to the student and the student's parent or guardian prior to the 11th school day in accordance with the procedures in § 12.8 (relating to hearings).

(d) The student's school entity has the responsibility to make provision for the student's education during the period of the in-school suspension.

§ 12.8. Hearings.

(a) *General.* Education is a statutory right, and students shall be afforded due process if they are to be excluded from school. In a case involving a possible expulsion, the student is entitled to a formal hearing.

(b) *Formal hearings.* A formal hearing is required in all expulsion actions. This hearing may be held before the governing board or an authorized committee of the board, or a qualified hearing examiner appointed by the board. When a committee of the board or a hearing examiner conducts the hearing, a majority vote of the entire governing board is required to expel a student. The following due process requirements shall be observed with regard to the formal hearing:

(1) Notification of the charges shall be sent to the student's parents or guardians by certified mail.

(2) At least 3 days' notice of the time and place of the hearing shall be given. A copy of the expulsion policy, notice that legal counsel may represent the student and hearing procedures shall be included with the hearing

notice. A student may request the rescheduling of the hearing when the student demonstrates good cause for an extension.

(3) The hearing shall be held in private unless the student or parent requests a public hearing.

(4) The student may be represented by counsel, at the expense of the parents or guardians, and may have a parent or guardian attend the hearing.

(5) The student has the right to be presented with the names of witnesses against the student, and copies of the statements and affidavits of those witnesses.

(6) The student has the right to request that the witnesses appear in person and answer questions or be cross-examined.

(7) The student has the right to testify and present witnesses on his own behalf.

(8) A written or audio record shall be kept of the hearing. The student is entitled, at the student's expense, to a copy. A copy shall be provided at no cost to a student who is indigent.

(9) The proceeding shall be held within 15 school days of the notification of charges, unless mutually agreed to by both parties. A hearing may be delayed for any of the following reasons, in which case the hearing shall be held as soon as reasonably possible:

(i) Laboratory reports are needed from law enforcement agencies.

(ii) Evaluations or other court or administrative proceedings are pending due to a student invoking his rights under the Individuals With Disabilities Education Act (20 U.S.C.A. §§ 1400—1482).

(iii) In cases in juvenile or criminal court involving sexual assault or serious bodily injury, delay is necessary due to the condition or best interests of the victim.

(10) Notice of a right to appeal the results of the hearing shall be provided to the student with the expulsion decision.

(c) *Informal hearings.* The purpose of the informal hearing is to enable the student to meet with the appropriate school official to explain the circumstances surrounding the event for which the student is being suspended or to show why the student should not be suspended.

(1) The informal hearing is held to bring forth all relevant information regarding the event for which the student may be suspended and for students, their parents or guardians and school officials to discuss ways by which future offenses might be avoided.

(2) The following due process requirements shall be observed in regard to the informal hearing:

(i) Notification of the reasons for the suspension shall be given in writing to the parents or guardians and to the student.

(ii) Sufficient notice of the time and place of the informal hearing shall be given.

(iii) A student has the right to question any witnesses present at the hearing.

(iv) A student has the right to speak and produce witnesses on his own behalf.

(v) The school entity shall offer to hold the informal hearing within the first 5 days of the suspension.

§ 12.9. Freedom of expression.

(a) The right of public school students to freedom of speech is guaranteed by the Constitution of the United States and the Constitution of the Commonwealth.

(b) Students shall have the right to express themselves unless the expression materially and substantially interferes with the educational process, threatens serious harm to the school or community, encourages unlawful activity or interferes with another individual's rights.

(c) Students may use publications, handbills, announcements, assemblies, group meetings, buttons, armbands and any other means of common communication, provided that the use of public school communications facilities shall be in accordance with the regulations of the authority in charge of those facilities.

(1) Students have the responsibility to obey laws governing libel and obscenity and to be aware of the full meaning of their expression.

(2) Students have the responsibility to be aware of the feelings and opinions of others and to give others a fair opportunity to express their views.

(d) Identification of the individual student or at least one responsible person in a student group may be required on posted or distributed materials.

(e) School officials may require students to submit for prior approval a copy of materials to be displayed, posted or distributed on school property.

(f) Bulletin boards must conform to the following:

(1) School authorities may restrict the use of certain bulletin boards.

(2) Bulletin board space should be provided for the use of students and student organizations.

(3) School officials may require that notices or other communications be officially dated before posting, and that the materials be removed after a prescribed reasonable time to assure full access to the bulletin boards.

(g) School newspapers and publications must conform to the following:

(1) Students have a right and are as free as editors of other newspapers to report the news and to editorialize within the provisions in paragraphs (4) and (5).

(2) School officials shall supervise student newspapers published with school equipment, remove obscene or libelous material and edit other material that would cause a substantial disruption or interference with school activities.

(3) School officials may not censor or restrict material simply because it is critical of the school or its administration.

(4) Prior approval procedures regarding copy for school newspapers must identify the individual to whom the material is to be submitted and establish a limitation on the time required to make a decision. If the prescribed time for approval elapses without a decision, the material shall be considered authorized for distribution.

(5) Students who are not members of the newspaper staff shall have access to its pages. Written criteria for submission of material by nonstaff members shall be developed and distributed to all students.

(h) The wearing of buttons, badges or armbands shall be permitted as another form of expression within the restrictions listed in subsection (c).

(i) School officials may set forth the time and place of distribution of materials so that distribution would not materially or substantially interfere with the requirements of appropriate discipline in the operation of the school.

(1) A proper time and place set for distribution is one that would give the students the opportunity to reach fellow students.

(2) The place of the activity may be restricted to permit the normal flow of traffic within the school and at exterior doors.

§ 12.11. Hair and dress.

(a) The governing board may establish dress codes or require that students wear school uniforms. Policies may apply to individual school buildings or to all school buildings.

(b) Students have the right to govern the length or style of their hair, including facial hair. Any limitation of this right must include evidence that length or style of hair causes disruption of the educational process or constitutes a health or safety hazard. When length or style of the hair presents a health or safety hazard, some types of covering shall be used.

(c) Students may be required to wear certain types of clothing while participating in physical education classes, shops, extracurricular activities or other situations when special attire may be required to insure the health or safety of the student.

(d) Students have the responsibility to keep themselves, their clothes and their hair clean. School officials may impose limitations on student participation in the regular instructional program when there is evidence that the lack of cleanliness constitutes a health hazard.

§ 12.12. Confidential communications.

(a) Use of a student's confidential communications to school personnel in legal proceedings is governed by statutes and regulations appropriate to the proceeding. See, for example, 42 Pa.C.S. § 5945 (relating to confidential communications to school personnel).

(b) Information received in confidence from a student may be revealed to the student's parents or guardians, the principal or other appropriate authority when the health, welfare or safety of the student or other persons is clearly in jeopardy.

§ 12.14. Searches.

(a) The governing board of every school entity shall adopt reasonable policies and procedures regarding student searches. The local education agency shall notify students and their parents or guardians of the policies and procedures regarding student searches.

(b) Illegal or prohibited materials seized during a student search may be used as evidence against the student in a school disciplinary proceeding.

(c) Prior to a locker search, students shall be notified and given an opportunity to be present. When school authorities have a reasonable suspicion that the locker contains materials that pose a threat to the health, welfare or safety of students in the school, student lockers may be searched without prior warning.

§ 12.16. Definitions.

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

Corporal punishment—A form of physical discipline that is intended to cause pain and fear and in which a student is spanked, paddled or hit on any part of the body with a hand or instrument.

Governing board—The board of school directors of a school district, joint school committee of a joint school or joint vocational school, intermediate unit board of directors, or the board of trustees of a charter school or cyber-charter school.

School entity—A local public education provider (for example—public school, charter school, cyber-charter school, area vocational-technical school or intermediate unit).

Student assistance program—A systematic process designed to assist school personnel to identify issues, including alcohol, drugs and others, which pose a barrier to a student's learning and school success. Student assistance is a systematic process using effective and accountable professional techniques to mobilize school resources to remove the barriers to learning, and, when the problem is beyond the scope of the school, to assist the parent and the student with information so they may access services within the community.

Student services—Services designed by a school entity to support the instructional program and to help students attain their educational and career goals.

(i) Services may include school guidance counseling, health services (under Article XIV of the Public School Code of 1949 (24 P.S. §§ 14-1401—14-1423) and 28 Pa. Code Chapter 23 (relating to school health)), psychological services, social work and home and school visitor services.

(ii) School entities may supplement, but may not supplant, these services through school-based, school-linked, or coordinated services provided by locally available social and human services agencies.

STUDENT RECORDS

§ 12.31. General requirements.

(a) The governing board of every school entity shall adopt a plan for the collection, maintenance and dissemination of student records

(b) Copies of the adopted plan shall be maintained by the school entity and updated as required by changes in State or Federal law.

(c) Copies of the plan shall be submitted to the Department only upon request of the Secretary.

§ 12.32. Elements of the plan.

The plan for student records must conform with applicable State and Federal laws, regulations and directives identified in guidelines issued by the Department.

§ 12.33. (Reserved).

**EXHIBIT A. (Reserved)
Sample Forms
A—E (Reserved)**

SERVICES TO STUDENTS

§ 12.41. Student services.

(a) Each school entity shall prepare a written plan for the implementation of a comprehensive and integrated K—12 program of the student services based on the needs of its students. The plan shall be prepared and revised in accordance with the time frames and procedures described in § 4.13(a), (b), (d), (e) and (f) (relating to

strategic plans). Services offered by community agencies in public schools shall be coordinated by and under the general direction of the school entity. The plan must include policies and procedures for emergency care and administration of medication and treatment under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) and guidelines issued by the Department of Health. The Department of Health guidelines are available from the Division of School Health, Department of Health, P. O. Box 90, Harrisburg, Pennsylvania 17108.

(b) Though the variety of student services offered will differ from school to school depending upon its size and the needs of its students, the following categories of services shall be provided by each school entity in planning its student services:

(1) Developmental services for students that address their developmental needs throughout their enrollment in school. Developmental services include guidance counseling, psychological services, health services, home and school visitor services and social work services that support students in addressing their academic, behavioral, health, personal and social development issues.

(2) Diagnostic, intervention and referral services for students who are experiencing problems attaining educational achievement appropriate to their learning potential.

(i) Student services staff use diagnostic services to identify barriers that limit a student's success in school. Intervention services actively engage student services staff in activities planned to reduce or eliminate specific barriers to student success.

(ii) Student services staff may arrange for referrals to other school-based or school-linked professionals or may refer parents and guardians to appropriate community-based services for assistance.

(3) Consultation and coordination services for students who are experiencing chronic problems that require multiple services by teams or specialists.

(i) Consultation services are used by student services staff, in partnership with parents or guardians, to obtain assistance to address barriers and issues that are outside the scope of the student services professional.

(ii) Consultation and coordination services may be used to assist in the diagnosis, intervention or referral of students who face barriers to success.

(iii) Coordination services connect school resources with other available resources to assist students in meeting their educational objectives.

(c) Student services must:

(1) Be an integral part of the instructional program at all levels of the school system.

(2) Provide information to students and parents or guardians about educational opportunities of the school's instructional program and how to access these opportunities.

(3) Provide career information and assessments so that students and parents or guardians might become aware of the world of work and of a variety of career options available to individual students.

(4) Provide basic health services outlined in Article XIV of the Public School Code of 1949 (24 P. S. §§ 14-1401—14-1423) for students and information to parents or guardians about the health needs of their children.

(d) When student assessments using individual surveys are administered, parents or guardians shall be informed of the nature and scope of the surveys and of their relationship to the educational program of their child, consistent with section 445 of the General Education Provisions Act (20 U.S.C.A. § 1232h) regarding protection of pupil rights. Parents or guardians, or the student if the student is 18 years of age or older, shall have the right to refuse to participate in the survey by means of procedures established by the school entity.

(e) Persons delivering student services shall be specifically licensed or certified as required by statute or regulation.

(f) The Department will provide guidelines and technical assistance to local education agencies in planning student services.

§ 12.42. Student assistance program.

School entities shall plan and provide for a student assistance program under the Early Intervention Services System Act (11 P. S. §§ 875-101—875-503).

[Pa.B. Doc. No. 05-2198. Filed for public inspection December 2, 2005, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF COSMETOLOGY

[49 PA. CODE CH. 7]

Biennial Renewal Fee Increase

The State Board of Cosmetology (Board) amends § 7.2 (relating to fees). The final-form rulemaking increases the biennial license renewal fee for all classes of licenses issued by the Board.

A. *Effective Date*

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*. The new fees will take effect for the biennial period beginning February 1, 2006.

B. *Statutory Authority*

The final-form rulemaking is authorized under section 16 of the act of May 3, 1933 (P. L. 242, No. 86) (Act 86) (63 P. S. § 522) which requires the Board to fix fees by regulation for the biennial renewal of licenses and to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet Board expenditures.

C. *Background and Purpose*

The Board is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In accordance with section 16(c) of Act 86, if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period, the Board must increase fees by regulation so that its projected revenues will meet or exceed projected expenditures.

The Board raises virtually all of its operating revenue (except application and services fees) through biennial

renewal fees. The biennial license renewal fee is the most substantial revenue-generating fee of all the fees charged by the Board. The Board's current biennial license renewal fees for cosmetologists, manicurists, teachers, cosmetology shops and cosmetology schools were established by regulation in 1986, while the current biennial renewal fees for cosmeticians and cosmetician or manicurist shops were established by regulation in 1991.

At the Board's December 6, 2004, meeting, the Bureau of Finance and Operations (BFO) presented a summary of the Board's revenue and expenses for Fiscal Year (FY) 2001-2002 through FY 2003-2004 and projected revenue and expenses for FY 2004-2005 through FY 2010-2011. The summary, presented in the following table, demonstrated that the Board must raise fees to meet or exceed projected expenditures to comply with section 16 of Act 86. The BFO projected a deficit of \$286,531.06 in FY 2007-2008, a deficit of \$1,073,531.06 in FY 2008-2009, a deficit of \$1,662,531.06 in FY 2009-2010 and a deficit of \$2,606,531.06 in FY 2010-2011. Therefore, the BFO recommended that the Board raise fees to meet projected expenditures, in compliance with section 16 of the act.

2001-2002 beginning balance	1,718,075.05
FY 01-02 revenue	2,229,690.06
Prior year returned funds	146,300.49
FY 01-02 expenses	2,376,000.00
Remaining balance	1,718,065.60
2002-2003 beginning balance	1,718,065.60
FY 02-03 revenue	1,959,902.11
Prior year returned funds	0.00
FY 02-03 expenses	2,583,000.00
Remaining balance	1,094,967.71
2003-2004 beginning balance	1,094,967.71
FY 03-04 revenue	2,199,623.23
Prior year returned funds	0.00
FY 03-04 expenses	2,533,000.00
Remaining balance	761,590.94
2004-2005 beginning balance	761,590.94
FY 04-05 projected revenue	1,950,000.00
Prior year returned funds (estimated)	902,878.00
FY 04-05 projected expenses	2,569,000.00
Remaining balance	1,045,468.94
2005-2006 beginning balance	1,045,468.94
FY 05-06 projected revenue	2,230,000.00
FY 05-06 projected expenses	2,505,000.00
Remaining balance	770,468.94
2006-2007 beginning balance	770,468.94
FY 06-07 projected revenue	1,950,000.00
FY 06-07 projected expenses	2,580,000.00
Remaining balance	140,468.94
2007-2008 beginning balance	140,468.94
FY 07-08 projected revenue	2,230,000.00
FY 07-08 projected expenses	2,657,000.00
Remaining balance	(286,531.06)
2008-2009 beginning balance	(286,531.06)
FY 08-09 projected revenue	1,950,000.00
FY 08-09 projected expenses	2,737,000.00
Remaining balance	(1,073,531.06)
2009-2010 beginning balance	(1,073,531.06)
FY 09-10 projected revenue	2,230,000.00
FY 09-10 projected expenses	2,819,000.00

Remaining balance	(1,662,531.06)
2010-2011 beginning balance	(1,662,531.06)
FY 10-11 projected revenue	1,950,000.00
FY 10-11 projected expenses	2,904,000.00
Remaining balance	(2,616,531.06)

As the previous table indicates, the BFO estimates that at the close of FY 2007-2008, the Board's expenses will exceed its revenues by \$286,531.06. The BFO anticipates that in subsequent fiscal years, the deficit will increase proportionally. Without an increase, the projected deficit in FY 2010-2011 would be \$2,616,531.06.

The increases in the Board's biennial expenses occurred primarily in the area of investigative and inspection costs, attributable to increased numbers of complaints being filed and the accompanying increased number of investigations and enforcement actions (citations for minor violations under the act of July 2, 1993 (P. L. 345, No. 48)) initiated by inspectors and investigators on behalf of the Board. For example, investigative expenditures increased from \$808,769.05 in FY 2002-2003 to approximately \$977,912.05 in FY 2003-2004. Because investigative and inspection costs are largely driven by the number of complaints received and the number of inspections performed (a number dependent in part on the number of new applications filed with the Board), the Board has little control over these expenses.

There were also increases in Legal Office costs, related to prosecuting and adjudicating many more cases than in prior years, which contribute to the need to raise biennial renewal fees. In FY 2003-2004, the Board imposed 632 disciplinary sanctions, which was significantly more than in any prior fiscal year. The FY 2003-2004 figure is in comparison to 386 disciplinary sanctions imposed in FY 2002-2003, 370 in FY 2001-2002, 393 in FY 2000-2001 and 310 in FY 1999-2000. Additionally, the Board imposed more serious sanctions than in any prior year, 17 in FY 2003-2004, as opposed to 9 in FY 2002-2003, 11 in FY 2001-2002, 3 in FY 2000-2001 and 3 in FY 1999-2000. Finally, the Board closed more cases in FY 2003-2004 than in any prior year, closing 962 cases as compared with 580 cases in FY 2002-2003, 675 in FY 2001-2002, 740 in FY 2000-2001 and 529 in FY 1999-2000. As of December 9, 2004, there were 395 cases currently open, as opposed to 220 cases open as of December 9, 2003.

The Board carefully reviewed several options in fee increases to ensure the most reasonable fee increase possible while keeping the Board out of a long run deficit. Additionally, in developing this final-form rulemaking, the Board reviewed fees of other states. It found that the proposed fees are comparable to the renewal fees charged in surrounding states and should cause no competitive disadvantage to the Commonwealth. The Board also determined that making fees uniform across comparable license classes would be more equitable and would promote ease of administration. Consequently, the Board made the renewal fees for all individual license classes equal, with the exception of cosmetology teacher licenses, as it did with the renewal fees for the various shop licenses.

D. Description of Amendments

Based upon the previous expense and revenue estimates provided to the Board, the Board is amending its fee schedule in § 7.2(c) to increase the fee for biennial renewal of licenses for cosmeticians from \$21 to \$35; for cosmetologists from \$23 to \$35; for cosmetology teachers from \$36 to \$55; for manicurists from \$21 to \$35; for

cosmetician shops from \$25 to \$60; for cosmetology shops from \$41 to \$60; for manicurist shops from \$25 to \$60; and for cosmetology schools from \$66 to \$150.

The amendment also deletes reference in § 7.2 to a cosmetology manager's license, based on the amendments to Act 86 made by section 3 of the act of June 29, 2002 (P. L. 645, No. 98) (63 P. S. § 510.4) (Act 98), which removed the requirement that a cosmetology shop owner employ a licensed manager if the owner does not manage the shop.

E. *Summary of Comments and Responses to Proposed Rulemaking*

The proposed rulemaking was published at 35 Pa.B. 2400 (April 23, 2005) followed by a 30-day public comment period. The Board did not receive any comments from the general public or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). However, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC).

Both the HPLC and IRRC noted that Act 98 deleted the requirement that a cosmetology shop be under the direction of a manager and that this amendment to § 7.2 deletes the fee for a cosmetology shop manager license, but that elsewhere in Chapter 7 references to a cosmetology shop manager remain. Accordingly, the HPLC and the IRRC commented that the Board should review its regulations and delete all references to a cosmetology shop manager's license wherever they appear so that the regulations are consistent with the existing statute and with amended § 7.2. IRRC specifically stated that the Board should delete all references to a cosmetology shop manager's license from Chapter 7 when the Board submits the final-form rulemaking.

The Board is currently in the process of amending Chapter 7 to delete all references to a cosmetology shop manager and intends to send out an exposure draft to stakeholders and interested parties for comment before engaging in proposed rulemaking on the subject. Because Act 98 changed the requirements for management of cosmetology shops from a licensed cosmetology shop manager to a "designated person in charge," the Board believes that amendment of Chapter 7 simply by deleting all references to "cosmetology shop manager" is not sufficient. The Board must also make some substantive changes to its regulations that address shop management. Accordingly, the Board does not believe that the amendment should be made through this final-form rulemaking, and will, instead, proceed with amending its regulations related to shop management through a separate rulemaking.

F. *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will increase the biennial renewal fee for all classes of Board licensees. The final-form rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions. The final-form rulemaking will require the Board to alter some of its forms to reflect the new biennial renewal fees. However, the final-form rulemaking should not create additional paperwork for the private sector.

G. *Sunset Date*

Act 86 requires that the Board monitor its revenue and expenses on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 23, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2400, to the IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 18, 2005, the final-form rulemaking was approved by the HPLC. On November 2, 2005, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 3, 2005, and approved the final-form rulemaking.

I. *Contact Person*

Further information may be obtained by contacting Hilarene Staller, Board Administrator, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7130.

J. *Findings*

The Board finds that:

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

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

(3) The amendment does not enlarge the purpose of the proposed rulemaking published at 35 Pa.B. 2400.

(4) The amendment is necessary and appropriate for administration and enforcement of the authorizing act identified in Part B of this preamble.

K. *Order*

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 7, are amended by amending § 7.2 to read as set forth at 35 Pa.B. 2400.

(b) The Board shall submit this order and 35 Pa.B. 2400 to the Office of General Counsel and to the Office of the Attorney General as required by law.

(c) The Board shall certify this order and 35 Pa.B. 2400 and deposit them with the Legislative Reference Bureau as required by law.

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

SUSAN E. RINEER,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 6390 (November 19, 2005).)

Fiscal Note: Fiscal Note 16A-4512 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 05-2199. Filed for public inspection December 2, 2005, 9:00 a.m.]

STATE BOARD OF FUNERAL DIRECTORS
[49 PA. CODE CH. 13]
Continuing Education

The State Board of Funeral Directors (Board) amends §§ 13.1, 13.12 and 13.231 (relating to definitions; fees; and biennial registration; unregistered status and inactive status; failure to renew) and adds §§ 13.401—13.406 (relating to continuing education) to read as set forth in Annex A.

Description and Need for Proposed Rulemaking

As required by the act of June 22, 2000 (P. L. 376, No. 48), this final-form rulemaking adopts regulations implementing continuing education for licensed funeral directors.

Summary of Comments and Responses to Proposed Rulemaking

The Board published notice of proposed rulemaking at 33 Pa.B. 4569 (September 13, 2003) with a 30-day public comment period. The Board received comments from the Pennsylvania Funeral Directors Association (PFDA). The Board also received comments from the Independent Regulatory Review Commission (IRRC) as part of its review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). The Board did not receive comments from the House Professional Licensure Committee (HPLC) or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of their review of proposed rulemaking under the Regulatory Review Act.

The PFDA commented that it fully supports the regulations for continuing education for funeral directors, as published in the *Pennsylvania Bulletin*.

In regard to § 13.231, IRRC questioned whether the term “verify” rather than “certify” would be more accurate in describing the action of the licensee regarding compliance with the required continuing education. In developing the final-form rulemaking, the Board reviewed the renewal regulations and forms for other licensing boards in the Bureau of Professional and Occupational Affairs (Bureau). These boards require the licensee to “certify” that the facts of the application are true under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), as contrasted with 18 Pa.C.S. § 4903 (relating to false swearing) regarding verified statements under oath. IRRC also requested that the Board specify under what circumstances the Board would require an applicant for renewal to provide documentation of completion of continuing education. In considering IRRC’s request, the Board determined that the provision is unnecessary and has deleted it.

Because § 13.401(a) (relating to credit hour requirements) requires each funeral director to complete 6 hours of continuing education in each biennial period, IRRC requested clarification of what constitutes a credit hour.

The Board has amended § 13.1 to include a definition of “hour of continuing education” as “60 minutes of actual instruction in an approved course of continuing education.” Proposed § 13.401(b) would have required a funeral director seeking to renew an active license or to reactivate an inactive license to successfully complete all previously required continuing education. IRRC also questioned whether the Board had statutory authority to require compliance with the continuing education requirement for prior biennial periods under section 10(b)(5) of the Funeral Director Law (act) (63 P. S. § 479.10(b)(5)) which requires a licensee seeking to reinstate an inactive or lapsed license to “show proof of compliance with the continuing education requirement for the preceding biennium.” The Board concurs with IRRC’s comment and, accordingly, has revised this proposed requirement, now in § 13.231(d), to require documentation of completed continuing education only for the immediately preceding biennium.

Additionally, because proposed § 13.401(b) addressed only renewal or reactivation of an expired license, those provisions have been deleted. The Board has placed in § 13.231(c) and (d) the prohibition on renewing or reactivating a license, respectively, unless the required amount of continuing education has been completed. Also, the provision of proposed § 13.401(b) that would have permitted a licensee, to reactivate a lapsed license, to have completed during the current biennium the continuing education required for the preceding biennium has been moved to § 13.231(d). In place of the proposed language, § 13.401(b) will require continuing education to be completed during the biennium for which it is required, unless otherwise authorized, and will prohibit a licensee from counting the same continuing education for more than one biennium.

Each licensee will certify on the renewal application that the licensee has completed the required continuing education, subject to audit by the Board. The Board has added § 13.402(c) (relating to reporting completion of continuing education) to acknowledge the auditing process. Under § 13.402(a), completion of a course of continuing education will generally be proved by a continuing education record from the course provider. IRRC suggested that the Board indicate how long a licensee should retain the continuing education record. Because an audit might not begin early in a renewal period and might take longer than a single renewal period, the Board recommends that a licensee retain a continuing education record for two full renewal periods subsequent to the period in which the licensee attended the course. Because the Board does not wish to subject to disciplinary action for failing to keep a record, a licensee who has completed the required continuing education and is able to demonstrate compliance, the Board has not amended the regulation to set forth a binding standard. IRRC also inquired as to what documentation would satisfy the requirement of § 13.402(b) to “otherwise demonstrate completion of course of continuing education” in the absence of a continuing education record. This provision was intended to acknowledge that a continuing education record from the provider at the time of the course is not the sole means to do so. Without limiting a licensee’s ability to do so and without limiting the Board’s authority to determine credibility, the Board anticipates that completion could be demonstrated by a continuing education record subsequently prepared by the provider, documentation from the course itself or corroborated testimony of attendance at the course.

Proposed § 13.403(a) (relating to credit for approved continuing education) provided that continuing education credit will be granted only for courses that have been approved in advance. IRRC inquired how licensees would know whether the Board has approved a course for continuing education credit. The Board intends to identify approved providers in its newsletter. Additionally, the Department of State (Department) website at License PA provides license verification and approved providers of continuing education will be included, along with funeral directors and funeral establishments. Additionally, IRRC questioned whether the proposed § 13.403(b) prohibition of approval of courses "for which continuing education is precluded by section 10 of the act," because section 10 of the act precludes credit only for office management. In response, the Board has revised § 13.403(b) to permit credit for any course whose subject matter is identified in section 5 of the act (63 P. S. § 479.5) as appropriate for examination and any course in applicable law or the provision of professional services, but to prohibit credit for any course in office management or marketing.

IRRC also inquired as to how licensees will be notified that approval of a provider or course has been withdrawn. The Board provides notice of Board actions affecting its licensees through its newsletter and notice on the Department's website. Notice that provider status has been withdrawn will be given to licensees in the same manner.

Finally, IRRC suggested, relative to the continuing education record requirement of § 13.405(b) (relating to provider responsibilities), that the Board consider requiring providers of continuing education to provide the continuing education record directly to the Board. While the Board agrees with IRRC that this would streamline the process for licensees, the Board, as do all boards within the Bureau that require continuing education, will audit a portion of licensees. Accordingly, there is no value to Board receipt of these records at this time.

As a result of considering IRRC's comments, the Board considered its proposed means of approving providers. The Board has concluded that it cannot, consistent with the requirement of section 10(b)(6) of the act that all courses, locations, instructors and providers "shall be approved by the Board," rely upon continuing education provider approval by another agency or jurisdiction. Therefore, the Board has revised § 13.404(b) (relating to approval of continuing education courses or providers) to delete the status of "deemed approval" of providers. The Board will review applications for provider and course approvals. Approved provider status is subject to renewal and course approval will be only for courses identified on the application for approval. Accordingly, the Board has revised § 13.12 to delete the fees based upon approval from another jurisdiction, to delete any reference to courses or providers not approved in another jurisdiction and to delete the fee for renewal of course approval.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

Effective Date

The final-form rulemaking will become effective upon publication in the *Pennsylvania Bulletin* and will first require continuing education during the 2006-2008 biennium.

Statutory Authority

The final-form rulemaking is authorized under sections 10(b) and 16(a) of the act (63 P. S. §§ 479.10(b) and 479.16(a)).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 13, 2003, the Board submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 4569, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 18, 2005, the final-form rulemaking was approved by the HPLC. On November 2, 2005, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 3, 2005, and approved the final-form rulemaking.

Additional Information

Persons who require additional information about the final-form rulemaking should submit inquiries to Michelle T. Smey, Administrator, State Board of Funeral Directors, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-3397, st-funeral@state.pa.us.

Findings

The Board finds that:

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

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

(3) The amendments to this final-form rulemaking do not enlarge the scope of proposed rulemaking published at 33 Pa.B. 4569.

(4) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 13, are amended by amending §§ 13.1, 13.12 and 13.231 and by adding §§ 13.401—13.406 to read as set forth in Annex A.

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

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

JANICE H. MANNAL, FD,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 6390 (November 19, 2005).)

Fiscal Note: Fiscal Note 16A-489 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 13. STATE BOARD OF FUNERAL DIRECTORS

GENERAL PROVISIONS

§ 13.1. Definitions.

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

Act—The Funeral Director Law (63 P.S. §§ 479.1—479.20) which regulates the licensure of persons and of corporations engaged in the preparation and disposition of the bodies of deceased persons.

Board—The State Board of Funeral Directors of the Department of State of the Commonwealth.

Bureau—The Bureau of Professional and Occupational Affairs of the Department of State of the Commonwealth.

Commissioner—The Commissioner of Professional and Occupational Affairs of the Department of State of the Commonwealth.

Funeral establishment—A place or premise approved by the Board wherein a licensed funeral director conducts the professional practice of funeral directing, including the preparation, care and funeral services for the human dead.

Hour of continuing education—Sixty minutes of actual instruction in an approved course of continuing education.

Licensed funeral director—An individual who has met the educational requirements and passed the examinations required by the act.

Limited license—A license issued by the Board that authorizes a person licensed to practice funeral directing in a reciprocal state to practice funeral directing in this Commonwealth in accordance with section 9(c) of the act (63 P.S. § 479.9(c)).

Prepaid burial account—An account in which moneys are deposited by the funeral director during the lifetime of an individual in accordance with a contract executed between the parties for funeral merchandise and services to be performed and delivered at a future time.

Prepaid burial contract—A contract executed between a consumer and a licensed funeral director which provides that the funeral director will provide funeral merchandise and render services to the consumer upon the consumer's death or the death of another designated individual and for which the consumer pays to the funeral director moneys at the time of the contract or at a time prior to the rendition of these services.

Preceptor—A licensed funeral director under or with whom a resident intern is registered and operates.

Premises—The property on which the funeral establishment is located which consists of a tract of land not intersected by a public highway or thoroughfare.

Profession—The aggregate of all funeral service licensees and their duties and responsibilities in connection with the funeral as funeral directors licensed under the act.

Reciprocal state—The District of Columbia or a state or territory of the United States of America whose agency that is authorized to license persons to practice the profession of funeral director in that jurisdiction has entered into an agreement with the Board under which persons licensed in that jurisdiction may receive a limited license in this Commonwealth.

Restricted business corporation—A business corporation formed under 15 Pa.C.S. (relating to the Associations Code) and authorized under the act.

Supervisor—A licensed funeral director employed on a full-time basis to supervise the professional activities of a licensed estate, widow, business corporation pre-1935 restricted business corporation, professional corporation or branch place of practice under any of the foregoing, as defined in the act.

LICENSURE

§ 13.12. Fees.

Following is the schedule of fees charged by the Board:

Initial registration for student trainee.....	\$25
Annual registration for student trainee.....	\$15
Initial registration for resident intern.....	\$25
Initial registration for preceptor or change.....	\$25
Initial license for funeral director.....	\$25
Initial license for restricted business corporation, professional corporation, partnership or shared funeral establishment.....	\$150
Initial license for estate or widow, sole proprietorship or branch office.....	\$125
Initial registration for supervisor.....	\$25
Change director or name on existing license without reinspection.....	\$35
Address change with inspection.....	\$125
Reinspection after failure.....	\$85
Certification.....	\$25
Verification of licensure or registration.....	\$15
Biennial renewal.....	\$185
Application for limited license.....	\$35
Biennial renewal of limited license.....	\$35
Application for continuing education course.....	\$100
Application for continuing education provider.....	\$100
Renewal of registration of continuing education provider.....	\$50

LICENSE RENEWAL

§ 13.231. Biennial registration; unregistered status and inactive status; failure to renew.

(a) A licensee shall register each biennial period to retain the right to practice. Initial registration shall

automatically occur when a license is issued. Registration for a biennial period expires on the first day of February of every even numbered year. Unless excused by the Board for good cause under section 10(b)(4) of the act (63 P. S. § 479.10(b)(4)), the Board will not grant an application for renewal of a funeral director license unless the licensee has certified that the licensee has completed the amount of continuing education required by § 13.401 (relating to credit hour requirements).

(b) Applications for biennial registration shall be made on forms provided by the Board. The form shall be received by the Board with the required registration fee by the expiration of the previous biennial registration period.

(c) Biennial registration forms and other forms and literature distributed by the Board will be mailed to the licensee at the last mailing address on file with the Board. If a licensee changes the mailing address, the licensee shall notify the Board within 15 days thereafter. Failure of the Board to send or of the licensee to receive a biennial registration application does not relieve the licensee of the biennial registration responsibility.

(d) A licensee whose licensure status has lapsed by failing to register biennially with the Board may apply to the Board for reactivation of licensure status by satisfying the requirements of paragraph (1) on forms prescribed by the Board. An application for reactivation of an inactive or lapsed funeral director license must also include the documentation required by § 13.402 (relating to reporting completion of continuing education) for the immediately preceding biennium, which may be completed during the current biennium. Unless excused by the Board for good cause under section 10(b)(4) of the act, the Board will not reactivate any funeral director license until the required continuing education for the preceding biennium has been successfully completed.

(1) A licensee applying for reactivation of licensure status is required to pay the current registration fee and submit a notarized affidavit setting forth the period of time in which the licensee did not practice in this Commonwealth.

(2) A licensee who seeks to reactivate his licensure status will not be assessed a late renewal fee for the preceding biennial registration periods in which the licensee did not engage in practice in this Commonwealth. A licensee whose licensure status has lapsed due to the failure to register biennially with the Board, is prohibited from practicing as a funeral director in this Commonwealth unless the licensure status is reactivated. If a licensee engages in practice in this Commonwealth during a period in which the licensees' registration is not renewed, the licensee is required to pay a late fee of \$5 for each month or part of a month beyond the date specified for renewal as provided in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P. S. § 1401-225), in addition to the prescribed biennial renewal fee. The payment of a late fee does not preclude the Board from taking disciplinary action against a licensee for practicing as a funeral director in this Commonwealth without a current license.

CONTINUING EDUCATION

§ 13.401. Credit hour requirements.

(a) During each biennial renewal period, a licensed funeral director shall complete 6 hours of continuing education. This provision does not require a funeral

director to complete continuing education during the renewal period in which the funeral director is first issued a license.

(b) Except as permitted in § 13.231(d) (relating to biennial registration; unregistered status and inactive status; failure to renew) or as directed by the Board, continuing education may satisfy the requirement of subsection (a) only for the biennium during which it was completed. No hour of continuing education may be used to satisfy the requirement of subsection (a) for more than 1 biennium.

(c) The requirement of subsection (a) will take effect, beginning with the biennial renewal period of February 1, 2006—January 31, 2008.

§ 13.402. Reporting completion of continuing education.

(a) In general, proof of completion of a course of continuing education must consist of a certified continuing education record, as defined in § 13.405(b) (relating to provider responsibilities).

(b) A licensed funeral director for whom the Board has not been provided certified continuing education records sufficient to comply with § 13.401 (relating to credit hour requirements) shall otherwise demonstrate completion of courses of continuing education.

(c) The Board will audit licensees to verify compliance with continuing education requirements.

§ 13.403. Credit for approved continuing education.

(a) Credit for continuing education will be granted only for courses that have been approved in advance by the Board.

(b) Unless limited by this section, continuing education credit may be earned in a course on any subject matter identified in section 5 of the act (63 P.S. § 479.5) as appropriate for examination. Continuing education credit may be earned in a course in applicable law or the provision of professional services. Continuing education credit may not be earned in any course in office management or marketing.

§ 13.404. Approval of continuing education courses or providers.

(a) Anyone, to include any college, university, school, association, professional society and organization, seeking approval to offer continuing education shall apply for approval on forms provided by the Board and fully provide the information required by those application forms for the Board to fulfill its duties under this section. The application must include payment of the fee required under § 13.12 (relating to fees).

(b) Approval as a continuing education provider shall be renewed biennially.

(c) An approved provider shall apply for approval of each course of continuing education. A single application may include multiple presentations of the course and various locations.

(d) The Board may deny approval of a provider or course of continuing education where the applicant has previously failed or is not currently able to comply with § 13.405 (relating to provider responsibilities) or the course does not qualify under § 13.403 (relating to credit for approved continuing education). The Board may approve in part and deny in part an application for approval

of a provider or course. The Board may deny an application for provider or course approval that does not comply with the act or this chapter.

(e) The Board may terminate its prior approval of a provider or course of continuing education when the applicant made one or more false or misleading material statements on the application. The Board may also terminate in part or in whole its prior approval of a provider or course when it is later determined that the Board has grounds to deny approval in accordance with this section.

§ 13.405. Provider responsibilities.

(a) For each course of continuing education, the provider shall:

(1) Disclose in advance to prospective attendees the objectives, content, teaching method and number of hours of continuing education credit.

(2) Open each course to all licensees.

(3) Provide adequate physical facilities for the number of anticipated participants and the teaching methods to be used.

(4) Provide accurate instructional materials.

(5) Employ qualified instructors who are knowledgeable in the subject matter.

(6) Evaluate the program through the use of questionnaires of the participants and instructors.

(7) Issue a certified continuing education record to each participant.

(8) Retain attendance records, written outlines, and a summary of evaluations for 5 years.

(b) Each continuing education record must include:

(1) The name of the participant.

(2) The date or dates of the course.

(3) The name of the course.

(4) The provider's name.

(5) The number of hours of continuing education credit.

§ 13.406. Demonstration of embalming techniques.

(a) With prior approval of the Board, embalming of human remains to demonstrate techniques during a program of continuing education will not be considered to be the practice of funeral directing at an establishment not authorized by the Board.

(b) Only a licensed funeral director may demonstrate embalming techniques at a program of continuing education in this Commonwealth.

[Pa.B. Doc. No. 05-2200. Filed for public inspection December 2, 2005, 9:00 a.m.]

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Approval of Diploma Programs in Transition to Degree-Granting Status

The State Board of Nursing (Board) amends § 21.51 (relating to establishment) governing the establishment of approved programs of nursing for professional nurses (registered nurses (RNs)) to read as set forth in Annex A.

Notice of proposed rulemaking was published at 34 Pa.B. 851 (February 14, 2004). Publication was followed by a 30-day public comment period. The Board received seven comments from the public. On March 16, 2004, the House Professional Licensure Committee (HPLC) submitted comments. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) made no comments. On April 14, 2004, the Independent Regulatory Review Commission (IRRC) submitted comments to the proposed rulemaking.

Statutory Authority

Under section 2.1(k) of the Professional Nursing Law (act) (63 P.S. § 212.1(k)), the Board is authorized to establish rules and regulations for the practice of professional nursing and the administration of the act. Section 6.1 of the act (63 P.S. § 216.1) requires the Board to establish standards for the operation and approval of nursing education programs. Section 5 of the act of June 28, 2002 (P.L. 651, No. 99) amended section 6 of the act (63 P.S. § 216) to include "programs in transition from approved diploma to degree granting programs" in the category of programs of professional nursing that may be approved by the Board.

Summary of Comments and Responses to Proposed Rulemaking

Public Comments

The Lancaster Institute for Health Education commented that the Board's proposed rulemaking was "realistic and reasonable" and would allow the Board to "continue to protect the quality of educational curricula within our Commonwealth."

The Pennsylvania Osteopathic Medical Association (POMA) commented that there were two osteopathic medicine colleges in this Commonwealth that could qualify to develop a nursing program. The POMA suggested that the Board allow hospital programs accredited by the American Osteopathic Association's Healthcare Facilities Accreditation Program (HFAP), in addition to the Joint Commission on Accreditation of Healthcare Organizations, an independent organization, to develop nursing education programs. No osteopathic hospitals in this Commonwealth conduct a diploma nursing education program. This final-form rulemaking relates to the transition of an existing hospital-based nursing education program to a degree-granting nursing education program. Adding a new hospital accreditation organization, which would only serve to make it possible for an osteopathic hospital to open a diploma nursing education program, exceeds the scope of the proposed rulemaking. The Board will invite the POMA to provide additional information related to HFAP and separately consider whether HFAP accredited hospitals should be permitted to open a diploma nursing education program.

Mount Aloysius College (College) commented that "[t]here are substantive questions about the hospital-based program's capacity to provide the comprehensive education that is the hallmark of the associate or bachelor's degree in nursing." The College recommended "that diploma programs seek creative ways in which to partner over the long term with degree-granting institutions in order to afford their students the advantages that accrue to affiliation with such institutions."

The Pennsylvania Medical Society expressed its support for the proposed rulemaking.

The Hospital and Healthsystem Association of Pennsylvania (HAP) noted that it fully supports the proposed

rulemaking as written. HAP did suggest additional details be provided, outside of the rulemaking, such as whether the Board would send the Department of Education (Department) a statement that a diploma program wishing to transition to a degree-granting program had been on full approval status for 3 years prior to the transition. HAP suggested that the Board and the Department consider hosting an educational program to provide these details. The Board has a checklist of requirements for program approval, which is provided to persons who contact the Board for information. The checklist will instruct interested parties how to obtain verification of full approval status.

Carol Gisselquist, Higher Education Specialist with the Department, wrote to clarify the role of the Department and noted that regional accreditation is different than the certificate of authority to operate granted by the Department. Carol Gisselquist noted that the rulemaking appeared to incorrectly identify the Department as the agency that granted accreditation. The Board revised the final-form rulemaking to correctly identify the role of the Department and the accrediting body.

The Accrediting Council for Independent Colleges and Schools (ACICS) commented that it should be considered an accrediting body for purposes of the rulemaking. The United States Department of Education recognizes the Middle States Association of Colleges and Schools (Middle States) as the regional accrediting body for institutions of higher learning in this Commonwealth. The United States Department of Education recognizes ACICS as an accrediting body for independent colleges and schools training in business careers. Currently, all colleges and universities in this Commonwealth with Board-approved schools of nursing are accredited by Middle States. The Board does not believe that ACICS accreditation is comparable to Middle States accreditation and declines to make the proposed amendment.

HPLC Comments

The HPLC submitted two comments. First, the HPLC sought clarification under subsection (a)(2)(iv) and asked what would happen to a nursing education program if the program did not obtain full approval from the Department and has been in existence more than 6 years. The question is similar to one raised by IRRC.

Second, the HPLC asked whether the Board intended to make an exception for programs in transition to the rule that a nursing education program be developed under the leadership of an RN. The Board did not intend this and believes the renumbered, redrafted final-form rulemaking addresses this issue.

IRRC Comments

First, IRRC commented that the phrase "under the leadership of a registered nurse" already existed in §§ 21.71(b) and 21.74(b) (relating to faculty and staff requirements for baccalaureate and associate degree programs; and faculty and staff requirements for diploma programs), and suggested that the phrase may be duplicative. The phrase is already part of existing § 21.51(a). It has not been added by the proposed rulemaking. This provision has been in existence since the regulation was part of the Board's Handbook for Schools of Nursing from 1952. The provision remained in existence through two regulatory amendments, published at October 23, 1976 (6 Pa.B. 2677) and September 17, 1983 (13 Pa.B. 2829). Throughout this time, the phrase has not caused any confusion among universities, colleges or hospitals as to

the requirements for establishment of an approved nursing education program. The Board therefore declines to remove the phrase.

Second, IRRC noted that a commentator had suggested that HFAP be added as an approval body for hospitals. As previously discussed, the Board will further examine this issue, which is distinct from the purposes of this final-form rulemaking.

Third, IRRC suggested that subsection (a)(1)(iii) be amended to require a diploma program contemplating transition to a degree-granting program to have 3 years of full approval status before the program applies to the Board to start the transition process. The Board agrees that subsection (a)(1)(iii) is unclear as drafted because the date of transition is unspecified. To clarify this subsection, the Board has added language to indicate that a program must have been on full approval status for at least 3 years prior to the admission of students to the degree-granting program. In addition, the Board has amended subsection (a)(2)(i) to list the other Board regulations with which a program in transition must comply. A program in transition must comply with § 21.51(b). The amendment to this section will clarify that an intent to transition begins with a feasibility study, a process already familiar to all nursing education programs.

Fourth, IRRC submitted two comments on subsection (a)(2)(ii) and (iii) regarding transition requirements. IRRC questioned whether the requirement that a program in transition submit an annual report was duplicative because that requirement exists in § 21.124 (relating to records to be filed with Board). The annual report submitted by nursing education programs under § 21.124 is a brief demographical report of enrollment and graduation dates. The report envisioned by the Board under subsection (a)(2)(ii) is a report on the progress of the transition. The Board has amended subsection (a)(2)(ii), which has been renumbered § 21.51(g)(1), to make this clarification. IRRC also commented that subsection (a)(2)(iii) states that the program in transition will be subject to a site review, but does not identify what entity will perform the review. The reviewer is identified in § 21.51(e) as a nursing education advisor to the Board. The Board's amendment of subsection (a)(2)(i) to include compliance with § 21.51(e) will clarify the identity of the reviewer.

Fifth, both the HPLC and IRRC commented on subsection (a)(2)(iv) regarding the time period for transition. The HPLC queried whether it was necessary to use 6 years as a time limit, and expressed concern that retaining the 6-year time frame could force the Board to close an educational program that was on the verge of receiving full accreditation. IRRC asked what would happen after 6 years if the program does not obtain full approval from the Department and asked the Board to clarify the consequences of not meeting the 6-year time limit. In addition, IRRC noted that the preamble to the proposed rulemaking indicated that it may take up to 6 years for a college or university to obtain full regional accreditation.

The proposed rulemaking confused the certificate of authority to operate issued by the Department and regional accreditation by a United States Department of Education-approved body, as noted in Carol Gisselquist's comments, previously addressed. Thus, the question is what will happen to a nursing education program that fails to obtain full regional accreditation (§ 21.51(g)(3)).

The Board has removed the 6-year time limit for obtaining full regional accreditation. A program that

submits annual progress reports evidencing satisfactory progress toward full accreditation under § 21.51(g)(1) may remain on initial approval status longer than 6 years. A program that fails to progress will be placed on provisional approval status under § 21.33(c) (relating to types of approval).

Sixth, IRRC submitted comments on subsections (a)—(e), existing regulations regarding nursing education programs, procedures and requirements. IRRC expressed three concerns. First, IRRC noted that subsection (a)(1) should not be an exception to § 21.51. The Board agrees, and has amended the language. Second, IRRC noted that subsection (a)(1) is lengthy and complex and might be better renumbered. The Board agrees and has renumbered the final-form rulemaking for simplicity. Third, IRRC noted that it is unclear whether existing requirements in subsections (b)—(e) will apply to programs in transition. The Board's renumbering and inclusion of specific regulatory references in what had been subsection (a)(2)(i) addresses this concern.

Seventh, IRRC noted that the Board uses both the terms "nursing program" and "nursing education program" in § 21.51. The final-form rulemaking has been amended to use only the term "nursing education program."

Eighth, IRRC noted that the term "wishing" was not standard regulatory language. The wording has been amended.

Ninth, IRRC requested that any references to types of approval status reference the appropriate section of the Board's regulations explaining that status. Thus, full approval status would reference § 21.33(b) and initial approval status would reference § 21.33(a). The Board has made these amendments.

Tenth, IRRC noted that subsection (a)(2)(i) may be unnecessary if a program in transition is considered another type of approved program. The Board believes its renumbering of the regulation addresses this concern.

Additional Amendments

The Board has made several amendments in the final-form rulemaking which delete obsolete requirements from § 21.51. Specifically, the Board deleted references to the regional health planning agency, which has not existed for many years. Second, the Board increased the number of copies of the feasibility study required from 15 to 18 to provide adequate copies for the Board members and staff to review.

Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. Programs in transition will be required to follow the same rules regarding the program proposal and feasibility study as new nursing education programs and will be charged the same fee for service as new programs. This fee is being promulgated in a separate rulemaking package regarding fees. The final-form rulemaking will not impose significant paperwork requirements upon programs in addition to those for new programs or upon the Board, and none upon any political subdivisions. The private sector will not incur additional costs in submitting information to the Board.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 14, 2004, the Board submitted a copy of the notice of proposed rulemaking, published

at 34 Pa.B. 851, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 18, 2005, the final-form rulemaking was approved by the HPLC. On November 2, 2005, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 3, 2005, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Ann Steffanic, Board Administrator, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

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

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

(3) This final-form rulemaking is necessary and appropriate for the regulation of diploma nursing education programs in transition to degree-granting nursing education programs in this Commonwealth.

(4) This final-form rulemaking does not enlarge the original purpose of the proposed rulemaking at 34 Pa.B. 851.

Order

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by amending § 21.51 to read as set forth in Annex A.

(b) The Board shall submit a copy of this order and Annex A to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

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

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

JANET HUNTER SHIELDS, MSN, CRNP, CS,
Chairperson

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 6390 (November 19, 2005).)

Fiscal Note: Fiscal Note 16A-5118 remains valid for the final adoption of the subject regulations.

Annex A**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS****PART I. DEPARTMENT OF STATE****Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS****CHAPTER 21. STATE BOARD OF NURSING****Subchapter A. REGISTERED NURSES****APPROVED PROGRAMS OF NURSING****§ 21.51. Establishment.**

(a) A nursing education program shall be developed under the leadership of a registered nurse as follows:

(1) A nursing education program may be developed under the authority of a regionally accredited university or college and will be known as a degree-granting nursing education program.

(2) A nursing education program may be developed under the authority of a hospital approved by the Joint Commission on Accreditation of Hospitals and will be known as a diploma nursing education program.

(3) A Board-approved diploma nursing education program may transition to a degree-granting nursing education program under the authority of a university or college pursuing regional accreditation and will be known as a program in transition.

(b) A nursing education program may be developed only if there is an adequate faculty and adequate clinical facilities and the philosophy of the parent institution encompasses dual programs of education.

(c) Prior to establishment or transition, a nursing education program shall:

(1) Complete a feasibility study which includes:

(i) Sufficient statistical data to support the need for a program within the community and to assure availability of an adequate supply and flow of interested candidates.

(ii) Identification of available clinical recourses for program implementation based on the projected enrollment and faculty. In viewing the clinical resources, the study must speak to other nursing education programs that share the teaching facilities identified in the study.

(iii) Letters of intent from the cooperating agencies indicating positive commitment to the nursing education program and the availability of sufficient clinical resources to meet the educational requirements of the program.

(iv) Actual cost of the program including faculty needed, clinical teaching resources, education supplies, office supplies, and the like, and sufficient evidence of stable financial support.

(2) Submit 18 copies of the feasibility study to the Board for approval.

(3) Employ the nurse administrator of the educational unit at least 12 months prior to the intended admission

date of students. Board approval of the nurse administrator's credentials shall be obtained prior to the appointment. For a program in transition, the nurse administrator may serve as administrator of both the degree-granting and diploma nursing education program during the transition period.

(4) Submit 18 copies of the tentative planned education program to the Board. For degree-granting and diploma nursing education programs, the submission shall be made at least 8 months prior to the intended admission date of students. For a program in transition, the submission shall be made at least 3 months prior to the intended admission date of students.

(5) Employ the teaching faculty at least 1 semester before the initiation of their teaching responsibilities.

(d) Change of ownership shall be processed as the establishment of a new program.

(e) The planned educational program must include:

(1) Organization and administrative policies of the controlling institution.

(2) Administrative structure and functions of the nursing school.

(3) Educational preparation and nursing experience of faculty members employed.

(4) Statement of the philosophy, purposes and objectives of the program.

(5) Proposed curriculum design based on sound educational concepts and including detailed course descriptions and identification of clinical practice.

(6) Admission policies.

(7) Educational standards.

(8) Copy of proposed budget projected for a minimum of 5 years.

(9) Copies of written agreements with cooperating agencies and facilities to be used in the program.

(f) A program in transition shall submit the following to the Board with the program's feasibility study:

(1) A copy of the certificate of authority to operate a degree-granting institution from the Department of Education.

(2) Documentation of the university or college's pursuit of regional accreditation.

(3) Documentation that the diploma program has maintained full approval status under § 21.33 (relating to types of approval) for at least 3 years prior to the intended date for admission of students.

(g) A program in transition shall:

(1) Submit an annual report detailing the progress of the transition to the Board. If requested by the Board's educational advisor, a program in transition shall appear before the Board to respond to questions or concerns that arise from the annual progress report.

(2) Be subject to a site review by the Board's education advisor after the first class has been awarded degrees and the results of the licensing examination taken by the first class are available.

(3) Continue on initial approval under § 21.33(a) until the university or college has obtained full regional accreditation.

(h) Following the review of the program and before final Board action is taken to grant permission to recruit

students, an initial faculty and nursing education program survey will be made by a nursing educational advisor of the Board.

[Pa.B. Doc. No. 05-2201. Filed for public inspection December 2, 2005, 9:00 a.m.]

STATE BOARD OF PHARMACY
[49 PA. CODE CH. 27]
Biennial Renewal Fees

The State Board of Pharmacy (Board) amends § 27.91 (relating to schedule of fees). The final-form rulemaking increases the biennial license renewal fee for pharmacists from \$120 to \$150 and increases the biennial renewal fee for a pharmacy permit from \$75 to \$100.

A. *Effective Date*

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*. The new fees will take effect for the pharmacist biennial period beginning October 1, 2006, and the pharmacy permit biennial period beginning September 1, 2007.

B. *Statutory Authority*

The final-form rulemaking is authorized under section 8.2(a) of the Pharmacy Act (act) (63 P. S. §§ 390-8.2(a)). In addition, section 8.2(b) of the act requires the Board to increase fees by regulation in an amount adequate to meet the minimum enforcement efforts required by the act.

C. *Summary of Comments and Responses on Proposed Rulemaking*

Publication of proposed rulemaking at 35 Pa.B. 1219 (February 12, 2005) was followed by a 30-day public comment period during which the Board received no public comments. The Independent Regulatory Review Commission (IRRC) had no objections, comments or recommendations to offer on this final-form rulemaking. The House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. The Board subsequently voted to adopt the final-form rulemaking at its April 20, 2005, meeting.

D. *Purpose and Description*

Section 8.2(a) of the act requires the Board to set fees by regulation in accordance with projected biennial revenues and expenditures. A detailed analysis of the fiscal operation of the Board and projections of future revenues and expenses was set forth in the notice of proposed rulemaking.

E. *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will increase the biennial renewal fee for pharmacists and pharmacies. A pharmacist will pay an additional \$30 for biennial renewal. A pharmacy will pay an additional \$25 for biennial renewal. The final-form rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions. The final-form rulemaking will require the Board to alter some of its forms to reflect the new biennial renewal fees. However, the final-form rulemaking should not create additional paperwork for the private sector.

F. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on February 2, 2005, the Board submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 1219, to the IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 18, 2005, the final-form rulemaking was approved by the HPLC. On November 2, 2005, the final-form rulemaking was deemed approved by the SCP/PLC. The final-form rulemaking was deemed approved by IRRC under section 5(g) of the Regulatory Review Act, effective November 2, 2005.

G. *Additional Information*

Individuals who need information about the final-form rulemaking should contact Melanie Zimmerman, R.Ph., Executive Secretary, State Board of Pharmacy, P. O. Box 2649, Harrisburg, PA 17105-2649.

H. *Findings*

The Board finds that:

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

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

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

I. *Order*

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 27, are amended by amending § 27.91 to read as set forth at 35 Pa.B. 1219.

(b) The Board shall submit this order and 35 Pa.B. 1219 to the Office of Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall certify this order and 35 Pa.B. 1219 and deposit them with the Legislative Reference Bureau as required by law.

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

MICHAEL J. ROMANO, R.Ph.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 6390 (November 19, 2005).)

Fiscal Note: Fiscal Note 16A-5414 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 05-2202. Filed for public inspection December 2, 2005, 9:00 a.m.]

STATE REAL ESTATE COMMISSION
[49 PA. CODE CH. 35]
Biennial Renewal Fee Increases

The State Real Estate Commission (Commission) amends § 35.203 (relating to fees). The final-form rule-making increases the following renewal fees:

- Biennial renewal for brokers, cemetery brokers, branch offices, rental listing referral agents, brokers of record and partners or offices for a partnership association or corporation from \$84 to \$126.
- Biennial renewal for cemetery companies, associate brokers, salespersons, cemetery associate brokers, cemetery salespersons or campground membership salespersons from \$64 to \$96.
- Annual renewal of registration of promotional property from \$75 to \$113.
- Annual renewal of approval of real estate education providers from \$250 to \$375 plus an increase from \$10 to \$15 for each satellite location, course or instructor.

Statutory Authority

The final-form rulemaking is authorized under section 407 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. § 455.407). It requires the Commission to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet Commission expenditures.

Response to Comments

Notice of proposed rulemaking was published at 35 Pa.B. 2411 (April 23, 2005). Publication was followed by a 30-day public comment period during which the Board received two public comments: one from the Pennsylvania Association of Realtors (PAR) in support of the proposed rulemaking and one from the Realtors Association of Greater Pittsburgh (RAMP) in opposition to the proposed rulemaking. Following the close of the public comment period, the Board received a comment from the House Professional Licensure Committee (HPLC). The Independent Regulatory Review Commission (IRRC) advised that it had no comments, questions or recommendations to the proposed rulemaking. The Board did not receive any comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). The following is in response to the comment submitted by the HPLC and RAMP.

The HPLC commented that the Annex delivered to the Committee was missing a comma. However, prior to its publication in the *Pennsylvania Bulletin*, the Legislative Reference Bureau inserted a comma. RAMP voiced its opposition to the fee increases on the grounds that the increases "will generate significantly more money than what may be needed" by the Commission. RAMP recommended that the Commission "tighten" its budget.

The Commission is required by law to support its operations from the revenue it generates from fees, fines and civil penalties. In accordance with section 407(a) of the RELRA, if the revenue raised by fees, fines and civil penalties is not sufficient to meet expenditures over a 2-year period, the Commission must increase its revenue. The Commission's current license renewal fees were established by regulation at 24 Pa.B. 2613 (May 20, 1994).

According to a presentation made to the Commission by the Bureau of Finance and Operations (BFO) at its

January 25-26, 2005, meeting, without the increase, the Commission would experience a projected deficit of \$30,802.97 in Fiscal Year (FY) 2004-2005 and continuing thereafter. The BFO recommended that the Commission raise fees 50% to meet or exceed projected expenditures in compliance with section 407(a) of the RELRA. Under the fee structure without amendment, the BFO estimated that at the close of FY 2004-2005, the Commission's expenses would exceed its revenues by \$30,522.66. By FY 2010-2011, the BFO anticipated that the deficit would increase to \$4,670,802.97.

Although the Commission continues to look at ways to streamline procedures to cut costs, the fee increases are still necessary to maintain a positive balance in the Commission account. Additionally, the fees are comparable to the renewal fees charged in surrounding states and therefore will not cause a competitive disadvantage to the Commonwealth. Accordingly, the Commission has not revised the final-form rulemaking.

Fiscal Impact

The final-form rulemaking will increase the renewal fees for brokers, cemetery brokers, branch offices, rental listing referral agents, brokers of record and partners or officers of a partnership association or corporation, cemetery companies, associate brokers, salespersons, cemetery associate brokers, cemetery salespersons, campground membership salespersons, promotional property registration, approval of real estate education providers, satellite locations, courses and instructors. The final-form rulemaking has no other fiscal impact on the private sector, the general public or political subdivisions.

Sunset Date

The RELRA requires that the Commission monitor its revenue and expenses on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 23, 2005, the Commission submitted a copy of the notice of proposed rulemaking, published at 35 Pa.B. 2411, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 18, 2005, the final-form rulemaking was approved by the HPLC. On November 2, 2005, the final-form rulemaking was deemed approved by the SCP/PLC. The final-form rulemaking was deemed approved by IRRC under section 5(g) of the Regulatory Review Act, effective November 2, 2005.

Public Comment

Further information may be obtained by contacting Debi Misheck, Administrator, State Real Estate Commission, at P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-3658.

Findings

The Commission finds that:

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

(2) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 49 Pa. Code Chapter 35, are amended by amending § 35.203 to read as set forth at 35 Pa.B. 2411.

(b) The Chairperson of the Commission shall certify this order and 35 Pa.B. 2411 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

BEVERLY BROOKS,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 35 Pa.B. 6398 (November 19, 2005).)

Fiscal Note: Fiscal Note 16A-5612 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 05-2203. Filed for public inspection December 2, 2005, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION [58 PA. CODE CHS. 51 AND 63] Boat and Fishing Guide Operations

The Fish and Boat Commission (Commission) amends Chapters 51 and 63 (relating to administrative provisions; and general fishing regulations). The Commission is publishing this final-form rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The final-form rulemaking relates to charter boat/fishing guide operations.

A. Effective Date

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

B. Contact Person

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

C. Statutory Authority

The new regulations in Chapter 51, Subchapter L (relating to charter boat/fishing guide operations) are published under the statutory authority of section 2907.3(d) of the code (relating to fishing guide and charter boat permits, regulations). The rescission of

§ 63.41 is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. Purpose and Background

Under the act of November 29, 2004 (P. L. 1286, No. 159) (Act 159), persons operating charter boat or fishing guide operations on the waters of this Commonwealth are required to obtain a charter boat/fishing guide permit from the Commission. Act 159 went into effect on January 1, 2005. However, the Commission decided to defer implementation of the permit requirement pending the promulgation of rules and regulations for the new program.

The Executive Director established a workgroup consisting of Commission staff and 21 charter boat/fishing guides from across this Commonwealth and assigned them the task of developing draft regulations. The workgroup formally met in January and March 2005 to discuss issues pertaining to this new program. With tremendous input from the charter boat/fishing guides, proposed regulations were drafted. The draft regulations addressed the majority, if not all, of the concerns raised by the workgroup.

E. Summary of Changes

The Commission has adopted new regulations to implement the charter boat/fishing guide permitting program. These regulations define key terms and address the permit itself, including the application, the duration, renewals, suspension or revocation and display requirements. The final-form rulemaking also includes a requirement that when a boat is involved, the operator demonstrate proficiency in boating safety by possessing a boating safety education certificate acceptable to the Commission. The final-form rulemaking further includes provisions pertaining to insurance, CPR and first aid, fishing licenses and permits and compliance with laws and regulations.

Under section 2907.3 of the code, holders of charter boat/fishing guide permits may be designated as special issuing agents for the purpose of selling to their customers One-Day Fishing Licenses, Three-Day Tourist Fishing Licenses, Seven-Day Tourist Fishing Licenses and applicable permits. The final-form rulemaking allows for interested permit holders to become special issuing agents by completing and submitting an application along with a bond or other security in a form acceptable to the Commission in an amount equal to the value of the licenses, stamps and permits being requested. The one-time, nonrefundable application fee required of other issuing agents is waived, and the reporting requirements are less stringent.

The Commission adopted the proposed regulations as set forth in the notice of proposed rulemaking with one exception. On final-form rulemaking, the Commission added a requirement that all applicants for charter boat/fishing guide permits must be 16 years of age or older. The Commission amended § 51.122 to read as set forth in Annex A.

Last, the Commission rescinded § 63.41 that relates to the Commission's current voluntary recognition program. Under this program, fishing guide operators paid a \$50 annual fee for which they received official recognition of their businesses. This official recognition, among other things, entitled guides to advertise that they were officially recognized by the Commission and gave them certain privileges with regard to the field dressing of fish. Because the mandatory permitting program will be in

place on January 1, 2006, the voluntary program is no longer needed. Thus, the Commission deleted § 63.41 as set forth in the notice of proposed rulemaking.

F. Paperwork

The final-form rulemaking will increase paperwork and will create new paperwork requirements in that all persons wishing to operate charter boat or fishing guide operations on the waters of this Commonwealth will have to first apply for and obtain an annual permit from the Commission. The Commission estimates that there are approximately 250 charter boat/fishing guide operations in this Commonwealth. Under the voluntary program, the Commission officially recognized approximately 70 guides this year.

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. Under section 2715(a.1) of the code (relating to license, permit and issuing agent fees), the fee for a resident charter boat/fishing guide permit is \$100 and the fee for a nonresident charter boat/fishing guide permit is \$400.

H. Public Involvement

A notice of proposed rulemaking was published at 35 Pa.B. 3416 (June 18, 2005). The Commission received a total of 14 public comments primarily from charter boat captains. One comment was received prior to the formal public comment period, ten during and three after. The majority of the public comments raised two issues—namely, increasing the number of rods that may be lawfully used by charter boat customers from two to three and allowing charter boat captains to remove the skin from the fillets of fish caught by their customers. The Commission also received several comments regarding permit fees, which are established by statute, not by the regulations. 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 51 and 63, are amended by amending §§ 51.121 and 51.123—51.130 and by deleting § 63.41 to read as set forth at 35 Pa.B. 3416 and by amending § 51.122 to read as set forth in Annex A.

(b) The Executive Director will submit this order, 35 Pa.B. 3416 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 35 Pa.B. 3416 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

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

Fiscal Note: Fiscal Note 48A-173 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart A. GENERAL PROVISIONS

CHAPTER 51. ADMINISTRATIVE PROVISIONS

Subchapter L. CHARTER BOAT/FISHING GUIDE OPERATIONS

§ 51.122. Permits.

(a) *Application.* A person desiring to be a charter boat operator or a fishing guide on the waters of this Commonwealth shall first apply for a permit on the form provided by the Commission. The applicant shall submit the completed form to the Commission along with the fee specified in section 2715 of the code (relating to license, permit and issuing agent fees). The applicant shall be 16 years of age or older.

(b) *Duration.* Charter boat/fishing guide permits are valid for a calendar year and expire on December 31 of the year for which it was issued.

(c) *Renewal.* A holder of a charter boat/fishing guide permit shall apply to the Commission for renewal of the permit by completing the renewal application form provided by the Commission and by submitting it along with the appropriate fee to the Commission.

(d) *Suspension or revocation of permit.* The Commission may suspend or revoke a charter boat/fishing guide permit for noncompliance with the terms and conditions of this chapter or when the charter boat operator or fishing guide is convicted or acknowledges guilt of a violation of the code or this chapter. Suspension or revocation procedures must comply with Chapter 51, Subchapter C (relating to suspension, denial or revocation of licenses, permits, registrations or privileges).

(e) *Prima facie evidence.* Advertising by any means, including, but not limited to, websites, business cards, brochures, newspapers, periodicals or billboards, that a person provides fishing guide or charter boat services shall be prima facie evidence of a commercial enterprise.

[Pa.B. Doc. No. 05-2204. Filed for public inspection December 2, 2005, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 133]

Wildlife Classification

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 4, 2005, meeting, adopted an amendment to § 133.21 (relating to classification of birds) to update the Pennsylvania list of native endangered and threatened

species with current recommendations provided by scientific technical committees of the Pennsylvania Biological Survey.

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

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

Notice of proposed rulemaking was published at 35 Pa.B. 4831 (August 27, 2005).

1. *Purpose and Authority*

To effectively protect and manage the wildlife resources of this Commonwealth, section 2167 of the code (relating to endangered or threatened species) empowers the Commission to make changes to the Pennsylvania list of native endangered and threatened species. Chapter 133 (relating to wildlife classification) lists native birds and mammals determined by the Commission to be endangered or threatened. This chapter was last amended in February 1999. Commission staff has met with and received recommendations from the scientific technical committees of the Pennsylvania Biological Survey on species classification changes. No classification changes were proposed for mammals. However, the Ornithological Technical Committee recommended several changes to the list of threatened and endangered birds that were supported by extensive documentation. The amendments to § 133.21 represent two additions to the endangered species list (blackpoll warbler and black-crowned night-heron), three changes from threatened to endangered (dickcissel, sedge wren and yellow-bellied flycatcher) and one change from endangered to threatened (bald eagle).

Section 2167(a) of the code states that "The commission may, by regulation, add or remove any wild bird or wild animal native to this Commonwealth to or from the Pennsylvania native list of endangered or threatened species." Section 322(c)(8) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Add to or change the classification of any wild bird or wild animal." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat . . . in this Commonwealth." The amendment to § 133.21 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking updates this Commonwealth's list of native endangered and threatened species in § 133.21 with current recommendations provided by scientific technical committees of the Pennsylvania Biological Survey.

3. *Persons Affected*

Persons wishing to hunt, trap or otherwise affect certain wildlife (or their habitat) within this Commonwealth may be impacted by the final-form rulemaking.

4. *Comment and Response Summary*

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

5. *Cost and Paperwork Requirements*

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

6. *Effective Date*

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

7. *Contact Person*

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

Findings

The Commission finds that:

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

(2) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 133, are amended by amending § 133.21 to read as set forth at 35 Pa.B. 4831.

(b) The Executive Director of the Commission shall certify this order and 35 Pa.B. 4831 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-215 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 05-2205. Filed for public inspection December 2, 2005, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 137]
Wildlife

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 4, 2005, meeting, adopted § 137.34 (relating to Chronic Wasting Disease and emergency authority of Director).

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

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

Notice of proposed rulemaking was published at 35 Pa.B. 4829 (August 27, 2005).

1. *Purpose and Authority*

In light of the recent outbreaks of Chronic Wasting Disease (CWD) only short distances from this Commonwealth's borders in the states of New York and West Virginia, the Commission has been aggressively developing an updated CWD response plan to help prevent the entry of CWD into this Commonwealth or slow and

restrict the spread of CWD if an outbreak occurs within this Commonwealth. As an important step to preventing or slowing the spread of CWD in this Commonwealth, the Commission has added § 137.34 to give the Director emergency authority to remove protection on cervids, order the disposal of cervids or their parts in designated areas, prohibit the removal of the carcasses or certain parts of cervids from designated areas, prohibit the possession or transportation of live cervids from designated areas, prohibit the importation of cervids parts from endemic states or nations and also prohibit the feeding of cervids if the spread of CWD poses a threat to human safety, farm animals, pets or other wildlife within or adjacent to this Commonwealth. This expanded authority is necessary to more effectively respond to potential outbreaks of CWD, a transmissible disease.

Section 103(a) of the code (relating to ownership, jurisdiction and control of game and wildlife) states that "The ownership, jurisdiction over and control of game or wildlife is vested in the commission as an independent agency of the Commonwealth in its sovereign capacity to be controlled regulated and disposed of in accordance with this chapter." Section 322(c)(2) of the code (relating to powers and duties of commission) specifically empowers the Commission to "Remove protection, declare an open season or increase, reduce or close a season." Section 322(c)(9) of the code specifically empowers the Commission to "Prohibit the possession, importation, exportation or release of any species of birds or animals which may be considered dangerous or injurious to the general public or to the wildlife of this Commonwealth." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife . . . in this Commonwealth." The addition of § 137.34 was adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking adds § 137.34 to give the Director emergency authority to remove protection on cervids, order the disposal of cervids or their parts in designated areas, prohibit the removal of the carcasses or parts of cervids from designated areas, prohibit the possession or transportation of live cervids from designated areas, prohibit the importation of cervids parts from endemic states or nations and also prohibit the feeding of cervids if the spread of CWD poses a threat to human safety, farm animals, pets or other wildlife within or adjacent to this Commonwealth.

3. Persons Affected

Persons wishing to hunt or trap, possess or transport live cervids, remove the carcasses or parts of cervids, import cervids parts or feed cervids in designated areas within this Commonwealth when the spread of CWD poses a threat to human safety, farm animals, pets or other wildlife within or adjacent to this Commonwealth may be affected by the final-form rulemaking.

4. Comment and Response Summary

The Commission received only one written comment regarding the final-form rulemaking. This single comment was in support of the Commission's effort to create emergency regulatory authority to protect this Commonwealth from CWD.

5. Cost and Paperwork Requirements

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

6. Effective Date

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

7. Contact Person

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

Findings

The Commission finds that:

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

(2) The adoption of the regulation of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 137, are amended by adding § 137.34 to read as set forth in Annex A.

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

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-212 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 137. WILDLIFE

§ 137.34. Chronic Wasting Disease and emergency authority of Director.

(a) The Director has emergency authority to remove protection on cervids, prohibit any new permits to possess live cervids in containment areas, and order the disposal of certain cervids or their parts in containment areas, if the Director determines the spread of Chronic Wasting Disease (CWD) poses a threat to human safety, farm animals, pets or other cervids within or adjacent to this Commonwealth in accordance with the CWD response plan.

(1) If the Director removes the protection on cervids in containment areas, except for animals or their parts submitted for laboratory analysis, it is unlawful to:

(i) Remove any cervid carcasses or certain parts from the containment areas.

(ii) Possess or transport any live cervids contrary to 3 Pa.C.S. Chapter 23, Subchapter C (relating to detection, containment or eradication of certain diseases) within the containment areas.

(2) Nothing in this subsection prevents removal of dried or cured skins of cervids from the areas where the protection has been removed, only if removal poses no threat to other areas of this Commonwealth.

(b) The Director has emergency authority to control the spread of CWD by banning the importation of certain cervid parts from other states or nations.

(c) The Director has emergency authority to ban the feeding of cervids within the containment area to prevent the congregation or habituation to an area by cervids that could spread CWD.

[Pa.B. Doc. No. 05-2206. Filed for public inspection December 2, 2005, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]
Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 4, 2005, meeting, adopted an amendment to § 141.22 (relating to small game) and added § 141.67 (relating to furbearer hunting) to remove regulatory language regarding furbearer hunting from Subchapter B (relating to small game) and relocating this language to the more appropriate Subchapter D (relating to furbearers) and also expand this language to permit the use of shot up to #4 buckshot for furbearer hunting with shotguns.

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

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

Notice of proposed rulemaking was published at 35 Pa.B. 4829 (August 27, 2005).

1. Purpose and Authority

Formerly, § 141.22 limited the use of shot size for furbearer hunting to shot size no larger than BB lead, size BB Bismuth/tin or size T steel. A number of predator hunters requested that the Commission expand this limiting language to permit the use of shot size no larger than #4 buckshot for furbearer hunting to increase their effectiveness and efficiency while hunting furbearers with shotguns. After consideration of relevant safety and furbearer management issues/concerns, the Commission determined that it is appropriate to accommodate the request of the predator hunters. However, the Commission has also determined that the regulatory language regarding furbearer hunting in § 141.22 would be more appropriately located in another section. The Commission is therefore deleting and relocating this regulatory language, as amended, from § 141.22 to § 141.67 in the reclassified "Furbearers" subchapter.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating . . . the type of firearms and ammunition and

other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." Section 2102(a) of the code provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to . . . the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment to § 141.22 and the addition of § 141.67 were adopted under this authority.

2. Regulatory Requirements

The final-form rulemaking amends § 141.22 by deleting and relocating the regulatory language regarding furbearer hunting to § 141.67 and also expanding this language to permit the use of shot size up to #4 buckshot for furbearer hunting with shotguns.

3. Persons Affected

Persons wishing to hunt furbearers within this Commonwealth with a shotgun will be affected by the final-form rulemaking.

4. Comment and Response Summary

The Commission received only two written comments pertaining to the final-form rulemaking. Both comments were in support of the Commission's effort to permit the use of #4 buckshot for furbearer hunting with shotguns.

5. Cost and Paperwork Requirements

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

6. Effective Date

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

7. Contact Person

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

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative 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 thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.22 and by adding § 141.67 to read as set forth at 35 Pa.B. 4829.

(b) The Executive Director of the Commission shall certify this order and 35 Pa.B. 4829 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-214 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 05-2207. Filed for public inspection December 2, 2005, 9:00 a.m.]

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 63]

General Fishing Regulations

The Fish and Boat Commission (Commission) proposes to amend Chapter 63 (relating to general fishing regulations). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed rulemaking modifies the regulation concerning the use of long bows, crossbows, spears and gigs. In addition, the proposed rulemaking updates the regulation regarding field dressing of fish and provides more detailed regulation of officially-recognized fish cleaning stations.

A. Effective Date

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

B. Contact Person

For further information on the proposed rulemaking, contact Jason E. Oyler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7810. This proposed rulemaking is available on the Commission's website at www.fish.state.pa.us.

C. Statutory Authority

The proposed amendment to § 63.8 (relating to long bows, crossbows, spears and gigs) and the proposed addition of § 63.15a (relating to officially-recognized fish cleaning stations) are published under the statutory authority of section 2102 of the code (relating to rules and regulations). The proposed amendment to § 63.15 (relating to field dressing of fish) is published under the statutory authority of section 2102 of the code and section 2907.3 of the code (relating to fishing guide and charter boat permits).

D. Purpose and Background

The proposed rulemaking is designed to update, modify and improve the Commission's regulations relating to the use of long bows, crossbows, spears and gigs and fish cleaning and disposal of fish. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposals.

E. Summary of Proposals

(1) *Section 63.8.* Currently, this section allows carp, gar, suckers and eels to be taken with long bows, crossbows, spears or gigs. However, spotted gar is listed as an endangered species and longnose gar is listed as a candidate species in this Commonwealth. In addition, the American eel is currently under review by the United States Fish and Wildlife Service for possible listing as a Federally endangered or threatened species. The Commission believes that to allow continued harvest of "gar" and "eels" by these gears is inconsistent with the protection of species of special concern, and the species should be eliminated from § 63.8(a). Accordingly, the Commission proposes to amend § 63.8 to read as set forth in Annex A.

(2) *Sections 63.15 and 63.15a.* During the early part of 2005, the Commission, with the assistance of a workgroup

comprised of charter boat captains and fishing guides, developed regulations pertaining to charter boat/fishing guide operations. A concern was raised during the workgroup meetings regarding the current field dressing of fish regulations in § 63.15. The workgroup, especially the charter captains, requested a change in the regulations to allow them to fully process fish caught by their customers.

Also, the Commission is aware of the development of several noncommercial official fish cleaning stations on the Lake Erie shoreline and at other locations throughout this Commonwealth. These facilities are generally open to the public for their use at no cost to process their catch. The current regulations prohibit anglers using these facilities to fully process their catch.

Accordingly, the Commission proposes to amend its regulations to address the concerns raised by the charter captains and to provide anglers with the ability to fully process their catch at an officially recognized noncommercial fish cleaning station. The proposed rulemaking also addresses the disposal of fish carcasses and parts thereof in Commonwealth waters and adjacent lands. The proposed rulemaking provides for a greater degree of uniformity in the processing of fish and carcass disposal with the current regulations in New York and Ohio.

In addition, the Commission proposes to add § 63.15a. This new section allows for two types of officially recognized fishing cleaning stations—commercial and noncommercial. Operators of commercial stations are required to give the person who receives a filleted fish a signed, dated receipt indicating the species and the number of fish dressed. Operators of noncommercial stations are not. The proposed rulemaking also clarifies that the operator of an officially-recognized fish cleaning station will allow officers authorized to enforce the code access to the station to inspect angler catches to determine compliance with seasons, sizes and creel limits. The Commission proposes to amend § 63.15 and add § 63.15a to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will create no new paperwork requirements because the Commission's current regulations allow for operators of fish cleaning stations to apply for official recognition. Paperwork may increase slightly because the Commission anticipates that more operators of noncommercial stations will apply for official recognition status.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public. There is no fee to apply for recognition as an officially recognized fish cleaning station.

H. Public Comments

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

Comments also may be submitted electronically by completing the form at www.state.pa.us/Fish/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt. Electronic comments submitted in any other manner will not be accepted.

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

Fiscal Note: 48A-178. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 63. GENERAL FISHING REGULATIONS

§ 63.8. Long bows, crossbows, spears and gigs.

(a) *General.* Except as otherwise provided in this part, carp [, gar,] and suckers [and eels] may be taken with long bows and arrow, including compound bows, crossbows, spears or gigs at any hour of the day or night aided by a light at night if so desired, in Commonwealth waters and waters bounding and adjacent thereto.

* * * * *

§ 63.15. Field dressing and disposal of fish.

[(a) It is unlawful to fillet fish having a minimum size limit or closed season until the fish have arrived at the place of consumption. Fish may be field dressed but the head and tail shall remain intact.

(b) Fish without minimum size limits or closed season may be filleted but the skin shall remain on the fillet until it has arrived at the place of consumption.

(c) This section does not apply to fish caught or sold in compliance with Chapter 31 of the code (relating to regulated fishing lakes). This section applies to catches of fish caught under a Lake Erie commercial license under Chapter 29 of the code (relating to special licenses and permits) only until the fish reach established retail or wholesale markets.

(d) This section does not apply to fish filleted or dressed at an officially-recognized fish cleaning station. The skin shall remain attached to the fillet for species, other than yellow perch, subject to a minimum size limit and the size of the fillet for a fish subject to a minimum size limit, including yellow perch, shall be at least 75% of the minimum size limit for that species. The operator of the fish cleaning station shall give the person who receives the filleted fish a signed, dated receipt indicating the species and the number of fish dressed. Operators of fish cleaning stations may apply for official recognition to:

Director, Bureau of Law Enforcement
Pennsylvania Fish and Boat Commission
Post Office Box 67000
Harrisburg, Pennsylvania 17106-7000]

(a) Except as otherwise provided in this section, it is unlawful to possess a fish in any form or condition other than in the whole or having the

entrails removed while on shore, along the waters of this Commonwealth, onboard a boat or on a dock, pier, launch area or a parking lot adjacent thereto.

(b) Fish may be processed fully if they are being prepared for immediate consumption.

(c) This section does not apply to fish processed at a fish cleaning station officially recognized under § 63.15a (relating to officially-recognized fish cleaning stations).

(d) Provided that the requirements of this subsection are met, this section does not apply to fish processed by a permitted charter boat/fishing guide operation. The charter boat operator or fishing guide may fully process the fish at any time provided the charter boat operator or fishing guide retains the carcass until possession of the fish is transferred to the customer on shore. The charter boat operator or fishing guide shall give the customer who receives the processed fish a signed, dated receipt on the form prescribed by the Commission.

(e) This section does not apply to fish caught or sold in compliance with Chapter 31 of the code (relating to regulated fishing lakes).

(f) This section does not apply to fish caught under a Lake Erie commercial license issued consistent with Chapter 29 of the code (relating to special licenses and permits) after the fish reach established retail or wholesale markets.

(g) It is unlawful to discard any fish carcass or parts thereof into the waters of this Commonwealth within 100 feet of shore, a dock or launch ramp or upon any public or private lands contiguous to and within 100 feet of the water except for the following:

(1) On lands with the permission of the landowner.

(2) When fish are properly disposed into suitable garbage or refuse collection systems or at officially recognized fish cleaning stations.

§ 63.15a. Officially-recognized fish cleaning stations.

(a) *Types.*

(1) *Commercial.* An operator of a fish cleaning station that provides services to the public for a fee may apply for recognition as an official commercial fish cleaning station.

(2) *Noncommercial.* An operator of a fishing cleaning station that provides services at no cost may apply for recognition as an official noncommercial fish cleaning station.

(b) *Receipts.* Except as provided in this subsection, the operator of an officially-recognized fish cleaning station shall give the person who receives the filleted fish a signed, dated receipt on the form prescribed by the Commission. This subsection does not apply to the operator of a noncommercial fish cleaning station.

(c) *Inspection.* The operator of an officially-recognized fish cleaning station shall allow officers authorized to enforce the code unrestricted access to the station to inspect angler catches for compliance with seasons, sizes and creel limits.

(d) Application. An operator of a fish cleaning station may apply for official recognition to:

**Director, Bureau of Law Enforcement
Pennsylvania Fish and Boat Commission
Post Office Box 67000
Harrisburg, Pennsylvania 17106-7000**

[Pa.B. Doc. No. 05-2208. Filed for public inspection December 2, 2005, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Provisions of Default Service; Reopening of the Public Comment Period

Public Meeting held
November 10, 2005

Commissioners Present: Wendell F. Holland, Chairperson;
James H. Cawley, Vice Chairperson; Bill Shane; Kim
Pizzingrilli; Terrance J. Fitzpatrick, dissenting state-
ment follows

*Rulemaking Re Electric Distribution Companies'
Obligation to Serve Retail Customers at the Conclusion of
the Transition Period Pursuant to 66 Pa.C.S. § 2807(e)(2);
Doc. No. L-00040169*

*Petition of Direct Energy Services, LLC to Reopen the
Comment Period; Doc. No. L-00040169*

*Implementation of the Alternative Energy Portfolio
Standards Act of 2004; Doc. No. M-00051865*

Order

By the Commission:

This Order will serve to reopen the public comment period for the Commission's proposed default service regulations. The Commission takes this action as part of its implementation of the Alternative Energy Portfolio Standards Act of 2004 ("Act 213"), 73 P. S. §§ 1648.1—1648.8, its consideration of the mandates of the Energy Policy Act of 2005 ("EPAAct 2005"), and to more fully examine the issues raised in the comments of the Independent Regulatory Review Commission. The Commission will provide separate notice to all interested parties of the schedule and format for this additional comment period.

DISCUSSION

The Electricity Generation Customer Choice and Competition Act ("Competition Act"), 66 Pa.C.S. §§ 2801—2812, requires the Commission to promulgate regulations defining the obligation of electric distribution companies to serve retail customers at the end of the restructuring transition period. 66 Pa.C.S. § 2807(e)(2). The Commission commenced this formal rulemaking process in late 2004. *Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant To 66 Pa.C.S. § 2807(e)(2)*, Docket No. L-00040169 (Order entered December 16, 2004). The public comment period for these proposed regulations concluded on June 27, 2005.¹ The

¹ Direct Energy Services, LLC filed a Petition at this docket on October 19, 2005, requesting that the comment period be reopened. The period for Answers and Replies provided for under our regulations had yet to expire as of the time of this Public Meeting. 52 Pa. Code §§ 5.61—5.63. We note that our decision to reopen this proceeding is at least partially based on reasons additional to those cited in this Petition.

Independent Regulatory Review Commission ("IRRC") issued its comments on the proposed regulations on July 27, 2005. The Commission must either withdraw the proposed regulation or deliver a final-form regulation to IRRC within two years of the close of the public comment period on June 27, 2007. 73 P. S. § 745.5a.

Cost-recovery for electric distribution company ("EDC") compliance with Act 213 is one of the key issues that must be addressed in this rulemaking. Act 213 costs are identified "... as a cost of generation supply under 66 Pa.C.S. § 2807." 73 P. S. § 1648.3(a)(3). The Commission briefly noted in the proposed default service regulations that alternative energy costs would be recovered consistent with the provisions of Act 213. The Commission chose to defer the inclusion of greater detail on this issue until after it had the opportunity to fully study all the implications of Act 213. The Commission also wished to avail itself of the input of interested parties on this issue before it prepared a final-form default service regulation. We have previously announced that this issue would be referred to the Alternative Energy Portfolio Standards Working Group for consideration. *Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Docket No. M-00051865 (Order entered July 18, 2005).

The Commission recognizes that the successful implementation of Act 213 will require significant investments by the private sector in new alternative energy projects. It is the nature of many of these projects that they may require long-term contracts to be economically viable. The Commission acknowledges that the private sector seeks some assurance that long-term alternative energy contracts between EDCs and generators are not contrary to either the Competition Act or Act 213 before making these investments. Because the alternative energy market is a new and emerging marketplace, in contrast to more mature, conventional energy markets, it appears that competitively procured, long-term generation contracts may be the prevailing market instrument for EDCs to comply with Act 213. As such, these costs would qualify as reasonable costs fully recoverable under Section 2807(e)(3) of the Public Utility Code, 66 Pa.C.S. § 2807(e)(3). We note that Act 213 mandates the recovery of EDCs compliance costs pursuant to an automatic adjustment clause under Section 1307 of the Public Utility Code, 66 Pa.C.S. § 1307. 73 P. S. § 1648.3(a)(3).

Several other factors contribute to our decision to reopen the default service rulemaking. One, IRRC's comments identified several issues on which parties may desire the opportunity to file comments with the Commission. These issues include comments on the need of issuing default service regulations in the immediate future, as opposed to a time closer to the end of the transition period for all EDCs. Two, the Commission must consider and address the mandates of EPAAct 2005. For example, EPAAct 2005 amends the Public Utility Regulatory Policies Act of 1978 to require that electric utilities offer time-based rate schedules to all retail electric customers. 16 U.S.C. § 2621(d)(14). The Commission is instructed to consider and render a decision on the adoption of this standard. 16 U.S.C. § 2622(b)(4). Some parties may desire to comment upon the provisions of EPAAct 2005 with regard to this rulemaking process.

Accordingly, the Commission finds it to be in the public interest to reopen the comment period for this rulemaking so that these issues may be fully considered. We expect that those parties who have previously commented on these proposed regulations and the members of the Alternative Energy Portfolio Standards Working Group

will participate in this process and be ready to assist the Commission in the examination of these subjects. At a minimum, parties will be asked to consider the following questions:

- Should Act 213 cost recovery be addressed in the Default Service regulations as opposed to a separate rulemaking? Is it necessary to consider Act 213 cost recovery regulations on a different time frame in order to encourage development of alternative energy resources during the “cost recovery period”?
- Do the prevailing market conditions require long-term contracts to initiate development of alternative energy resources? May Default Service Providers employ long-term fixed price contracts to acquire alternative energy resources? What competitive procurement process may be employed if the Default Services Provider acquires alternative energy resources through a long-term fixed price contract?
- Should the force majeure provisions of Act 213 be integrated into the Default Service procurement process? Should Default Service Providers be required to make force majeure claims in their Default Service implementation filing? What criteria should the Commission consider in evaluating a force majeure claim? How may the Commission resolve a claim of force majeure by an EGS?
- Given that Act 213 includes a minimum solar photovoltaic requirement as part of Tier I, should these resources be treated differently from other alternative energy resources in terms of procurement and cost recovery?
- Should the Commission integrate the costs determined through a § 1307 process for alternative energy resources with the energy costs identified through the Default Service Provider regulations? How could these costs be blended into the Default Service Providers Tariff rate schedules?
- May a Default Service Provider enter into a long-term fixed price contract for the energy supplies produced by coal gasification based generation if the resulting energy costs reflected in the tariff rate schedules are limited to the prevailing market prices determined through a competitive procurement process approved by the Commission?

The Commission will provide separate notice of the schedule, scope and format of this additional comment period to all interested parties; *Therefore,*

It Is Ordered That:

1. The public comment period for the rulemaking proceeding at Docket No. L-00040169 is reopened consistent with this Order.
2. The Petition of Direct Energy Services, LLC, is granted consistent with this Order.
3. The Law Bureau will draft a Secretarial Letter identifying the schedule, format and list of suggested topics for this additional comment period.
4. This Order be published in the *Pennsylvania Bulletin* and served on all jurisdictional electric distribution companies, all licensed electric generation suppliers, the Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, and the Pennsylvania Department of Environmental Protection.

JAMES J. MCNULTY,
Secretary

Dissenting Statement of Commissioner Terrance J. Fitzpatrick

*Public Meeting November 10, 2005; NOV-2005-L-0117**

Rulemaking Re: Electric Distribution Companies' Obligations to Serve Retail Customers

The Commission's action today reopens the public comment period in the proceeding to develop regulations regarding default service by electric utilities, and lists several questions for comment by interested parties. Because it appears to me that a Majority of the Commission is moving in a direction that is contrary to existing law, I respectfully dissent.

Both the staff recommendation and the Motion adopted by the Majority support the concept of electric utilities entering into 20 year fixed price contracts with alternative energy developers in order to ensure the economic viability of the developers. The Alternative Energy Portfolio Standards Act, 73 P. S. § 1648.1, neither compels nor authorizes electric utilities to enter into such contracts.

In addition, the propriety of these contracts must be examined in light of another law administered by this Commission—the Electricity Generation Customer Choice and Competition Act (Competition Act), 66 Pa.C.S. § 2801, et seq. Section 2807(e)(3) of the Competition Act states that if a customer does not choose a competitive supplier, then the utility “shall acquire electric energy at prevailing market prices to serve that customer and shall recover fully all reasonable costs.” 66 Pa.C.S. § 2807(e)(3).

In my view, it is impossible for a utility to sign a 20 year fixed price supply contract and still comply with the statutory requirement to purchase energy at “prevailing market prices” for non-shopping customers. The price that electric utilities pay for electricity must maintain some reasonable relationship to wholesale prices at any given time to satisfy the “prevailing market price” test, because customers can decide to enter or exit the market at any time. With a 20 year fixed price contract, it would be pure coincidence if the price of the contract in, say, year 12 reflected conditions in the wholesale market at that time.

In the Duquesne Light decision last year, the Commission concluded that a six-year fixed price was inconsistent with the “prevailing market price” test. *Petition of Duquesne Light Co.*, Dkt. No. P-00032071, Order adopted August 19, 2004. In addition, the Independent Regulatory Review Commission recently commented that supply contracts for default service should not exceed 3 years in order to remain in touch with prevailing conditions in wholesale markets. *Comments of IRRC*, No. 57-237 (IRRC #2463), p. 5. It is clear that authorizing utilities to sign 20 year fixed price contracts with alternative energy developers would represent a significant shift in policy in the Commonwealth.

For these reasons, I respectfully dissent.

[Pa.B. Doc. No. 05-2209. Filed for public inspection December 2, 2005, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Application Period for the Agricultural Land Conservation Assistance Grant Program

An application period for grants under the Agricultural Land Conservation Assistance Grant Program (program) administered by the Department of Agriculture (Department) has started. The program is authorized by sections 7.1 and 7.3 of the act of June 18, 1982 (3 P. S. §§ 1207.1 and 1207.3). In summary, the program allows the Department to award grants to certain counties for projects that will establish or improve agricultural conservation easement purchase programs. Regulations for the program are in 7 Pa. Code Chapter 138h (relating to agricultural land conservation assistance grant program). These regulations can be viewed and downloaded at www.pacode.com.

Applications for the program will be accepted by the Department beginning January 2, 2006, for a 45-day period ending at 4 p.m. on February 17, 2006. Information and grant application forms may be obtained from Sandra E. Robison, Bureau of Farmland Preservation, Department of Agriculture, 2301 N. Cameron Street, Room 402, Harrisburg, PA 17110-9408.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 05-2210. Filed for public inspection December 2, 2005, 9:00 a.m.]

Order of Quarantine; Plum Pox Virus

Recitals

A. The Plant Pest Act (act) (3 P. S. §§ 258.1—258.27) empowers the Department of Agriculture (Department) to take various measures to detect, contain and eradicate plant pests in this Commonwealth.

B. The powers granted the Department under section 21 of the act (3 P. S. § 258.21) the power to establish quarantines to prevent the dissemination of plant pests within this Commonwealth.

C. Plum Pox Virus (PPV)—a plant pest indigenous to Europe—is a serious plant pest that injures and damages stone fruits such as peaches, nectarines, plums and apricots by drastically reducing the fruit yields from these stone fruit trees and by disfiguring the fruit to the point it is unmarketable.

D. As a result of the presence of PPV in several townships and boroughs, the Department has issued a series of quarantine orders establishing and adjusting a quarantine area.

E. To date, the quarantine orders currently in effect have established a quarantine area for commercial stone fruit orchards covering the following:

- Adams County: Latimore Township and Huntington Township (29 Pa.B. 5735 (November 6, 1999)).
- Cumberland County: South Middleton Township (30 Pa.B. 3269 (July 1, 2000)).

- Adams and Cumberland Counties: Dickinson Township (Cumberland County) and portions of Menallen Township and Tyrone Township (Adams County) (30 Pa.B. 4357 (August 19, 2000)).

- Adams and Cumberland Counties: the Borough of York Springs (Adams County) and the Borough of Mount Holly Springs (Cumberland County) (30 Pa.B. 5852 (November 11, 2000)).

- York County: Franklin Township (31 Pa.B. 3560 (July 7, 2001)).

- York County: Conewago Township and Monaghan Township (32 Pa.B. 4045 (August 17, 2002)).

- Adams County: a portion of Butler Township (33 Pa.B. 5087 (September 26, 2003)) and a portion of Menallen Township (33 Pa.B. 5087 (September 26, 2003)).

F. PPV has since been detected on stone fruit trees located in an area of Menallen Township, Adams County, that is outside the areas covered by either of the two current quarantine orders issued with respect to that township. The Department seeks to consolidate these two earlier quarantine areas, plus the unquarantined area in which PPV has been detected, under a single quarantine order.

G. PPV has the potential to cause serious damage to the stone fruit production industry within this Commonwealth.

H. PPV is transmitted from infected trees by aphids and by budding or grafting and can be spread into new areas by movement of infected nursery stock.

I. The movement of PPV-infected fruit trees poses a danger to stone fruit trees in noninfected areas.

J. There is no known control for PPV other than destruction of infected trees.

Order

Under authority of section 21 of the Plant Pest Act (3 P. S. § 258.21), and with the foregoing recitals incorporated by reference, the Pennsylvania Department of Agriculture hereby orders the following:

1. The quarantine orders issued with respect to portions of Menallen Township, Adams County, published in the August 19, 2000 and September 26, 2003 editions of the *Pennsylvania Bulletin* (at 30 Pa.B. 4357 and 33 Pa.B. 5087, respectively) are hereby rescinded.

2. A quarantine is hereby established with respect to the portions of Menallen Township, Adams County, described as follows. These areas include the areas originally established in the quarantine orders described in the preceding paragraph, plus the area in which Plum Pox Virus was recently detected. The quarantined area includes the area:

a. Bounded on the North, by the Adams/Cumberland County Line; and

b. Bounded on the East, by the Menallen/Tyrone Township Line; and

c. Bounded on the Southeast, by the Menallen/Butler Township Line extending to Route 34; and

d. Bounded on the West by the following irregular line connecting Route 34 with the Adams/Cumberland County line:

- North along Route 34 to Quaker Valley Road, then:
- West on Quaker Valley Road to Bear Mountain Road; then
- Northwest on Bear Mountain Road 0.3 mile to the culvert of a stream bed (near Met-Ed GPU wooden power pole #13204-22876); then
- Northeast along the stream bed to where it flows to Potato Road (near Met Ed/GPU wooden power pole #13302-23339); then
- Northeast on Potato Road 0.3 mile to the culvert of a stream bed (near Met Ed/GPU power pole #13302-23339); then
- Northeast approximately 200 ft. to a gravel road (Bendersville/Opposum Valley Water System road); then
- Northwest from this intersection, follow a straight line Northwest approximately 3,400 ft. to the intersection of Gotten Lane and Maryland Avenue; then
- Northeast on Maryland Avenue to Pine Ridge Road; then
- North on Pine Ridge Road to Elmwood Lane (locally known as Taylor Lane); then
- Northwest on Elmwood Lane to Bendersville-Wenksville Road; then
- East on Bendersville-Wenksville Road to West Point Road; then
- Northwest on West Point Road to Back Road; then
- West on Back Road to the boundary of Michaux State Forest; then
- North along the border of Michaux State Forest to the Adams/Cumberland County Line.

3. This quarantine prohibits the movement of stone fruit trees and stone fruit budwood within the quarantined area, and prohibits the movement of stone fruit trees and stone fruit budwood out of the quarantined area.

4. This quarantine order also prohibits the planting of stone fruit trees (apricot, nectarine, peach and plum) in the quarantined area. This prohibition applies to both fruit-bearing and ornamental varieties of stone fruit trees. Examples of common varieties of ornamental stone fruit trees include purpleleaf plum, flowering almond, flowering peach, purpleleaf sandcherry, flowering cherry, and weeping cherry.

5. PDA will consult with the United States Department of Agriculture, European experts and scientific authorities with respect to the most efficacious measures by which to contain and eliminate this serious plant pest. PDA will issue further restrictions under authority of this Quarantine Order, as is required under the Plant Pest Act (at 3 P. S. § 258.21(a)). These restrictions may address aphid control, elimination or reduction of aphid habitat, destruction of Plum Pox Virus-infected stone fruit trees and budwood, destruction of endangered or exposed stone fruit trees or budwood and any other measures necessary to the containment and elimination of the Plum Pox Virus in this Commonwealth.

6. This Order applies to commercial orchards, commercial nurseries, homeowners and all persons within the quarantine areas described previously.

7. This quarantine is effective as of November 9, 2005.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 05-2211. Filed for public inspection December 2, 2005, 9:00 a.m.]

Partial Revocation of Plum Pox Virus Quarantine

Recitals

1. The Plant Pest Act (act) (3 P. S. §§ 258.1—258.27) empowers the Department of Agriculture (Department) to take various measures to detect, contain and eradicate plant pests in this Commonwealth.

2. The powers granted the Department under section 21 of the act (3 P. S. § 258.21) include the power to establish quarantines to prevent the dissemination of plant pests within this Commonwealth.

3. Plum Pox Virus (PPV) is a serious nonnative plant pest that injures and damages stone fruits such as peaches, nectarines, plums and apricots by drastically reducing the fruit yields from these stone fruit trees and by disfiguring the fruit to the point it is unmarketable and has been detected in certain areas of this Commonwealth.

4. The Department has exercised its authority under the act and issued several Orders of Quarantine affecting portions of Adams, Cumberland, Franklin and York Counties in an effort to contain, identify and eradicate PPV.

5. The Department is satisfied it is appropriate to rescind the Order of Quarantine applicable to Conewago Township, York County, since 3 consecutive years of extensive testing have failed to detect the presence of PPV among stone fruit trees in this area.

Order

Under authority of section 21 of the act, the Department hereby enters the following order:

The portion of the Order of Quarantine dated July 23, 2002, and published at 32 Pa.B. 4045 (August 17, 2002) that pertains to Conewago Township, York County, is hereby rescinded. This Order had imposed a quarantine on all properties in Monaghan Township and Conewago Township, both in York County, to facilitate the containment and eradication of PPV and to make the affected stone fruit tree owners eligible for reimbursement of certain costs related to the destruction of stone fruit trees, herbicide applications, insect control measures and other PPV eradication activities under the Department's Commercial Orchard and Fruit Tree Indemnity Program and the Department's Plum Pox Noncommercial Prunus Tree and Landscape Nursery Prunus Tree Indemnity Program. All PPV-infected stone fruit trees and all stone fruit trees within 500 meters of the infected trees have since been removed from the quarantined locations, and the owners of those trees compensated for the losses attendant to this removal. Three consecutive years of intensive sampling and testing stone fruit leaves in Conewago Township, York County, have not yielded any additional positive detections of PPV. Therefore, the Conewago Township locations covered by the referenced July 23, 2002, Order of Quarantine are no longer considered a potential reservoir of the PPV virus, and as a result can be considered free of PPV. The location hereby released from quarantine is as follows:

All properties and land located in Conewago Township, York County, PA.

The referenced quarantine order of July 23, 2002, shall remain in full force and effect with respect to Monaghan Township, York County.

The Department will consult with the United States Department of Agriculture, European experts and scientific authorities with respect to the most efficacious measures by which to contain and eliminate this serious plant pest. The Department will issue further restrictions under authority of this Quarantine Order, as is required under section 21(a) of the act. These restrictions may address aphid control, elimination or reduction of aphid

habitat, destruction of PPV-infected stone fruit trees and budwood, destruction of endangered or exposed stone fruit trees or budwood and any other measures necessary to the containment and elimination of the PPV in this Commonwealth.

This quarantine is effective as of November 9, 2005, and shall remain in effect until terminated by subsequent order.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 05-2212. Filed for public inspection December 2, 2005, 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 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending November 22, 2005.

BANKING INSTITUTIONS

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-14-05	First Priority Bank Malvern Chester County	2 West Liberty Boulevard Malvern Chester County	Commenced Operations

Consolidations, Mergers, and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-18-05	Affinity Bank of Pennsylvania Wyomissing Berks County Purchase of assets/assumption of liabilities of one branch of Susquehanna Patriot Bank, Marlton, NJ Located at: 3101 Shillington Road Sinking Spring Berks County	Wyomissing	Approved

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-14-05	Allegiance Bank of North America Bala Cynwyd Montgomery County	552 Lancaster Avenue Easttown Chester County	Filed
11-16-05	Graystone Bank Lancaster Lancaster County	361 West Main Street Leola Lancaster County	Opened
11-17-05	Graystone Bank Lancaster Lancaster County	112 Market Street Harrisburg Dauphin County	Opened

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-17-05	Nesquehoning Savings Bank Nesquehoning Carbon County	113 East Water Street Coaldale Schuylkill County	Opened

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-14-05	The Bryn Mawr Trust Company Bryn Mawr Montgomery County	<i>To:</i> 50 West Lancaster Avenue Ardmore Montgomery County <i>From:</i> 312 East Lancaster Avenue Wynnewood Montgomery County	Filed
11-18-05	Lebanon Valley Farmers Bank Lebanon Lebanon County	<i>To:</i> Southeast Corner of Route 422 and Locust Street Myerstown Lebanon County <i>From:</i> Main and Locust Streets Myerstown Lebanon County and 297 West Lincoln Avenue Myerstown Lebanon County	Approved

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-15-05	Fulton Bank Lancaster County	1976 Bowmansville Road Adamstown Lancaster County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 05-2213. Filed for public inspection December 2, 2005, 9:00 a.m.]

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

Machinery and Equipment Loan Fund Interest Rate

The Department of Community and Economic Development (Department) gives notice that the interest rate on loans from the Machinery and Equipment Loan Fund program shall be 4.75% Statewide. The rate is effective immediately and will remain in effect until changed by a notice in the *Pennsylvania Bulletin*.

The Department retains the right to waive or modify the rate to the extent that it is not mandated by law on a case by case basis for good cause shown.

Further information can be obtained from the Department of Community and Economic Development, Center

for Business Financing, Loans Division, 400 North Street,
4th Floor, Harrisburg, PA 17120, (717) 720-1410.

DENNIS YABLONKSY,
Secretary

[Pa.B. Doc. No. 05-2214. Filed for public inspection December 2, 2005, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Forest Lands Beautification Grant Available

The Department of Conservation and Natural Resources (Department) announces an open application period for a Forest Lands Beautification grant administered by the Bureau of Forestry. Applications must be post-

marked by January 27, 2006, or if hand-carried, must be delivered by 3 p.m. on January 27, 2006.

The grant application/manual, which includes forms and additional information about this grant, is posted on the Department's website: www.dcnr.state.pa.us/forestry/flbp.aspx. These materials may also be requested by e-mail addressed to JaHall@state.pa.us or by writing to the Department of Conservation and Natural Resources, Bureau of Forestry, Attn: Jason M. Hall, 6th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8552, Harrisburg, PA 17105-8552, (717) 787-2014.

Persons with a disability who wish to submit an application and require assistance should contact Jason M. Hall at the previously listed phone number to discuss how the Department may best accommodate their needs. Voice/TTY users should call (800) 654-5984.

MICHAEL DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 05-2215. Filed for public inspection December 2, 2005, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

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

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

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

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

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

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

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0056103	Jeffrey D. Gelman 1981 Kimberwick Road Media, PA 19063	Delaware County Upper Providence Township	UNT to Ridley Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0061131 (Minor Renewal)	Dalton Sewer Authority P. O. Box 538 Dalton, PA 18414	Lackawanna County LaPlume Township	Ackerly Creek (4F)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0083836 (Sew)	Pine Run Inc. 1881 Pine Run Road Abbottstown, PA 17301-8644	Adams County Hamilton Township	Conewago Creek/7-F	Y
PA0024139 (Sew)	Cumberland Township Authority 1270B Fairfield Road Gettysburg, PA 17325	Adams County Cumberland Township	Rock Creek/13-D	Y
PA0087271 (IW)	East Petersburg Borough 6040 Main Street East Petersburg, PA 17520	Lancaster County Manheim Township	UNT Little Conestoga Creek/7-J	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0101290	Sandy Township P. O. Box 267 Dubois, PA 15801	Clearfield Sandy Township	Wolf Run 17C	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.

PA0244112, Antonio Logioia, 2606 Pheasant Run Lane, Spring City, PA 19475. This is a new facility is located in East Pikeland Township, **Chester County**.

Description of Proposed Activity: This application is for a new facility and new NPDES/WQM permits to discharge treated sanitary wastewater to Stony Run (NPDES PA0244112) and for construction/operation of the treatment plant WQM 1505422. This facility will replace a failing onsite septic system.

The receiving stream, Stony Run, is in the State Water Plan watershed 3E-Perkiomen and is classified for HQ TSF, aquatic life, water supply and recreation. The nearest downstream public water intake/supply is Aqua Water Company and is approximately 2.5 miles downstream on the Schuylkill River.

The proposed effluent limits for Outfall 001 are based on a design flow of 500 gpd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	
Flow					
BOD ₅			10		20
Total Suspended Solids			10		20
Fecal Coliform*			200/100 ml		

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Instantaneous Maximum (mg/l)</i>
Dissolved Oxygen			5.0		
pH (standard unit)			6.0 (Min.)		9.0
*UV Disinfection					

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

1. Discharge must not cause nuisance or health hazard.
2. Sludge disposal according to State and Federal regulations.

The EPA waiver is in effect.

PA0050733, Sewage, **Lincoln University of the Commonwealth System of Higher Education**, P. O. Box 179, 1570 Baltimore Pike, Lincoln University, PA 19352. This existing facility is located in Lower Oxford Township, **Chester County**.

Description of Proposed Activity: This application is for renewal of an NPDES permit for an existing discharge of treated sewage from the Lincoln University sewage treatment plant.

The receiving stream, McDonald Run, is in the State Water Plan watershed 7K and is classified for HQ-TSF and MF.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.18 mgd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Annual</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅					
(5-1 to 10-31)	30		20		40
(11-1 to 4-30)	37.5		25		50
Total Suspended Solids	45		30		60
Ammonia as N					
(5-1 to 10-31)	2.0		1.3		2.6
(11-1 to 4-30)	6.0		3.9		7.8
Fecal Coliform			200/100 ml		1,000/100 ml
Dissolved Oxygen			6.0 (min.)		
pH (standard units)			6.0 (min.)		9.0
Total Residual Chlorine			0.5		1.2
Kjeldahl-N			Report		
Nitrate-N			Report		
Nitrite-N			Report		
Total Nitrogen	Report	Report	Report		
Total Phosphorus	Report	Report	Report		

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

1. Notification of Designation of Operator.
2. Abandon STP When Municipal Sewers Available.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Change of Ownership.
7. Total Residual Chlorine Requirement.
8. Sludge Disposal Requirement.
9. Imax Requirements.
10. 2/Month Monitoring Requirements.

PA0053384, Sewage, **Assembly Hall of Jehovah's Witnesses**, 4414 New Hope Road, P. O. Box 338, Buckingham, PA 18912. This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Activity: Application for the renewal of an NPDES permit to discharge treated sewage.

The receiving stream, UNT (PA stream code 2612) to Mill Creek, is in the State Water Plan watershed 2F and is classified for WWF, migratory fishes, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Aqua PA, Inc. is located on Neshaminy Creek. The discharge is not expected to affect the downstream public water supply.

The proposed effluent limits for Outfall 001 are based on a design flow of 8,000 gallons per day.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅					
(5-1 to 10-31)			10		20
(11-1 to 4-30)			20		40
Total Suspended Solids			10		20
Ammonia as N					
(5-1 to 10-31)			2.0		4.0
(11-1 to 4-30)			6.0		12
Total Residual Chlorine			0.13		0.30
Phosphorus as P					
Dissolved Oxygen			Monitor and Report		
pH			minimum of 4.0 mg/l at all times		
Fecal Coliform			within limits of 6.0 to 9.0 standard units at all times		
			200 colonies/l as a geometric mean		

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

1. Designated Responsible Operator.
2. Abandon STP when Public Sewer Available.
3. Remedial Measures.
4. No Stormwater.
5. Obtain Property Rights.
6. Change of Ownership.
7. Residual Chlorine Dosages.
8. Sludge Disposal.
9. Certified Laboratory.

PA0057673, Sewage, SIC 4952, **Candlewyck Estates Homeowner's Association**, 602 East Souderton, PA 18964. This proposed facility is located in Marlborough, **Montgomery County**.

Description of Proposed Activity: Renewal and amendment of an NPDES permit to discharge treated sewage from Candlewyck Estates STP.

The receiving stream, UNT to Perkiomen Creek, is in the State Water Plan watershed 3E and is classified for TSF, aquatic life, recreation and water supply. The nearest downstream public water supply intake for Aqua, PA main system is located on Perkiomen Creek and is 21.6 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 16,250 gpd.

<i>Parameters</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	15		30
(11-1 to 4-30)	25		50
TSS	30		60
NH ₃ -N			
(5-1 to 10-31)	1.5		3.0
(11-1 to 4-30)	4.5		9.0
Phosphorus as P	0.5		1.0
DO			6.0 (Inst. Min.)
TRC	0.02		0.08
pH			6.0 to 9.0 standard units at all times

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

1. Operator Notification.
2. Abandon STP When Municipal Sewers Available.
3. Remedial Measures if Unsatisfactory Effluent.
4. No Stormwater.
5. Acquire Necessary Property Rights.
6. Small Stream Discharge.
7. Change of Ownership.
8. Chlorine Minimization.
9. Proper Sludge Disposal.

- 10. I-Max Limits.
- 11. 2/Month Monitoring.
- 12. Laboratory Certification.

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

Application No. PAS213502, Stormwater, SIC Code 3273, **Frank Casilio & Sons, Inc., Kutztown Concrete Plant**. This facility is located in Maxatawny Township, **Berks County**.

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

The receiving stream, Eastern Industries Quarry, is in Watershed 3-B. The nearest downstream public water supply intake is the City of Reading located on the Maiden Creek, approximately 20 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 are:

<i>Parameter</i>	<i>Monitoring Requirement</i>
CBOD ₅	Monitor and Report
Chemical Oxygen Demand	Monitor and Report
Total Phosphorus	Monitor and Report
Total Kjeldahl Nitrogen	Monitor and Report
Total Iron	Monitor and Report
Oil and Grease	Monitor and Report
pH (S.U.)	Monitor and Report
Total Suspended Solids	Monitor and Report

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

The EPA waiver is in effect.

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

PA0020338, Sewerage SIC, 4952, **Kulpmont-Marion Heights Joint Municipal Authority**, 860 Spruce Street, Kulpmont, PA 17834-0311. This existing facility is located in Coal Township, **Northumberland County**.

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

The receiving stream, UNT of Quaker Run, is in the State Water Plan watershed 6B and classified for CWF. The nearest downstream public water supply intake for United Water Pennsylvania is located on the Susquehanna River 72 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.5 mgd.

<i>Parameter</i>	<i>Concentration mg/l</i>			<i>Mass lbs</i>		
	<i>Monthly Average</i>	<i>Weekly Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>	<i>Monthly Load</i>	<i>Annual Load</i>
pH	within the range of 6.0 to 9.0					
CBOD ₅	25	40		50		
TSS	30	45		60		
% UV Transmittance	Report	Minimum				
Fecal Coliforms:						
(5-1 to 9-30)	200 col/100 ml geometric mean			1,000 col/100 ml		
(10-1 to 4-30)	2,000 col/100 ml geometric mean					
Ammonia-N	Report					
Kjeldahl-N	Report				Report	
Nitrate/Nitrite-N	Report				Report	
Total Nitrogen	Report				Report	9,741
Total Phosphorus	Report				Report	1,218

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

PA0090344, Sewage, **Ohio Township Sanitary Authority**, 1719 Roosevelt Road, Pittsburgh, PA 15237. This application is for renewal of an NPDES permit to discharge treated sewage from Windy Knoll STP in Ohio Township, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Drainage Swale to Toms Run, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Nova Chemicals, Beaver Valley Plant on the Ohio River.

Outfall 001: existing discharge, design flow of 0.1 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10	15		20
Suspended Solids	10	15		20
Ammonia Nitrogen				
(5-1 to 10-31)	2.0	3.0		4.0
(11-1 to 4-30)	3.0	4.5		6.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0098914, Sewage, **New Sewickley Township**, 233 Miller Road, Rochester, PA 15074. This application is for renewal of an NPDES permit to discharge treated sewage from New Sewickley Township STP in New Sewickley Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Swale Tributary to Brush Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Beaver Falls Municipal Authority on the Beaver River.

Outfall 001: existing discharge, design flow of 0.015 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Phosphorus	2.0			4.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0203971, Sewage, **Framar, Inc.**, 424 Jamie Drive, Belle Vernon, PA 15012. This application is for renewal of an NPDES permit to discharge treated sewage from Cedarbrook Golf Course STP in Rostraver Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Youghiogheny River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland County Municipal Authority, McKeesport Plant, on the Youghiogheny River.

Outfall 001: existing discharge, design flow of 0.0076 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.4			4.8
(11-1 to 4-30)	7.2			14.4
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.20			0.45
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0029491, Sewage, **Clarion Area Authority**, 14 North Avenue, Clarion, PA 16214. This proposed facility is located in Monroe Township, **Clarion County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply, considered during the evaluation is the Parker City Water System is located on the Allegheny River and is approximately 30 miles below point of discharge.

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

The proposed effluent limits for Outfall 001 are based on a design flow of 1.75 mgd.

Parameters	Loadings		Concentrations		
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX	XX			
CBOD ₅	365	584	25	40	50
Total Suspended Solids	438	657	30	45	60
Fecal Coliform					
(5-1 to 9-30)		200/100ml as a geometric average			
(10-1 to 4-30)		2,000/100ml as a geometric average			
Total Residual Chlorine			0.5		1.6
pH		6.0 to 9.0 standard units at all times			
XX—Monitor and report on monthly DMRs.					

The EPA waiver is not in effect.

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

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

WQM Permit No. 6705412, Sewerage, **Northeastern York County Sewer Authority**, P. O. Box 516, 175 Chestnut Street, Mount Wolf, PA 17347. This proposed facility is located in East Manchester Township, **York County**.

Description of Proposed Action/Activity: Construction/Operation of the North Sherman Street flow diversion along with the Long Road pump station will divert flows from the southern portion of East Manchester Township to the new Saginaw Wastewater Treatment Plant.

WQM Permit No. 0105407, Sewerage, **Greater Gettysburg Development Co., LLC**, 601 Mason Dixon Road, Gettysburg, PA 17325. This proposed facility is located in Straban Township, **Adams County**.

Description of Proposed Action/Activity: Construction/Operation of a wastewater treatment plant to serve the Gettysburg Commons.

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

WQM Permit No. 0205412, Sewerage, **Pittsburgh Water and Sewer Authority**, 441 Smithfield Street, Pittsburgh, PA 15222. This proposed facility is located in the City of Pittsburgh, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewer.

WQM Permit No. 0205413, Sewerage, **Pittsburgh Water and Sewer Authority**, 441 Smithfield Street, Pittsburgh, PA 15222. This proposed facility is located in the City of Pittsburgh, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of a combined sewer.

WQM Permit No. 1171402-A3, Sewerage, **Portage Area Sewer Authority**, 606 Cambria Street, Portage, PA 15946-1516. This proposed facility is located in Portage Township, **Cambria County**.

Description of Proposed Action/Activity: Application for Wastewater Treatment Facility expansion.

WQM Permit No. 0205414, Industrial Waste, **Neville Chemical Company**, 2800 Neville Road, Pittsburgh, PA 15225-1496. This proposed facility is located in Neville Township, **Allegheny County**.

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

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

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

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041405007	Dr. Ti-Chung Hsu Polymics 2215 High Tech Road State College, PA 16803	Centre	Benner Township	Buffalo Run HQ-CWF

Northumberland County Conservation District: R. R. 3, Box 238C, Sunbury, PA 17801, (570) 286-7114, Ext. 4.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044905002	John Fogarty 4550 Westbranch Hwy. Lewisburg, PA 17837-9507	Northumberland	Ralpho Township	UNT S. Br. Roaring Creek HQ-CWF

Tioga County Conservation District: 50 Plaza Lane, Wellsboro, PA 16901 (570) 724-1801, Ext. 101.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045905003	J. Clark Heston 1920 Birchwood Wilmette, IL 60091	Tioga	Clymer Township	Baker Branch (tributary to Asaph Run) HQ-CWF

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

Armstrong County Conservation District: Armsdale Administration Building, 124 Armsdale Road, Suite B-2, Kittanning, PA 16201 (724) 548-3425.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050305005	West Penn Power Company d/b/a Allegheny Power 800 Cabin Hill Drive Greensburg, PA 15601-1689	Armstrong	South Buffalo Township	Buffalo Creek (HQ-TSF)

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6860.

Tioga Conservation District: 29 East Avenue, Wellsboro, PA 16901, (570) 724-1801.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045905004	Ultra Resources, Inc. 304 Inverness Way South Suite 295 Englewood, CO 80112	Tioga	Gaines Township	Elk Run and Wetmore Run (HQ-CWF)

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

PUBLIC WATER SUPPLY (PWS) PERMIT

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

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the

writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and any related documents are on file at the office listed before the application and are

available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

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

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Permit No. 4505508, Public Water Supply
 Applicant **Delaware Water Gap Borough**
 49 Main Street
 P. O. Box 218
 Delaware Water Gap, PA
 Township or Borough Delaware Water Gap Borough
 County **Monroe**
 Responsible Official Wayne MacWilliams
 Borough Council President
 Type of Facility PWS
 Consulting Engineer Wesley E. Plaisted, P. E.
 Boucher & James, Inc.
 1456 Ferry Road, Building 500
 Doylestown, PA 18901
 Application Received Date November 15, 2005
 Description of Action The addition of a phosphate chemical for corrosion control.

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

Permit No. 3605501, Public Water Supply.
 Applicant **Stoltzfus Meats, Inc.**
 Municipality Leacock Township
 County **Lancaster**
 Responsible Official J. M. Stoltzfus, Owner
 P. O. Box 375
 Intercourse, PA 17534
 Type of Facility Public Water Supply
 Consulting Engineer David T. Lewis, P. E.
 ARRO Consulting, Inc.
 270 Granite Run Drive
 Lancaster, PA 17601
 Application Received Date 1/31/2005
 Description of Action Installation of a new facility to serve a retirement center. Treatment to consists of disinfection, aeration and softening. The system will be supplied by two wells.

Permit No. 3605507, Public Water Supply.
 Applicant **Lancaster Estates Condo Association**
 Municipality Rapho Township
 County **Lancaster**
 Responsible Official Robert A. Sowers, Condo Manager
 2961 Spangler Road
 Manheim, PA 17545
 Type of Facility Public Water Supply
 Consulting Engineer Edmond G. McCorkle, P. E.
 Lake Roeder Hillard & Associates
 313 West Liberty Street
 Lancaster, PA 17603
 Application Received Date 3/31/2005
 Description of Action Addition of a new well to augment the existing sources of supply.

Permit No. 0605520, Public Water Supply.
 Applicant **Borough of West Reading**
 Municipality Borough of West Reading
 County **Berks**
 Responsible Official George Tindall
 Borough Manager
 500 Chestnut Street
 West Reading, PA 19611
 Type of Facility Public Water Supply
 Consulting Engineer William L. Bohner, Jr., P. E.
 ARRO Consulting, Inc.
 649 North Lewis Road
 Limerick, PA 19468
 Application Received Date 10/27/2005
 Description of Action Permit existing public water system.

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

Permit No. 2690502-A1, Public Water Supply.
 Applicant **Pennsylvania-American Water Company**
 800 West Hersheypark Drive
 Hershey, PA 17033
 Township or Borough Brownsville
 Responsible Official Nick Rowe, Vice-President
 Pennsylvania-American Water Company
 800 West Hersheypark Drive
 Hershey, PA 17033
 Type of Facility Chloramination facility.
 Application Received Date November 1, 2005

Description of Action Install ammonia feed system at the Hiller Reservoir to reduce DBPs. Construction includes distribution system piping modification, a prefabricated building, sample testing equipment, ammonia injection equipment and monitoring equipment and controls.

Permit No. 2686503-A1, Public Water Supply.

Applicant **Pennsylvania-American Water Company**,
800 West Hersheypark Drive
Hershey, PA 17033

Township or Borough Uniontown

Responsible Official Nick Rowe, Vice-President
Pennsylvania-American Water Company
800 West Hersheypark Drive
Hershey, PA 17033

Type of Facility Chloramination facility.

Application Received Date November 1, 2005

Description of Action Install ammonia feed system at the Mountain Line Booster Station to reduce DBPs. Modifications to include chlorine testing equipment, ammonia injection equipment and monitoring equipment and controls.

Permit No. 0405502, Public Water Supply.

Applicant **Beaver Falls Municipal Authority**
1425 8th Avenue
P. O. Box 400
Beaver Falls, PA 15010

Township or Borough Big Beaver Borough

Responsible Official John Tress
Authority Chairperson
Pennsylvania-American Water Company
800 West Hersheypark Drive
Hershey, PA 17033

Type of Facility Penndale Road Water Storage Tank and Pump Station

Consulting Engineer Michael Baker, Jr., Inc.
4301 Dutch Ridge Road
Beaver, PA 15009

Application Received Date October 8, 2005

Description of Action The project consists of two separate areas within Big Beaver Borough. One area is for a water pump station and the other is for a water storage tank and associated water line. Both areas combined will affect approximately 9.9 acres.

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

Application No. 1605501, Public Water Supply

Applicant **Wolfs Camping Resort**

Township or Borough Beaver Township
Clarion County

Responsible Official Pete J. Titley, Owner

Consulting Engineer Brian S. Sekula, P. E.
The EADS Group, Inc.
15392 Route 322
Clarion, PA 16214

Application Received Date 11/15/2005

Description of Action Construction of a 48 gpm water treatment plant consisting of flocculation, sedimentation, filtration, disinfection, pumping and pipeline.

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act

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

Application No. 2400089, Minor Amendment.

Applicant **Aqua Pennsylvania, Inc.**
762 West Lancaster Avenue
Bryn Mawr, PA

Township or Borough Jackson Township
Luzerne County

Responsible Official Mark J. Kropilak, VP
Aqua Pennsylvania, Inc.

Type of Facility Public Water Supply System

Consulting Engineer N/A

Application Received Date November 4, 2005

Description of Action The transfer of the permit for Garbush Water Company to Aqua Pennsylvania, Inc.

Application No. 3396420, Minor Amendment.

Applicant **Nestle Waters North America, Inc.**
405 Nestle Way
Breinigsville, PA 18031

Township or Borough Upper Macungie Township
Lehigh County

Responsible Official Edward Murphy

Type of Facility Bottled Water

Consulting Engineer Edward E. Davis, Sr., P. E.

Application Received Date November 9, 2005

Description of Action Upgrades to the existing fluoridation system.

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

Application No. 0205505MA, Minor Amendment.

Applicant **Pennsylvania American Water Company**
800 West Hersheypark Drive
Hershey, PA 17033

Township or Borough Bethel Township

Responsible Official Scott Thomas
Operations Engineer
Pennsylvania American Water Company
800 West Hersheypark Drive
Hershey, PA 17033

Type of Facility Water storage tank

Application Received Date October 18, 2005

Description of Action Blasting and painting of the interior and exterior of the 2.5 million gallon elevated tank known as the Castle Shannon Tank.

Application No. 0205504MA, Minor Amendment.

Applicant **Pennsylvania American Water Company**
800 West Hersheypark Drive
Hershey, PA 17033

Township or Borough Glassport

Responsible Official Scott Thomas
Operations Engineer
Pennsylvania American Water Company
800 West Hersheypark Drive
Hershey, PA 17033

Type of Facility Water storage tank

Application Received Date October 18, 2005

Description of Action Blasting and painting of the interior and exterior of the 1,500 gallon elevated tank known as the Glassport Tank.

Application No. 0405503MA, Minor Amendment.

Applicant **New Sewickley Township Municipal Authority**
233 Miller Road
Rochester, PA 15074

Township or Borough New Sewickley Township

Responsible Official Eugene Spagnoli, Chairperson
New Sewickley Township Municipal Authority
233 Miller Road
Rochester, PA 15074

Type of Facility Water treatment plant.

Consulting Engineer Veolia Water North America Operating Services, LLC
921 Saw Mill Run Boulevard,
Pittsburgh, PA 15220

Application Received Date September 19, 2005

Description of Action Convert supplemental chlorination at Harvey Run Booster Station from gas chlorine to liquid chlorine.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

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

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

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

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

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

Tacony and New State Rd., City of Philadelphia, **Philadelphia County**. Robert C. Quick, QuickTec. Env., 205 Tuckerton Rd., Suite 207, Medford, NJ 08055 on behalf of George Diemer, First Phila Holdings, LLC, 3000 Atrium Way, Suite 219, Mt. Laurel, NJ 08054 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site was impacted by lead, arsenic and inorganics. Portions of the improved and reclaimed Brownfields site will be ceded to the city as public access roads and Riverside Park. A summary of the Notice of Intent to Remediate was reported to have been published in the *Courier Times, Inc.* on October 17, 2005.

Grays Ferry Comm. Ctr., City of Philadelphia, **Philadelphia County**. Emily Dippold, Powell-Harpstead, Inc., 800 E. Washington St., West Chester, PA 19380 has submitted a Notice of Intent to Remediate. Soil at the site was impacted by arsenic and lead. The site is to be used for the future Greater Grays Ferry Community Center. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Weekly* on November 8, 2005.

270 Andrews Rd., Lower Southampton Township, **Bucks County**. Clorece K. Kulp, Sky Run II, Suite A-1, 4050 Skyron Dr., Doylestown, PA 18901 on behalf of Key Instruments, 250 Andrews Rd., Trevese, PA 19053 has submitted a Notice of Intent to Remediate. Soil at the site was impacted by other organics. A summary of the Notice of Intent to Remediate was reported to have been published in the *Courier Times, Inc.*, on October 31, 2005.

Oxford Valley Mall JC Penny, Middletown Township, **Bucks County**. Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 50, Bala Cynwyd, PA 19004 on behalf of Clinton Cochran, Lincoln Plaza Assoc., c/o Kravoco Simon Co., 234 Mall Blvd., King of Prussia, PA 19406 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site was impacted by No. 2 fuel oil. The future use of the property will continue to be nonresidential for a commercial retail shopping mail. A summary of the Notice of Intent to Remediate was reported to have been published in the *Courier Times, Inc.*, on October 31, 2005.

269 Canal Rd. Parcel A, Falls Township, **Bucks County**. Trevan J. Houser, QEP, Land Resource Solutions, LLC, 1274 N. Church St., Moorestown, NJ 08057 on behalf of Anthony Cino, 269 Canal Rd., LP, 301 Oxford Valley, Suite 702, Yardley, PA 19067 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site was impacted by inorganics, chlorinated solutions, PCBs and other organics.

269 Canal Rd. Parcel B, Falls Township, **Bucks County**. Trevan J. Houser, QEP, Land Resource Solutions, LLC, 1274 N. Church St., Moorestown, NJ 08057 on behalf of Anthony Cino, 269 Canal Rd., LP, 301 Oxford Valley, Suite 702, Yardley, PA 19067 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site was impacted by inorganics, chlorinated solutions, PCBs and other organics.

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

Gibble's Quarry, Manheim Borough, **Lancaster County**. Schuylkill Valley Engineering, Inc., 4338 Pottsville Pike, Reading, PA 19605, on behalf of TCS

Family Enterprises, 2238 Robert Fulton Highway, Peach Bottom, PA 17563, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with asbestos, sludge, oily wastes, flood debris, other waste products. Future intended uses of the property may be residential or commercial development. The applicant intends to document remediation to the Site Specific Standard.

Reyna Residential Property, Franklin Township, **York County**. Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg, PA 17110, on behalf of William Reyna, 135 Tuckahoe Road, Dillsburg, PA 17019 and Suburban Energy Services, 5793 Widewaters Parkway, Suite 100, Syracuse, NY 13214, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with heating oil. Future use of the property will continue to be residential. The applicants intend to document remediation to the Site Specific and Statewide Health Standards.

Northcentral Region: Environmental Cleanup Program, 208 West Third Street, Williamsport, PA 17701.

Franklin Gryctko Property, College Township, **Centre County**. Chad Hunter, Chambers Environmental Group, Inc., 629 East Rolling Ridge Drive, Bellefonte, PA 16823 on behalf of the Franklin Gryctko Estate, 821 Oakridge Avenue, State College, PA 16801, has submitted a Notice of Intent to Remediate soil contaminated with benzene, ethylbenzene, cumene, naphthalene, toluene, fluorene and phenanthrene. This site is being remediated to meet the Statewide Health Standard requirements.

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

Former Stackpole Benzinger Township Carbon Graphite Facility, City of St. Marys, **Elk County**. Cleason P. Smith, Hydrosystems Management, Inc., 331 S. Main Street, Suite 109, Washington, PA 15301 on behalf of J. Samuel Parkhill, The Hall Corporation, 65 Lambert Road, South Freeport, ME 04032 has submitted a Notice of Intent to Remediate.

The Benzinger site includes the 36.8-acre Carbon Graphite Plant currently owned by Carbone of America Industries Corporation, a 6.7-acre parcel currently owned by the Hall Corporation (formerly The Stackpole Corporation), which includes the closed, 2.5-acre Cycle Mix Landfill and a 2.5-acre parcel also owned currently by Hall Corporation. Prior to 1991, all of these parcels were with the property owned by the Stackpole Corporation (now the Hall Corporation). The property use has been commercial/industrial since the early 1900s and will continue to be used for commercial/industrial purposes in the future.

Contamination of soil and groundwater at the Benzinger site is primarily the result of historical industrial practices involving the use of handling of trichloroethene (TCE) and 1,2-dichloroethane (1,2-DCA) as thinning agents in a process by which carbon-graphite product was impregnated with linseed oil. The use of TCE and 1,2-DCA was terminated in approximately 1988. The primary contaminants at the site are TCE and 1,2-DCA as well as their degradation products and certain metals used in the graphite-manufacturing processes.

On November 25, 1991, the Department of Environmental Protection (Department) and Stackpole Corporation, Hall Corporation's predecessor, entered into a Consent Order and Agreement addressing the cleanup of a portion of the property that is described in the current Notice of Intent to Remediate.

Proof of publication was received by the Department August 8, 2005, with publication of the Notice of Intent to Remediate in *The Daily Press* on July 12, 2005.

RESIDUAL WASTE GENERAL PERMITS

Application Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and residual waste regulations for a General Permit to operate residual waste processing facilities and the beneficial use of residual waste other than coal ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Renewal Application No. WMGR031. Kalumetals, Inc., P. O. Box 455, Latrobe, PA 15650-0455. General Permit No. WMGR031 authorizes processing and beneficial use of metallic grinding swarfs, spent catalysts and metallic filter cakes. The processing is limited to retorting, static bed open drying, magnetic separation, washing, centrifugation and passive oil/water separation. The renewal application proposes modification of the permit to add the following wastes: metallic turnings, metal groundings, metal cuttings, metal stampings, metal plate, metal wire, metal powders, metal sludges, metal carbide, Raney Nickel catalysts and precious metal catalysts, and the following processes: belt furnace thermal processing, rotary furnace oxidation, filtering, mechanical separation and blending. The application was received by Central Office on November 14, 2005.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

Permit ID No.100172. Healthcare Waste Solutions of Pennsylvania, LLC d/b/a Genesis Environmental, Industrial Manor II, 380 Locust Street, McKeesport, PA 15132. Genesis Autoclave and Transfer Facility, RIDC Industrial Center of McKeesport, Parcel 3-1, Industrial Manor II, 380 Locust Street, McKeesport, PA 15132. Application for the permit renewal of an infectious waste processing and transfer facility in the City of McKeesport, **Allegheny County** was received in the Regional Office on November 16, 2005.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

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

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

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

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

PLAN APPROVALS

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

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

36-03080A: Rohrer's Quarry (70 Lititz Road, P. O. Box 365, Lancaster, PA 17543) for replacement of two 6'

by 16' Hewitt Robins triple-deck screens with two 6' by 20' Metso Minerals triple-deck screens in **Lancaster County**. The plan approval will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.

30-00099F: Allegheny Energy Supply Co., LLC (800 Cabin Hill Drive, Greensburg, PA 15601) for installation of flue gas desulfurization systems at Hatfield's Ferry Power Station in Monongahela Township, **Greene County**.

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

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

18-00005C: Dominion Transmission, Inc. (445 West Main Street, Clarksburg, WV 26301) for modification of the company's Finnefrock Compressor Station in Leidy Township, **Clinton County**.

The Finnefrock Compressor Station consists of a number of natural gas-fired reciprocating internal combustion compressor engines and ancillary equipment used to transmit natural gas into and out of storage and through pipelines. The Finnefrock Compressor Station is considered to be a major source of NO_x, VOCs, CO and HAPs (primarily formaldehyde) for Title V permitting purposes and operates under Title V Operating Permit 18-00005.

The proposed modification is an increase in the allowable fugitive VOC emissions from the facility from the current limit of 4.4 tons in any 12-consecutive month period to a new limit of 15.41 tons in any 12-consecutive month period.

The increase in allowable fugitive VOC emissions is not expected to be accompanied by any increase in the actual VOC emissions from the facility as no physical change is occurring. The emission estimation procedures upon which the 4.4 ton per 12-consecutive month period emission limit was based are now believed to be inaccurate and to have resulted in an under-estimation of the facility's true fugitive VOC emission potential. The proposed fugitive VOC emission limit of 15.41 tons per 12-consecutive month period reflects the use of current emission estimation procedures and is consequently believed to more accurately reflect the facility's true fugitive VOC emission potential.

The Department of Environmental Protection's (Department) review of the information submitted by Dominion Transmission, Inc. indicates that the respective compressor station will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants following the proposed modification, including the Reasonably Available Control Technology (RACT) requirements of 25 Pa. Code §§ 129.91—129.95. Based on this finding, the Department proposes to issue plan approval for the proposed modification. Additionally, the Department subsequently intends to incorporate the increased emission limit into

Title V Operating Permit 18-00005 by means of administrative amendment in accordance with 25 Pa. Code § 127.450.

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

1. The total combined fugitive volatile organic compound emissions from this facility shall not exceed 15.41 tons in any 12-consecutive month period.

2. The permittee shall, at the conclusion of each calendar month, calculate and record the amount of fugitive VOC emissions which occurred for the 12-consecutive month period which ended on the last day of the respective month. The records shall be retained for a minimum of 5 years and shall, along with any supporting data and calculations, be made available to the Department upon request.

3. By no later than March 1 of each year, the permittee shall submit to the Department all of the 12-consecutive month fugitive VOC emission values calculated during the prior calendar year (all emission values calculated during 2006 shall be submitted by March 1, 2007, and the like).

The fugitive VOC emissions from this facility are subject to the RACT requirements of 25 Pa. Code §§ 129.91—129.95. The Department has made a preliminary determination to approve the revision requested by the permittee to the RACT plan previously submitted to, and approved by, the Department for this facility.

The preliminary determination to revise the previously approved RACT plan for this facility will, if finally approved, be submitted to the United States Environmental Protection Agency as a revision to the State Implementation Plan (SIP). The SIP revision will not adopt any new regulations. It will contain the requirements established by the Department in its approval of the proposed RACT plan revision.

The paragraphs numbered 1—3 contain the Department's preliminary revised RACT determination for the facility's fugitive VOC emissions.

A copy of the plan approval application is available for public inspection during normal business hours at the address which follows. Persons interested in inspecting the application must schedule an appointment in advance.

A public hearing will be held for the purpose of receiving comments on the Department's preliminary revised RACT determination for the facility's fugitive VOC emissions and the associated proposed plan approval issuance and SIP revision. The hearing will be held on January 5, 2006, at 1 p.m. at the Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA. The public is invited to appear at this public hearing and provide comment.

Persons with a disability who wish to comment at the hearing and require an auxiliary aid, service or other accommodation to do so should contact Daniel Spadoni at (570) 327-3659 to discuss how the Department may accommodate their needs.

Persons unable to attend the hearing but wish to comment or persons who wish to protest the proposed plan approval issuance may do so by submitting their comments or protest in writing to the Department at the

following address. Comments or protests must be received by the Department by no later than January 15, 2006, to be considered. Comments or protests should include the name, address and telephone number of the person submitting the comment or protest and a concise statement explaining the relevancy of the comment or protest being presented to the Department.

Written comments or protests should be directed to David W. Aldenderfer, Environmental Program Manager, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

For additional information regarding the respective plan approval application, contact Richard L. Maxwell, Jr., Chief, New Source Review Section, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-3640.

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

AMS 05197: Kinder Morgan Liquid Terminals (3300 North Delaware Avenue, Philadelphia, PA 19134) for installation of a vapor scrubbing system on tanks 200 and 201. There will be a potential emission reduction in VOCs for the tanks. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

PLAN APPROVAL

PUBLIC HEARINGS

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

18-00005C: Dominion Transmission, Inc. (445 West Main Street, Clarksburg, WV 26301) for modification of the company's Finnefrock Compressor Station in Leidy Township, **Clinton County**.

The Finnefrock Compressor Station consists of a number of natural gas-fired reciprocating internal combustion compressor engines and ancillary equipment used to transmit natural gas into and out of storage and through pipelines. The Finnefrock Compressor Station is considered to be a major source of NOx, VOCs, CO and HAPs (primarily formaldehyde) for Title V permitting purposes and operates under Title V Operating Permit 18-00005.

The proposed modification is an increase in the allowable fugitive VOC emissions from the facility from the current limit of 4.4 tons in any 12-consecutive month period to a new limit of 15.41 tons in any 12-consecutive month period.

The increase in allowable fugitive VOC emissions is not expected to be accompanied by any increase in the actual VOC emissions from the facility as no physical change is occurring. The emission estimation procedures upon which the 4.4 ton per 12-consecutive month period emission limit was based are now believed to be inaccurate and to have resulted in an under-estimation of the facility's true fugitive VOC emission potential. The proposed fugitive VOC emission limit of 15.41 tons per 12-consecutive month period reflects the use of current emission estimation procedures and is consequently believed to more accurately reflect the facility's true fugitive VOC emission potential.

The Department of Environmental Protection's (Department) review of the information submitted by Dominion Transmission, Inc. indicates that the respective compressor station will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants following the proposed modification, including the Reasonably Available Control Technology (RACT) requirements of 25 Pa. Code §§ 129.91—129.95. Based on this finding, the Department proposes to issue plan approval for the proposed modification. Additionally, the Department subsequently intends to incorporate the increased emission limit into Title V Operating Permit 18-00005 by means of administrative amendment in accordance with 25 Pa. Code § 127.450.

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

1. The total combined fugitive VOC emissions from this facility shall not exceed 15.41 tons in any 12-consecutive month period.

2. The permittee shall, at the conclusion of each calendar month, calculate and record the amount of fugitive VOC emissions which occurred for the 12-consecutive month period which ended on the last day of the respective month. Records shall be retained for a minimum of 5 years and shall, along with any supporting data and calculations, be made available to the Department upon request.

3. By March 1 of each year, the permittee shall submit to the Department all of the 12-consecutive month fugitive VOC emission values calculated during the prior calendar year (all emission values calculated during 2006 shall be submitted by March 1, 2007, and the like).

The fugitive VOC emissions from this facility are subject to the RACT requirements of 25 Pa. Code §§ 129.91—129.95. The Department has made a preliminary determination to approve the revision requested by the permittee to the RACT plan previously submitted to, and approved by, the Department for this facility.

The preliminary determination to revise the previously approved RACT plan for this facility will, if finally approved, be submitted to the United States Environmental Protection Agency as a revision to the State Implementation Plan (SIP). The SIP revision will not adopt any new regulations. It will contain the requirements established by the Department in its approval of the proposed RACT plan revision.

The paragraphs numbered 1, 2 and 3 contain the Department's preliminary revised RACT determination for the facility's fugitive VOC emissions.

A copy of the plan approval application is available for public inspection during normal business hours at the address listed. Persons interested in inspecting the application must schedule an appointment in advance.

A public hearing will be held for the purpose of receiving comments on the Department's preliminary revised RACT determination for the facility's fugitive VOC emissions and the associated proposed plan approval issuance and SIP revision. The hearing will be held on January 5, 2006, at 1 p.m. at the Department of Environmental Protection, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA. The public is invited to appear at this public hearing and provide comment.

Persons with a disability who wish to comment at the hearing and require an auxiliary aid, service or other accommodation to do so should contact Daniel Spadoni at (570) 327-3659 to discuss how the Department may accommodate their needs.

Persons unable to attend the hearing but wish to comment or persons who wish to protest the proposed plan approval issuance may do so by submitting their comments or protest in writing to the Department at the following address. Comments or protests must be received by the Department by no later than January 15, 2006, to be considered. Comments or protests should include the name, address and telephone number of the person submitting the comment or protest and a concise statement explaining the relevancy of the comment or protest being presented to the Department.

Written comments or protests should be directed to David W. Aldenderfer, Environmental Program Manager, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448.

For additional information regarding the respective plan approval application, contact Richard L. Maxwell, Jr., Chief, New Source Review Section, Air Quality Program, Department of Environmental Protection, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-3640.

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.

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

35-00025: Environmental and Recycling Services, Inc. (1100 Union Street, Taylor, PA 18517) in Taylor Borough, **Lackawanna County**. The facility's major source of emissions is the operation of a landfill, which primarily emits VOCs.

39-00006: Diageo—Total Logistic Control (TLC)—Lehigh Valley (7880 Penn Drive, Breinigsville, PA 18031) in Upper Macungie Township, **Lehigh County**. The facility's major source of emissions is three boilers, which primarily emit NOx.

64-00010: John Sexton Sand and Gravel Co.—Rosencranse Landfill (4415 West Harrison Street, Suite 535, Hillside, Illinois 60162-1900) in Berlin, **Wayne County**. The facility's major source of emissions is the operation of a landfill, which primarily emits VOCs.

54-00003: Schuylkill Energy Resources, Inc. (Highway 54 E., Shenandoah, PA 171976) for operation of a CFB Boiler, Coal and Ash handling equipment and Emergency Generator in Mahanoy Township, **Schuylkill County**. This action is a renewal of the Title V Operating Permit issued in 2005.

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

36-05140: Valley Proteins, Inc. (P. O. Box 3588, Winchester, VA 22604-2586) for the rendering operation that processes raw inedible animal byproducts in East Earl Township, **Lancaster County**. The facility's major source of emissions will be SO₂ from the combustion of fuel in their boilers. The emissions also include NOx, PM, CO,

VOCs and a small amount of HAPs, lead and chlorine, all from combustion products and/or process emissions. The operating permit contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

67-05012: Transcontinental Gas Pipe Line Corp.—Station 195 (P. O. Box 1396, Houston, TX 77251-1396) for an administrative amendment to Title V Operating Permit No. 67-05012 (TVOP) in accordance with 25 Pa. Code § 127.450 in Peach Bottom Township, **York County**. The TVOP amendment will incorporate Plan Approval No. 67-05012A for installation of NOx control on two Nordberg FSE-16 engines. The TVOP 67-05012 will contain restrictions, monitoring, recordkeeping and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

63-00549: Arden Landfill, Inc.—Cherrington Corporate Center, 625 Cherrington Parkway, Moon Township, PA 15108) on November 10, 2005, for renewal of the Title V Operating Permit at their Arden Landfill Facility in Chartiers Township, **Washington County**. This is a Title V facility.

Intent to Issue Operating Permits 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.

36-05104: Ephrata Manufacturing Co. (104 West Pine Street, P. O. Box 28, Ephrata, PA 17522-0022) for operation of a gray iron manufacturing facility in the Borough of Ephrata, **Lancaster County**. The facility's State-only operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

41-00068: Keystone Leather Distributors, LLC (2100 Reach Road, Williamsport, PA 17701) for operation of a leather shoe sole waterproofing facility in the City of Williamsport, **Lycoming County**.

The facility incorporates four dip tanks, one roll coater and two .2 million Btu per hour natural gas-fired space heaters. The air contaminant emissions from the facility are not expected to exceed 8.81 tons of VOCs, .162 ton of NOx, .068 ton of CO, .013 ton of PM10, .003 ton of HAPs and .001 ton of NOx per year.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued conditions requiring compliance with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants as well as conditions previously established in Plan Approval 41-318-048, issued on January 11, 2005. These previously existing conditions include:

- A condition limiting the VOC content of the waterproofing materials to 3.5 pounds per gallon except that up to 118 gallons of material with a VOC content of up to 4.79 pounds per gallon may be used in any 12-consecutive

month period and up to another 824 gallons of material with a VOC content of up to 5.3 pounds per gallon may be used in any 12-consecutive month period.

- A condition prohibiting any of the waterproofing materials from containing any volatile hazardous air pollutants.

- A condition limiting the vapor pressure of the VOCs contained in the waterproofing materials to 4.0 millimeters of mercury at 20°C.

- A condition limiting the VOC emissions from the waterproofing operation to 8.8 tons in any 12-consecutive month period.

- A condition requiring all waterproofing materials to be used as received from the vendor or manufacturer (without any onsite addition of thinners, reducers or other additives, other than water).

- A condition requiring all dip tanks to be covered except when in actual use.

- A condition allowing only two of the four dip tanks to be heated, one to a maximum of 140°F and the other to a maximum of 180°F.

- A condition requiring shoe soles removed from a dip tank to be positioned over the tank until all dripping of liquid has ceased before the soles are moved elsewhere.

- A condition requiring all containers of VOC-containing materials, volatile hazardous air pollutant-containing materials and acetone-containing materials to be closed except when in actual use and all used cleaning rags to be stored in closed containers.

- A condition limiting the amount of solvent used for cleanup purposes to 40 gallons in any 12-consecutive month period and the VOC content of any such solvent to 7.7 pounds per gallon.

- A condition requiring employees to be trained in VOC minimization techniques and good housekeeping practices.

- A condition requiring the use of waterproofing materials with a lower VOC emission potential if such materials become available and are feasible for use.

- A condition requiring the maintenance of records of the identity, amount, VOC content, HAP contents and acetone content of each waterproofing material and cleaning solvent used each month.

41-00044: Smurfit-Stone Container Enterprises, Inc. (P. O. Box 3097, Williamsport, PA 17701) for the operation of a corrugated paper box manufacturing facility in the City of Williamsport, **Lycoming County**.

The facility incorporates 5 flexographic printers, 4 gluing machines, 2 flexographic printer/gluing machines, a 20.9 million Btu/hr. natural gas/No. 2 fuel oil-fired boiler, a shredder, a corrugator, a cardboard scrap collection system, a 35 horsepower natural gas-fired emergency generator, a 115 horsepower diesel-fired fire pump, 2 solvent parts washers, a natural gas-fired makeup air unit, 4 natural gas-fired heaters and two No. 2 fuel oil/diesel fuel storage tanks. The air contaminant emissions from the facility are not expected to exceed 47.54 tons of SO_x, 32.18 tons of NO_x, 12.7 tons of CO, 6.12 tons of VOCs, .435 ton of HAPs and 3.9 tons of PM, including 2.19 tons PM₁₀ per year.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued, conditions requiring compliance with all applicable regulatory requirements pertaining to air contami-

nation sources and the emission of air contaminants as well as conditions previously established in Operating Permit 41-302-015, issued on December 1, 1993.

These previously existing conditions include a condition prohibiting the use of, as fuel in the 20.9 million Btu per hour boiler, any No. 2 fuel oil to which reclaimed or waste oil or other waste materials have been added and a condition requiring the submission of fuel analyses or samples upon Department request.

The Department additionally proposes to incorporate into the operating permit to be issued a number of new conditions. These include:

- A condition limiting the combined VOC emissions from a Ward 2 color printer die cutter, a 50" Langston printer folder gluer, a rotary printer slotter, and a taper gluer to 10 or less tons in any 12-consecutive month period.

- A condition limiting the VOC emissions from a Bostich folder gluer to 10 or less tons in any 12-consecutive month period.

- A condition limiting the combined VOC emissions from a 50" S+S printer folder and a ZLR gluing machine to 10 or less tons in any 12-consecutive month period.

- A condition limiting the combined VOC emissions from a one color Ward printer D/C and a J & L Industries specialty folder gluer to 2.7 or less tons in any 12-consecutive month period, the combined emission of any individual HAP to one or less ton in any 12-consecutive month period and the combined emissions of all HAPs to 2.5 or less tons in any 12-consecutive month period.

- A condition limiting the VOC emissions from a 38" S+S Corrugated Machinery printer folder gluer to 2.7 or less tons in any 12-consecutive month period, the emissions of any individual HAP to one or less ton in any 12-consecutive month period and the combined emissions of all HAPs to 2.5 or less tons in any 12-consecutive month period.

- A condition limiting the VOC emissions from a 50" by 113" Serenco 4 color flexographic press to 2.7 or less tons in any 12-consecutive month period, the emissions of any individual HAP to 1 or less ton in any 12-consecutive month period and the combined emissions of all HAPs to 2.5 or less tons in any 12-consecutive month period.

- Conditions requiring the maintenance of records of the identity, amount, VOC content and HAP content of each individual VOC-containing material and volatile HAP-containing material used on each of the facility's printers, gluers, and the like.

- A condition limiting the cleanup solvent used in the facility to a specific material (or an alternate material determined by the Department to be equivalent).

- A condition limiting the fuel fired in the fire pump to diesel fuel or No. 2 fuel oil to which no reclaimed or waste oil or other waste materials have been added.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in

response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

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

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition,

more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

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

Coal Applications Received

Effluent Limits

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

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

* The parameter is applicable at all times.

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

Greensburg District Mining Office: Armbrust Building, R. R. 2, Box 603C, Greensburg, PA 15601-0982, (724) 925-5500.

03900112 and NPDES Permit No. PA0003191. Canterbury Coal Company (R. D. 1, Box 119, Avonmore, PA 15618). Renewal application for reclamation only of a bituminous surface mine, located in Kiskiminetas Township, **Armstrong County**, affecting 81.2 acres. Receiving stream: UNT to Long Run, classified for the following use: WWF. The first potable water supply intake within 10 miles downstream from the point of discharge: Avonmore Borough Water Authority. Renewal application received: November 9, 2005.

03030107. Amerikohl Mining, Inc., (202 Sunset Drive, Butler, PA 16001). Revision application for additional acreage to an existing bituminous surface mine,

located in Boggs Township, **Armstrong County**, affecting 151.8 acres. Receiving streams: UNTs to North Fork of Pine Creek, classified for the following use: CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Revision application received: November 14, 2005.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

43850105 and NPDES Permit No. PA0108758. Grove City Materials, LP (R. R. 6, Box 344, New Castle, PA 16101). Revision to a bituminous surface strip operation in Pine and Mercer Townships, **Mercer and Butler Counties**, affecting 103.0 acres. Receiving streams: UNTs to Swamp Run, classified for the following use: CWF. There are no potable surface water supply intakes within 10 miles downstream. Revision to include a change in permit acreage from 96 acres to 103 acres. Application received: November 9, 2005.

10040103 and NPDES Permit No. PA0242535. Anandale Quarries, Inc. (219 Goff Station Road, Boyers, PA 16020). Revision to an existing bituminous surface strip operation in Venango Township, **Butler County** affecting 23.3 acres. Receiving streams: UNT to Seaton

Creek, classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Revision to add the use of coal ash for liming material. Application received: November 15, 2005.

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

17840126 and NPDES Permit No. PA0609781. TDK Coal Sales, Inc., (P. O. Box 259, Brockway, PA 15824). Renewal application for continued operation of a bituminous surface mine, located in Jordon Township, Clearfield County, affecting 341.7 acres. Receiving

streams: tributary to Comfort Run and Comfort Run to North Witmer Run to Clearfield Creek to West Branch of Susquehanna River. Renewal application received: November 14, 2005.

Noncoal Applications Received

Effluent Limits

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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
Alkalinity exceeding acidity ¹		greater than 6.0; less than 9.0	
pH ¹			

¹ The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to surface runoff resulting from a precipitation event of less than or equal to a 10-year 24-hour event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 154931, (814) 472-1900.

11052801. AMFIRE Mining Company, LLC, One Energy Place, Latrobe, PA 15650, commencement, operation and restoration of a small noncoal (industrial minerals) operation in Portage Township, Cambria County, affecting 2.0 acres. Receiving streams: UNT to Spring Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 8, 2005. Permit issued November 16, 2005.

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

08050813. Heeman Quarries, Inc. (R. R. 2, Box 227H, Wyalusing, PA 18853). Commencement, operation and restoration of a small noncoal industrial minerals (Flagstone/Bluestone) permit in Tuscarora Township, Bradford County affecting 5.0 acres. Receiving streams: UNT, Fargo Creek and Tuscarora Creek. Permit issued: October 19, 2005.

08050814. D. Terry and Tracy Kenney (P. O. Box 85, Wyalusing, PA 18853). Commencement, operation and restoration of a small industrial minerals (Flagstone) permit in Wilmot Township, Bradford County affecting 3.0 acres. Receiving streams: UNT to Susquehanna River. Application received: September 30, 2005.

08050815. Larry A. Lee (R. R. 2, Box 2642, Nicholson, PA 18846). Commencement, operation and restoration of a small industrial minerals (topsoil, subsoil, sand, sandstone, shale, bluestone) permit in Tuscarora Township, Bradford County affecting 5 acres. Receiving streams: UNT and West Branch Susquehanna River. Application received: November 1, 2005.

57050801. Edward V. Minnier, III (1842 Masten Road, Canton, PA 17724). Commencement, operation and restoration of a small industrial mineral (shale) permit in

Fox Township, Sullivan County affecting 3 3/4 acres. Receiving stream: Weed Creek. Application received: October 27, 2005

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

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

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401(a) of the FWPCA (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E46-986. Souderton Area School District, 760 Lower Road, Souderton, PA 18964-2311, Franconia Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following water obstruction and encroachment activities associated with the New Souderton Area High School in Franconia Township, Montgomery County.

1. To place fill in 0.09 acre of wetlands (PEM) to accommodate the proposed Multi-Purpose Athletic Field No. 6 and appurtenant facilities.

2. To install and maintain three utility line stream crossings for a temporary 4-inch PVC sewer force main to be directly attached to existing bridges. The first across a UNT to the Skippack Creek (TSF) along the eastern side of Lower Road, approximately 550 feet south of the intersection of Allentown Road. The second and third on the south side of two consecutive bridges that cross the main branch of Skippack Creek (TSF) along Cowpath Road near the intersection with Godshall Road. The site is located between Halteman, Moyer and Lower Roads (Telford USGS Quadrangle Latitude: 40° 17' 45"; Longitude: 75° 21' 00").

E46-983. Marlborough Township, 5518 McLean Station Rd., Green Lane, PA, 18054, Marlborough Township, **Montgomery County**, ACOE Philadelphia District.

Jeff Gray Driveway Crossing Project

To construct and maintain a 12-foot wide, 24-foot span by 3.5-foot high open-bottom box bridge and appurtenances, as a driveway access from McLean Station Road to an existing single family dwelling which will cross a UNT of Macoby Run (TSF).

The project includes temporary cofferdams and conduits to facilitate bridge construction and will impact approximately 50 linear feet of stream. The site is located approximately 345 feet southwest of the intersection of McLean Station Road and Geryville Pike in Marlborough Township, Montgomery County (Perkiomenville PA, Quadrangle N: 20.98 inches; W: 11.72 inches).

E46-985. Township of Lower Merion, 75 E. Lancaster Avenue, Ardmore, PA 19003-2376, Lower Merion Township, **Montgomery County**, ACOE Philadelphia District.

To rehabilitate approximately 1,600 linear feet of Mill Creek (TSF). Work will include, grading, bank-toe armoring, bank revegetation and rock cross vane construction. The site is located in Mill Creek Park, near the intersection of Mill Creek Road and Old Gulf road. (Norristown, PA Quadrangle N: 4.1 inches; W: 4.0 inches).

Northeast Region: Watershed Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

E48-366. Portland Industrial Park, LLP, 102 Demi Road, Portland, PA 18351 in Upper Mount Bethel Town-

ship and Portland Borough, **Northampton County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in approximately 0.21 acre of PFO wetlands and to construct and maintain the following water obstructions and encroachments in a tributary to the Delaware River: (1) an approximate 380 LF channel change for the purpose of constructing an access road to serve a proposed retail building; and (2) four utility line stream crossings. This work is associated with the Portland Industrial Park development located south of the intersection of River Road and SR 0611 (Portland, PA-NJ Quadrangle N: 7.5 inches; W: 13.2 inches).

E45-480. Pocono Heights Property Owners Club, P. O. Box 520, Marshalls Creek, PA 18335 in Middle Smithfield Township, **Monroe County**, United States Army Corps of Engineers, Philadelphia District.

To construct and maintain a bridge having a single span of approximately 34 feet and an underclearance of approximately 8 feet across Marshalls Creek (HQ-CWF). The bridge will serve as an emergency access for Pocono Heights residential community. The project is located on the west side of SR 1007 (Marshalls Creek Road) approximately 0.7 mile north of Wooddale Road (East Stroudsburg, PA Quadrangle N: 12.5 inches; W: 2.0 inches)

E64-258. John E. Marshall, 348 Bethel School Road, Honesdale, PA 18431, in Texas Township, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in a de minimus area of wetlands equal to 0.03 acre, within the drainage basin of the Lackawaxen River (HQ-PSS, MF), for the purpose of providing a suitable building lot for a commercial business. The project is located on the west side of SR 0006, just south of the Honesdale Borough/Texas Township boundary. (White Mills, PA Quadrangle N: 10.2 inches; W: 15.9 inches).

E35-392. Music Lakes Club, 15 Moosic Lake, Lake Ariel, PA 18436, in Jefferson Township, **Lackawanna County**, United States Army Corps of Engineers, Baltimore District.

To construct and maintain a dry hydrant in Moosic Lake's Big Lake. The project is located along East Shore Drive near the Big Lake Community Center. (Olyphant, PA Quadrangle N: 10.5 inches; W: 2.5 inches).

E35-388 (formerly E35-342). First Industrial Acquisitions, Inc., 200 Philips Road, Exton, PA 19341, in Covington and Clifton Townships, **Lackawanna County**, United States Army Corps of Engineers, Philadelphia District.

To place fill in 0.09 acre of wetlands within the Meadow Brook Watershed (HQ-CWF) and to place fill in 0.46 acre of wetlands within the Tamarack Creek Watershed (HQ-CWF) for the purpose of constructing and developing the Covington Industrial Park. This permit is a reissuance of Permit No. E35-388 which expired on December 31, 2004. The project is located along the east side of SR 0435, between SR 2013 and SR 0307 (Sterling, PA Quadrangle N: 3.2 inches; W: 17 inches).

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

E67-786: Greenspan Partners, LP, 150 Farm Lane, York, PA 17402 in Conewago Township, **York County**, ACOE Baltimore District

To construct and maintain a 48-inch by 116-foot stream/wetland crossing, fill 0.36 acre of palustrine emergent wetlands and install a 12-inch water line all associated with a UNT to the Little Conewago Creek (TSF) (Dover, PA Quadrangle N: 12.6 inches; W: 3.1 inches) in Conewago Township, **York County**. The project will permanently impact 0.41 acre of palustrine emergent wetlands.

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

E17-413. Department of Transportation, Engineering District 2-0, P. O. Box 342, 1924-30 Daisy Street, PA 16830. SR 0879, Section A01 Lick Run Bridge Project, Goshen Township, **Clearfield County**, ACOE Baltimore District (Clearfield, PA Quadrangle N: 9.1 inches; W: 1.5 inches).

To construct, operate and maintain a five span pre-stressed concrete I-beam bridge across and its piers within the 100-year floodplain of Lick Run (HQ-CWF for improved highway safety with the relocation of SR 0879. The five span bridge shall be constructed with each span measuring 122 feet for a length of 640 feet, a minimum underclearance of 75 feet at Lick Run and skew of 90°. The project will not permanently impact wetlands or stream channels while temporarily impacting 20 feet of Lick Run located along the northern right-of-way of I-80 approximately 1.4-miles north of SR 0879 and I-80 intersection. This permit also authorizes temporary construction road crossings, cofferdams and causeways necessary to construction of the five span bridge. Temporary structures shall be constructed of clean stone free of fines. Upon completion of the project, all temporary construction shall be removed with all disturbed areas being fully restored to original contours, elevations and vegetative cover.

E60-177. John D. Griffith, 2065 Green Ridge Road, Mifflinburg, PA 17844. Project is to convey stormwater from the Meadow Green Subdivision across a neighboring property in West Buffalo Township, **Union County**, ACOE Baltimore District (Mifflinburg, PA Quadrangle N: 9.7 inches; W: 4.7 inches).

The applicant proposes to build and maintain an enclosed stormwater conveyance across a neighboring property to correct a concentrated stormwater discharge to an actively cropped hayfield. Proposed impacts include temporary disturbance of 0.07 acre of farmed wetlands. The disturbance is a linear crossing 714 feet long by 4 feet wide. These wetlands are classified as "other wetlands" by the Department of Environmental Protection and are located on a farm owned by the Spangler Trust. Clay trench plugs will be installed to protect the hydrology of the wetlands. This is an after-the-fact application to authorize maintenance of a structure installed to correct a violation.

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

E02-1516. Allegheny County Public Works Department, 501 County Office Building, 542 Forbes Avenue, Pittsburgh, PA 15219. To construct a bridge over Little Deer Creek in West Deer Township, **Allegheny County**, Pittsburgh ACOE District. (New Kensington West, PA Quadrangle N: 21.5 inches; W: 11.7 inches and Latitude: 40° 37' 16.5"—Longitude: 79° 50' 2.5"). The applicant proposes to remove the existing structure; to construct and maintain a 36 foot by 7.5 foot conspan arch bridge; to

reconstruct approximately 220 feet of the channel on the upstream side of the new bridge; to reconstruct approximately 180 feet of the channel on the downstream side of the new bridge and to construct and maintain various outfalls to Little Deer Creek (TSF). The bridge (Little Deer Creek Bridge No. 6) located on McKrell Road near its intersection with Little Deer Creek. The total proposed project impacts will be 460 feet of Little Deer Creek.

E02-1518. Pittsburgh Water and Sewer Authority, 441 Smithfield Street, Pittsburgh, PA 15222-2219. To construct an outfall in the City of Pittsburgh, **Allegheny County**, Pittsburgh ACOE District. (Pittsburgh West, PA Quadrangle N: 12.5 inches; W: 0.7 inch and Latitude: 40° 26' 38"—Longitude: 80° 01' 18"). The applicant proposes to construct and maintain a 60-inch diameter outfall structure on the left bank of the Allegheny River (WWF) for the purpose of developing separate sanitary and storm sewer systems. The project is located approximately 2,500.0 feet upstream from its mouth, at the Tenth Street Bypass and I-279 ramp.

E04-314. Ellwood Investors, LLC, 107 Crystal Springs, PA 16066-3929. To fill wetlands in Franklin Township, **Beaver County**, Pittsburgh ACOE District. (Beaver Falls, PA Quadrangle N: 18.01 inches; W: 0.92 inch and Latitude: 40° 50' 57"—Longitude: 80° 15' 24"). The applicant proposes to place and maintain fill in 0.19 acre of wetlands (PEM) as part of a proposed residential patio home development with 18 buildings of four dwelling units each a multiuse clubhouse. The project is located on the east side of Mercer Road approximately 3,000 feet north of its intersection with Route 288.

E65-886. Department of Transportation, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. To construct a culvert in Unity Township, **Westmoreland County**, Pittsburgh ACOE District. (Latrobe, PA Quadrangle N: 6.4 inches; W: 1.6 inches and Latitude: 40° 16' 53"—Longitude: 79° 23' 25"). The applicant proposes to construct and maintain a 32 LF extension to and existing 152 LF long, 14.0 ft. span, 8.96 ft. vertical clearance arch culvert in Monastery Run (WWF); and fill and maintain a total of 0.44 acre of PEM, PSS and PFO wetlands. Construction and maintenance of a total of 0.6 acre of PEM and PFO replacement wetlands will be part of the permit associated with the adjoining SR 1045 (St. Vincent Drive) relocation project. The applicant also proposes to construct temporary road crossings, construct and maintain stormwater outfalls, construct and maintain a 48 LF extension to a 146 LF, 24-inch diameter culvert and fill and maintain 323 LF of stream channel on UNTs to Monastery Run with drainage areas of less than 100 acres. This project is associated with the widening and improvements to a section of SR 30 located north and adjacent to the Latrobe Airport and extending from approximately 0.25 mile east of the intersection with Route 981 (Latrobe, PA Quadrangle N: 6.4 inches; W: 1.6 inches and Latitude: 40° 17' 00"—Longitude: 79° 24' 25"). Total proposed impacts are approximately 459 feet of stream channel and 0.44 acre of wetland.

ENVIRONMENTAL ASSESSMENTS

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

EA26-007. Fayette County Conservation District, 10 Nickman Plaza, Lemont Furnace, PA 15456. To construct a passive, acid mine drainage treatment system in Dunbar Township, **Fayette County**, Pittsburgh ACOE District (South Connellsville, PA Quadrangle N: 6.6

inches; W: 6.3 inches and Latitude: 39° 54' 41"—Longitude: 79° 32' 42"). The applicant proposes to construct and maintain a passive, acid mine drainage treatment system to treat the six mine drainage discharges emanating from the Hughes property. The project will affect a reported 0.90 acre of wetland from the construc-

tion of the two-system design, which includes wetland treatment site, detention settling ponds, vertical flow pond system and riprap infiltration gallery that discharges to Morgan run (HQ-CWF). The project is located approximately 2 miles from the intersection of Ohioyle Road and T-529.

ACTIONS

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

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

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

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

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

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

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

I. NPDES Renewal Permit Actions

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0064025	KBM Regional Authority P. O. Box 55 McAdoo, PA 18237	Kline Township Schuylkill County	Catawissa Creek 05E	Y

In accordance with the Chesapeake Bay Strategy, nutrient effluent limitations were added to Outfall 001 of this permit as published on March 8, 2005. The permittee is also required to submit a plan containing a schedule of compliance with the Chesapeake Bay Strategy within 180 days of the effective date of this permit.

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0028894 (Sew)	Fairfield Area School District Elementary and High School 4840 Fairfield Road Fairfield, PA 17320-9200	Adams County Hamiltonban Township	UNT Spring Run 13-D	Y
PA0041581 (Sew)	Liverpool Municipal Authority P. O. Box 357 Liverpool, PA 17045	Perry County Liverpool Borough	Susquehanna River 6-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0031852	Central Columbia School District 4777 Old Berwick Road Bloomsburg, PA 17815	Columbia County South Centre Township	UNT to Susquehanna River 5D	Y
PA0115088	Benton Municipal Water and Sewer Authority P. O. Box 516 Benton, PA 17814	Columbia County Benton Borough	Fishing Creek 5C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N</i>
PA0217131 Sewage	Indiana County Municipal Services 827 Water Street Indiana, PA 15701	Indiana County Canoe Township	UNT of Canoe Creek	Y
PA0217140 Sewage	Indiana County Municipal Services 827 Water Street Indiana, PA 15701	Indiana County Armstrong Township	Crooked Creek	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0105368	East Resources, Inc. Lawry Seep Separator P. O. Box 5519 Vienna, WV 26105	McKean County Foster Township	Foster Brook 16-C	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. PA0243957, Industrial Waste, **Fizzano Brothers Concrete Products, Inc.** 201 South Phoenixville Pike, Malvern, PA 19355. This proposed facility is located in East Whiteland and West Whiteland Townships, **Chester County**.

Description of Proposed Action/Activity: Applicant is given authorization to discharge from its Malvern Plant into a UNT to Valley Creek in Watershed 3F.

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

NPDES Permit No. PA0247901, Sewage, **Gerald Erskine**, 84 Shady Lane, Annville, PA 17003. This proposed facility is located in East Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization to discharge to the Manada Creek in Watershed 7-D.

NPDES Permit No. PA0247391, Sewage, **North Codorus Township Sewer Authority**, 1986 Stoverstown, Road, Spring Grove, PA 17362. This proposed facility is located in North Codorus Township, **York County**.

Description of Proposed Action/Activity: Authorization to discharge to an UNT of Codorus Creek in Watershed 7-H.

NPDES Permit No. PA0070351, Amendment No. 1, Amity Township, 204 Weavertown Road, P. O. Box 215, Douglassville, PA 19518. This proposed facility is located in Amity Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Schuylkill River in Watershed 3-D.

NPDES Permit No. PA0247880, Industrial Waste, **Bedford County Oil Company, Inc., Former J & J Corner Store**, 914-918 North Spring Street, P. O. Box 180, Everett, PA 15537. This proposed facility is located in Hopewell Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT to Yellow Creek in Watershed 11-D.

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

PAS 10F076-2R, Construction Stormwater Discharge, **Department of Transportation**, P. O. Box 342, Clearfield, PA 16830. This proposed facility is located in Huston and Patton Townships, **Centre County**.

Description of Proposed Activity: Amendment of existing permit for discharges from Stormwater detention basins, associated with the I-99 construction project, used for treatment of water affected by contact with pyritic materials. The amendment is to add effluent limits for hexavalent chromium at outfalls 002 (West and East) and outfall 007.

The receiving streams are as follows:

<i>Stream Name</i>	<i>State Water Plan Watershed</i>	<i>Classification</i>
Bald Eagle Creek	9C	TSF
Buffalo Run	9C	HQ-CWF
Waddle Creek	9C	HQ-CWF

The nearest existing downstream public water supply intake for PA American Water Company, located on West Branch Susquehanna River at Milton, PA is 132 river miles below the points of discharge.

On March 17, 2005, the Department of Environmental Protection (Department) approved a Social or Economic Justification (SEJ), under § 93.4c(b)(1)(iii) of the Department's rules and regulations for interim discharges at technology based treatment levels from Outfalls 003—008 to Buffalo Run and Outfall 009 to Waddle Creek. The SEJ approval is valid only for an interim period ending December 31, 2007, at which time the discharge of pollutants from these Outfalls must either meet nondegrading effluent quality or be abated by the removal of polluting pyritic materials from the discharge source areas.

The proposed interim effluent limits, effective until December 31, 2007, for all Outfalls 001—009, which will discharge to Bald Eagle Creek, Buffalo Run and Waddle Creek are as follows:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		Monitor and Report	
copper		Monitor and Report	
lead		Monitor and Report	
aluminum		Monitor and Report	
dissolved		Monitor and Report	
total	1.0	1.5	2.0
iron		Monitor and Report	
dissolved		Monitor and Report	
total	3.0	6.0	7.0
manganese		Monitor and Report	
dissolved		Monitor and Report	
total	2.0	4.0	5.0
nickel		Monitor and Report	
zinc		Monitor and Report	
dissolved		Monitor and Report	
total	0.5	0.75	1.0
cadmium		Monitor and Report	
chromium		Monitor and Report	
chromium		Monitor and Report	
hexavalent (002 West and 002 East only)	0.180	0.270	0.360
hexavalent (007 only)	0.038	0.057	0.076
alkalinity		greater than acidity	
sulfates		Monitor and Report	
total suspended solids	35	70	90
pH		6.0 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfalls 001 and 002, which will discharge to Bald Eagle Creek, are as follows:

<i>Parameter</i>	<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		Monitor and Report	
copper		Monitor and Report	
lead		Monitor and Report	

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/L)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
aluminum dissolved	1.0	Monitor and Report	2.0
total		1.5	
iron dissolved	3.0	Monitor and Report	7.0
total		6.0	
manganese dissolved	2.0	Monitor and Report	5.0
total		4.0	
nickel		Monitor and Report	
zinc dissolved	0.5	Monitor and Report	1.0
total		0.75	
cadmium		Monitor and Report	
chromium		Monitor and Report	
alkalinity		greater than acidity	
sulfates		Monitor and Report	
total suspended solids	35	70	90
pH		6.0 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfalls 003—008, which will discharge to Buffalo Run, are as follows:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/l)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		nondetect	
copper		nondetect	
lead		nondetect	
aluminum dissolved	0.032	0.048	0.064
total	0.061	0.092	0.122
iron dissolved	0.024	0.036	0.048
total	0.078	0.117	0.156
manganese dissolved	0.002	0.003	0.004
total	0.006	0.009	0.012
nickel		nondetect	
zinc dissolved	0.006	0.009	0.012
total	0.006	0.009	0.012
cadmium		nondetect	
chromium		nondetect	
alkalinity		greater than acidity	
sulfates	14	21	28
total suspended solids	8	12	16
pH		6.5 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfall 009, which will discharge to Waddle Creek, are as follows:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/l)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		nondetect	
copper		nondetect	
lead		nondetect	
aluminum dissolved	0.032	0.048	0.064
total	0.061	0.092	0.122
iron dissolved	0.024	0.036	0.048
total	0.078	0.117	0.156

Parameter	Concentration (mg/l)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
manganese dissolved	0.002	0.003	0.004
manganese total	0.006	0.009	0.012
nickel		nondetect	
zinc dissolved	0.006	0.009	0.012
zinc total	0.006	0.009	0.012
cadmium		nondetect	
chromium		nondetect	
alkalinity		greater than acidity	
sulfates	21	31.5	42
total suspended solids	28	42	56
pH		6.5 to 9.0 (standard units)	

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

1. Sampling requirements.
2. Requirements for retention of records.
3. Recording requirements.
4. Testing requirements.
5. Quality assurance/quality control requirements.
6. Submission of Discharge Monitoring Reports.
7. Requirements for management of precipitated solids.

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

NPDES Permit No. PA0253057, Sewage, **Ruth A. Testa**, 428 Truby Street, Greensburg, PA 15601. This proposed facility is located in Donegal Township, **Westmoreland County**.

Description of Proposed Action/Activity: Authorization to discharge treated wastewater to Roaring Run.

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

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

WQM Permit No. 2305405, Sewerage, **Chester Downs and Marina, LLC**, c/o Harrah's Entertainment, Inc., 777 Harrah's Boulevard, Atlantic City, NJ 08401. This proposed facility is located in City of Chester Township, **Delaware County**.

Description of Action/Activity: Construction and operation of two pump stations and associated force mains along with a gravity collection system and associated appurtenances.

WQM Permit No. 4605421, Sewerage, **Upper Montgomery Joint Authority**, P. O. Box 6, 1100 Mensch Dam Road, Pottsville, PA 18073. This proposed facility is located in Upper Hanover Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a new submersible pump station and force main to serve 43 lot subdivision.

WQM Permit No. WQG010008, Sewerage, **William Mapes**, 64 West Cherry Road, Quakertown, PA 18951. This proposed facility is located in Richland Township, **Montgomery County**.

Description of Action/Activity: Construction and operation of a small flow treatment facility.

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

WQM Permit No. 3805406, Sewerage, **East Hanover Township**, 1117 Schoolhouse Road, Annville, PA 17003-8526. This proposed facility is located in East Hanover Township, **Lebanon County**.

Description of Proposed Action/Activity: Approval for the construction and operation of sewerage facilities consisting of gravity sewers, grinder pumps, submersible nonclog duplex pump station, force main and propane emergency power generator.

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

Description of Proposed Action/Activity: Approval for the construction and operation of sewerage facilities consisting of 1,250 gallon septic tank, Ecoflow Biofilter, lift station and Chromaglass Chlorinator and Chlorine Contant Tank.

WQM Permit No. 0691419, Amendment 05-1, Sewerage, **Twin Valley School District**, 4851 Twin Valley Road, Elverson, PA 19520. This proposed facility is located in Caernarvon Township, **Berks County**.

Description of Proposed Action/Activity: Amendment for construction/operation of sewerage facilities consisting of the installation of a continuous backwash 50 gpm sand filter.

WQM Permit No. 0105201, Sewerage, **Oxford Township**, 780 Hanover Street, New Oxford, PA 17350. This proposed facility is located in Oxford Township, **Adams County**.

Description of Proposed Action/Activity: Construction/Operation of the Irish Meadows Pump Station.

WQM Permit No. 6704402, Sewerage, **North Codorus Township Sewer Authority**, 1986 Stoverstown Road, Spring Grove, PA 17360. This proposed facility is located in Oxford Township, **Adams County**.

Description of Proposed Action/Activity: Construction/Operation of North Codorus Township Wastewater Treatment Plant, Salem Springs Pump Station, Sherwood Forest Pump Station, Smith Hill Pump Station and Sewage Collection System.

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

WQM Permit No. 0205409, Sewerage, **Findlay Township Municipal Authority**, 1271 Route 30, P. O. Box 409, Clinton, PA 15026. This proposed facility is located in Findlay Township, **Allegheny County**.

Description of Proposed Action/Activity: Construction and operation of interceptor to serve Clinton Industrial Park.

WQM Permit No. 0405402, Sewerage, **Calaco, Inc.**, 307 4th Avenue, Pittsburgh, PA 15222. This proposed facility is located in New Sewickley Township, **Beaver County**.

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

WQM Permit No. 2604402-A1, Sewerage, Fred Provance, Chairperson, **Brownsville Municipal Authority**, P. O. Box 330, 7 Jackson Street, Brownsville, PA 15417. This proposed facility is located in Brownsville Borough, **Fayette County**.

Description of Proposed Action/Activity: Construction and operation of replacement pump stations and associated force mains, replacement sewers, and conversion of the existing treatment tankage to wet weather equalization tankage.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

WQM Permit No. WQG018412, Sewerage, **Beth Schaller**, 11084 SR 98, Edinboro, PA 16412. This proposed facility is located in Franklin Township, **Erie County**.

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025204009	Peter Timan R. D. 1, Box 875 Dingmans Ferry, PA 18328	Pike	Delaware Township	Adams Creek EV
PAI024803030	Alan B. McFall 118 Roosevelt St. Wind Gap, PA 18091	Northampton	Plainfield Township	UNT to Little Bushkill Creek HQ-CWF
PAI024504030	Forte, Inc. P. O. Box 153 Stroudsmoor Rd. Stroudsburg, PA 18360	Monroe	Stroud Township	Cherry Creek HQ-CWF
PAI021305009	Thomas P. Carney, Inc. P. O. Box 28 2490 Village Rd. Langhorne, PA 19047	Carbon	Kidder Township	Tunkhannock Township HQ-CWF
PAI023905009	Sheetz, Inc. 5700 Sixth Ave. Altoona, PA 16602	Lehigh	City of Bethlehem	Monocacy Creek HQ-CWF
PAI026405005	CBR Enterprises Ltd. 139-23 Queens Blvd. Jamaica, NY 11435	Wayne	Lehigh Township	UNT to Lehigh River HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026405002	Stanley M. Petroski 41 Reining Rd. Honesdale, PA 18431	Wayne	Berlin Township	Holbert Creek HQ-CWF, MF
PAI024505005	Gerald Gay R. R. 5, Box 5138A Stroudsburg, PA 18360	Monroe	Stroud Township	Big Meadow Run HQ-CWF Flagler Run HQ-CWF
PAI024504021	Glenn Detrick 1411 Chipperfield Drive Stroudsburg, PA 18360	Monroe	Hamilton Township	UNT to McMichael Creek HQ-CWF
PAI024805015	Valley Pain Specialists, P. C. 260 E. Broad St. Bethlehem, PA 18018	Northampton	Bethlehem Township	Monocacy Creek HQ-CWF
PAI024804029	DePalo Builders, LLC 107 East Main St. Bath, PA 18014	Northampton	Moore Township	E. Branch Monocacy Creek HQ-CWF
<i>Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.</i>				
<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033104010	Mr. and Mrs. John Gilliland One Warpath Road Warriors Mark, PA 16877	Huntingdon	Warriors Mark and Franklin Townships	UNT Warriors Mark Run HQ-CWF
PAI033104003	Petersburg Water Authority P. O. Box 257 Petersburg, PA 16669-0257	Huntingdon	Logan Township	Reed's Run (HQ-CWF) UNT Shaver Creek (HQ-CWF) UNT to Juniata River (HQ-CWF)
PAI034405003	Edgwood Country Estates 289 Walnut Street Bellville, PA 17004	Mifflin	Brown Township	UNT Tea Creek (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

NOTICES

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*General Permit Type—PAG-2**Facility Location:*

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Butler Township Luzerne County	PAG2004005010	Michael Greco 41 West Broad St. Hazleton, PA 18201	Nescopeck Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Archbald Borough Lackawanna County	PAG2003505024	Austin J. Burke SLIB Co. 222 Mulberry St. Scranton, PA 18503	Wildcat Creek CWF	Lackawanna Co. Cons. Dist. (570) 281-9495
City of Wilkes-Barre and Larksville Borough Luzerne County	PAG2004005040	Luzerne County Flood Protection Authority Attn: James J. Brozena Luzerne County Courthouse 200 North River St. Wilkes-Barre, PA 18711	Susquehanna River WWF	Luzerne Co. Cons. Dist. (570) 674-7991
Hazle Township Luzerne County	PAG2004005034	Anchor Health Properties, Inc. Attn: Michael Lawson 200 Pennsylvania Ave. Wilmington, DE 19806	UNT to Black Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
Smithfield Township Monroe County	PAG2004505006	CPG Partners, LP 105 Eisenhower Pkwy. Roseland, NJ 07068 and WPA Industries, Inc. P. O. Box 1158 Marshalls Creek, PA 18335	Brodhead Creek TSF-MF	Monroe Co. Cons. Dist. (570) 629-3060
Luzerne Borough Luzerne County	PAG2004005035	Connolly Field, LLC Attn: Rick Phaler 106 N. Turnpike Rd. Dalton, PA 18414	Toby's Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
L. Heidelberg Township Berks County	PAG2000605079	James Bickle Performance Motors Toyota 4681 Penn Avenue Sinking Spring, PA 19608	Little Cacoosing Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Washington Township Berks County	PAG2000605090	Peter Rotelle Summit Propane 219 Niantic Road Barto, PA 19504	Perkiomen Creek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
West Reading Borough Berks County	PAG2000605094	Brian Kobularcik Metropolitan Development Group 438 Walnut Street Reading, PA 19601	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Maidencreek Township Berks County	PAR10C309R1	Christopher Bradley Bradley Management Group, Inc. 35 Pinehurst Court Phoenixville, PA 19460	Willow Creek CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Todd Township Fulton County	PAG2002905002	John L. and Faye L. Hendershot 844 Oakleaf Road McConnellsburg, PA 17233	Big Cove Creek (CWF)	Seleen Shimer Fulton CCD (717) 485-3547, Ext. 121
Todd Township Fulton County	PAG2002905003	Fulton County Medical Center 216 S. First Street McConnellsburg, PA 17233	Big Cove Creek (CWF)	Seleen Shimer Fulton CCD (717) 485-3547, Ext. 121
Lower Swatara Township Dauphin County	PAG2002205055	John Lippa Members' First Fed. Credit Union 5000 Louise Dr. Mechanicsburg, PA 17055	Paxton Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Tulpehocken Township Berks County	PAG2000605095	Larry Diller Lanita Transport 410 Stracks Dam Road Myerstown, PA 17067	Tulpehocken Creek TSF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Centre County College Township	PAG2001405017	Scott Balboni MAT, LLC 2145 East College Ave. State College, PA 16801	UNT Spring Creek CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Snyder County Penns Township	PAG2005505007	Michael and Katherine Savidge R. R. 1, Box 220B Selinsgrove, PA 17870	Trib. to Penns Creek WWF	Snyder County Conservation District 403 W. Market St. Middleburg, PA 17842 (570) 837-0007, Ext. 112
Tioga County Charleston Township	PAG2005905008	James Mark 568A East Baltimore Avondale, PA 19311	Charleston Creek WWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 101
Tioga County Duncan Township	PAG2005905009	Phoenix Resources Inc. 782 Antrim Road Wellsboro, PA 16901	Trib. to Rock Run CWF	Tioga County Conservation District 50 Plaza Lane Wellsboro, PA 16901 (570) 724-1801, Ext. 101
Beaver County New Sewickley Township	PAG2000405021	Robert R. Walsh The Buncher Company 5600 Forward Avenue Pittsburgh, PA 15217	UNT to North Fork Big Sewickley Creek (TSF)	Beaver County CD (724) 378-1701
Butler County Jackson Township	PAG2001005017	Village at Harmony Junction J & T Harmony Development, LLP 114 Perry Highway Harmony, PA 16037	Connoquenessing Creek WWF	Butler Conservation District (724) 284-5270
Butler County Connoquenessing Township	PAG2001005030	Harry Shiever Butler Farm Market 218 New Castle Road Butler, PA 16001	UNT Connoquenessing Creek WWF	Butler Conservation District (724) 284-5270
Mercer County Sandy Lake Township	PAG2004305014	Lakeview School District 2482 Mercer St. Stoneboro, PA 16153	UNT Sandy Creek WWF	Mercer Conservation District (724) 662-2242

NOTICES

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General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
York County Hellam Township	PAR203559	New Standard Corporation 74 Commerce Way York, PA 17406-8038	UNT to Kreutz Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Monroe Township Bradford County	PAR604828	Jay Lamphere Lamphere's Salvage R. D. 1, Box 271-A Monroeton, PA 18832	UNT to French Run (CWF)	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
Emporium Borough Cameron County	PAR204811	Pro America Manufacturing Corporation—Cameron Division 221 East Second Street Emporium, PA 15834	Driftwood Branch Sinnemahoning Creek TSF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
City of Williamsport Lycoming County	PAR204832	High Steel Structures, Inc. 3501 West Foruth Street Williamsport, PA 17701	UNT to Daugherty Run WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
City of Williamsport Lycoming County	PAR704807 (Stormwater)	HRI, Inc. 1750 West College Ave. State College, PA 16801	Daugherty Run WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3664
Glenwood City Allegheny County	PAR806202	Detroit Salt Company 12841 Sanders Street Detroit, MI 48127	Monongahela River	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Ridgway Township Elk County	PAR218324	Industrial Timber and Lumber Company	UNT to Mason Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Clinton Township Butler County	PAR218319	ESM Manufacturing LP 955 Saxonburg Blvd. Saxonburg, PA 16056	Rocky Run-Bull Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-4**Facility Location:
Municipality &
County**Permit No.**Applicant Name &
Address**Receiving
Water/Use**Contact Office &
Phone No.*Franklin Township
Erie County

PAG049204

Beth Schaller
11084 SR 98
Edinboro, PA 16412UNT to Cussewago
CreekDEP—NWRO
Water Management
230 Chestnut Street
Meadville, PA 16335-3481
(814) 332-6942*General Permit Type—PAG-8**Facility Location &
County/Municipality Permit No.**Applicant Name &
Address**Site Name &
Location**Contact Office &
Phone No.*Licking Creek
Township
Fulton CountyPAG080002
PAG080003
PAG080004
PAG080006
PAG080008
PAG082201
PAG082202
PAG083501
PAG083502
PAG083506
PAG083515
PAG083517
PAG083518
PAG083522
PAG083535
PAG083540
PAG083542
PAG083547
PAG083551
PAG083556
PAG083565
PAG083825
PAG089903
PAG089904
PAG089905Synagro Mid Atlantic
1605 Dooley Road
P. O. Box B
Whiteford, MD 21160Mathern Mellott
Licking Creek Township
Fulton CountyDEP—SCRO
909 Elmerton Avenue
Harrisburg, PA
17110-8200
(717) 705-4707Amity Township
Berks CountyPAG080002
PAG080003
PAG080004
PAG080006
PAG080008
PAG082201
PAG082202
PAG082211
PAG083501
PAG083502
PAG083506
PAG083515
PAG083517
PAG083518
PAG083522
PAG083535
PAG083540
PAG083542
PAG083547
PAG083551
PAG083556
PAG083565
PAG083825
PAG089903
PAG089904
PAG089905Synagro Mid Atlantic
1605 Dooley Road
P. O. Box B
Whiteford, MD 21160Shirley Farm
Amity Township
Berks CountyDEP—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

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

Permit No. 6705505, Public Water Supply.

Applicant	Shrewsbury Borough
Municipality	Shrewsbury Borough
County	York
Type of Facility	Addition of corrosion inhibitor at Blouse and Meadow Wells
Consulting Engineer	Charles A Kehew, II, P. E. James R. Holley & Assoc., Inc. 18 South George St. York, PA 17401
Permit to Construct Issued:	11/7/2005

Operations Permit issued to **Sherman's Valley, LP**, 7500017, Tyrone Township, **Perry County** on 11/7/2005 for the operation of facilities approved under Construction Permit No. 5005501.

WATER ALLOCATIONS

Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth

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

WA 24-909. Water Allocation Permit Modification Order. The Department grants **Ridgway Township Municipal Authority, Elk County** a modification order for expansion of the service area to include an area of Ridgway Township along US 219 south to the Village of Boot Jack. This Modification Order does not increase current allocation amount. Water Allocation Permit Modification Order issued on November 17, 2005.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Frankstown Township	1775 Frankstown Road Hollidaysburg, PA 16648	Blair

Plan Description: The approved plan provides for the extension of sanitary sewer collection service to the Frankstown and Geeseytown areas of Frankstown Township. The project will serve 124 homes and will produce 37,200 gallons per day of sewage flow. The Department of Environmental Protection's (Department) review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Terre Hill Borough	300 Broad Street P. O. Box 250 Terre Hill, PA 17581	Lancaster
East Earl Township	4610 Division Highway East Earl, PA 17519	Lancaster

Plan Description: The approved plan provides for extension of gravity sewer service to 12 homes in the Union Grove Rd./Fairview St. area of Terre Hill Borough and extension of low pressure sewer lines with grinder pumps for 18 homes in the Wide Hollow/Red Run Road area of East Earl Township. Sewage will be conveyed to the Terre Hill Borough Sewage Treatment facility. The ID numbers for this minor plan revision is A3-36927-221-3M and A3-36953-016-3M the APS number is 567182. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
North Bethlehem Township	P. O. Box 105 Scenery Hill, PA 15630	Washington

Plan Description: The approved plan provides for construction of a 400 gallon per day single residence sewage treatment plant to serve an existing home with the malfunctioning onlot septic system at the Thomas Recupero residence, 29 Scott Road. The proposed discharge point is an UNT of the south branch of Pigeon Creek, classified as a WWF. The Department's review of the sewage facilities revision has not identified any significant impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the property owner as appropriate.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

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

The Department has received the following plans and reports:

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

Oxford Valley Mall JC Penny, Middletown Township, **Bucks County**. Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 50, Bala Cynwyd, PA 19004 on behalf of Clinton Cochran, Lincoln Plaza Assoc., c/o Kravoco Simon Co., 234 Mall Blvd., King of Prussia, PA 19406 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Sheller Oil, Newlin Township, **Chester County**. Joseph Diamadi, Jr., P. G., Marshall Geoscience, Inc., 170 E. First Ave., Colledgeville, PA 19426 on behalf of Steve Gaul, Sheller Oil Co., Inc., 389 Brandywine Dr., Newlin, PA has submitted a Final Report concerning remediation of site soil contaminated with No. 2 fuel oil. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

Vacant Prop/5040 Belfield Ave, City of Philadelphia, **Philadelphia County**. Ethan E. Prout, P. G., American Resource Consultants, Inc., P. O. Box 579, Quakertown, PA 18951 on behalf of Mr. and Mrs. Elliot Timms, 1862 Lindley St., Philadelphia, PA 19141 has submitted a Baseline Environmental Report concerning remediation of site soil contaminated with lead. The report is intended to document remediation of the site to meet the leaded gasoline.

Seton Corp. Ctr, Bldg B, Lower Providence Township, **Montgomery County**. Michael Kozar, P. G., O'Brien & Gere Engineers, Inc., 512 Township Line Rd, Two Valley Sq., Suite 210, Blue Bell, PA 19422 on behalf of Carl Zipfel, Co., 1000 Madison Ave., Norristown, PA 19403 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

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

Canoe Creek Quarry, Frankstown Township, **Blair County**. Mountain Research, LLC, 825 25th Street, Altoona, PA 16601, on behalf of New Enterprise Stone & Lime Company, P. O. Box 77, New Enterprise, PA 16664, submitted a Final Report concerning remediation of site soils and groundwater contaminated with diesel fuel and other organics. The report is intended to document remediation of the site to 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.

Trease Catering, Falls Township, **Bucks County**. Thomas Hippensteal, Mid-Atlantic Assoc., Inc., 2951 Advance Lane, Colmar, PA 18915 on behalf of Eric Trease, Trease Catering, 80 West My Lane, Morrisville, PA 19067 has submitted a Low Risk Property Final Report concerning the remediation of site soil contaminated with No. 2 fuel oil. The Low Risk Property Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 2, 2005.

Parkside Amoco Station, Parkside Borough, **Delaware County**. Mark Genua, Powell~Harpstead, Inc., 800 E. Washington St., West Chester, PA 19341 has submitted a Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The Final Report

did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department on October 12, 2005.

Roberts Residence, Skippack Township, **Montgomery County**. Andrew Markoski, Patriot Env. Mgmt., LLC, P. O. Box 629, Douglasville, PA 19518 on behalf of Lisa Roberts, 3767 Mill Rd., Collegeville PA 19426 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 November 1, 2003.

National Linens Prop/Soil, City of Philadelphia, **Philadelphia County**. Paul Martino, P. G., Pennoni assoc., Inc., One Drexel Plaza, 3001 Market St., Philadelphia, PA 19104 has submitted a Final Report concerning the remediation of site soil contaminated with PAHs. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 31, 2005.

Penn Bottle Site, City of Philadelphia, **Philadelphia County**. Mark Eschbacher, P. G., RT Env. Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Tina Norwood, USPS, 4301 Wilson Blvd, Suite 300, Arlington, VA 22203 has submitted a Final Report concerning the remediation of site groundwater contaminated with No. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 1, 2005.

The Wharf at Rivertown, City of Chester, **Delaware County**. Mark Eschbacher, P. G., RT Env. Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Larry Wygant, Preferred Real Estate Investments, 1001 E. Hector St., Suite 101, Conshohocken, PA 19428 has submitted a Remedial Investigation Report concerning the remediation of site soil contaminated with PCBs, inorganics and chlorinated solvents. The Remedial Investigation Report was approved by the Department on November 1, 2005.

863 Easton Partners, LP, Warrington Township, **Bucks County**. Terrence J. McKenna, P. E., Keating Env. Mgmt, Inc., 123 John Robert Thomas Dr., Exton, PA 19341 on behalf of Philip Hinerman, Esq., Fox Rothschild, LLP, 2000 Market St., 10th Floor, Philadelphia, PA 19103 has submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with PAHs, chlorinated solvents and gasoline. The Remedial Investigation Report was disapproved by the Department on November 8, 2005.

830-834 Swanson Salem Limo, City of Philadelphia, **Philadelphia County**. Michael Roscoe, Mid-Atlantic Assoc., Inc., 2951 Advance Ln., Colmar, PA 18915 on behalf of Fred Tropea, Stone Creek Homes, LLC, 1786 Wilmington Pike, Suite 300, Glen Mills, PA 19342 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents, diesel fuel, No. 6 fuel oil, inorganics, kerosene, leaded gasoline, lead, MTBE, new motor oil, other organics, unleaded gasoline and used motor oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 9, 2005.

9-15 Christian St. Towing, City of Philadelphia, **Philadelphia County**. Michael Roscoe, Mid-Atlantic Assoc., Inc., 2951 Advance Ln., Colmar, PA 18915 on behalf of Fred Tropea, Stone Creek Homes, LLC, 1786 Wilmington Pike, Suite 300, Glen Mills, PA 19342 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents, diesel fuel, No. 6 fuel oil, inorganics, kerosene, leaded gasoline, lead, MTBE, new motor oil, other organics, unleaded gasoline and used motor oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 9, 2005.

Christian & Swanson St. Warehouse, City of Philadelphia, **Philadelphia County**. Michael Roscoe, Mid-Atlantic Assoc., Inc., 2951 Advance Ln., Colmar, PA 18915 on behalf of Fred Tropea, Stone Creek Homes, LLC, 1786 Wilmington Pike, Suite 300, Glen Mills, PA 19342 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents, diesel fuel, No. 6 fuel oil, inorganics, kerosene, leaded gasoline, lead, MTBE, new motor oil, other organics, unleaded gasoline and used motor oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 9, 2005.

3-7 Christian St. Marquette, City of Philadelphia, **Philadelphia County**. Michael Roscoe, Mid-Atlantic Assoc., Inc., 2951 Advance Ln., Colmar, PA 18915 on behalf of Fred Tropea, Stone Creek Homes, LLC, 1786 Wilmington Pike, Suite 300, Glen Mills, PA 19342 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents, diesel fuel, No. 6 fuel oil, inorganics, kerosene, leaded gasoline, lead, MTBE, new motor oil, other organics, unleaded gasoline and used motor oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 9, 2005.

Christian & Swanson St. Phillyship, City of Philadelphia, **Philadelphia County**. Michael Roscoe, Mid-Atlantic Assoc., Inc., 2951 Advance Ln., Colmar, PA 18915 on behalf of Fred Tropea, Stone Creek Homes, LLC, 1786 Wilmington Pike, Suite 300, Glen Mills, PA 19342 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents, diesel fuel, No. 6 fuel oil, inorganics, kerosene, leaded gasoline, lead, MTBE, new motor oil, other organics, unleaded gasoline and used motor oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 9, 2005.

Nace's Greenhouses, Perkasio Borough, **Bucks County**. Samuel J. Kucia, VP, Env. Consulting, Inc., 500 E. Washington St., Suite 375, Norristown, PA 19401 on behalf of Tom Calhoun, Moulton Builders, 301 N. Broad St., Lansdale, PA 19446 has submitted a Final Report concerning the remediation of site soil contaminated with arsenic and inorganics. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 14, 2005.

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

Drumheller Property, Oley Township, **Berks County**. American Resource Consultants, Inc., 1000 West Broad Street, Quakertown, PA 18951 on behalf of Ethel Drumheller, 552 Bertolet Mill Road, Oley, PA 19547 and J

& J Spill Service & Supplies, Inc., P. O. Box 370, Blue Bell, PA 19422 submitted a Final Report concerning remediation of site soils contaminated with leaded gasoline from an unregulated storage tank. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on November 10, 2005.

Milton Hershey High School, Derry Township, **Dauphin County**. Pennoni Associates, Inc., 3001 Market Street, Philadelphia, PA 19104, on behalf of Milton Hershey High School, 801 Spartan Lane, Hershey, PA 17033 submitted a Final Report concerning remediation of site soils contaminated with used motor oil. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on November 10, 2005.

Sneider Property, Millersburg Borough, **Dauphin County**. Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg, PA 17110, on behalf of the Estate of Jean Sneider, c/o Benjamin B. Schmick, 657 Saint Johns Drive, Camp Hill, PA 17011-1304, submitted a Final Report concerning remediation of site soil and groundwater contaminated with No. 2 heating oil. The final report demonstrated attainment of the residential Statewide Health Standard, and was approved by the Department on November 15, 2005.

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

Redevelopment Authority of the City of Meadville (Former Talon Plant 7 Site) City of Meadville, **Crawford County**. Mark B. Miller, Moody & Associates, 11548 Cotton Road, Meadville, PA 16335 on behalf of Andy Walker, Director of Community Development, Redevelopment Authority of the City of Meadville, 764 Bessemer Street, Meadville, PA 16335 has submitted a Baseline Environmental Report concerning the remediation of site soil contaminated with chlorinated solvents, inorganics and other organics and groundwater contaminated with chlorinated solvents, inorganics, lead and other organics. The Baseline Environmental Report demonstrated attainment of the standards and/or special industrial area requirements and was approved by the Department of Environmental Protection on November 16, 2005.

American Refinery Group, Foster Township, City of Bradford, **McKean County**. Raman Iyer, Chemtura Corp., 199 Benson Rd., Middlebury CT 06749 on behalf of Stephen Sherk, American Refinery Group, 77 N Kendall Ave., Bradford, PA 16701 has submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with volatile hydrocarbons and polycyclic aromatic hydrocarbons. The Remedial Investigation Report was disapproved by the Department of Environmental Protection on November 10, 2005.

Ronald Goss Inc. Site, Winfield Township, **Butler County**. Timothy Ratvasky, ENSR Corporation, 444 Liberty Ave., Suite 700, Pittsburgh, PA 15222 on behalf of Robert Peiffer, BCP Auto, 224 Brose Road, Cabot PA 16023 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with diesel fuel. The report is intended to document remediation of the site to meet the Statewide Health Standard.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE GENERAL PERMITS

Permit issued Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and municipal waste regulations for a General Permit to operate infectious and chemotherapeutic waste processing facilities.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGI014. Medical Waste Recovery, Inc., 2069 Fletcher Avenue, Fort Lee, NJ 07024. This general permit issued to Medical Waste Recovery, Inc. is for the mobile processing of infectious waste using the Positive Impact Waste Solutions (PIWS 3000 Grinder) processing unit to be utilized at the site of waste generation. The processing is limited to the grinding and disinfection of the infectious waste in the PIWS unit using the Cold-Ster (a proprietary chemical) disinfectant at a minimum concentration of 7.5% per pound of waste. The original general permit application was published under the name of Medical Waste of America, LLC; however, due to a corporation name change the general permit was issued to Medical Waste Recovery, Inc. The general permit was issued by Central Office on November 18, 2005.

Persons interested in obtaining more information about the general permit may contact the Central Office, (717) 787-7381. TDD users may contact the Department of Environmental Protection through the Pennsylvania Relay Service, (800) 654-5984.

REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Registration approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and residual waste regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

Registration under General Permit No. WMGR090R048. Haines & Kibblehouse, Inc., 2052 Lucon Road, Skippack, PA 19474-2052.

General Permit No. WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement materials as a roadway construction material. Central Office approved this registration for coverage under the General Permit on November 18, 2005.

Registration Under General Permit No. WMGR090R050. Reading Materials, Inc., 2052 Lucon Road, Skippack, PA 19474-2052.

General Permit No. WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement materials as a roadway construction material. Central Office approved this registration for coverage under the General Permit on November 18, 2005.

Persons interested in obtaining more information or copies of the General Permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

DETERMINATION OF APPLICABILITY FOR RESIDUAL WASTE GENERAL PERMITS

Determination of Applicability for General Permit Issued Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and residual waste regulations for a General Permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit No. WMGM002D001. Raeger Mountain, LP, 912 Greengate North Plaza, Greensburg, PA 15601. Landfill Gas (LFG) to produce a medium to high Btu LFG for use as a substitute for a natural gas or other fuel. The Department of Environmental Protection issued the determination of applicability on November 10, 2005.

Persons interested in reviewing the General Permit may contact Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

AIR QUALITY

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.

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

64-310-018GP3: Middle Creek Quarry, Inc. (53 Sky View Lane, Hawley, PA 18428) on November 15, 2005, to construct and operate a portable stone crushing plant and associated air cleaning device at the facility at R. R. 2, Box 361, Palmyra Township, **Wayne County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

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

46-0180: Transicoil Corp. (9 Iron Bridge Drive, Collegeville, PA 19426) on November 14, 2005, to operate three solvert vapor degreasers in Perkiomen Township, **Montgomery County**.

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

35-302-116: Keystone Sanitary Landfill, Inc. (249 Dunham Drive, Dunmore, PA) on November 15, 2005, to modify an existing boiler to utilize landfill gas as a fuel, in Dunmore and Throop Boroughs, **Lackawanna County**.

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

36-05099A: McMinn's Asphalt Co., Inc. (P. O. Box 4688, Lancaster, PA 17604-4688) on November 17, 2005, to replace an existing aggregate dryer and burner, knock-out box and baghouse for their East Petersburg batch asphalt plant in East Hempfield Township, **Lancaster County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

09-0015F: Rohm and Haas Co. (200 Route 413, Bristol, PA 19007) on November 14, 2005, to operate four boilers in Bristol Township, **Bucks County**.

09-0156: Jolly Gardener Products, Inc (500 East Pumping Station Road, Quakertown, PA 18951) on November 14, 2005, to operate two diesel engines and wood processor in Richland Township, **Bucks County**.

46-0010E: Montenay Montgomery Ltd. Partnership (1155 Conshohocken Road, Conshohocken, PA 19428) on November 17, 2005, to operate a norit carbon injection system in Plymouth Township, **Montgomery County**.

23-0059: Lyondell Chemical Co. (3801 West Chester Pike, Newtown Square, PA 19073) on November 16, 2005, to operate a pilot unit in Newtown Township, **Delaware County**.

23-0030: Swarthmore College (500 College Avenue, Swarthmore, PA 19081) on November 16, 2005, to operate a gas engine driven chiller in Swarthmore Borough, **Delaware County**.

23-0030A: Swarthmore College (500 College Avenue, Swarthmore, PA 19081) on November 16, 2005, to operate three new boilers in Swarthmore Borough, **Delaware County**.

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

06-05099A: Rolling Hills Landfill Gas, LLC (1300 North 17th Street, Arlington, VA 22209) on October 20, 2005, to construct a landfill gas combustion turbine to generate electricity at their Rolling Hills Landfill in Earl Township, **Berks County**. This plan approval was extended.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

11-00509A: RNS Services, Inc. (7 Riverside Plaza, Blossburg, PA 16912) on November 14, 2005, for a Plan Approval Extension at the Mine 33 Coal Processing Plant in Cambria Township, **Cambria County**. The Plan Approval has been extended.

63-00014F: Orion Power Midwest, LP (121 Champion Way, Suite 200, Canonsburg, PA 15317) on November 10, 2005 to allow additional time to complete testing at their Elrama Station located in Union Township, **Washington County**. The Plan Approval has been extended.

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

Northeast Region: Air Quality Program, 2 Public Square, Wilkes Barre, PA 18711-0790; Michael Safko, Facilities Permitting Chief, (570) 826-2531.

48-00069: United Panels Inc. (8 Wildon Drive, Mt. Bethel, PA 18343) on August 31, 2005, to operate a Facility Title V Operating Permit in Mount Bethel Township, **Northampton County**.

54-00008: Northeastern Power Co. (P. O. Box 7, McAdoo, PA 18237) on August 31, 2005, to operate a Facility Title V Operating Permit in Kline Township, **Schuylkill County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

07-05008: Team Ten, LLC (P. O. Box 99, Tyrone, PA 16686) on November 16, 2005, to operate the bituminous coal fired power boiler and paper machines at their paper production facility in Tyrone Borough, **Blair County**. This is a renewal of the Title V operating permit.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

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

40-00065: Quaker Oats Co.—SVC MFG INC—Gatorade Plant (750 Oak Hill Road, Mountain Top, PA 18707-2112) on August 31, 2005, to operate a Facility State Only Synthetic Minor Operating Permit in Wright Township, **Luzerne County**.

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

05-05023: New Enterprise Stone and Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664-0077) on November 9, 2005, to operate an asphalt batch plant controlled by a cyclone in series with a fabric collector at the Ashcom Blacktop Plant in Snake Spring Township, **Bedford County**.

06-05061: Cambridge-Lee Industries, Inc. (P. O. Box 14026, Reading, PA 19612-4026) on November 17, 2005, to operate a secondary copper smelter and copper rolling mill (Reading Tube Division) in Ontelaunee Township, **Berks County**. This is a renewal of the State-only operating permit.

28-03050: Bri Mar Manufacturing, Inc. (1080 South Main Street, Chambersburg, PA 17201-3240) on November 16, 2005, for a natural minor operating permit in lieu of synthetic minor operating permit number 28-05025 renewal in Chambersburg Borough, **Franklin County**.

36-03075: City of Lancaster Advanced Wastewater Treatment Plant (AWWTP) (120 North Duke Street, P. O. Box 1599, Lancaster, PA 17608) on November 8, 2005, to operate their wastewater treatment facility in Lancaster Township, **Lancaster County**.

38-03002: Plains LPG Services, LP (P. O. Box 486, 435 Route 501 S, Schaefferstown, PA 17088) on November 8, 2005, to operate a propane processing, storage and truck loading/unloading facility in Heidelberg Township, **Lebanon County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

56-00241: Rockwood Area School District (439 Somerset Avenue, Rockwood, PA 15557-1030) on November 8, 2005, to operate two coal-fired boilers and other miscellaneous small combustion sources such as boilers, generators furnaces and space heaters at the Rockwood Junior/Senior High School in **Somerset County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

23-00001: Sunoco, Inc. (Delaware Avenue and Green Street, Marcus Hook, PA 19061-0426) on November 17, 2005, to amend a facility Title V Operating permit located in Marcus Hook Borough, **Delaware County**. This amendment is to address an administrative amendment to incorporate Plan Approval No. PA-23-0001S. Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450.

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

06-05040: East Penn Manufacturing Co., Inc. (P. O. Box 147, Lyon Station, PA 19536) on November 15, 2005, to modify the scrap dryer controlled by a fabric collector and HEPA filter in Richmond Township, **Berks County**. This operating permit was administratively amended to incorporate plan approval 06-05040A. This is revision No. 1.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

30841312 and NPDES Permit No. PA0013790, Consolidation Coal Company, (1 Bridge Street, Monongah, WV), to revise the permit for the Blacksville Mine No. 2 in Wayne Township, **Greene County** to install 37 degasification boreholes. Surface Acres Proposed 18.5. No additional discharges. Permit issued November 16, 2005.

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

56950110 and NPDES No. PA0213217. Ritchie Trucking & Excavating, Inc., 19709 Winner View Terrace, Frostburg, MD 21532, permit renewal for the continued operation and restoration of a bituminous surface mine in Elk Lick Township, **Somerset County**, affecting 166.8 acres. Receiving streams: UNT to/and Flag Run; UNT to/and Casselman River, Crab Run classified for the following uses: CWF; CWF; WWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 19, 2005. Permit issued: November 8, 2005.

32000102 and NPDES No. PA0235296. Britt Energies, Inc., 2450 Philadelphia Street, Indiana, PA 15701, permit renewal for the continued operation and restoration of a bituminous surface-auger mine in White Township, **Indiana County**, affecting 105.3 acres. Receiving streams: Yellow Creek, UNT to Yellow Creek classified for the following uses: TS, CWF. There are no potable water supply intakes within 10 miles downstream. Application received September 2, 2005. Permit issued: November 14, 2005.

Permit No. 32990103 and NPDES No. PA0212687. TLH Coal Company, 4401 Pollock Road, Marion Center, PA 15759, permit renewal for reclamation only of a bituminous surface mine in Grant Township, **Indiana County**, affecting 30.1 acres. Receiving streams: UNTs to/and East Run, classified for the following use: HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received October 4, 2005. Permit issued: November 14, 2005.

56880103 and NPDES Permit No. PA0598143. Future Industries, Inc., P. O. Box 157, Meyersdale, PA 15552, permit revision to obtain a stream variance to one

UNT to Bigby Creek and three UNTs to the Casselman River in Summit Township, **Somerset County**, affecting 785.0 acres. Receiving streams: UNT to Casselman River, Casselman River, two UNTs to Bigby Creek and UNT to Cranberry Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received August 3, 2004. Permit issued November 16, 2005.

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

03930103 and NPDES Permit No. PA0200816. Mears Enterprises, Inc. (P. O. Box 157, Clymer, PA 15728-0157). Permit renewed for continued reclamation only of a bituminous surface mine located in Cowanshannock Township, **Armstrong County**, affecting 281.7 acres. Receiving streams: UNTs to South Branch South Fork Pine Creek. Application received: August 25, 2005. Reclamation only renewal issued: November 16, 2005

Knox District Mining Office: White Memorial Building, P. O. Box 669, Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

16990104 and NPDES Permit No. PA0241563. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Revision to an existing coal bituminous surface strip operation to change the post mining land use from forestland to unmanaged natural habitat on the David Osikowicz property in Porter Township, **Clarion County**. Receiving streams: two UNTs of Leatherwood Creek, one UNT of West Fork Leatherwood Creek. Application received: 8/1/05. Permit Issued: 11-9-05.

30040104 and NPDES Permit No. PA0242527. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Revision to an existing bituminous surface strip operation to change the post mining land use from forestland to unmanaged natural habitat on the Harmony Insurance Company in Union Township, **Jefferson County**. Receiving stream: UNT to Simpson Run. Application received: September 16, 2005. Permit Issued: November 14, 2005.

33050905 and NPDES Permit No. PA0258016. Neiswonger Construction, Inc. (17592 Route 322, Strattanville, PA 16258). Commencement, operation and restoration of a bituminous surface strip operation in Washington Township, **Jefferson County** affecting 6.6 acres. Receiving streams: UNT to Sandy Lick Creek. Application received: September 8, 2005. Permit Issued: November 10, 2005.

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

17010103 and NPDES Permit No. PA0243051. Bell Resources, Inc. (1340 Hoyt Road, Curwensville, PA 16833). Permit renewal issued for continued operation and reclamation of a bituminous surface mine and auger permit located in Greenwood Township, **Clearfield County** affecting 23.5 acres. Receiving stream: UNT to the Susquehanna River. Renewal application received: September 6, 2005. Permit issued October 31, 2005.

17050101 and NPDES Permit No. PA0256153. Kenneth K. Rishel & Sons, Inc., (1229 Turnpike Avenue, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface mine permit and auger operation in Penn-Pike Township, **Clearfield County**, affecting 267.9 acres. Receiving streams: Kratzer Run and UNTs; Fenton Run and UNTs; Bilger Run and UNTs. Application received: January 14, 2005. Permit issued: October 13, 2005.

17040101 and NPDES Permit No. PA0243680. Forcey Coal, Inc., (P. O. Box 225, Madera, PA 16661-0225), transfer of an existing bituminous surface mine permit from Ferlitch Construction Co., Inc., in Bigler Township, **Clearfield County**, affecting 61.5. Receiving stream: Japling Run. Application received: December 15, 2004. Permit issued November 8, 2005.

17960101 and NPDES Permit No. PA0220256. Sky Haven Coal, Inc., (5510 State Park Road, Penfield, PA 15849). Commencement, operation and restoration of a bituminous surface mine permit located in Morris Township, **Clearfield County**, affecting 178.6 acres. Receiving streams: Hawk Run and two UNTs. Application received August 17, 2005. Permit issued November 10, 2005.

Noncoal Permits Actions

Knox District Mining Office: White Memorial Building, P. O. Box 669, Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

33992804 Beechwoods Golf Course, Inc. (1618 Airport Road, Falls Creek, PA 15840). Transfer of an existing shale operation from Fred Crawford in Winslow Township, **Jefferson County** affecting 4.6 acres. Receiving stream: Sandy Lick Creek. Application received: May 25, 2005. Permit Issued: November 14, 2005.

43950302. Atlantic States Materials of PA, Inc. (P. O. Box 269, Mercer, PA 16137) Renewal of NPDES Permit No. PA0227030, East Lackawannock Township, **Mercer County**. Receiving streams: UNT to Beaver Run and Beaver Run. Application received: September 26, 2005. Permit Issued: November 16, 2005.

Moshannon District Mining Office: 186 Enterprise Drive, Phillipsburg, PA 16866, (817) 342-8200.

59050301 and NPDES Permit No. PA0256170. Fred J. Robbins, (R. R. 2, Box 25A, Tioga, PA 16946). Commencement, operation and reclamation of a large noncoal surface mine, located in Lawrence Township, **Tioga County**, affecting 31.08 acres. Receiving Stream: Tioga River. Application received February 15, 2005. Permit issued October 26, 2005.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.

Greensburg District Mining Office: Armbrust Building, R. R. 2, Box 603C, Greensburg, PA 15601-0982, (724) 925-5500.

63054004. KESCO, Inc. (P. O. Box 95, Adrian, PA 16210). Blasting activity permit for construction of the Beegle Club Road water line, located in Nottingham Township, **Washington County**, with an expected duration of 30 days. Permit issued: November 14, 2005.

26054001. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Blasting activity permit for a government financed construction contract, located in Springhill Township, **Fayette County**, with an expected duration of 3 years. Permit issued: November 15, 2005.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Best Avenue, Knox, PA 16232-0669, (814) 797-1191.

42054004. Duffy, Inc. (P. O. Box 374, Smethport, PA 16749). Blasting activity permit to gather material to build railroad siding in Sergeant Township, **McKean County**. This blasting activity permit will expire on November 17, 2006. Application received: November 14, 2005. Application issued: November 17, 2005.

37054005. Kesco, Inc. (P. O. Box 95, Adrian, PA 16210). Blasting activity permit to construct a pipeline in Pulaski Township, **Lawrence County**. This blasting activity permit will expire on May 17, 2006. Application received: October 31, 2005. Application issued: November 17, 2005.

20054002. Appalachian Geophysical Services, LLC (P. O. Box 426, 2659 SR 60, Killbuck, OH 44637-0426). Blasting activity permit to explore for gas and oil in Venango, Franklin, Elk Creek, and Washington Townships, **Crawford and Erie Counties**. This blasting activity permit will expire on April 30, 2006. Application received: November 16, 2005. Application issued: November 17, 2005.

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

14054024. Glenn O. Hawbaker, Inc. (P. O. Box 135, State College, PA 16804-0135), construction blasting for White Rock Quarry Track SR 0026, Sec A03 located in Spring Township, **Centre County** with an expiration date of October 6, 2006.

14054025. Glenn O. Hawbaker, Inc. (P. O. Box 135, State College, PA 16804-0135), construction blasting for Wiltree Townhouses utility, sewer and storm trenches and foundations located in College Township, **Centre County** with an expiration date of October 20, 2006.

14054026. Ameron Construction, Inc. (2501 N. Atherton St., State College, PA 16803), construction blasting for Steeplechase Townhouses Site Development located in Spring Township, **Centre County** with an expiration date of October 31, 2006. Permit issued November 4, 2005.

14054027. Ameron Construction, Inc. (2501 N. Atherton St., State College, PA 16803), sewer and utility line trench blasting for Homecoming Ridge II located in Patton Township, **Centre County** with an expiration date of October 31, 2006. Permit issued November 4, 2005.

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

28054165. T. J. Angelozzi, Inc. (7845 Kabik Court, Woodbine, MD 21707-9149), construction blasting at Brimington Farm in Waynesboro Borough, **Franklin County** with an expiration date of November 3, 2006. Permit issued November 9, 2005.

21054173. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013-0608), construction blasting at Adams-Jefferson Court in South Middleton Township, **Cumberland County** with an expiration date of November 30, 2006. Permit issued November 9, 2005.

46054136. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122-7311), construction blasting at Amberly in Whitpain Township, **Montgomery County** with an expiration date of November 10, 2006. Permit issued November 9, 2005.

36054170. Keystone Blasting Services (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at International Truck Dealership in Rapho Township,

Lancaster County with an expiration date of December 30, 2005. Permit issued November 9, 2005.

36054171. Keystone Blasting Services (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at Lap Ridge Development in East Lampeter Township, **Lancaster County** with an expiration date of December 30, 2006. Permit issued November 9, 2005.

15054009. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting at Nivin View in London Britain Township, **Chester County** with an expiration date of November 15, 2006. Permit issued November 9, 2005.

35054120. Austin Powder Company (25800 Science Park Drive, Properties Department, Cleveland, OH 44122-7311), construction blasting at Covington Industries Park (Locust Ridge Cont.) in Covington Township, **Lackawanna County** with an expiration date of November 10, 2006. Permit issued November 14, 2005.

48054119. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507-0528), construction blasting at Riverview Golf Course in Forks Township, **Northampton County** with an expiration date of December 31, 2006. Permit issued November 14, 2005.

23054107. Brubacher Excavating, Inc. (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting at Somerset in Newtown Township, **Delaware County** with an expiration date of December 31, 2006. Permit issued November 14, 2005.

48054120. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting at Mill Race Phase 4 in Palmer Township, **Northampton County** with an expiration date of August 31, 2006. Permit issued November 14, 2005.

36054172. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at the Sarah Fisher Project in East Lampeter Township, **Lancaster County** with an expiration date of December 30, 2005. Permit issued November 14, 2005.

40054128. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting at Meadow Burke Building in the City of Hazleton, **Luzerne County** with an expiration date of November 10, 2006. Permit issued November 15, 2005.

15054010. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting at The Common at Oaklands in West Whiteland Township, **Chester County** with an expiration date of November 30, 2006. Permit issued November 17, 2005.

36054036. ABEL Construction Company, Inc. (P. O. Box 476, Mountville, PA 17554), construction blasting at Regent's Park Phase 2-B Subdivision in East Lampeter Township, **Lancaster County** with an expiration date of June 30, 2006. Permit issued November 17, 2005.

01054119. Douglas Explosives, Inc. (P. O. Box 77, Phillipsburg, PA 16866), construction blasting at the Gettysburg Museum & Visitors Center Development in Gettysburg Borough and Cumberland Township, **Adams County** with an expiration date of November 1, 2006. Permit issued November 16, 2005.

28054166. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting at West End Development LLC Subdivision in Waynesboro Borough, **Franklin County** with an expiration date of November 9, 2006. Permit issued November 16, 2005.

48054121. Austin Powder Company (25800 Science Park Drive, Cleveland, OH 44122), construction blasting at Hanover Corporation Center in Hanover & Lower Nazareth Townships, **Northampton County** with an expiration date of November 15, 2006. Permit issued November 16, 2005.

09054115. American Rock Mechanics, Inc. (7531 Chestnut Street, Zionsville, PA 18092), construction blasting at Village at Rosecliffe in West Rockhill Township, **Bucks County** with an expiration date of May 30, 2006. Permit issued November 16, 2005.

21054174. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting at Burkholder Farm for Manure Pit Installation in Southampton Township, **Cumberland County** with an expiration date of November 30, 2006. Permit issued November 16, 2005.

52054121. Holbert Explosives, Inc. (237 Mast Hope Plank Road, Lackawaxen, PA 18435), construction blasting at Milford Highlands Development in Milford Township, **Pike County** with an expiration date of November 15, 2006. Permit issued November 16, 2005.

FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

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

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

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

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E51-214. Venice Lofts Associates, LP, 3180 Chestnut Street, Philadelphia, PA 19104, City and **County of Philadelphia**, ACOE Philadelphia District.

To redevelop an abandoned industrial building and to construct and maintain 160 residential apartment units at the same site, in and along the 100-year floodplain of the Schuylkill River and the Manayunk Canal. The site is located at 4601 Flat Rock Road, near the intersection of Leverington Avenue and Main Street (Germantown, PA USGS Quadrangle; N: 5.25 inches; W: 14.75 inches).

The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

E48-347. Alan B. and Kathleen J. McFall, 118 Roosevelt Street, Wind Gap, PA 18091. Plainfield Township, **Northampton County**, Army Corps of Engineers Philadelphia District.

To place fill in approximately 0.11 acre of EV PFO wetlands in the Little Bushkill Creek watershed for the purpose of constructing a subdivision road to serve as access to proposed Janson Woods residential subdivision. The proposed work also includes the construction and maintenance of utility lines in the roadway embankment through wetlands. The permittee is required to provide 0.11 acre of replacement wetlands. The project is located on the west side of Roosevelt Street, just south of the intersection with Eighth Street (Wind Gap, PA Quadrangle N: 18.6 inches; W: 6.9 inches). (Subbasin: 1F)

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

E22-488. Michael K. Lau, 1300 Market Street, P. O. Box 622, Lemoyne, PA 17043 in Susquehanna Township, **Dauphin County**, ACOE Baltimore District.

The applicant requests the Department of Environmental Protection authorization to: 1) permanently impact 0.26 acre of Palustrine Forested Wetland and 252 lineal feet of UNT to Paxton Creek (WWF); and 2) temporarily impact 0.19 acre of wetland and 110 lineal feet UNT to construct Phase 7 of the Waverly Woods Subdivision located on North Progress Avenue about 0.5 mile north from its intersection with Linglestown Road (Harrisburg, PA Quadrangle N: 16.1 inches; W: 15.25 inches) in Susquehanna Township, Dauphin County. The issuance of this permit also constitutes approval of a Water Quality Certification under section 401(a) of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

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

E14-480. Michael J. Furl, 1453 Runville Road, Bellefonte, PA 16823. 2123 Runville Road Bridge, in Boggs Township, **Centre County**, ACOE Baltimore District (Bellefonte, PA Quadrangle N: 21.32 inches; W: 13.57 inches).

To: 1) remove two existing culvert pipes; 2) construct and maintain two 42-foot long by 8-foot wide metal and wood plank flatbed trailers side-by-side with guide rails, an underclearance of 6 feet, hydraulic opening of 63 square feet and a clear span of 16 feet across Wallace Run; 3) slope the banks back and stabilize with R-8 and R-6 riprap 5 feet before, after and under the bridge, located 1,100 feet north of Brenda's Tavern on SR 144 (Bellefonte, PA Quadrangle N: 21.32 inches; W: 13.57 inches) in Boggs Township, Centre County to provide a safer access to their camp. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E14-481. Krislund Camp & Conference Center, P. O. Box 116, Madisonburg, PA 16852. Kirslund camp bridge, in Walker Township, **Centre County**, ACOE Baltimore District (Madisonburg, PA Quadrangle N: 11.46 inches; W: 10.12 inches).

To construct and maintain a single span bridge consisting of a 33 foot by 15 foot wooden cart path over concrete abutments. The project is located on Roaring Run 4 miles south of the village of Nittany on SR 445. This permit was issued under Section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E47-081. PPL Montour Preserve, 700 Preserve Road, Danville PA 17821. Chillisquaque Creek Restoration Project, in Anthony Township, **Montour County**, ACOE Baltimore District (Washingtonville, PA Quadrangle N: 17 inches; W: 5.5 inches).

This permit authorizes the construction, operation and maintenance of a stream stabilization project consisting of three cross vane structures, five J Hook structures, nine single leg vane structures and two log ladder structures. The structures will be constructed out of logs or a combination of rocks and logs. Rock footers will measure between a minimum size of 2.8 feet by 2.4 feet by 1.6 feet to a maximum of 4 feet by 3.2 feet by 2.4 feet. The work will affect 2,332 linear feet of the Middle Branch of Chillisquaque Creek. This project is located directly below the PPL Dam in the Montour Preserve in Anthony Township, Montour County.

STORAGE TANKS SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Land Recycling and Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

SSIP Permit No.	Applicant Name & Address	County	Municipality	Tank Type	Tank Capacity
05-22-004	Tammy A. Petrasic, P. E. Highmark, Inc. 1800 Center Street Camp Hill, PA 17089	Dauphin	West Hanover Township	Two ASTs storing Diesel Fuel	24,000 gallons total

SPECIAL NOTICES

Drinking Water State Revolving Fund

Special Notice under the Federal Safe Drinking Water Act.

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

Project Location:

Applicant	Applicant Address	Municipality & County
South Whitehall Township Authority	4444 Walbert Avenue Allentown, PA 18104	South Whitehall Township Lehigh County

Project Description: The Department of Environmental Protection has reviewed and approved a requested Categorical Exclusion for a project submitted on behalf of South Whitehall Township Authority on March 4, 2005, by The Pidcock Company. Notification of the project, which involves replacement of a booster pump station near the intersection of Huckleberry Road and Whitehall Avenue, was originally published at 35 Pa.B. 1780 (March 19, 2005). The required public notice for the Categorical Exclusion was published in *The Morning Call* on March 8, 2005.

Public Meeting and Request for Comment for the Proposed Total Maximum Daily Load (TMDL) for the Blue Run Watershed in Clearfield County

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

The Department of Environmental Protection (Department) will hold a public meeting to discuss and accept comments on a proposed TMDL for the Blue Run Watershed in Clearfield County. The meeting will be held on January 25, 2006, at 6:30 p.m. at the Clearfield County Multiservice Center on Daisy Street in Clearfield, PA. Individuals who plan to make a presentation at the public meeting should contact John Mital, Moshannon District Mining Office at (814) 342-8200 no later than 4 p.m. on Friday, January 20, 2006. The Department will consider all comments in developing the final TMDL for the Blue Run Watershed which will be submitted to the Environmental Protection Agency for approval.

The proposed TMDL for the Blue Run Watershed was established in accordance with the requirements of the Clean Water Act, Section 303(d). One stream segment in the Blue Run Watershed has been identified as impaired

on the 1998 Pennsylvania Section 303(d) list due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
26293 (7177)	Blue Run	1.35

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion value (mg/l)</i>	<i>Total Recoverable/ Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0—9.0	NA

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo Simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the Blue Run Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 2 years was used to establish the proposed TMDL for the Blue Run Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Blue Run Watershed. Written comments must be postmarked by February 2, 2006, and sent to John Mital, Geologic Specialist, Department of Environmental Protection, Moshannon District Mining Office, 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, jmital@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Clearfield County Multiservice Center, contact John Mital, (814) 342-8200, jmital@state.pa.us.

The proposed TMDL for the Blue Run Watershed can be accessed through the Department's website at www.dep.state.pa.us (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or 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.

[Pa.B. Doc. No. 05-2216. Filed for public inspection December 2, 2005, 9:00 a.m.]

Coal and Clay Mine Subsidence Insurance Board Meeting Changes

The annual meeting of the Coal and Clay Mine Subsidence Insurance Board, previously scheduled for December 14, 2005, in the 12th Floor Conference Room, Rachel Carson State Office Building, Harrisburg, PA, has been rescheduled and moved to an alternate location. The meeting will now take place on December 16, 2005, at 10 a.m. in the 14th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting should be directed to Lawrence Ruane at (717) 783-9590 or lruane@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at www.depweb.state.pa.us (DEP Keyword: Public Participation).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Lawrence Ruane at the telephone number or e-mail address listed previously 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. 05-2217. Filed for public inspection December 2, 2005, 9:00 a.m.]

Nutrient and Sediment Reduction Credit Trading Interim Final Policy and Guidelines Comment Period Extension

The Department of Environmental Protection (Department) is extending the public comment period for the Interim Final Nutrient and Sediment Reduction Credit Trading Policy (DEP ID: 392-0900-001). The Department will now accept comments on the interim final policy until December 31, 2005.

On October 1, 2005, the Department issued interim policy guidelines for the trading of nutrient and sediment reduction credits at 35 Pa.B. 5431 (October 1, 2005). These guidelines were created to help the Department reach short term goals related to the Chesapeake Bay and long term goals of reducing the impairment of existing waterways; producing positive water quality effects locally and downstream; and enhancing aquatic habitats and protecting natural resources.

Written comments on the interim final guidelines should be submitted to the Department of Environmental Protection, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063 or by e-mail to Ann Smith at annsmith@state.pa.us or Andrew Zemba at azemba@state.pa.us. Comments submitted by facsimile will not be accepted.

Questions concerning the interim final policy or the extension of the public comment period should be directed to Ann Smith or Andrew Zemba at (717) 772-4785 or at the respective e-mail addresses listed previously.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-2218. Filed for public inspection December 2, 2005, 9:00 a.m.]

Nutrient Trading Program Listening Session

The Department of Environmental Protection (Department) has scheduled an additional listening session for the purpose of collecting public input on the Commonwealth's Nutrient Trading Program and the Chesapeake Bay Tributary Strategy. The session will begin at 6 p.m. on December 12, 2005, at the Farm and Home Center, 1383 Arcadia Road, Lancaster, PA. The Department previously convened two other listening sessions, which were held on November 14 and 15, 2005 in State College and Dauphin, PA, respectively.

On October 1, 2005, the Department issued interim policy guidelines for the trading of nutrient and sediment reduction credits (see 35 Pa.B. 5431 (October 1, 2005)). These guidelines were created to help the Department reach short term goals related to the Chesapeake Bay and long term goals of reducing the impairment of existing waterways; producing positive water quality effects locally and downstream; and enhancing aquatic habitats and protecting natural resources. The Department is accepting public comments on the Interim Final Nutrient Trading Policy until December 31, 2005 (see 35 Pa.B. 6590 December 3, 2005)).

Interested individuals are invited to attend the meeting to provide input concerning the Department's proposed guidelines. Additional information on the Commonwealth's Nutrient Trading Program can be obtained on the Department's website at www.dep.state.pa.us/river/river_trading.htm or by contacting the Department's Water Planning Office, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-4785.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department at (717) 772-4785 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. 05-2219. Filed for public inspection December 2, 2005, 9:00 a.m.]

Storage Tank Advisory Committee Meeting Cancellation

The Storage Tank Advisory Committee meeting scheduled for December 13, 2005, has been cancelled. The next meeting is scheduled for March 7, 2006, at 10 a.m. in the 14th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg PA 17105.

Questions concerning these meetings should be directed to Charles Swokel, (717) 772-5806, cswokel@state.pa.us.

Persons in need of accommodation as provided for in the Americans With Disabilities Act of 1990 should contact the Department of Environmental Protection (Department) at (717) 772-5551 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-2220. Filed for public inspection December 2, 2005, 9:00 a.m.]

DEPARTMENT OF HEALTH

Amendments to Charges for Medical Records

Under 42 Pa.C.S. §§ 6152 and 6155 (relating to subpoena of records; and rights of patients), the Secretary of Health (Secretary) is directed to adjust annually the amounts which may be charged by a health care facility or health care provider upon receipt of a request or subpoena for production of medical charts or records. These charges apply to any request for a copy of a medical chart or record except as follows:

(1) Flat fees (as listed in this notice) apply to amounts that may be charged by a health care facility or health care provider when copying medical charts or records either: a) for the purpose of supporting any claim or appeal under the Social Security Act or any Federal or State financial needs based program; or b) for a district attorney.

(2) An insurer shall not be required to pay for copies of medical records required to validate medical services for which reimbursement is sought under an insurance contract, except as provided in: (a) the Worker's Compensation Act (77 P.S. § 1 et seq.) and the regulations promulgated thereunder; (b) 75 Pa.C.S. Chapter 17 (relating to financial responsibility) and the regulations promulgated thereunder; or (c) a contract between an insurer and any other party.

The charges listed in this notice do not apply to an X-ray film or any other portion of a medical record which is not susceptible to photostatic reproduction.

Under 42 Pa.C.S. § 6152.1 (relating to limit on charges), the Secretary is directed to make a similar adjustment to the flat fee which may be charged by a health care facility or health care provider for the expense of reproducing medical charts or records where the request is: (1) for the purpose of supporting a claim or appeal under the Social Security Act or any Federal or State financial needs based benefit program; or (2) made by a district attorney.

The Secretary is directed to base these adjustments on the most recent changes in the consumer price index reported annually by the Bureau of Labor Statistics of the United States Department of Labor. For the annual period of September 30, 2004, through September 30, 2005, the consumer price index was 4.7%.

Accordingly, the Secretary provides notice that, effective January 1, 2006, the following payments may be charged by a health care facility or health care provider for production of records in response to subpoena or request:

	<i>Not to Exceed</i>
Amount charged per page for pages 1—20	\$ 1.23
Amount charged per page for pages 21—60	\$.92
Amount charged per page for pages 61—end	\$.31
Amount charged per page for microfilm copies	\$ 1.81
Flat fee for production of records to support any claim under Social Security Act or claims under other Federal or State financial needs based programs	\$23.19
Flat fee for supplying records requested by a District Attorney	\$18.30
*Search and retrieval of records	\$18.30

*NOTE: Federal regulations enacted under the Health Insurance Portability and Accountability Act (HIPAA) at 45 CFR Parts 160—164 state that covered entities may charge a reasonable cost based fee that includes only the cost of copying, postage and summarizing the information (if the individual has agreed to receive a summary) when providing individuals access to their medical records. The Department of Health and Human Services has stated that the fees may not include costs associated with searching for and retrieving the requested information. For further clarification on this issue, inquiries should be directed to the Office of Civil Rights, United States Department of Health and Human Services, 200 Independence Avenue, S. W., Room 509F, HHH Building, Washington, D. C. 20201, (866) 627-7748, www.hhs.gov/ocr/hipaa.

In addition to the amounts listed previously, charges may also be assessed for the actual cost of postage, shipping and delivery of the requested records.

The Department of Health is not authorized to enforce these charges.

Questions or inquiries concerning this notice should be sent to James T. Steele, Jr., Deputy Chief Counsel, Room 825, Health and Welfare Building, Harrisburg, PA 17120 or for speech and/or hearing impaired persons, the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT) or V/TT (717) 783-6514.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2221. Filed for public inspection December 2, 2005, 9:00 a.m.]

Application of Brandywine Valley Endoscopy Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Brandywine Valley Endoscopy Center has requested an exception to the requirements of 28 Pa. Code § 571.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: Table 4.5 (relating to alternative construction standards).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2222. Filed for public inspection December 2, 2005, 9:00 a.m.]

Application of Elk Regional Health Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Elk Regional Health Center has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2223. Filed for public inspection December 2, 2005, 9:00 a.m.]

Application of Great Lakes Home Healthcare Services for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Great Lakes Home Healthcare Services has requested an exception to the requirements of 28 Pa. Code § 601.31(d) (relating to acceptance of patients, plan of treatment and medical supervision).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Home Health, 132 Kline Plaza, Suite A, Harrisburg, PA 17104-1579, (717) 783-1379, fax (717) 772-0232.

Persons who wish to comment on an exception request may do so by sending a letter by mail or facsimile to the division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Division of Home Health at the telephone number previously listed or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2224. Filed for public inspection December 2, 2005, 9:00 a.m.]

Application of Hamot Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Hamot Medical Center has requested an exception to the requirements of 28 Pa. Code § 107.62 (relating to oral orders).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980

or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2225. Filed for public inspection December 2, 2005, 9:00 a.m.]

Application of Kane Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Kane Community Hospital has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2226. Filed for public inspection December 2, 2005, 9:00 a.m.]

Application of Lehigh Valley Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lehigh Valley Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard: 7.2.A4 (relating to handwashing).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2227. Filed for public inspection December 2, 2005, 9:00 a.m.]

Application of Nason Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Nason Hospital has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2228. Filed for public inspection December 2, 2005, 9:00 a.m.]

Application of Presbyterian Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Presbyterian Medical Center has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2229. Filed for public inspection December 2, 2005, 9:00 a.m.]

Application of Shadyside Surgi-Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Shadyside Surgi-Center has requested an exception to the requirements of 28 Pa. Code § 551.21 (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2230. Filed for public inspection December 2, 2005, 9:00 a.m.]

Recognized Lifeguard Certifying Authorities for 2006

The Department of Health has determined that the following lifeguard certifying authorities meet the requirements in 28 Pa. Code § 18.42 (relating to certified lifeguards) and are recognized as lifeguard certifying authorities for 2006: The American Red Cross, Jeff Ellis and Associates, YMCA, The Boy Scouts of America and Starfish Aquatics Institute.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope, Braille) should contact Dennis Wilson, Environmental Health Administrator, Department of Health, Bureau of Community Health Systems, Room 628, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-4366 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2231. Filed for public inspection December 2, 2005, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Pleasant View Retirement Community
544 North Penryn Road
Manheim, PA 17545
FAC ID 681902

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Fulton County Medical Center
216 South First Street
McConnellsburg, PA 17233
FAC ID 060902

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.67(k) (relating to electric requirements for existing and new construction):

St. Joseph's Manor
1616 Huntingdon Pike
Meadowbrook, PA 19046
FAC ID 451002

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2232. Filed for public inspection December 2, 2005, 9:00 a.m.]

Technical Advisory for Content of Managed Care Plan Transmittal Letters of Enrollee Complaint and Grievance Files

Under 28 Pa. Code § 9.603 (relating to technical advisories), the Department of Health (Department), Bureau of Managed Care is issuing a technical advisory on the content of managed care plan transmittal letters of enrollee complaint and grievance files. (See 28 Pa. Code §§ 9.704(c) and (d) and 9.707(b)(6) (relating to appeal of a complaint decision; and external grievance process)).

Copies of the Technical Advisory may be obtained by contacting David Henry, Director, Division of Quality Review, Department of Health, Room 912, Health and Welfare Building, Harrisburg, PA 17108-0090, (717) 787-5193.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotope or Braille) should contact David Henry at the previously listed address or telephone number or for speech and/or hearing impaired persons, V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-2233. Filed for public inspection December 2, 2005, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
John Allegretto General Construction Company, Inc., and John Allegretto, individually (Fed. ER Tax I.D. No. 23-2724188)	1083 North James Street Hazleton, PA 18202	October 27, 2005

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 05-2234. Filed for public inspection December 2, 2005, 9:00 a.m.]

Current Prevailing Wage Act Debarments

The following contractors have been determined to have intentionally violated the Pennsylvania Prevailing Wage Act (act) (43 P. S. §§ 165-1—165-17). This notice is published for the information and convenience of public bodies subject to the act. Under section 11(e) of the act (43 P. S. § 165-11(e)), these contractors, or either one of them, or any firms, corporations or partnerships in which either one of these contractors has an interest, shall be awarded no contract for 3 years after the date listed.

<i>Contractor</i>	<i>Address</i>	<i>Date of Debarment</i>
RL Insulation Company, Ronald L. Lundquist, individually, and Robin K. Lundquist, individually Fed. ER Tax I.D. Nos. 25-1657518 and 25-1577832	R. D. 1, Box 202 and 1246 Jacks Corner Road Hopewell, PA 16650	November 3, 2005

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 05-2235. Filed for public inspection December 2, 2005, 9:00 a.m.]

Prevailing Wage Appeals Board Public Meeting

The Prevailing Wage Appeals Board will hold a public meeting on Monday, December 19, 2005, at 1:30 p.m. in the 3rd Floor Conference Room, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA.

The ADA contact is Gina Meckley, (717) 783-9424.

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 05-2236. Filed for public inspection December 2, 2005, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Royal 7's '05 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 Royal 7's '05.

2. *Price:* The price of a Pennsylvania Royal 7's '05 instant lottery game ticket is \$5.

3. *Play Symbols:*

(a) Each Pennsylvania Royal 7's '05 instant lottery game ticket will contain seven play areas known as Game 1, Game 2, Game 3, Game 4, Game 5, Game 6, and Game 7. Each game is played separately.

(b) The play symbols and their captions located in the "YOUR NUMBERS" and "WINNING NUMBER" areas for Game 7; and in the play areas for Game 1, Game 3 and Game 5 are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), and 12 (TWLV).

(c) The play symbols and their captions located in the "YOUR SYMBOLS" and "LUCKY SYMBOL" play areas for Game 2 are: Money Bag symbol (MNYBG), Pot of Gold symbol (PTGLD), Rabbit Foot symbol (RBTFT), Horse Shoe symbol (SHOE), Star symbol (STAR) and Diamond symbol (DIMND).

(d) The play and prize symbols and their captions located in the "FAST CASH BONUS" area for Game 6 are: \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$15\$ (FIFTN), \$17\$ (SVNTN), \$20\$ (TWENTY), \$77\$ (SVY SVN), \$117 (HUNSVNTN) and NO BONUS (TRY AGAIN).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the play area for Game 4 are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$15\$ (FIFTN), \$17\$ (SVNTN), \$20\$ (TWENTY), \$27\$ (TWY SVN), \$77\$ (SVY SVN), \$117 (HUNSVNTN), \$777 (SNHNSVYSN), \$7,777 (7X4) and \$77,777 (7X5). The prize symbols and their captions located in the prize area in Game 1, Game 2, Game 3, Game 5 and Game 7 are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$15\$ (FIFTN), \$17\$ (SVNTN), \$20\$ (TWENTY), \$27\$ (TWY SVN), \$77\$ (SVY SVN), \$117 (HUNSVNTN), \$777 (SNHNSVYSN), \$7,777 (7X4) and \$77,777 (7X5).

5. *Prizes:* The prizes that can be won in Game 1, Game 2, Game 3, Game 4, Game 5 and Game 7 are: \$5, \$7, \$10, \$15, \$17, \$20, \$27, \$77, \$117, \$777, \$7,777 and \$77,777. The prizes that can be won in Game 6 are: \$7, \$10, \$15, \$17, \$20, \$77 and \$117. A player can win up to 6 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 5,880,000 tickets will be printed for the Pennsylvania Royal 7's '05 instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for Game 1 and Game 3 are:

(1) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$77,777 (7X5) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$77,777.

(2) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$7,777 (7X4) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$7,777.

(3) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$777

(SNHNSVYSN) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$777.

(4) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$117 (HUNSVNTN) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$117.

(5) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$77\$ (SVY SVN) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$77.

(6) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$27\$ (TWY SVN) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$27.

(7) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$20\$ (TWENTY) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$17\$ (SVNTN) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$17.

(9) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$15\$ (FIFTN) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$15.

(10) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$10⁰⁰ (TEN DOL) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$10.

(11) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$7⁰⁰ (SVN DOL) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$7.

(12) Holders of tickets with two 7 (SEVEN) play symbols in the same play area and a prize symbol of \$5⁰⁰ (FIV DOL) appearing in the "PRIZE" area for that Game, on a single ticket, shall be entitled to a prize of \$5.

(b) Determination of prize winners for Game 2 are:

(1) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$77,777 (7X5) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$77,777.

(2) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$7,777 (7X4) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$7,777.

(3) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$777 (SNHNSVYSN) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$777.

(4) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$117 (HUNSVNTN) appears under the matching "YOUR SYM-

BOL Your Symbol" play symbol, on a single ticket, shall be entitled to a prize of \$117.

(5) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$77\$ (SVY SVN) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$77.

(6) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$27\$ (TWY SVN) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$27.

(7) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$17\$ (SVNTN) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$17.

(9) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$15\$ (FIFTN) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(10) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$10⁰⁰ (TEN DOL) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(11) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$7⁰⁰ (SVN DOL) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$7.

(12) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the matching "YOUR SYMBOL" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(c) Determination of prize winners for Game 4 are:

(1) Holders of tickets with three matching prize play symbols of \$77,777 (7X5) in the play area, on a single ticket, shall be entitled to a prize of \$77,777.

(2) Holders of tickets with three matching prize play symbols of \$7,777 (7X4) in the play area, on a single ticket, shall be entitled to a prize of \$7,777.

(3) Holders of tickets with three matching prize play symbols of \$777 (SNHNSVYSN) in the play area, on a single ticket, shall be entitled to a prize of \$777.

(4) Holders of tickets with three matching prize play symbols of \$117 (HUNSVNTN) in the play area, on a single ticket, shall be entitled to a prize of \$117.

(5) Holders of tickets with three matching prize play symbols of \$77\$ (SVY SVN) in the play area, on a single ticket, shall be entitled to a prize of \$77.

(6) Holders of tickets with three matching prize play symbols of \$27\$ (TWY SVN) in the play area, on a single ticket, shall be entitled to a prize of \$27.

(7) Holders of tickets with three matching prize play symbols of \$20\$ (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets with three matching prize play symbols of \$17\$ (SVNTN) in the play area, on a single ticket, shall be entitled to a prize of \$17.

(9) Holders of tickets with three matching prize play symbols of \$15\$ (FIFTN) in the play area, on a single ticket, shall be entitled to a prize of \$15.

(10) Holders of tickets with three matching prize play symbols of \$10⁰⁰ (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(11) Holders of tickets with three matching prize play symbols of \$7⁰⁰ (SVN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$7.

(12) Holders of tickets with three matching prize play symbols of \$5⁰⁰ (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(d) Determination of prize winners for Game 5 are:

(1) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$77,777 (7X5) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$77,777.

(2) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$7,777 (7X4) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$7,777.

(3) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$777 (SNHNSVYSN) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$777.

(4) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$117 (HUNSVNTN) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$117.

(5) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$77\$ (SVN SVN) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$77.

(6) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$27\$ (TWY SVN) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$27.

(7) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$20\$ (TWENTY) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a

prize play symbol of \$17\$ (SVNTN) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$17.

(9) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$15\$ (FIFTN) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$15.

(10) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$10⁰⁰ (TEN DOL) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$10.

(11) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$7⁰⁰ (SVN DOL) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$7.

(12) Holders of tickets with three matching 7 (SEVEN) play symbols in the same row, column or diagonal and a prize play symbol of \$5⁰⁰ (FIV DOL) appearing in the "PRIZE" area for the Game, on a single ticket, shall be entitled to a prize of \$5.

(e) Determination of prize winners for Game 6 are:

(1) Holders of tickets with a \$117 (HUNSVNTN) play symbol in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$117.

(2) Holders of tickets with a \$77\$ (SVY SVN) play symbol in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$77.

(3) Holders of tickets with a \$20\$ (TWENTY) play symbol in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$20.

(4) Holders of tickets with a \$17\$ (SVNTN) play symbol in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$17.

(5) Holders of tickets with a \$15\$ (FIFTN) play symbol in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$15.

(6) Holders of tickets with a \$10⁰⁰ (TEN DOL) play symbol in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets with a \$7⁰⁰ (SVN DOL) play symbol in the "FAST CASH BONUS" area, on a single ticket, shall be entitled to a prize of \$7.

(f) Determination of prize winners for Game 7 are:

(1) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$77,777 (7X5) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$77,777.

(2) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$7,777 (7X4) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$7,777.

(3) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$777

(SNHNSVYSN) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$777.

(4) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$117 (HUNSVNTN) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$117.

(5) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$77\$ (SVY SVN) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$77.

(6) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$27\$ (TWY SVN) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$27.

(7) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$20\$ (TWENTY) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(8) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$17\$

(SVNTN) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$17.

(9) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$15\$ (FIFTN) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(10) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$10.⁰⁰ (TEN DOL) appears under the matching "YOUR NUMBER" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(11) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$7.⁰⁰ (SVN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$7.

(12) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches the "WINNING NUMBER" play symbol and a prize symbol of \$5.⁰⁰ (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amount of prizes and approximate odds of winning:

<i>Win With Prize(s) of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In.:</i>	<i>Approximate No. of Winners Per 5,880,000 Tickets</i>
\$5	\$5	9.84	597,800
\$7	\$7	300	19,600
\$7 (FAST CASH BONUS)	\$7	21.43	274,400
\$5 × 2	\$10	85.71	68,600
\$10	\$10	300	19,600
\$10 (FAST CASH BONUS)	\$10	600	9,800
\$5 × 3	\$15	600	9,800
\$10 + \$5	\$15	600	9,800
\$15	\$15	600	9,800
\$15 (FAST CASH BONUS)	\$15	300	19,600
\$10 + \$7	\$17	300	19,600
\$17 (FAST CASH BONUS)	\$17	46.15	127,400
\$17	\$17	120	49,000
\$5 × 4	\$20	200	29,400
\$10 × 2	\$20	300	19,600
\$20	\$20	300	19,600
\$20 (FAST CASH BONUS)	\$20	200	29,400
\$17 (FAST CASH BONUS)	\$77	200	29,400
+ \$20 × 3			
\$27 + \$10 × 5	\$77	300	19,600
\$77	\$77	300	19,600
\$77 (FAST CASH BONUS)	\$77	200	29,400
\$17 (FAST CASH BONUS)	\$117	12,000	490
+ \$20 × 5			
\$10 × 4 + \$77	\$117	12,000	490
\$20 × 2 + \$77	\$117	12,000	490
\$117	\$117	12,000	490
\$117 (FAST CASH BONUS)	\$117	12,000	490
\$777	\$777	120,000	49
\$7,777	\$7,777	420,000	14
\$77,777	\$77,777	840,000	7

Win With Prize(s) of:

Win:

Approximate
Odds of 1 In.:

Approximate No.
of Winners Per
5,880,000 Tickets

- Game 1 & Game 3—Get 2 “7” symbols, win prize shown.
 - Game 2—When any of “YOUR SYMBOLS” match the “LUCKY SYMBOL” win prize shown under the matching symbol.
 - Game 4—Get 3 like amounts, win that prize.
 - Game 5—Get 3 “7” symbols in a row, column, or diagonal, win prize shown.
 - Game 6 (FAST CASH BONUS)—Reveal prize amount between \$7 and \$117 and win that prize.
 - Game 7—When any of “YOUR NUMBERS” match the “WINNING NUMBER,” win prize shown under the matching number.
- Prizes, including top prizes, are subject to availability at the time of purchase.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Royal 7's '05 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Royal 7's '05, prize money from winning Pennsylvania Royal 7's '05 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 Royal 7's '05 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Royal 7's '05 or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 05-2237. Filed for public inspection December 2, 2005, 9:00 a.m.]

INSURANCE DEPARTMENT

Bankers Life and Casualty Company; Rate Increase Filing for Several Long-Term Care Policy Forms; Rate Filing

Bankers Life and Casualty is requesting approval to increase the premium 35% for the following long-term care forms: GR-7A1, GR-N050, GR-N055, GR-N100, GR-N105, GR-N115, GR-N160, GR-N165, GR-N240, GR-N250, GR-N270 and GR-N280. The premium increase will affect 8,684 policyholders in this Commonwealth.

Unless formal administrative action is taken before February 1, 2006, 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.

[state.pa.us](http://www.state.pa.us). Under the Quick Links section, click on the link “Rate Filings Published in the PA Bulletin.”

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-2238. Filed for public inspection December 2, 2005, 9:00 a.m.]

[Correction]

Financial Statement Filing Requirements for 2006; No. 2005-11

A typographical error occurred in the document that appeared at 35 Pa.B. 6392 (November 19, 2005). The correct version of the paragraph is as follows, with ellipses referring to the existing text of the notice:

Under section 320 of The Insurance Company Law (40 P. S. § 443) insurers licensed to transact business in this Commonwealth are required to file financial statements with the Insurance Department (Department) using the statement blanks, instructions and accounting practices and procedures prescribed by the National Association of Insurance Commissioners (NAIC). This notice is being issued to alert all domestic insurers of this Commonwealth to the following developments in financial statement filing requirements that will become effective beginning with statements reporting an insurer's financial condition as of December 31, 2005.

1. *Property and Casualty Actuarial Opinions*

* * * * *

Property/casualty insurers will be required to file two copies of the AOS with the Department by March 15, 2006. Because the AOS will be filed separate from the Statement of Actuarial Opinion that is due by March 1, the NAIC has developed the following recommended format for the actuary's cover note to the AOS:

* * * * *

[Pa.B. Doc. No. 05-2144. Filed for public inspection November 18, 2005, 9:00 a.m.]

Geisinger Health Plan; Employer Group; Rate Filing

On November 14, 2005, Geisinger Health Plan submitted a filing for the Employer Group rates, requesting a rate increase of 13.3%. The filing will affect approximately 147,165 members and generate additional revenue of \$49.4 million annually. An effective date of April 1, 2006, is requested.

In this filing, Geisinger Health Plan has requested the following benefit changes:

- Coverage excluded for podiatry services, acupuncture and services provided by a member's relative.
- Coverage excluded for care related autistic disease of childhood, hyperkinetic syndrome, learning disabilities, behavioral problems and mental retardation which extend beyond traditional medical management.
- Surgery for correction of obesity—a copay of \$2,000 is added for facility charges.
- PT/OT/ST—20 visits per year for each therapy. Currently there are 45 combined dates per year.
- Inpatient detox—A limit of 7 days per admission on four admissions per lifetime.
- Add colonoscopies (professional services) for age 50 and older and hematocrit and hemoglobin for under 24 months of age.

A copy of the filing is available on the Insurance Department's (Department) website: www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-2239. Filed for public inspection December 2, 2005, 9:00 a.m.]

Geisinger Health Plan; Individual, Grange and Association; Rate Filing

On November 16, 2005, Geisinger Health Plan submitted a filing for the Individual, Grange and Association rates, requesting an overall rate increase of 8.7%. The filing will affect approximately 12,816 members and generate additional revenue of \$2.8 million annually. An effective date of April 1, 2006, is requested.

In this filing, Geisinger Health Plan has requested the following benefit changes:

- Coverage excluded for podiatry services, acupuncture and services provided by a member's relative.
- Coverage excluded for care related autistic disease of childhood, hyperkinetic syndrome, learning disabilities, behavioral problems and mental retardation which extend beyond traditional medical management.
- Surgery for correction of obesity—a copay of \$2,000 is added for facility charges.
- PT/OT/ST—20 visits per year for each therapy. Currently there are 45 combined dates per year.
- Inpatient detox—A limit of 7 days per admission on four admissions per lifetime.
- Add colonoscopies (professional services) for age 50 and older and hematocrit and hemoglobin for under 24 months of age.

A copy of the filing is available on the Insurance Department's (Department) website: www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-2240. Filed for public inspection December 2, 2005, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:

Bucks County, Wine & Spirits Shoppe #0939, Route 413 and Route 532, Newtown, PA 18940.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,000 net useable square feet of new or existing retail commercial space within Newtown Township.

Proposals due: December 23, 2005, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: Henry Blocker, Jr., (215) 482-9671

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 05-2241. Filed for public inspection December 2, 2005, 9:00 a.m.]

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY

Financial Statement

Under section 207 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (act of June 5, 1991, P. L. 9, No. 6) the Pennsylvania Intergovernmental Cooperation Authority (Authority) is required to publish a "concise financial statement" annually in the *Pennsylvania Bulletin*. The Authority has issued its annual report for its fiscal year ended June 30, 2005, which includes an audit for the period performed in accordance with generally accepted auditing standards by an independent firm of certified public accountants. The complete annual report of the Authority may be obtained from the Authority at 1429 Walnut Street, 14th Floor, Philadelphia, PA 19102, (215) 561-9160.

ROB DUBOW,
Executive Director

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY STATEMENT OF NET ASSETS

JUNE 30, 2005

ASSETS

	<u>Governmental Activities</u>
CURRENT ASSETS:	
Cash, cash equivalents and short-term investments	\$ 158,279,741
PICA taxes receivable	3,560,532
Accrued interest receivable	230,500
Total current assets	<u>162,070,774</u>
OTHER ASSETS—Prepaid rent, security deposit and bond issuance costs	<u>1,998,273</u>
TOTAL	<u>\$ 164,069,046</u>

LIABILITIES AND NET ASSETS

CURRENT LIABILITIES:	
Accounts payable	\$ 80,166
Accrued payroll and taxes	75,589
Due to the City of Philadelphia	4,892,175
Deferred revenue	28,287,255
Bonds payable—current portion	49,270,000
Total current liabilities	<u>82,605,185</u>
BONDS PAYABLE—Long-term portion	<u>674,315,000</u>
Total liabilities	<u>756,920,185</u>
NET ASSETS (DEFICIT):	
Restricted for debt service	85,947,912
Restricted for benefit of the City of Philadelphia	32,792,027
Restricted for subsequent PICA administration	1,791,256
Unrestricted deficit	<u>(713,382,333)</u>
Total net assets (deficit)	<u>(592,851,138)</u>
TOTAL	<u>\$ 164,069,046</u>

The accompanying notes are an integral part of this statement

**PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY
STATEMENT OF ACTIVITIES**

YEAR ENDED JUNE 30, 2005

	<u>Governmental Activities</u>
EXPENSES:	
Grants to the City of Philadelphia	\$ 216,616,578
General management and support—	
General operations	982,340
Interest expense on long term debt	<u>39,209,523</u>
Total program expenses	<u>256,808,441</u>
PROGRAM REVENUES—	
Premium amortization	1,198,872
Interest	<u>5,202,962</u>
Program revenues	<u>6,401,834</u>
Net program revenues	<u>250,406,607</u>
GENERAL REVENUES:	
PICA Taxes	298,633,971
Interest	<u>127,512</u>
Total general revenues	<u>298,761,483</u>
DECREASE IN NET DEFICIT	48,354,876
NET ASSETS (DEFICIT)—Beginning of year	<u>(641,206,014)</u>
NET ASSETS (DEFICIT)—End of year	<u>\$ (592,851,138)</u>

The accompanying notes are an integral part of this statement

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY
BALANCE SHEET—GOVERNMENTAL FUNDS
JUNE 30, 2005

6604

PENNSYLVANIA BULLETIN, VOL. 35, NO. 49, DECEMBER 3, 2005

NOTICES

	General	PICA Tax Revenue	Debt Service Funds			Debt Service Reserve Fund	Rebate Fund	Expendable Trust Funds Capital Projects Fund			Total Governmental Funds
			1996	1999	2003			1992	1993	1994	
ASSETS											
CURRENT ASSETS:											
Cash, cash equivalents and short-term investments	\$ 37,717,627	\$ -	\$ 782,375	\$ 5,268,901	\$ 473,749	\$ 79,484,042	\$ 1,761,466	\$ 11,729,384	\$ 2,821,935	\$ 18,240,263	\$ 158,279,741
PICA taxes receivable		3,560,532									3,560,532
Accrued interest receivable	79,778	14,911	7,869	58,338	6,202	59,352	3,606	241	19	186	230,501
Interfund receivable		1,316,732				4,450,000					5,766,732
Total current assets	37,797,405	4,892,175	790,244	5,327,239	479,950	83,993,394	1,765,072	11,729,624	2,821,954	18,240,449	167,837,506
OTHER ASSETS—Prepaid rent and security deposit	21,157										21,157
TOTAL	\$ 37,818,562	\$ 4,892,175	\$ 790,244	\$ 5,327,239	\$ 479,950	\$ 83,993,394	\$ 1,765,072	\$ 11,729,624	\$ 2,821,954	\$ 18,240,449	\$ 167,858,663
LIABILITIES AND FUND EQUITY											
CURRENT LIABILITIES:											
Accounts payable	\$ 80,164	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 80,164
Accrued payroll and taxes	75,589										75,589
Due to the City of Philadelphia		4,892,175									4,892,175
Deferred revenue	15,535,000					4,450,000					19,985,000
Interfund payable	5,600,000					166,732					5,766,732
Total current liabilities	21,290,753	4,892,175				4,616,732					30,799,660
FUND EQUITY:											
Fund balances											
Unreserved	5,717,324										5,717,324
Reserved for debt service			790,244	5,327,240	479,950	77,585,406	1,765,072				85,947,912
Reserved for benefit of the City of Philadelphia								11,729,625	2,821,954	18,240,448	32,792,027
Reserved for subsequent PICA administration						1,791,256					1,791,256
Designated for future swaption activity	10,810,485										10,810,485
Total fund equity	16,527,809		790,244	5,327,240	479,950	79,376,662	1,765,072	11,729,625	2,821,954	18,240,448	137,059,004
TOTAL	\$ 37,818,562	\$ 4,892,175	\$ 790,244	\$ 5,327,240	\$ 479,950	\$ 83,993,394	\$ 1,765,072	\$ 11,729,625	\$ 2,821,954	\$ 18,240,448	

Amounts reported for governmental activities in the statement of net assets are different due to:

Long-term liabilities are not due and payable in the current period and therefore are not reported in the funds	(723,585,000)
Swap premium is deferred and amortized over the life of the new debt in the statement of net assets	(9,573,684)
Forward delivery agreement premium is amortized over the life of the agreement in the statement of net assets	1,271,426
Bond issuance costs are accrued and amortized in the statement of net assets	1,977,116

Net assets of governmental activities \$ (592,851,138)

The accompanying notes are an integral part of this statement

PENNSYLVANIA INTERGOVERNMENTAL COOPERATION AUTHORITY
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE—GOVERNMENTAL FUNDS
YEAR ENDED JUNE 30, 2005

	General	PICA Tax Revenue	Debt Service Fund				Debt Service Reserve Fund	Rebate Fund	Expendable Trust Funds Capital Projects Fund			Total Governmental Funds
			1993A	1996	1999	2003			1992	1993	1994	
REVENUES												
PICA Taxes	\$ -	\$ 298,633,971	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 298,633,971
Interest earned on investments	1,268,836	129,551	-	71,538	537,924	55,294	2,705,045	29,076	149,662	37,068	346,485	5,330,477
Total revenues	1,268,836	298,763,522	-	71,538	537,924	55,294	2,705,045	29,076	149,662	37,068	346,485	303,964,448
EXPENDITURES:												
Grants to the City of Philadelphia		214,802,975							-	611,587	1,202,015	216,616,578
Debt service:												
Principal				3,890,000	37,505,000	5,720,000						47,115,000
Interest	4,895,056	-		5,418,976	25,652,000	2,861,615						38,827,647
Administration: Operations	982,340	-	-	-	-	265,575	-	-	-	-	-	1,247,915
Total expenditures	5,877,396	214,802,975	-	9,308,976	63,157,000	8,847,189	-	-	-	611,587	1,202,015	303,807,140
EXCESS OF REVENUES OVER (UNDER) EXPENDITURES	(4,608,561)	83,960,547	-	(9,237,439)	(62,619,076)	(8,791,896)	2,705,045	29,076	149,662	(574,520)	(855,530)	157,308
OTHER FINANCING SOURCES (USES)—												
Net operating transfers in (out)	6,471,437	(83,960,547)	-	9,250,058	62,671,377	8,756,456	(3,188,781)	-	-	-	-	0
SOURCES OVER (UNDER) EXPENDITURES AND OTHER USES	1,862,876	(0)	-	12,619	52,301	(35,440)	(483,736)	29,076	149,662	(574,520)	(855,530)	157,308
FUND BALANCES, JULY 1, 2004	14,664,933	-	-	777,625	5,274,939	515,390	79,860,398	1,735,996	11,579,963	3,396,474	19,095,978	136,901,696
FUND BALANCES, JUNE 30, 2005	16,527,809	(0)	-	790,244	5,327,240	479,950	79,376,662	1,765,072	11,729,625	2,821,954	18,240,448	137,059,004

Reconciliation of change in fund balance to change in net assets:
Change in fund balance 157,308

Repayment of bond principal is an expenditure in the governmental funds, but the repayment
reduces long-term liabilities in the statement of net assets 47,115,000

Swap and forward delivery agreement premiums are deferred and amortized over the life of the new debt
on the statement of net assets 1,198,869

Bond issuance costs are accrued and amortized on the statement of net assets (116,301)

Change in net assets \$ 48,354,876

The accompanying notes are an integral part of this statement

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Request for Proposals to Conduct a Stratified Management and Operations Audit; Doc. No. D-05MGTO48

The Pennsylvania Public Utility Commission (Commission) will soon be seeking a consulting firm to conduct a Stratified Management and Operations Audit (Management Audit) of PECO Energy Company. Management Audits are periodically required of certain utility companies under 66 Pa.C.S. § 516(a) (relating to audits of certain utilities). The Commission's general administrative power and authority to supervise and regulate public utilities in this Commonwealth is in 66 Pa.C.S. § 501(b) (relating to general powers). A Request for Proposal (RFP) will be prepared and issued by the Commission in the very near future and will be posted on the Commission's website at www.puc.state.pa.us under the Announcement section on the home page. It is anticipated that the Management Audit will begin in June 2006 and that the consultant's final report will be completed by May 2007. A bidders' conference will be held to answer specific questions about the project and may be scheduled as early as mid-December 2005. The exact date of the bidders' conference will be announced in the RFP cover letter to be posted on the Commission's website. Questions related to the release of the RFP should be directed to John Clista, (717) 772-0317, fax (717) 783-9866, jclista@state.pa.us.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2243. Filed for public inspection December 2, 2005, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by December 27, 2005. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to begin operating as *common carriers* for transportation of *persons* as described under each application.

A-00122236. Jessie L. Davis t/d/b/a Jess Transportation (353 Shady Ridge Drive, Monroeville, Allegheny County, PA 15146)—persons, in limousine service, from points in the County of Allegheny, to points in Pennsylvania, and return.

A-00121040, Folder 2. Robert W. Smith (12545 Roger Drive, Espyville, Crawford County, PA 16424)—persons in

paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, from points in the Counties of Crawford and Mercer, to points in Pennsylvania, and return.

A-00122233. Carol E. Higgins (950 Hill Crest Lane, Danielsville, Northampton County, PA 18038)—persons, in limousine service, from points in the Counties of Carbon, Lehigh, Bucks, Berks and Northampton, to points in Pennsylvania, and return.

A-00122232. Airport Limousine Service, Inc. (P. O. Box 6806, Wheeling, WV 26003-0920), a corporation of the State of West Virginia—persons in airport transfer service, from points in the Counties of Washington, Fayette, Westmoreland, Somerset and Greene, to the Pittsburgh International Airport, located in the County of Allegheny. *Attorney:* William A. Gray, Esquire, Vuono & Gray, LLC, 2310 Grant Building, Pittsburgh, PA 15219-2383.

A-00122089. Pennsylvania Shuttle Transportation, LLC (5335 Oakland Street, Philadelphia, Philadelphia County, PA 19124) a limited liability company of Pennsylvania—persons, in paratransit service, from points in the City and County of Philadelphia, to Federal and State correctional institutions in Pennsylvania, and return. *Attorney:* Jeffrey Toalton, Esquire, Suite 200, Two Penn Center Plaza, Philadelphia PA 19102-1706.

Application of the following for *amendment* to the certificate of public convenience approving the operation of motor vehicles as *common carriers* for transportation of *persons* as described under the application.

A-00119758, Folder 2, Am-A. Lou Lane, Inc. t/d/b/a All Star Limousines (3121 Antheo Court, Murrysville, Westmoreland County, PA 15668), a corporation of the Commonwealth—persons, in group and party service, in vehicles with a seating capacity of 11 to 15 passengers, including the driver, from points in the Counties of Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland, to points in Pennsylvania, and return: Subject to the following conditions: (1) That the service be limited to the transportation of persons attending weddings, proms, concerts, school dances, sports events and nights-on-the-town; and (2) That no right, power or privilege is granted to transport persons, in group and party service, between points in Allegheny County: *So As To Permit* removal of the conditions listed previously. *Attorney:* John A. Pillar, 680 Washington Road, Suite B101, Pittsburgh, PA 15228-1925.

Applications of the following for approval of the *beginning* of the exercise of the right and privi- lege of operating motor vehicles as *common carri- ers* for the transportation of *household goods* as described under each application.

A-00118461, Folder 2. Hector Vazquez t/d/b/a Papolo's Moving & Shipping (324 Hill Street, Bethlehem, Northampton County, PA 18015)—household goods, in use, from points in the County of Northampton, to points in Pennsylvania, and, vice versa.

A-00122234. Stockton Baker Moving Company, Inc. (P. O. Box 626, New Hope, Bucks County, PA 18938), a corporation of the Commonwealth—household goods in use, from points in the Boroughs of New Hope, Doylestown and Yardley and the Townships of Solebury, Buckingham, Plumstead, Tinicum, Upper Makefield and Lower Makefield, all located in Bucks County, to points in Pennsylvania, and return.

Application of the following for the approval of the right and privilege to *discontinue/abandon* operating as *common carriers* by motor vehicle and for cancellation of the certificate of public convenience as described under the application.

A-00120055, Folder 3. Choice Cab Company t/a County Executive Transportation (1311 Robinwood Drive, Clarion, Clarion County, PA 16214)—certificate of public convenience to abandon/discontinue the right to transport, as a common carrier by motor vehicle; persons in limousine service, between points in the County of Clarion, and from points in said county, to points in the Counties of Jefferson, Clearfield, Elk, Erie, Venango, Butler and Indiana and to the Pittsburgh International Airport, located in the County of Allegheny, and return, which is held at A-00120055, F. 3. *Attorney:* Ray F. Middleman, 117 VIP Drive, Suite 310, Wexford, PA 15090.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2244. Filed for public inspection December 2, 2005, 9:00 a.m.]

Telecommunications

A-311395F7014. Buffalo Valley Telephone Company and Cingular Wireless, LLC. Joint petition of Buffalo Valley Telephone Company and Cingular Wireless, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Buffalo Valley Telephone Company and Cingular Wireless, LLC, by its counsel, filed on November 16, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Buffalo Valley Telephone Company and Cingular Wireless, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2245. Filed for public inspection December 2, 2005, 9:00 a.m.]

Telecommunications

A-310513F7014. Buffalo Valley Telephone Company and Sprint Spectrum, L. P. Joint petition of Buffalo Valley Telephone Company and Sprint Spectrum, L. P. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Buffalo Valley Telephone Company and Sprint Spectrum, L. P., by its counsel, filed on November 16, 2005, at the Pennsylvania Public Utility Commission (Commis-

sion), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Buffalo Valley Telephone Company and Sprint Spectrum, 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. 05-2246. Filed for public inspection December 2, 2005, 9:00 a.m.]

Telecommunications

A-311394F7014. Buffalo Valley Telephone Company and T-Mobile USA, Inc. Joint petition of Buffalo Valley Telephone Company and T-Mobile USA, Inc. for approval of an interconnection agreement and amendment no. 1 under section 252(e) of the Telecommunications Act of 1996.

Buffalo Valley Telephone Company and T-Mobile USA, Inc., by its counsel, filed on November 17, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement and amendment no. 1 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 Buffalo Valley Telephone Company and T-Mobile USA, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2247. Filed for public inspection December 2, 2005, 9:00 a.m.]

Telecommunications

A-311395F7015. Conestoga Telephone & Telegraph Company and Cingular Wireless, LLC. Joint petition of Conestoga Telephone & Telegraph Company and Cingular Wireless, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Conestoga Telephone & Telegraph Company and Cingular Wireless, LLC, by its counsel, filed on November 16, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Conestoga Telephone & Telegraph Company and Cingular Wireless, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2248. Filed for public inspection December 2, 2005, 9:00 a.m.]

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 Conestoga Telephone & Telegraph Company and T-Mobile USA, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2250. Filed for public inspection December 2, 2005, 9:00 a.m.]

Telecommunications

A-310513F7015. Conestoga Telephone & Telegraph Company and Sprint Spectrum, L. P. Joint petition of Conestoga Telephone & Telegraph Company and Sprint Spectrum, L. P. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Conestoga Telephone & Telegraph Company and Sprint Spectrum, L. P., by its counsel, filed on November 16, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Conestoga Telephone & Telegraph Company and Sprint Spectrum, 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. 05-2249. Filed for public inspection December 2, 2005, 9:00 a.m.]

Telecommunications

A-311394F7015. Conestoga Telephone & Telegraph Company and T-Mobile USA, Inc. Joint petition of Conestoga Telephone & Telegraph Company and T-Mobile USA, Inc. for approval of an interconnection agreement and amendment no. 1 under section 252(e) of the Telecommunications Act of 1996.

Conestoga Telephone & Telegraph Company and T-Mobile USA, Inc., by its counsel, filed on November 17, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement and amendment no. 1 under sections 251 and 252 of the Telecommunications Act of 1996.

Telecommunications

A-311395F7006. Denver & Ephrata Telephone and Telegraph Company and Cingular Wireless, LLC. Joint petition of Denver & Ephrata Telephone and Telegraph Company and Cingular Wireless, LLC for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Denver & Ephrata Telephone and Telegraph Company and Cingular Wireless, LLC, by its counsel, filed on November 16, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Denver & Ephrata Telephone and Telegraph Company and Cingular Wireless, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2251. Filed for public inspection December 2, 2005, 9:00 a.m.]

Telecommunications

A-310513F7006. Denver & Ephrata Telephone and Telegraph Company and Sprint Spectrum, L. P. Joint petition of Denver & Ephrata Telephone and Telegraph Company and Sprint Spectrum, L. P. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Denver & Ephrata Telephone and Telegraph Company and Sprint Spectrum, L. P., by its counsel, filed on November 16, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Denver & Ephrata Telephone and Telegraph Company and Sprint Spectrum, 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. 05-2252. Filed for public inspection December 2, 2005, 9:00 a.m.]

Telecommunications

A-311394F7006. Denver & Ephrata Telephone and Telegraph Company and T-Mobile USA, Inc. Joint petition of Denver & Ephrata Telephone and Telegraph Company and T-Mobile USA, Inc. for approval of an interconnection agreement and amendment no. 1 under section 252(e) of the Telecommunications Act of 1996.

Denver & Ephrata Telephone and Telegraph Company and T-Mobile USA, Inc., by its counsel, filed on November 17, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement and amendment no. 1 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 Denver & Ephrata Telephone and Telegraph Company and T-Mobile USA, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2253. Filed for public inspection December 2, 2005, 9:00 a.m.]

Telecommunications

A-311388F7001. Verizon North Inc. and Pac-West Telecomm, Inc. Joint petition of Verizon North Inc. and Pac-West Telecomm, Inc. for approval of an interconnection agreement and amendment no. 1 under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Pac-West Telecomm, Inc., by its counsel, filed on November 16, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement and amendment no. 1 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 Pac-West Telecomm, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2254. Filed for public inspection December 2, 2005, 9:00 a.m.]

Telecommunications

A-311388F7000. Verizon Pennsylvania Inc. and Pac-West Telecomm, Inc. Joint petition of Verizon Pennsylvania Inc. and Pac-West Telecomm, Inc. for approval of an interconnection agreement and amendment no. 1 under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Pac-West Telecomm, Inc., by its counsel, filed on November 16, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an interconnection agreement and amendment no. 1 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 Pac-West Telecomm, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2255. Filed for public inspection December 2, 2005, 9:00 a.m.]

Water Service

A-210104F0068. Aqua Pennsylvania, Inc. Application of Aqua Pennsylvania, Inc. for approval to begin to offer, render, furnish and supply water service to the public in an additional portion of Jefferson Township in Lackawanna County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 19, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Aqua Pennsylvania, Inc.

Through and By Counsel: Thomas T. Niesen, Esquire, Thomas, Thomas, Armstrong & Niesen, 212 Locust Street, P. O. Box 9500, Harrisburg, PA 17108-9500

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2256. Filed for public inspection December 2, 2005, 9:00 a.m.]

Water Service

A-212285F0127. Pennsylvania-American Water Company. Application of Pennsylvania-American Water Company for approval of the right to offer, render, furnish or supply water service to the public in additional portions of Plymouth Township, Montgomery County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 19, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Pennsylvania-American Water Company

Through and By Counsel: Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, 800 West Hersheypark Drive, Hershey, PA 17033

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2257. Filed for public inspection December 2, 2005, 9:00 a.m.]

Water Service

A-212955F0017. Superior Water Company, Inc. Application of Superior Water Company, Inc. for approval to begin to offer, render, furnish or supply water service to the public in an additional territory of Washington Township and for territory in Colebrookdale Township, all in Berks County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 19, 2005. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Superior Water Company, Inc.

Through and By Counsel: Louise A. Knight, Esquire, David P. Zambito, Esquire, Saul Ewing, LLP, 2 North Second Street, 7th Floor, Harrisburg, PA 17101

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-2258. Filed for public inspection December 2, 2005, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept bids for Project #05-112.P, Purchase of Plotter Scanner Copier, until 2 p.m. on Thursday, December 15, 2005. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available December 6, 2005. The cost of the bid document is \$15 (includes 7% Pennsylvania Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 05-2259. Filed for public inspection December 2, 2005, 9:00 a.m.]

STATE BOARD OF COSMETOLOGY

Bureau of Professional and Occupational Affairs v. Yahne C. Young; Doc. No. 1956-45-04

On October 3, 2005, Yahne C. Young, license no. CO187970L, of Cherry Hill, NJ, was suspended based on the respondent's failure to pay the \$500 civil penalty levied by the State Board of Cosmetology (Board) on June 7, 2005.

Individuals may obtain a copy of the adjudication by writing to Ruth D. Dunnewold, Senior Deputy Chief Counsel, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final Board decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

SUSAN E. RINEER,
Chairperson

[Pa.B. Doc. No. 05-2260. Filed for public inspection December 2, 2005, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center
PA Department of Community and Economic Development
374 Forum Building
Harrisburg, PA 17120
800-280-3801 or (717) 783-5700

Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services
Location: Harrisburg, Pa.
Duration: 12/1/93-12/30/93
Contact: Procurement Division 787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:
Vendor Services Section
717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

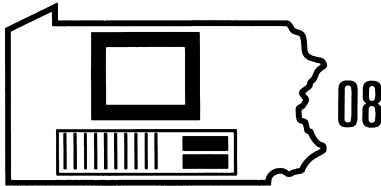
DO BUSINESS WITH STATE AGENCIES

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. The bureau is, by law, the central repository for all state contracts over \$5,000. Contract Specialists can supply you with descriptions of contracts, names of previous bidders, pricing breakdowns and other information. They can also direct you to the appropriate person and agency looking for your product or service. Copies of state contracts are also available. (Duplicating and mailing costs may apply). For more information, visit us online at www.patreaury.org.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania Treasury Department
 201 Finance Building
 Harrisburg, PA 17120
 Phone: (717) 787-2990 or 1-800-252-4700
 Fax: (717) 772-0977

ROBERT P. CASEY, Jr.,
State Treasurer

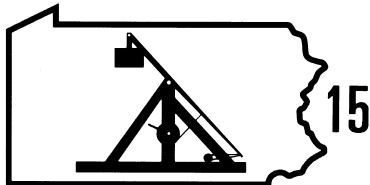
SERVICES



Computer Related Services

CN00017804 Provide retail store solutions support line premium (SLP) for the following products/license count: IBM 4690 General Sales Application (GSA)/675 IBM Electronic Journal Version 1/Version 2/675

Department: Liquor Control Board
Location: Statewide
Duration: 12 Months
Contact: Tammy McQuaid, 717-787-6360



Environmental Maintenance Service

OSM 54(4666)201.1 Abandoned Mine Reclamation, Little Wolf Creek. The principal items of work and approximate quantities include 7,934,230 cubic yards of Grading, 28,110 cubic yards of Drainage Excavation, 12,555 square yards of Rock Lining and 268.2 acres of Seeding. This project issues on December 2, 2005 and bids will be opened on January 5, 2006 at 2:00 p.m. Bid documents cost \$15.00 per set and will not be mailed until payment has been received. Federal funds have been made available for this project from the \$26,051,154 for Pennsylvania's 2004 AML Grant.

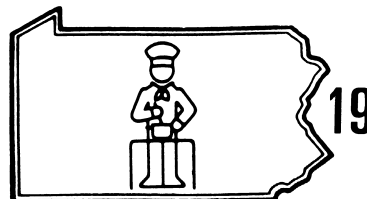
Department: Environmental Protection
Location: East Norwegian Township and Blythe Township, Schuylkill County
Duration: 1,200 calendar days after the official starting date.
Contact: Construction Contracts Section, 717-783-7994

BOGM 05-2 Cleaning Out and Plugging One (1) Abandoned Gas Well. The principal items of work include cleaning out and plugging one (1) abandoned gas well, estimated to be 3,000 feet in depth, to Department specifications, preparing and restoring well sites and mobilizing and demobilizing plugging equipment. The estimated plugging time for this well is eight (8) hours while using an estimated 40,500 pounds of plugging material. This project issues on December 2, 2005 and bids will be opened on December 29, 2005 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. A pre-bid conference has been planned for this project, but a date has not been set. Please use the contact information contained in this advertisement to find out more about the pre-bid.

Department: Environmental Protection
Location: Cecil Borough, Washington County
Duration: 90 calendar days after the official starting date.
Contact: Construction Contracts Section, 717-783-7994

BOGM 05-3 Cleaning Out and Plugging One (1) Abandoned Gas Well, (J&B Wholesalers, FLP Property). The principal items of work include cleaning out and plugging one (1) abandoned gas well, estimated to be 2,850 feet in depth, to Department specifications, preparing and restoring well sites and mobilizing and demobilizing plugging equipment. The estimated plugging time for this well is 75 hours while using an estimated 33,000 pounds of plugging material. This project issues on December 2, 2005 and bids will be opened on December 29, 2005 at 2:00 p.m. Bid documents cost \$10.00 per set and will not be mailed until payment has been received. A pre-bid conference has been planned for this project but a date has not been set. Please use the contact information contained in this advertisement to find out more about the pre-bid conference.

Department: Environmental Protection
Location: Municipality of Lower Burrell, Westmoreland County
Duration: 90 calendar days after the official starting date.
Contact: Construction Contracts Section, 717-783-7994



Food

CN00017774 Perishable Food - Meat and Meat Products. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendor-registration.state.pa.us. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401
Duration: Deliveries are for the time period of January, February, and March, 2006. Bid opening date is 12/6/05 at 2 p.m.
Contact: Debbie Jones, 610-313-1025

CN00017853 Frozen Liquid Decaffeinated Coffee Concentrate to include Dispensing Equipment

Department: Public Welfare
Location: Norristown State Hospital, 1001 Sterigere Street, Norristown, PA 19401-5397
Duration: January 1, 2006 to June 30, 2006 inclusive
Contact: Kathleen M. Aspinall, Purchasing Agent, 610-313-1028

FOODSTUFFS Foodstuffs, including but not limited to meat, fish, poultry, (including turkey products), frozen vegetables, fresh eggs, frozen liquid egg products, waffles, pizza, frozen novelties, and protein alternative products. Bids will be done on a monthly basis for deliveries beginning January 1, 2006 through December 31, 2006. Bid package available from Purchasing Office at the institution. Length of contract subject to change.

Department: Corrections
Location: State Correctional Institution - Frackville, 1111 Altamont Boulevard, Frackville, PA 17931
Duration: January 1, 2006 to December 31, 2006. Length of contract subject to change.
Contact: Mary Lou Neverosky, Purchasing Agent II, 570/773-2158, Ext.419

CN00017796 Bread and bread products to be delivered.

Department: Public Welfare
Location: Dietary Storeroom, Torrance State Hospital, S.R. 1014, Torrance PA 15779
Duration: January through June, 2006
Contact: Kristina Meighan, 724-459-4678

CN00017810 Provide a variety of perishable foods for delivery January, February and March 2006. Commodities include - meat, poultry and fish; dairy, cheese, eggs and ice cream; misc. frozen foods; frozen fruits, vegetables and juice.

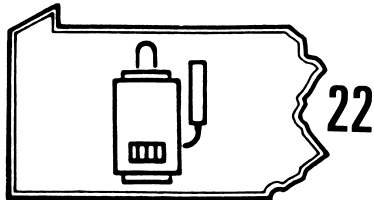
Department: Public Welfare
Location: Mayview State Hospital, 1601 Mayview Road, Bridgeville PA 15017
Duration: 01/01/2005 through 3/31/2006
Contact: F. Molisee, Purchasing Agent II, 412-257-6215

FIRST QUARTER 2006 - PERISHABLE FOODS Provide a variety of perishable foods for delivery January, February and March 2006. Commodities include - meat, poultry and fish; dairy, cheese, eggs and ice cream; misc. frozen foods; frozen fruits, vegetables and juice.

Department: Public Welfare
Location: Mayview State Hospital, 1601 Mayview Road, Bridgeville PA 15017
Duration: 01/01/2005 through 3/31/2006
Contact: F. Molisee, Purchasing Agent II, 412-257-6215

MER-06-001 Awarded vendor shall provide carbonated soft beverages with dispensing system. Product shall be "bag-in-the-box" with a preferred capacity of five (5) gallons per box. Approximate consumption for the duration of this purchase order shall be fifteen thousand (15,000) gallons. Specifications shall be contained upon quote inquiry.

Department: Corrections
Location: State Regional Correctional Facility, 801 Butler Pike, Rte. 258 South, Mercer, PA 16137
Duration: January 1, 2006 to June 30, 2008
Contact: John Pitonyak, Ext. 1009, 724/662-1837



HVAC Services

CN00017542 This is for HVAC at I-83 Welcome Center/ Rest Area Site J, York County Maintenance Building Stockpile 01 and also Barmac Stockpile 17 2.5 miles south of Airville on state route 74. This is for 1 year with the mutual consent of both parties for 4-1 year renewals. For procurement questions contact Tim Crider (717) 787-6408, or for location and specification questions please contact Bill Tyson (717) 787-7600 or Ken Noto 717-848-6230 Ext. 303. Bid Opening Date is 11/28/2005 at 1:00 pm in District Office, 2140 Herr Street, Harrisburg, PA 17103. This a rebid for CN00016689.

Department: Transportation
Location: 1) I 83 Northbound, Shrewsbury York County; 2) York County Maintenance Building Stockpile 01, 1920 Susquehanna Trail North, York, PA; 3) Barmac, Stockpile 17, 2.5 Miles south of Airville on State Route 74, York County
Duration: This is for 1 year with the mutual consent of both parties for 4-1 year renewals.
Contact: Tim Crider, 717-787-6408



Janitorial Services

CN00017805 Janitorial Service for administrative offices located on the main floor, to include the main hallway, men's and women's restrooms located on the main floor, lunchroom located on the main floor; per specifications.

Department: Transportation
Location: PennDot, Forest County Maintenance District 1-3, 625 Elm Street, Tionesta, PA 16353
Duration: One year contract with 3 one year renewals, effective 4/1/06
Contact: William F. Kulinski, 814-723-3500



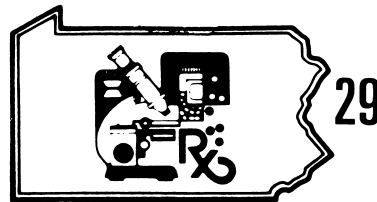
Lodging/Meeting Facilities

RFP #2005-FA-02 The Pennsylvania State System of Higher Education, Office of the Chancellor (PASSHE) is soliciting proposals from vendors for conference meeting and lodging services on an as needed basis in both the greater Harrisburg and State College, Pennsylvania, regions. A copy of the RFP may be located at: <http://www.passhe.edu/content/?office/finance/procurement/opportunities/2005-fa-02>. Proposals are due by 2:00 p.m. on December 20, 2005.

Department: State System of Higher Education
Duration: 3 Years
Contact: Linda Venneri, 717-720-4135

CN00017822 Provide meeting rooms, accommodations, audio/video equipment and catering services for the PLCB Collegiate Conference to be held April 20th and 21st, 2006. Some requirements: up to 250 guest rooms, large meeting room for up to 350, five small meeting (breakout) rooms for approx. 70 speakers and instructors, audio visual equipment available for all rooms and food service for break, lunch, dinner and continental breakfast on day two.

Department: Liquor Control Board
Location: Lancaster, PA area
Duration: April 20 and 21, 2006
Contact: Dan Buffington, 717-787-9854



Medical Services

CN00017719 Vendor to provide Dental Services to the residents of the Gino J. Merli Veterans Center located at 401 Penn Ave., Scranton, PA 18503 as requested or required. For Information regarding bid package, please send inquiries to the fax number listed (570-961-4400) attention Robert J Casey or e-mail to the Purchasing Agent listed below (If you are not on the Commonwealth Vendors List, you need to register at www.imaginepa.state.pa.us).

Department: Military Affairs
Location: Gino J. Merli, Veterans Center, 401 Penn Ave., Scranton, PA. 18503
Duration: Jan. 2006 through Dec.31, 2008
Contact: Robert J. Casey, 570-961-4317

CN00017812 Contractor to provide legend and non-legend drugs for the YDC New Castle Medical Department as specified by prescription. To be packaged as specified by YDC New Castle.

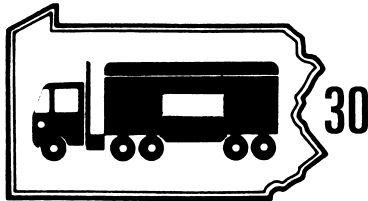
Department: Public Welfare
Location: Youth Development Center, 1745 Frew Mill Road, New Castle PA 16101
Duration: January 1, 2006 through December 31, 2006
Contact: Kathleen A. Zeigler, (724) 656-7308

CN00017813 Contractor to provide legend and non-legend drugs for the South West Secure Treatment Unit on grounds of the Torrance State Hospital as specified by prescription. To be packaged as specified by SWSTU.

Department: Public Welfare
Location: South West Secure Treatment Unit, PO Box 94, State Route 1014, Wiseman Building, Torrance PA 15779
Duration: January 1, 2006 through December 31, 2006
Contact: Kathleen A. Zeigler, (724) 656-7308

CN00017735 Electrocardiogram Reports. Fax request for bid packages to 570-271-4593; include SAP Vendor Number. Prospective vendors must register with the Integrated Enterprise System (IES) at www.vendorregistration.state.pa.us. DPW utilizes the information contained in the vendor master file for its procurement activities. Registered vendors who need to update or change the existing information in this file must contact IES and provide the changes or updates to IES. It is the vendor's responsibility to contact IES for changes, as DPW is unable to change vendor information. If you fail to update or change information, you may not receive requested bid information.

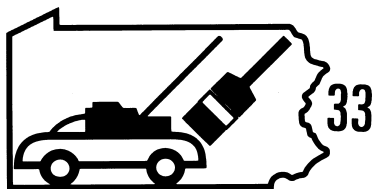
Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: January 1, 2006 through December 31, 2006
Contact: Arletta K. Ney, PA, 570-271-4579



Moving Services

CN00017832 Moving service needed to relocate office for Wilkes-Barre Bureau of Disability Determination. A Mandatory on-site inspection will be conducted by the Vendor prior to the bid deadline. Move is to begin 12/16/2005 after 4:00 PM, and must be completed no later than 6:00 PM on 12/18/2005, and as per attached specifications. There are 239 employees currently at the Wilkes-Barre location and over 12,000 case files that must be relocated. Items to be moved will consist of office equipment, boxes of supplies, over 12,000 claims files, as well as other items included in the attached Moving Specifications. Moving boxes and labeling materials are to be supplied by mover one week prior to move begin date. Move location will be from: 264 Highland Park Drive, Wilkes-Barre, PA, Luzerne County to: 47 South Washington St., Wilkes-Barre, PA 18701. Contacts for setting up On-Site visit: Diane Vaccaro, Administrator or Keith Burns, Assistant Administrator at 700-824-8971. All Bids are due by 2:00 PM December 1, 2005.

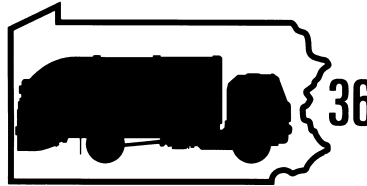
Department: Labor and Industry
Location: 264 Highland Park Drive, Wilkes-Barre, PA
Contact: Cheryl Heishman, 717-787-2560



Property Maintenance

CN00017779 Contractor to remove and dispose of existing linoleum in Building 35, Ward 2 Corridor. Furnish and install Forbo Real 2.5mm linoleum, (color to be determined). Site Visit is required and form will be included in bid packet. To request bid packets, please email your company name, mailing address, and phone number to: mhein@state.pa.us; or phone at (610) 670-4128.

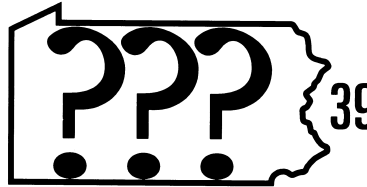
Department: Public Welfare
Location: Wernersville State Hospital, Rt. 422 W. and Sportsman Road, Wernersville, PA 19565
Duration: Anticipated state date of mid to late December, 2005.
Contact: Mary Hein, 610-670-4128



Sanitation

Rebid-CN00017391 Services for collection and disposal of solid waste at Yellow Creek State Park, 170 Route 259 Highway, Penn Run, Pennsylvania 15765 (Indiana County). Bid Opening Date/Time: December 6, 2005, 2:00 p.m.

Department: Conservation and Natural Resources
Location: Yellow Creek State Park, 170 Route 259 Highway, Penn Run, PA 15765
Duration: Commence upon execution and receipt of purchase order or January 1, 2006, whichever is later, and terminate December 31, 2008. Parties may renew for 1 addl. consecutive 2 year term, with final termination of December 31, 2010.
Contact: Nancy Weibley, 717-783-4884



Miscellaneous

ITQ #355102 The Department of Transportation (PennDOT) is issuing an Invitation to Qualify (ITQ) to solicit contractors who are interested in providing Road-Killed Deer Removal and Disposal services. The purpose of the ITQ and resulting multiple award contracts is to enable PennDOT to obtain Road-Killed Deer Removal and Disposal services more efficiently and extend work opportunities to a greater number of contractors. Interested contractors may request a copy of the ITQ by faxing or e-mailing their name, organization/company name, address, telephone number, fax number, and e-mail address to Shirley Morales at 717-787-7185 (fax) or smorales@state.pa.us (e-mail). Please reference ITQ #355102 on your request.

Department: Transportation
Location: Throughout the Commonwealth of Pennsylvania
Duration: From the date of the Notice to Proceed by the Commonwealth through April 30, 2011
Contact: Darlene Greenawald, 717-705-6476

RO#2842 Bloomsburg University is seeking vendors for labor and material to convert a Middleby Marshal Oven (Model H) from manual ignition to self-ignition; and convert a Middleby Marshal Oven (Model K) from manual ignition to auto ignition; replace worn bushings on Middleby Marshal Ovens (1-Model H and 1-Model K). Interested bidders may request a bid package by faxing a request to (570-389-2017); sending an email to dshambur@bloomu.edu; or sending a letter to Bloomsburg University, 400 East Second Street, Bloomsburg, PA 17815, ATTN: Diann Shamburg. Site visit information will be included in the bid proposal. Work can begin week of 12/19/05 with completion by 1/7/06, if not possible the next opportunity would be week of 3/13/06. Bids will be due 12/2/05.

Department: State System of Higher Education
Location: Bloomsburg University, 400 East Second Street, Bloomsburg, PA 17815
Contact: Diann Shamburg, 570-389-4312

11162005 Allentown Sate Hospital is looking to purchase a Mohawk 12,000 lb. post lift. (No Substitutes) Lift to include Power Station Accessory, Lift Weight Gauge and Installation. This is a re-bid of requisition 10052005. A copy of the bid can be obtained by contacting the purchasing Department at 610-740-3425 or by fax 610-740-3424.

Department: Public Welfare
Location: Allentown State Hospital, 1600 Hanover Avenue, Allentown PA 18109-2498
Contact: Robert Mitchell, 610-740-3425

2005-6 The Legislative Budget and Finance Committee Officers have directed the Legislative Budget and Finance Committee staff to conduct a study on the economic costs of starting school prior to Labor Day. The study is to address the concern that, due to the school year beginning prior to Labor Day, families are cutting summer vacations short, thereby impacting tourism revenue and teachers and students are losing wages and job opportunities as a result of not being able to work the week prior to Labor Day and on Labor Day weekend. As such, this study is to: (1) Provide a comparison of school calendars from 2004-05 to an appropriate year in the early 1970s. This should include, but not be limited to, the average number of instructional days; school holidays other than for staff development or work-days; staff development or workdays; average school year in months and weeks; and average summer break in weeks and days for at least 100 districts; (2) determine the economic impact of early school start dates, including, but not limited to: loss of personal income by students, teachers, support staff, and migrant workers; loss to tourist economies per day and per week; cost to schools for their operations and utilities per day and per week; and (3) determine the costs to parents and teachers for child care costs per day and per week. The Texas Comptroller issued a report on the costs of starting school before Labor Day. This report can be obtained at <http://www.window.state.tx.us/specialrpt/schoolstart2004/>. The LB&FC is seeking similar data and a similar reporting format with data specific to Pennsylvania. To be considered, proposals must arrive at the offices of the Legislative Budget and Finance Committee on or before 4:30 p.m. on January 13, 2006.

Department: Legislative Budget and Finance Committee
Location: 400-A Finance Building, North at Commonwealth Street, Harrisburg, PA 17120; P.O. Box 8737, Harrisburg, PA 17105
Duration: Through the completion of the project. Target completion date is June 1, 2006.
Contact: Philip Durgin, Executive Director, 717.783.1600

CN00017803/CUSHMAN SUPER TRUCK The State Correctional Institution at Laurel Highlands will be soliciting bids for a Cushman Super Truck with standard features, no substitutions. Interested vendors should contact the Institution directly for a bid package.

Department: Corrections
Location: State Correctional Institution at Laurel Highlands, 5706 Glades Pike, Somerset, PA 15501-0631
Duration: 11/16/05 Through 6/30/06
Contact: Theresa Solarczyk, Purchasing Agent II, 814-445-6501 X1232

1156-16438 Sanitary Napkins, individual prepacked, 11" Long, approx. 700 cases for delivery to start March 2006, with monthly deliveries. Sample of pad must be included with bid, along with qty per case, to be delivered to SCI-Muncy. Bid opening for December 28, 2005 at 10:00 A.M.

Department: Corrections
Location: State Correctional Institution at Muncy, PO. Box 180, Route 405, Muncy, PA 17756
Duration: March 2006 to June 2006
Contact: Cindy Lyons, 570-546-3171

RFP 04-07-17 The Department of Health is issuing a Request for Proposals (RFP) to fund an independent statewide evaluation of the Pennsylvania Nutrition and Physical Activity Program to Prevent Obesity and Related Chronic Diseases. Twelve (12) copies of the application should be submitted to: Pennsylvania Department of Health, Bureau of Administrative and Financial Services, Lori Diehl, Director, Division of Contracts, Room 824, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA, 17120.

Department: Health
Location: Statewide
Duration: 3 years (7/1/06 - 6/30/09)
Contact: Jennifer Kenny, 717-787-2957

[Pa.B. Doc. No. 05-2261. Filed for public inspection December 2, 2005, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
|--|---|
| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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JAMES P. CREEDON,
Secretary

Title 58—RECREATION

PENNSYLVANIA GAMING CONTROL BOARD

[58 PA. CODE CHS. 439, 441 AND 463]

Temporary Regulations; Slot Machines and Junket Enterprises

The Pennsylvania Gaming Control Board (Board), under 4 Pa.C.S. § 1202(b)(14) (relating to general and specific powers), adopts temporary regulations to facilitate implementation of 4 Pa.C.S. Part II (relating to gaming), enacted by the act of July 5, 2004 (P. L. 572, No. 71) (Act 71). The Board's temporary regulations will be added to Part VII (relating to Gaming Control Board). Chapter 439, entitled junket enterprises, is added to Subpart B, entitled licensing, registering, certifying and permitting. Section 441.18, entitled change in ownership or control of slot machine licensee and multiple slot machine license prohibition, is added to Chapter 441, slot machine licenses, of Subpart C, entitled slot machine licensing. Chapter 463, entitled possession of slot machines is added to Subpart E, entitled slot machine testing, certification and control.

Purpose and Background

Under 4 Pa.C.S. § 1203 (relating to temporary regulations), the Board is required to promulgate temporary regulations in order to facilitate the prompt implementation of Act 71. The regulations are necessary to enhance the credibility of the licensed operation of slot machines and associated equipment within this Commonwealth and to carry out the policy and purposes of the Board. In adopting these temporary regulations, the Board has considered the public comments submitted to the Board. The Board has also reviewed the regulatory practices of other Commonwealth agencies and other gaming jurisdictions.

To promulgate the temporary regulations in accordance with customary rulemaking procedure, the Board published its draft regulations at 35 Pa.B. 5621 (October 8, 2005) and 35 Pa.B. 5941 (October 22, 2005). Thirty-day public comment periods were provided.

Under 4 Pa.C.S. § 1203, the temporary regulations adopted by the Board expire no later than 3 years following the effective date of 4 Pa.C.S. Part II or upon promulgation of regulations as generally provided by the law. These temporary regulations are not subject to sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1205), known as the Commonwealth Documents Law (CDL), or to the Regulatory Review Act (71 P. S. §§ 745.1—745.15).

Comment

The Board received public comment from approximately seven interested parties, including industry representatives and citizens. The Board thoroughly reviewed and considered all comments submitted. Public comments received by the Board are available for review on the Board's website, www.pgcb.state.pa.us. These comments and the Board's responses are published on the Board's website.

Paperwork

The Board will publish junket applications and other necessary forms for the administration of licensing junkets. The Board is developing a docket process to monitor and track submitted applications.

Financial Impact

Act 71 and the regulations will provide for the implementation and management of gaming within this Commonwealth and the collection of fees and taxes from entities and individuals authorized by the Board to be employed by, provide gaming related services to or operate gaming facilities.

The appropriations from the Commonwealth for the implementation of Act 71 and costs of administering 4 Pa.C.S. Part II will be reimbursed by the licensed gaming entities as specified within Act 71. Individuals and entities that wish to obtain licenses as gaming entities shall pay to the gaming fund significant licensing fees to obtain the authority to do business in this Commonwealth. Part of these fees shall reimburse the Board and the Pennsylvania State Police for licensing processes and background investigations. The licensing and registration of individuals and other classes of licensees will be reimbursed by the individuals or licensees through fees established by the Board.

It is anticipated that all expenses of the Board and all associated activities shall be reimbursed by the applicants and gaming entities as previously specified. The Board shall have no financial impact on the State budget.

Statutory Authority

The Board is authorized under 4 Pa.C.S. § 1203 to adopt and publish temporary regulations to implement the policies and purposes of Act 71.

Regulatory Review

Under 4 Pa.C.S. § 1203, the Board's authority to adopt temporary regulations will expire 2 years from the effective date of 4 Pa.C.S. Part II.

Findings

The Board finds that:

(1) Under 4 Pa.C.S. § 1203, the temporary regulations are exempt from the requirements of the Regulatory Review Act and sections 201—205 of the CDL.

(2) A 30-day public comment period was held prior to the adoption of the temporary regulations. All comments received by the Board were reviewed and considered.

(3) The adoption of the temporary regulations provided by this order is necessary and appropriate for the administration of the authorizing statute.

Order

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

(a) The Board acting under the authority of the Act 71, adopts as its final-form temporary regulations, the draft regulations adopted by resolution at the November 17, 2005, public meeting. The temporary regulations pertain to change in ownership or control of slot machine licenses and multiple slot machine license prohibition, possession and movement of slot machines within this Commonwealth and the licensing of junket enterprises.

(b) The following temporary regulations of the Board, 58 Pa. Code Chapters 439, 441 and 463, are added: §§ 439.1—439.11, 441.18 and 463.1—463.6 to read as set forth in Annex A.

(c) The temporary regulations are effective November 17, 2005.

(d) The temporary regulations shall be posted in their entirety on the Board's website and published in the *Pennsylvania Bulletin*.

(e) The temporary regulations shall be subject to amendment as deemed necessary by the Board in accordance with the purpose of Act 71 and to further the intent of the Act 71.

(f) The Chairperson of the Board shall certify this order and deposit the regulations with the Legislative Reference Bureau as required by law.

THOMAS A. DECKER,
Chairperson

Fiscal Note: 125-10. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART VII. GAMING CONTROL BOARD

Subpart B. LICENSING, REGISTERING, CERTIFYING AND PERMITTING

CHAPTER 439. JUNKET ENTERPRISES

Sec.	
439.1.	Definitions.
439.2.	Junket enterprise license requirements.
439.3.	Junket enterprise license form.
439.4.	Junket representatives.
439.5.	Junket enterprise representative registration.
439.6.	Junket schedules.
439.7.	Junket arrival report.
439.8.	Junket final report.
439.9.	Monthly junket report.
439.10.	Purchase of patron lists.
439.11.	Junket prohibitions.

§ 439.1. Definitions.

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

Compensation—Any form of remuneration whatsoever, including:

- (i) The payment of cash.
- (ii) The forgiveness or forbearance of a debt.
- (iii) The direct or indirect provision of a product, service or item without charge or for less than full value.

Complimentary accommodations—

(i) A hotel accommodation provided to a person at no cost, or at a reduced price not generally available to the public under similar circumstances.

(ii) The term includes any hotel room provided to a person at a reduced price due to the anticipated or actual gaming activities of that person.

Complimentary service or item—A service or item provided directly or indirectly by a slot machine licensee at no cost or at a reduced price.

Junket—

(i) An arrangement made between a slot machine licensee and a junket enterprise or its junket representative, the purpose of which is to induce any person, selected or approved, to come to a licensed facility for the purpose of gambling and pursuant to which, and as consideration for which, any or all of the cost of transportation, food, lodging and entertainment for that person is directly or indirectly paid by a slot machine licensee. The person shall be selected or approved on the basis of one or more of the following:

(A) The ability to satisfy a financial qualification obligation related to the person's ability or willingness to gamble, which shall be deemed to occur whenever a person, as an element of the arrangement is required to perform one or more of the following:

(I) Establish a customer deposit with a slot machine licensee.

(II) Demonstrate to a slot machine licensee the availability of a specified amount of cash or cash equivalent.

(III) Gamble to a predetermined level at the licensed facility.

(IV) Comply with any similar obligation.

(B) The propensity to gamble, which shall be deemed to occur whenever that person has been selected or approved on the basis of one or more of the following:

(I) The previous satisfaction of a financial qualification obligation in accordance with the provisions of clause (A).

(II) An evaluation that the person has a tendency to participate in gambling activities as the result of:

(-a-) An inquiry concerning the person's tendency to gamble.

(-b-) Use of other means of determining that the person has a tendency to participate in gambling activities.

(ii) A rebuttable presumption that a person has been selected or approved for participation in an arrangement on a basis related to the person's propensity to gamble shall be created whenever the person is provided with one or more of the following:

(A) Complimentary accommodations as part of the arrangement.

(B) Complimentary food, entertainment or transportation which has a value of \$200 or more.

Junket enterprise—A person, other than a slot machine licensee, who employs or otherwise engages the services of a junket representative in connection with a junket to a licensed facility, regardless of whether or not the activities occur within this Commonwealth.

Junket representative—

(i) A natural person who negotiates the terms of, engages in the referral, procurement or selection of persons who may participate in any junket to a licensed facility, regardless of whether or not those activities occur within this Commonwealth.

(ii) A gaming employee of a slot machine licensee who performs the duties and functions listed in subparagraph (i) for the licensed facility is not a junket representative.

§ 439.2. Junket enterprise license requirements.

(a) Each slot machine licensee shall file a Junket Enterprise License Form with the Board to conduct business with a junket enterprise.

(b) Junket Enterprise License Forms shall be submitted by a slot machine licensee or applicant with a verification provided by the slot machine licensee or applicant that the junket enterprise's services will be utilized at the licensed facility.

(c) A junket enterprise shall be licensed as a junket enterprise prior to a slot machine licensee permitting a junket involving that junket enterprise to arrive at its licensed facility. A junket enterprise shall be considered "involved" in a junket to a licensed facility if it receives any compensation whatsoever from any person as a result

of the conduct of the junket. A slot machine licensee may not engage the services of any junket enterprise which has not been licensed.

§ 439.3. Junket enterprise license form.

A Junket Enterprise License Form must consist of an application processing fee and be in a format prescribed by the Board requesting the following information:

- (1) Any official or trade name used.
- (2) Current and former business addresses.
- (3) Telephone number.
- (4) The location of the applicant's business, a description of the type of junket services to be provided, a description of the geographic area from which the junkets will originate and the name of the slot machine licensees or applicants to which junkets will be provided.
- (5) Federal Employer Identification Number/Tax Identification Number.
- (6) Whether the junket enterprise is minority- or women-owned and controlled and the junket enterprise certification number, under Chapter 481 (relating to general provisions).
- (7) The form of business and a copy of the certificate of incorporation, charter, by-laws, partnership agreement, trust agreement or other basic documentation of the junket enterprise.
- (8) The date on which a formal acceptance of the agreement to conduct business with a slot machine licensee or applicant occurred and a copy of the agreement or in the absence of a written agreement, a description thereof, including the expected duration and compensation.
- (9) The names and addresses of all subsidiaries.
- (10) Whether the applicant has had any registration, license, permit or certificate granted, denied, suspended, conditioned or revoked by any government agency in this Commonwealth or any other jurisdiction, the nature of the registration, license, permit or certificate, the agency and its location, the date of the action and the facts related thereto.
- (11) The names, addresses, title or position, date of birth and information concerning any gaming licenses, registrations or permits previously or currently applied for in any jurisdiction, for each of the following:
 - (i) Any individual who entered into the agreement with or will deal directly with the slot machine licensee or applicant, including junket representatives; the immediate supervisors of the persons; and all persons responsible for the office out of which the junket representatives and supervisors work.
 - (ii) Any officer, partner or director who will be involved in the conduct of the junket business with the slot machine licensee or applicant.
 - (iii) If the junket enterprise is a sole proprietorship, the sole proprietor.
 - (iv) Each beneficial owner of more than 5% of the junket enterprise and the percentage of that ownership.
- (12) The name, address and percentage of ownership of each entity directly owning more than 5% of the junket enterprise or its business.
- (13) A Junket Enterprise License Form for the applicant and any key employee qualifier that is an entity, and for each affiliate, intermediary, subsidiary and holding company of the applicant.

(14) A Junket Enterprise Representative Registration for each junket representative, key employee qualifier who is a natural person and key employee.

(15) The applicant's Federal tax returns and related documents for the 3 years, State tax returns, when appropriate, and related documents for the 1 year preceding application.

(16) Information regarding any judgments or petitions for bankruptcy or insolvency and any relief sought under any provision of the Federal Bankruptcy Act or any state insolvency law.

(17) Information regarding any civil, criminal, administrative and investigatory proceedings relating to the applicant and its key employees and key employee qualifiers.

(18) A diversity plan as set forth in section 1325(b) of the act (relating to license or permit issuance) and Chapter 481, signed by the chief executive officer of the applicant.

(19) The name, position or title and signature of the individual who supplied the information in the Junket Enterprise License Form.

(20) Properly executed forms for consents to inspections, searches and seizures; waivers of liability for disclosures of information and consents to examination of accounts and records in forms as prescribed by the Board.

(21) Additional information requested by the Board.

§ 439.4. Junket representatives.

(a) A person may not act as a junket representative in connection with a junket to a licensed facility unless the person has been registered as a junket representative and is employed by a junket enterprise that has been licensed by the Board.

(b) A junket representative may only be employed by one junket enterprise at a time. For the purposes of this section, to qualify as an employee of a junket enterprise, a junket representative shall:

(1) Receive all compensation for his services as a junket representative within this Commonwealth through the payroll account of the junket enterprise.

(2) Exhibit all other appropriate indicia of genuine employment, including Federal and State taxation withholdings.

(c) A junket enterprise may not employ or otherwise engage the services of a junket representative except in accordance with this section.

§ 439.5. Junket enterprise representative registration.

(a) Junket Enterprise Representatives shall register with the Board.

(b) An application for a Junket Enterprise Representative Registration must be on a form prescribed by the Board and include the following:

(1) The name and address of the individual, to include the home address and residence history and all business addresses.

(2) Daytime and evening telephone numbers.

(3) Date of birth.

(4) Physical description of the applicant.

(5) Social Security number.

(6) Citizenship, and, if applicable, resident alien status, including employment authorization.

(7) Marital status.

(8) Military history.

(9) Employment history, including gaming-related employment and contact information for prior employers.

(10) Education history.

(11) Family and marital history, including any current court orders relating to alimony, spousal support or child support.

(12) Credit history.

(13) History of insurance claims relating to the business activities of the applicant.

(14) Information relating to any health-related issues involving alcohol or controlled substances.

(15) A list of at least five references, to include contact information for each.

(16) Verification of the applicant's employment or an offer of employment from a junket enterprise.

(17) A description of the employment responsibilities of the individual and their relationship to the junket enterprise and of all education, training and experience that qualifies the individual for the position.

(18) A signed, dated and notarized release authorization necessary to obtain information from governmental agencies and other institutions about the applicant.

(19) A description of the individual's criminal history records information and arrests or criminal charges brought against the individual.

(20) A photograph that meets the requirements prescribed by the Board.

(21) A set of fingerprints taken by the Pennsylvania State Police or a criminal justice agency designated by the Pennsylvania State Police and transmitted to the Pennsylvania State Police.

(22) A list of civil judgments consistent with section 1310(b) of the act (relating to slot machine license application character requirements).

(23) Details relating to any similar licenses obtained in other jurisdictions.

(24) A tax clearance and lien review from the Department.

(25) A nonrefundable application processing fee.

(26) Additional information requested by the Board.

(c) In addition to the information under subsection (b), the Board may require letters of reference from law enforcement agencies under section 1310(b) of the act (relating to slot machine license application character requirements).

(d) After review of the information submitted under subsections (b) and (c), including a background investigation, the Board may issue a Junket Enterprise Representative Registration if the individual has proven that he is a person of good character, honesty and integrity and is qualified to hold a Junket Enterprise Representative Registration.

(e) An individual who wishes to receive a Junket Enterprise Representative Registration under this chapter may provide the junket enterprise with written authorization to file the application on the individual's behalf.

(f) A Junket Enterprise Representative Registration issued under this section is nontransferable.

(g) The Board may issue, renew or deny a Junket Enterprise Representative Registration under this section, consistent with 18 Pa.C.S. § 9124 (relating to use of records by licensing agencies).

(1) If the Board provides an individual with the opportunity to demonstrate rehabilitation, the individual shall provide certification from the Pennsylvania Board of Probation and Parole or the county probation and parole office, whichever is applicable, that all obligations for restitution, fines and penalties have been met.

(i) The Board will provide notice to the district attorney of the individual's county of residence of the individual's request for a determination of rehabilitation.

(ii) The district attorney shall have 15 days from receipt of the notice to provide input into the determination.

(2) For an individual with out-of-State convictions, if the Board provides the individual with the opportunity to demonstrate rehabilitation, the individual shall provide certification from the equivalent state or county board of probation or parole, whichever is applicable that all obligations for restitution, fines and penalties have been met.

(i) The Board will provide notice to the district attorney or equivalent thereof of the individual's place of residence of the individual's request for a determination of rehabilitation.

(ii) The district attorney or equivalent thereof shall have 15 days from receipt of the notice to provide input into the determination.

(h) Nothing in subsection (g) shall be construed to authorize the issuance of a Junket Enterprise Representative Registration to an applicant who has been convicted of an offense under 18 Pa.C.S. (relating to crimes and offenses) or the criminal laws of any other jurisdiction which conviction indicates that the issuance of the Junket Enterprise Representative Registration to the applicant would be inimical to the public policy of the act or this part.

§ 439.6. Junket schedules.

(a) A junket schedule shall be prepared by a slot machine licensee for each junket that is arranged through a junket enterprise or its junket representative.

(b) A junket schedule shall be filed with the Board's Bureau of Corporate Compliance and Internal Controls by the slot machine licensee by the 15th day of the month preceding the month in which the junket is scheduled. If a junket for which a junket schedule is required by subsection (a) is arranged after the 15th day of the month preceding the arrival of the junket, an amended junket schedule shall be immediately filed with the Bureau of Corporate Compliance and Internal Controls by the slot machine licensee.

(c) Junket schedules shall be certified by an employee of the slot machine licensee and shall include:

(1) The origin of the junket.

(2) The number of participants in the junket.

(3) The arrival time and date of the junket.

(4) The departure time and date of the junket.

(5) The name and registration number of all junket representatives and the name and vendor license number of all junket enterprises involved in the junket.

(d) Any change in the information which occurs after the filing of a junket schedule or amended junket schedule with the Bureau of Corporate Compliance and Internal Controls shall be immediately reported in writing to the Bureau of Corporate Compliance and Internal Controls by the slot machine licensee. These changes, plus any other material change in the information provided in a junket schedule, shall also be noted on the arrival report.

(e) Filings required by this section shall be made at locations to be designated by the Bureau of Corporate Compliance and Internal Controls.

§ 439.7. Junket arrival report.

(a) A junket arrival report shall be prepared by a slot machine licensee for each junket arranged through a junket enterprise or its junket representative with whom the slot machine licensee does business, which involves one of the following:

- (1) A junket enterprise.
- (2) An offer of complimentary services or items which have a value in excess of \$200 per participant.
- (3) Complimentary accommodations.

(b) Junket arrival reports shall be maintained by the slot machine licensee on the premises of its licensed facility in compliance with the following:

(1) A junket arrival report involving complimentary accommodations shall be prepared within 12 hours of the arrival of the junket participant.

(2) A junket arrival report prepared under to subsection (a)(1) or (2) shall be filed by 5 p.m. of the next calendar business day following arrival. A junket arrival which occurs after 12 a.m. but before the end of the gaming day shall be deemed to have occurred on the preceding calendar day. For the purposes of this section, a business day shall be defined as any day except a Saturday, Sunday or State and Federal holiday.

(c) Junket arrival reports shall be certified by an employee of the slot machine licensee and shall include:

(1) A junket guest manifest listing the names and addresses of junket participants.

(2) Information required which has not been previously provided to the Bureau of Corporate Compliance and Internal Controls in a junket schedule pertaining to that particular junket, or an amendment thereto.

§ 439.8. Junket final reports.

(a) A final report shall be prepared by a slot machine licensee for each junket for which the slot machine licensee was required to prepare either a junket schedule or a junket arrival report.

(b) A final report shall be placed in its files within 7 days of the completion of the junket.

(c) A final report must include:

- (1) The actual amount of complimentary services and items provided to each junket participant.
- (2) Additional information requested by the Board.

§ 437.9. Monthly junket report.

Each slot machine licensee shall, on or before the 15th day of the month, prepare and file with the Board a

monthly junket report listing the name and registration number of each person who performed the services of a junket representative during the preceding month. The report shall be maintained by the slot machine licensee on the premises of its licensed facility and made available to the Bureau of Corporate Compliance and Internal Controls for inspection.

§ 437.10. Purchase of patron lists.

(a) Each slot machine licensee, junket representative and junket enterprise shall prepare and maintain a report with respect to each list of names of junket patrons or potential junket patrons purchased from or for which compensation was provided to any source whatsoever.

(b) The report required by subsection (a) must include:

- (1) The name and address of the person or enterprise selling the list.
- (2) The purchase price paid for the list or any other terms of compensation related to the transaction.
- (3) The date of purchase of the list.

(c) The report required by subsection (a) shall be filed as soon as is practicable at a location to be designated by the Bureau of Corporate Compliance and Internal Controls, but the report may not be filed later than 7 days after the receipt of the list by the purchaser.

§ 439.11. Junket prohibitions.

A junket enterprise or junket representative may not:

- (1) Engage in collection efforts.
- (2) Individually receive or retain any fee from a patron for the privilege of participating in a junket.
- (3) Pay for any services, including transportation or other items of value, provided to or for the benefit of any patron participating in a junket, unless otherwise disclosed to and approved by the Board.
- (4) Extend credit to or on behalf of any patron participating in a junket.

Subpart C. SLOT MACHINE LICENSING

CHAPTER 441. SLOT MACHINE LICENSES

§ 441.18. Change in ownership or control of slot machine licensee and multiple slot machine license prohibition.

(a) Under sections 1301 and 1304 of the act (relating to authorized slot machine licenses; and category 1 slot machine license), an applicant for an initial Category 2 slot machine license under section 1301 of the act, its affiliate, intermediary, subsidiary or holding company, may not possess any ownership or financial interest in any person eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies.

(b) Pursuant to a change in ownership or control of a slot machine licensee under section 1328 of the act (relating to change in ownership or control of slot machine licensee) and in accordance with section 1330 of the act (relating to multiple slot machine license prohibition), a slot machine licensee, including its affiliates, intermediaries, subsidiaries and holding companies, is prohibited from possessing an ownership or financial interest in any other slot machine licensee or in any other person eligible to apply for a Category 1 slot machine license or its affiliates, intermediaries, subsidiaries or holding companies that exceeds 33.3%.

(c) Nothing in subsection (b) prevents a slot machine licensee from possessing ownership or financial interests of 33.3% or less, in multiple slot machine licensees or in persons eligible to apply for a Category 1 slot machine license or their respective affiliates, intermediaries, subsidiaries or holding companies.

(d) If a slot machine licensee or its affiliates, intermediaries, subsidiaries or holding companies has an ownership or financial interest in another slot machine licensee that is in violation of subsection (a) or (b), the licensee will be required to divest that interest which is in excess of 33.3% in compliance with section 1330 of the act.

(e) Nothing in this section concerning ownership or financial interests applies to contractual interests including those in the nature of management contracts, options to purchase exercisable after the initial license has been issued or leases.

Subpart E. SLOT MACHINE TESTING, CERTIFICATION AND CONTROL

CHAPTER 463. POSSESSION OF SLOT MACHINES

463.1.	Possession of slot machines generally.
463.2.	Transportation of slot machines into, within, and out of this Commonwealth.
463.3.	Slot machine location.
463.4.	Connection to the central computer system.
463.5.	Slot machine master list.
463.6.	Notice to central computer system.

§ 463.1. Possession of slot machines generally.

(a) Except as otherwise provided in this section and 18 Pa.C.S. § 5513 (relating to gambling devices, gambling, etc.), a person may not possess within this Commonwealth any slot machine which may be used for gambling activity.

(b) The following persons and any employee or agent acting on their behalf may, subject to any terms and conditions imposed by the Board, possess slot machines in this Commonwealth for the purposes described in this chapter provided that the slot machines are stored in a secure location as specifically approved in writing by the Board and that any slot machines located outside of a licensed facility not be used for gambling activity:

(1) The holder of:

(i) A slot machine license, for the purpose of maintaining for use, training or actually using the machines in the operation of a licensed facility.

(ii) A manufacturer license for the purpose of manufacturing, exhibiting, demonstrating, training, or preparing for transfer to a supplier licensee.

(iii) A supplier license for the purpose of distributing, repairing, servicing, exhibiting or demonstrating slot machines and any training with regard thereto.

(2) An educational institution, as authorized in writing by the Board, for the purpose of teaching slot machine design, operation, repair or servicing.

(3) A manufacturer or supplier of slot machines not licensed within this Commonwealth, as authorized in writing by the Board, for the limited purpose of temporary exhibition or demonstration of same.

(4) A common carrier, for the purpose of transporting slot machines in accordance with provisions of § 463.2 (relating to the transportation of slot machines into, within and out of this Commonwealth).

(5) An employee or agent of the Board, the Pennsylvania State Police or any law enforcement agency of the

Commonwealth for the purpose of fulfilling official duties or responsibilities.

(6) Other persons authorized in writing by the Board upon a finding that the possession of slot machines by those persons in this Commonwealth is not contrary to the goals and objectives of the act.

§ 463.2. Transportation of slot machines into, within and out of this Commonwealth.

In furtherance of section 1511 of the act (relating to the Declaration of exemption from federal laws prohibiting slot machines), prior to the transport or movement of any slot machine into this Commonwealth, from one person authorized to possess slot machines under § 463.1 (relating to possession of slot machines generally) to another person so authorized within this Commonwealth or transport or movement out of this Commonwealth, those persons causing the slot machine to be transported or moved shall first notify the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board. The notice shall be submitted no later than the day the slot machine is transported or moved and include the following information:

(1) The name and address of the person shipping or moving the slot machine.

(2) The name and address of the person who owns the slot machine, if different from the person shipping or moving the machine.

(3) The name and address of any new owner in the event ownership is being changed in conjunction with the shipment or movement, if applicable.

(4) The method of shipment or movement and the name and address of the common carrier or carriers, if applicable.

(5) The name and address of the person to whom the slot machine is being sent and the destination of the slot machine, if different from that address.

(6) The quantity of slot machines being shipped or moved and the manufacturer's serial number of each machine.

(7) The expected date and time of delivery to, or removal from, any authorized location within this Commonwealth.

(8) The port of entry, or exit, if any, of the slot machine if the origin or destination of the slot machine is outside the continental United States.

(9) The reason for transporting or moving the slot machine.

§ 463.3. Slot machine location.

(a) A gaming floor must consist of one or more areas within a licensed facility approved by the Board for the placement and operation of slot machines.

(b) Each slot machine in a slot machine area on a gaming floor shall be placed at a location, which location may contain no more than one slot machine, identified by number on a gaming floor plan approved by the Board under section 1322 of the act (relating to slot machine

accounting controls and audits) and shall also be identified by this slot machine location number and an asset number on a Slot Machine Master List.

(c) For the purposes of this section, an asset number means a unique number assigned to a slot machine by a slot machine licensee for the purpose of tracking that slot machine while owned by the slot machine licensee.

§ 463.4. Connection to the central computer system.

Prior to its utilization for gambling activity, each slot machine on a gaming floor shall be connected or linked to a central computer system having the capabilities and pursuant to the terms of section 1323 of the act (relating to central control computer system).

§ 463.5. Slot machine master list.

(a) Prior to the commencement of operations at a licensed facility, each slot machine licensee shall file with the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, a comprehensive list of slot machines possessed by the licensee on its gaming floor, in Board-approved restricted areas off the gaming floor but within the licensed facility, and in Board-approved storage locations in this Commonwealth off the premises of the licensed facility. The list shall be denoted as a Slot Machine Master List and contain the following information which, for those slot machines located on the gaming floor, shall be presented for each slot machine in consecutive order by the slot machine location number under § 463.3 (relating to slot machine location):

- (1) The date the list was prepared.
- (2) A description of each slot machine by:
 - (i) Asset number and model and manufacturer's serial number.
 - (ii) Denomination, if configured for multiple denominations so designate.
 - (iii) Manufacturer and machine type, noting with specificity whether the machine is a high-boy, is a progressive or a wide area progressive slot machine.
 - (iv) An indication as to whether the slot machine has an activated electronic transfer credit feature.
 - (v) An indication as to whether the slot machine has an activated gaming voucher feature, and, if so, whether the feature is in lieu of a hopper.

(3) For those slot machines located off the gaming floor, an indication as to whether the slot machine is in a Board-approved restricted area off the gaming floor but within the licensed facility or in a Board-approved storage location in this Commonwealth off the premises of the licensed facility.

(4) Other information the Board may require.

(b) Once a slot machine has been placed in an authorized location on the gaming floor or is stored in a Board-approved restricted area off the gaming floor but within the licensed facility, all subsequent movements of that slot machine within the licensed facility shall be recorded by a slot department member in a machine movement log which includes the following:

- (1) The asset number and model and manufacturer's serial number of the moved slot machine.
- (2) The date and time of movement.
- (3) The location from which the slot machine was moved.
- (4) The location to which the slot machine was moved.
- (5) The data and time of any required notice to the department in connection with activation or disabling of the slot machine in the central computer system.
- (6) The signature of the slot shift manager and the lead technician verifying the movement of the slot machine in compliance with this section.

(c) Documentation summarizing slot machine movements within a licensed facility shall be submitted to the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, on a daily basis.

(d) On the first Tuesday of each month following the initial filing of a Slot Machine Master List, each slot machine licensee shall file with the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, an updated Slot Machine Master List documenting all slot machines possessed by the licensee on its gaming floor, in Board-approved restricted areas off the gaming floor but within the licensed facility, and in Board-approved storage locations in this Commonwealth off the premises of the licensed facility. The updated list must be in a form, and contain the information, required in subsection (a).

(e) Manufacturer licensees, supplier licensees, educational institutions, Board-authorized manufacturers and suppliers not licensed within this Commonwealth and regulatory and law enforcement agencies having authority to possess slot machines under § 463.1 (relating to possession of slot machines generally) who cause slot machines to be transported or moved shall file with the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, a comprehensive list of slot machines possessed by the person. The list shall be denoted as a Slot Machine Master List and shall be filed within 3 business days of the initial receipt of slot machines and contain the following information:

- (1) The date on which the list was prepared.
- (2) A description of each slot machine by:
 - (i) Model and manufacturer's serial number.
 - (ii) Manufacturer and machine type, noting with specificity whether the machine is a high-boy, is a progressive or a wide area progressive slot machine.

(f) On the first Tuesday of each month following the initial filing of a Slot Machine Master List, those persons enumerated in subsection (e) shall file with the Board's Director of Gaming Laboratory Operations, in writing or in an electronic format approved by the Board, an updated Slot Machine Master List. The updated list must be in a form, and contain the information, required in subsection (e).

§ 463.6. Notice to central computer system.

In addition to the recordkeeping requirements required hereunder, prior to the placement of a slot machine on the gaming floor, any movement of that slot machine between slot machine locations on the gaming floor or removal of a slot machine from the gaming floor, the slot machine licensee shall provide the Department with notice of the slot movement, in a form and pursuant to a time frame prescribed by the Department, to insure activation or disabling, as appropriate in the central computer system and the retrieval of real time meter information from the slot machine coincident with the movement.

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