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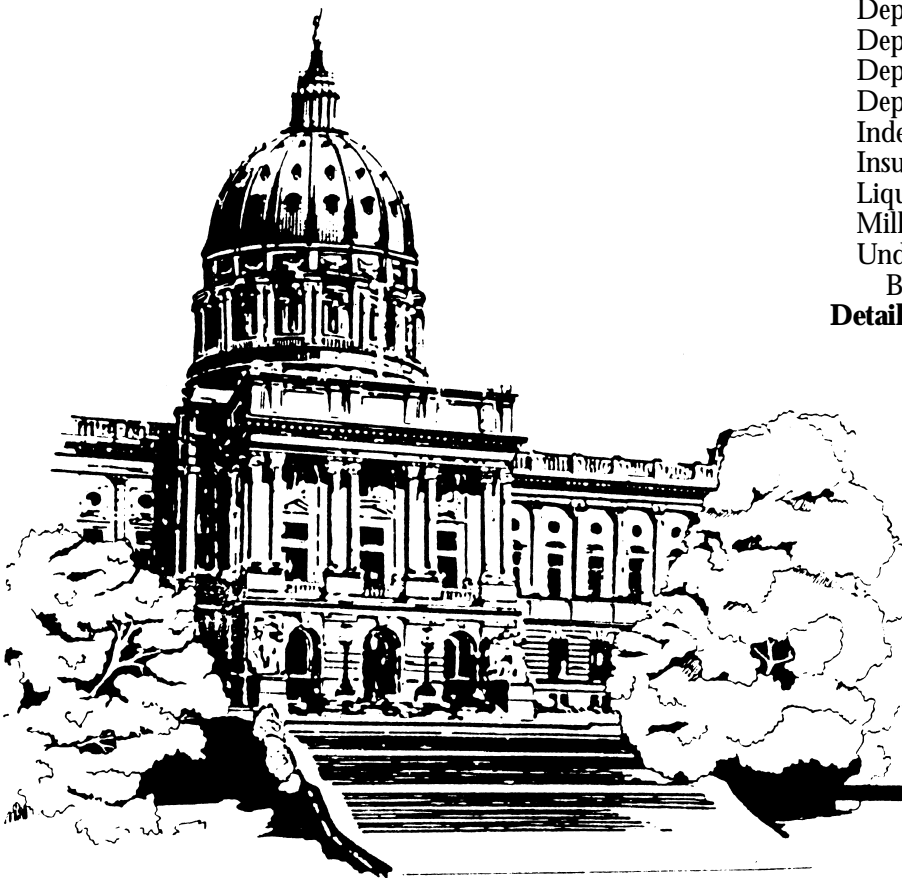
# PENNSYLVANIA BULLETIN

Volume 33  
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**Agencies in this issue:**

The General Assembly  
The Courts  
Department of Banking  
Department of Education  
Department of Environmental Protection  
Department of General Services  
Department of Health  
Department of Public Welfare  
Department of Revenue  
Department of Transportation  
Independent Regulatory Review Commission  
Insurance Department  
Liquor Control Board  
Milk Marketing Board  
Underground Storage Tank Indemnification  
Board

**Detailed list of contents appears inside.**



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

**No. 349, December 2003**

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# CONTENTS

## THE GENERAL ASSEMBLY

Recent actions during the 2003 regular session of the General Assembly . . . . . 6406

## THE COURTS

### DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of disbarment . . . . . 6414  
Notice of suspension (2 documents) . . . . . 6414

### LOCAL COURT RULES

#### Montgomery County

Offender supervision fee; no. MS 875 Oct. 03 . . . . . 6413

### RULES OF CRIMINAL PROCEDURE

Application of bail deposit to fines, costs, restitution . . . . . 6408  
Assessment and collection of fees in summary cases an appeal for a trial de novo . . . . . 6407  
Concurrent sentences and credit for time served . . . . . 6412  
Modification of bail by issuing authority prior to preliminary hearing . . . . . 6410

## EXECUTIVE AGENCIES

### DEPARTMENT OF BANKING

#### Notices

Action on applications . . . . . 6430

### DEPARTMENT OF EDUCATION

#### Notices

Request for proposals for evaluation of the Pennsylvania teacher quality enhancement grant . . . . . 6431

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

#### Notices

Applications, actions and special notices . . . . . 6431  
Board and committee meeting schedules for 2004 . . . . . 6463  
Proposed revision to the State implementation plan for ozone for the Philadelphia ozone nonattainment area; public hearing . . . . . 6467  
Request for proposals for professional ethics course . . . . . 6467

### DEPARTMENT OF GENERAL SERVICES

#### Notices

State contracts information . . . . . 6477

### DEPARTMENT OF HEALTH

#### Notices

Applications for exception:  
Evangelical Community Hospital . . . . . 6467  
Southwestern Endoscopy Center, LLC . . . . . 6468  
Health Policy Board meetings . . . . . 6468

### DEPARTMENT OF PUBLIC WELFARE

#### Statements of Policy

Emergency plan . . . . . 6428

#### Notices

Payment for nursing facility services; change of the definition of MA day of care . . . . . 6468

### DEPARTMENT OF REVENUE

#### Rules and Regulations

Employer withholding provisions . . . . . 6423

### DEPARTMENT OF TRANSPORTATION

#### Notices

Approved speed-timing devices and appointment of maintenance and calibration stations . . . . . 6469  
Finding . . . . . 6472

### INDEPENDENT REGULATORY REVIEW COMMISSION

#### Notices

Actions taken by the Commission . . . . . 6472  
Notice of comments issued . . . . . 6473

### INSURANCE DEPARTMENT

#### Rules and Regulations

Owner and operator fees . . . . . 6419  
Recognition of the 2001 CSO mortality table for use in determining minimum reserve liabilities and nonforfeiture benefits . . . . . 6420

#### Notices

Application for increase in underwriting authority of a domestic stock casualty insurance corporation . . . . . 6473  
Coal Mine Compensation Rating Bureau; workers' compensation loss cost filing; rate filing . . . . . 6474  
List of names of qualified unlicensed reinsurers . . . . . 6474  
Marti, Tim and Sue; prehearing . . . . . 6475  
Review procedure hearings; cancellation or refusal of insurance . . . . . 6476

### LIQUOR CONTROL BOARD

#### Notices

Expiration of leases . . . . . 6476

### MILK MARKETING BOARD

#### Rules and Regulations

Milk marketing fees . . . . . 6415

### UNDERGROUND STORAGE TANK INDEMNIFICATION BOARD

#### Rules and Regulations

Owner and operator fees . . . . . 6418

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

## ***Pennsylvania Bulletin***

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

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

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

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

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

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

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

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

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

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

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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# List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2003.

## 1 Pa. Code (General Provisions)

### Proposed Rulemaking

301	3501
303	3501
305	3501
307	3501
309	3501
311	3501

## 4 Pa. Code (Administration)

### Adopted Rules

1	1452, 3476, 4063, 4065
5	3478, 3480, 3600
6	4886, 5070
7	3483, 3486, 3989

### Proposed Rulemaking

243	892
249	892

### Statements of Policy

1 (with correction)	1624
9	34, 760, 1722, 2984, 3510, 3615, 4178, 4689, 4787, 5083, 5322, 5931

## 7 Pa. Code (Agriculture)

### Adopted Rules

21	1329
31	6137
35	6137
41	6137
43	6137
45	6137
46	6137
47	6137
53	6137
55	6137
59	4445
61	6137
63	6137
78	6137
79	6137
80	6137
81	6137
106	541
150	6415

### Statements of Policy

133	2172
-----	------

## 17 Pa. Code (Conservation and Natural Resources)

### Adopted Rules

23	21
51	4669

## 22 Pa. Code (Education)

### Adopted Rules

4	255, 283
403	2980

### Proposed Rulemaking

4	1847
7	5735
11	4300

12	5735
14	4306
73	2885
215	882

## 25 Pa. Code (Environmental Protection)

### Adopted Rules

86	3608
93	1226, 1227, 5415, 5418, 5420
109	5916
130 (with correction)	5297, 5618
977	6419

### Proposed Rulemaking

86	4554
89	4554
93 (with correction)	4165, 5190
109 (with correction)	1234, 1239, 1350, 3609, 3730
121	6226
129	6226
145	6226
215	4393
216	4393
217	4393
218	4393
219	4393
220	4393
221	4393
223	4393
224	4393
225	4393
226	4393
227	4393
228	4393
230	4393
240	4393
271	2880
287	2880

### Proposed Statements of Policy

16	5202
----	------

## 28 Pa. Code (Health and Safety)

### Adopted Rules

912	2865
1101	4900
1103	4900, 5080
1105	4900
1107	4900
1109	4900
1113	4900

### Proposed Rulemaking

25	2169
1001	4450
1003	4450
1005	4450
1007	4450
1051	4450

### Statements of Policy

107	4789
-----	------

**31 Pa. Code (Insurance)**

**Adopted Rules**

84d ..... 6420  
 115 ..... 346  
 165 ..... 24

**Proposed Rulemaking**

84d ..... 4297  
 146c ..... 4917

**34 Pa. Code (Labor and Industry)**

**Adopted Rules**

65 ..... 25  
 101 ..... 4674

**37 Pa. Code (Law)**

**Adopted Rules**

11 ..... 4074  
 13 ..... 4074  
 14 ..... 4074  
 21 ..... 4074  
 31 ..... 4074  
 33 ..... 4074  
 41 ..... 4074  
 51 ..... 4074  
 53 ..... 4074  
 55 ..... 4074  
 56 ..... 4074  
 58 ..... 4074  
 59 ..... 4074  
 203 ..... 6046  
 421 ..... 353  
 431 ..... 1617

**Proposed Rulemaking**

23 ..... 6227  
 41 ..... 6228  
 203 ..... 1246

**49 Pa. Code (Professional and Vocational Standards)**

**Adopted Rules**

9 ..... 28  
 21 ..... 6219  
 29 ..... 5916  
 31 ..... 5920  
 36 ..... 358, 2476, 2869  
 49 ..... 1346

**Proposed Rulemaking**

1 ..... 4685  
 3 ..... 4685  
 9 ..... 1116  
 13 ..... 1358, 4569  
 15 ..... 5740  
 19 ..... 1124, 4687  
 21 ..... 4462  
 23 ..... 1118, 1120, 4464  
 31 ..... 1359  
 35 ..... 4571  
 40 ..... 1715, 5742

**Statements of Policy**

27 ..... 5202

**52 Pa. Code (Public Utilities)**

**Adopted Rules**

57 ..... 5923  
 59 ..... 5923  
 63 ..... 6047

**Proposed Rulemaking**

53 ..... 1106  
 54 ..... 31  
 57 (with correction) ..... 2064, 4921, 5201  
 59 ..... 2064

**55 Pa. Code (Public Welfare)**

**Adopted Rules**

183 ..... 4161  
 1101 (with correction) ..... 361  
 4225 ..... 1051  
 4226 ..... 1051

**Statements of Policy**

3270 ..... 6428  
 3280 ..... 6428  
 3290 ..... 6428

**58 Pa. Code (Recreation)**

**Adopted Rules**

51 ..... 1348, 5704  
 53 ..... 1228  
 61 ..... 1229, 5705  
 63 ..... 1468, 4447, 5704  
 65 ..... 1229, 3496, 4074, 5705, 6061  
 69 ..... 1230, 3496, 6061  
 71 ..... 4447  
 73 ..... 4447  
 75 ..... 3496  
 77 ..... 3496  
 91 ..... 1348, 3496, 3497  
 93 ..... 1348  
 97 ..... 5925, 6061  
 109 ..... 3497  
 111 ..... 1231, 3496  
 117 ..... 3497  
 131 ..... 5314  
 135 ..... 2748, 2871, 5315  
 137 (with correction) ..... 1470, 1471  
 139 ..... 2872, 2878  
 141 (with correction) ..... 1473, 2749, 2751, 2752, 2753, 2871, 5316, 5317, 5318  
 143 ..... 1475, 2753, 5314, 5319  
 147 ..... 1714, 2748, 2754, 5314, 5320

**Proposed Rulemaking**

51 ..... 3126, 5081  
 61 ..... 2757, 3992, 4076  
 63 ..... 2757, 2762, 3126, 3992, 5081, 5927  
 65 ..... 1479, 2757, 2760, 3127, 3992, 4076, 5927  
 69 ..... 1479, 2757, 3127, 3992  
 71 ..... 2762  
 73 ..... 2762  
 75 ..... 1479  
 77 ..... 1479  
 91 ..... 1482  
 93 ..... 5081, 5927  
 97 ..... 3127  
 105 ..... 4077  
 109 ..... 1482  
 111 ..... 1479, 5929  
 117 ..... 1482  
 131 ..... 2589  
 135 ..... 1350, 2763  
 137 ..... 4680  
 139 ..... 1098, 1103  
 141 ..... 1103, 1351, 1353, 1355, 1357, 2590, 2591, 2881, 2882, 4680  
 143 ..... 1357, 1484, 2589, 2883  
 147 ..... 1350, 2589, 2884, 4682



147b ..... 4682  
 147c ..... 4682

**Statements of Policy**

57 ..... 3513

**Proposed Statements of Policy**

57 ..... 1487

**61 Pa. Code (Revenue)**

**Adopted Rules**

32 ..... 6222  
 34 ..... 2756  
 71 ..... 1842  
 85 ..... 1842  
 113 ..... 6423  
 121 ..... 6423  
 815 ..... 1845  
 817 ..... 6224  
 831 ..... 6224  
 867 ..... 6224  
 868 ..... 6224  
 869 ..... 6224  
 951 ..... 3124

**64 Pa. Code (Securities)**

**Adopted Rules**

102 (with correction) ..... 3365, 3500  
 202 (with correction) ..... 3365, 3500  
 203 (with correction) ..... 3365, 3500  
 204 (with correction) ..... 3365, 3500  
 207 (with correction) ..... 3365, 3500  
 305 (with correction) ..... 3365, 3500  
 606 (with correction) ..... 3365, 3500

**Proposed Rulemaking**

102 ..... 884  
 202 ..... 884  
 203 ..... 884  
 204 ..... 884  
 207 ..... 884  
 305 ..... 884  
 606 ..... 884

**67 Pa. Code (Transportation)**

**Adopted Rules**

71 ..... 5817  
 171 ..... 5817  
 175 ..... 5817  
 177 ..... 2479, 3608, 5706  
 449 ..... 2378

**Proposed Rulemaking**

83 ..... 4171  
 175 ..... 4175  
 201 ..... 1930  
 203 ..... 1930  
 211 ..... 1930  
 212 ..... 1930

**Statements of Policy**

102 ..... 1624  
 204 ..... 1361, 5619

**Proposed Statements of Policy**

41 ..... 2889

**201 Pa. Code (Rules of Judicial Administration)**

**Adopted Rules**

3 ..... 2044  
 7 ..... 634

17 ..... 1926  
 19 ..... 1711

**204 Pa. Code (Judicial System General Provisions)**

**Adopted Rules**

29 ..... 4783, 5173  
 83 ..... 4891, 5412  
 71 ..... 6208  
 85 ..... 967  
 211 ..... 4784, 6208  
 401 ..... 4430

**Proposed Rulemaking**

81 ..... 3306, 5602  
 83 ..... 744, 2857, 5602, 5606  
 401 ..... 2468

**207 Pa. Code (Judicial Conduct)**

**Adopted Rules**

4 ..... 3359  
 51 ..... 3359  
 121 ..... 1449

**Proposed Rulemaking**

4 ..... 2474  
 51 ..... 745

**210 Pa. Code (Appellate Procedure)**

**Adopted Rules**

1 ..... 2586  
 21 ..... 1711, 2044, 2586  
 35 ..... 2973, 5075  
 65 ..... 5075, 5913  
 67 ..... 2973

**Proposed Rulemaking**

15 ..... 2259  
 17 ..... 3603  
 19 ..... 4552  
 21 ..... 4552  
 33 ..... 3603

**225 Pa. Code (Rules of Evidence)**

**Adopted Rules**

IV ..... 2973  
 VII ..... 4784

**Proposed Rulemaking**

IV ..... 197, 2355  
 VII ..... 198

**231 Pa. Code (Rules of Civil Procedure)**

**Adopted Rules**

200 ..... 634, 748, 1712, 2356, 2974, 4071, 5506  
 400 ..... 2974  
 1000 ..... 748, 751, 1450, 1926, 2356, 2587, 2974, 5506  
 1300 ..... 2359  
 1910 ..... 4072, 4435, 5075  
 1920 ..... 4072  
 1930 ..... 13  
 2120 ..... 751, 1450  
 2150 ..... 751, 1450  
 2170 ..... 751, 1450  
 2350 ..... 1927  
 2950 ..... 2974  
 2970 ..... 2974  
 3000 ..... 2974  
 4000 ..... 748, 2974, 5506

**Proposed Rulemaking**

200 ..... 3361  
 1000 ..... 5174, 5175  
 1910 ..... 3490, 6016  
 1930 ..... 1580  
 2250 ..... 5175  
 4000 ..... 3362

**234 Pa. Code (Rules of Criminal Procedure)**

**Adopted Rules**

1 ..... 1324, 4287  
 4 ..... 969, 1324, 4289  
 7 ..... 1927, 4436  
 10 ..... 3363

**Proposed Rulemaking**

1 ..... 967, 1048, 2161, 5607  
 2 ..... 2163  
 4 ..... 6407  
 5 ..... 5607, 6408  
 6 ..... 1049, 2164  
 7 ..... 2161, 6410, 6412

**237 Pa. Code (Juvenile Rules)**

**Proposed Rulemaking**

1 ..... 1581  
 2 ..... 1581  
 3 ..... 1581  
 4 ..... 1581  
 5 ..... 1581  
 6 ..... 1581  
 8 ..... 1581

**246 Pa. Code (Minor Court Civil Rules)**

**Adopted Rules**

100 ..... 2167  
 200 ..... 4663  
 300 ..... 3491, 4663  
 400 ..... 4663  
 500 ..... 4663

**Proposed Rulemaking**

200 ..... 4892  
 300 ..... 4892  
 400 ..... 4892, 5076  
 500 ..... 4892  
 600 ..... 753  
 1000 ..... 753

**249 Pa. Code (Philadelphia Rules)**

Unclassified ..... 532, 2269, 2360, 2655, 2656, 2745, 3606, 5814

**252 Pa. Code (Allegheny County Rules)**

Unclassified ..... 757

**255 Pa. Code (Local Court Rules)**

Unclassified ..... 14, 17, 200, 341, 540, 635, 758  
 873, 874, 875, 878, 879, 880, 1221, 1450, 1713, 1838, 1929, 2045, 2047, 2168, 2270, 2272, 2374, 2375, 2376, 2474, 2588, 2857, 2858, 2862, 2864, 2977, 2978, 3123, 3494, 3728, 3729, 4073, 4159, 4439, 4666, 4785, 4897, 5077, 5078, 5176, 5295, 5296, 5412, 5413, 5512, 5513, 5514, 5515, 5525, 5526, 5616, 5696, 5698, 5701, 5702, 5814, 5815, 6043, 6209, 6210, 6215, 6218, 6413

# THE GENERAL ASSEMBLY

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

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

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2003 GENERAL ACTS ENACTED—ACT 040</b>					
040	Dec 10	HB0085	PN3060	immediately*	Education (24 Pa.C.S.) and State Government 71 (Pa.C.S.)—actuarial cost method and class of service for bail commissioners

\* 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.

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

[Pa.B. Doc. No. 03-2441. Filed for public inspection December 26, 2003, 9:00 a.m.]

# THE COURTS

## Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 4]

### Assessment and Collection of Fees in Summary Cases on Appeal for a Trial De Novo

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania revise the Comment to Rule 462 (Trial de novo) to clarify how fees in summary cases are to be assessed. This revision would make it clear that fees and costs assessed in summary cases may be assessed only once, either by the district justice at the conclusion of the summary case or by the common pleas court at the trial de novo. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed rule changes precedes the Report. Additions are shown in bold.

We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel,

Anne T. Panfil, Chief Staff Counsel  
Supreme Court of Pennsylvania  
Criminal Procedural Rules Committee  
5035 Ritter Road, Suite 800  
Mechanicsburg, PA 17055  
fax: (717) 795-2106  
e-mail: criminal.rules@pacourts.us

no later than Friday, January 23, 2004.

By the Criminal Procedural Rules Committee

JOHN J. DRISCOLL,  
Chair

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 4. PROCEDURES IN SUMMARY CASES PART F. Procedures in Summary Cases Under the Vehicle Code

#### Rule 462. Trial De Novo.

\* \* \* \* \*

(G) At the time of sentencing, the trial judge shall:

(1) if the defendant's sentence includes restitution, a fine, or costs **and fees**, state the date on which payment is due. If the defendant is without the financial means to pay the amount in a single remittance, the trial judge may provide for installment payments and shall state the date on which each installment is due;

\* \* \* \* \*

(H) After sentence is imposed by the trial judge, the case shall remain in the court of common pleas for the

execution of sentence, including the collection of any fine and restitution, and for the collection of any costs **and fees**.

#### Comment

\* \* \* \* \*

Once sentence is imposed, paragraph (H) makes it clear that the case is to remain in the court of common pleas for execution of the sentence and collection of any costs **or fees in the case that were not collected by the district justice**, and the case may not be returned to the district justice. The execution of sentence includes the collection of any fines and restitution.

**Costs and fees authorized by law are to be assessed against a defendant on a per case basis. When a defendant appeals a summary conviction for a trial de novo in the court of common pleas, this is the same case that was before the district justice. Therefore, any costs and fees in the case may be assessed and collected only once, either by the district justice at the conclusion of the summary trial or in the court of common pleas following a trial de novo.**

**Official Note:** Former Rule 86 adopted July 12, 1985, effective January 1, 1986; revised September 23, 1985, effective January 1, 1986; the January 1, 1986 effective dates extended to July 1, 1986; amended February 2, 1989, effective March 1, 1989; amended March 22, 1993, effective January 1, 1994; amended October 28, 1994, effective as to cases instituted on or after January 1, 1995; amended February 27, 1995, effective July 1, 1995; amended October 1, 1997, effective October 1, 1998; amended May 14, 1999, effective July 1, 1999; rescinded March 1, 2000, effective April 1, 2001, and paragraph (G) replaced by Rule 462. New Rule 462 adopted March 1, 2000, effective April 1, 2001; amended February 26, 2003, effective July 1, 2003; **amended \_\_\_\_\_, 2004, effective \_\_\_\_\_, 2004.**

Committee Explanatory Reports:

\* \* \* \* \*

NEW RULE 462:

\* \* \* \* \*

**Report explaining the proposed changes concerning fees and costs in summary cases appealed for a trial de novo published at 33 Pa.B. 6408 (December 27, 2003).**

#### REPORT

#### Rule 462 Comment Revision

### ASSESSMENT AND COLLECTION OF FEES IN SUMMARY CASES ON APPEAL FOR A TRIAL DE NOVO

The Criminal Procedural Rules Committee is proposing the Court make changes to Rule 462 (Trial de novo) to make it clear that fees and costs assessed against a defendant in a summary case may be assessed only once, either by the district justice at the conclusion of the summary case or by the common pleas court at the trial de novo. These changes clarify in the Rule 462 Comment the intent of the summary case rules that a summary case that is appealed for a trial de novo is the same case as the summary case before the district justice.

The Committee received an inquiry concerning whether the practice in some judicial districts of collecting two Judicial Computer Project (JCP) fees—one when a defendant is convicted by a district justice, and the second when the defendant is convicted following a trial de novo in the court of common pleas—conflicts with the Criminal Rules. In determining how to respond to the inquiry, the Committee looked at the Committee rule history and noted that the rules always have intended that the right to a trial de novo in the court of common pleas following a summary conviction is considered to be the same as though the defendant never had been tried and convicted at the district justice level; i.e., the case essentially starts over with the appeal, so there is only one case. We also reviewed 42 Pa.C.S. § 3733 (Deposits into account) (relating to the Judicial Computer Augmentation Account), and concluded this statute does not address nor sanction specifically the practice of twice assessing the fee when a summary case is appealed to the court of common pleas for a trial de novo.<sup>1</sup>

In view of the Committee's determination that when a summary case is appealed to the common pleas court for a trial de novo, the trial in common pleas is the same case and any fees and costs in the case should not be assessed against the defendant two times, and the fact that some judicial districts are assessing these costs and fees twice, we agreed the issue should be made clearer by adding language to the Rule 462 Comment encompassing the concept that the trial de novo is not a new case but is a continuation of the original case and consequently any costs and fees assessed to the case may be assessed one time only; therefore, any fees or costs that are charged to a case when it is at the district justice level may not be also charged at the court of common pleas level when the case is appealed for a trial de novo.

Accordingly, the Committee is proposing the addition of the following language as a new paragraph in the Rule 462 Comment:

Costs and fees authorized by law are to be assessed against a defendant on a per case basis. When a defendant appeals a summary conviction for a trial de novo in the court of common pleas, this is the same case that was before the district justice. Therefore, any costs and fees in the case may be assessed and collected only once, either by the district justice at the conclusion of the summary trial or in the court of common pleas following a trial de novo.<sup>2</sup>

[Pa.B. Doc. No. 03-2442. Filed for public inspection December 26, 2003, 9:00 a.m.]

### [234 PA. CODE CH. 5]

#### Application of Bail Deposit to Fines, Costs, Restitution

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Pa.R.Crim.P. 535 (Receipt for Deposit; Return of Deposit) to make it clear that the court official who accepts a deposit of bail may not inquire of the depositor whether he or she consents to have the deposit retained to be applied toward the defendant's fines, costs, or

<sup>1</sup> During the course of our consideration, the Committee realized that the issue is broader than the assessment of only the JCP fee and applies to any costs and fees that are assessed.

<sup>2</sup> We also are proposing that "and fees" be added following "costs" in paragraphs (G) and (H) of the rule.

restitution, if any. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report should not be confused with the official Committee Comment to the rule. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed amendment precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel,

Anne T. Panfil, Chief Staff Counsel  
Supreme Court of Pennsylvania  
Criminal Procedural Rules Committee  
5035 Ritter Road, Suite 800  
Mechanicsburg, PA 17055  
fax: (717) 795-2106  
e-mail: criminalrules@pacourts.us

no later than Friday, January 23, 2004.

By the Criminal Procedural Rules Committee

JOHN J. DRISCOLL,  
Chair

#### Annex A

### TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

#### PART C(2). General Procedures In All Bail Cases

#### Rule 535. Receipt for Deposit; Return of Deposit.

(A) The issuing authority or the clerk of courts who accepts a deposit of cash in satisfaction of a monetary condition of bail shall give the depositor an itemized receipt, and shall note on the transcript or docket and the bail bond the amount deposited and the name of the person who made the deposit.

(1) When the issuing authority accepts such a deposit, the deposit, the docket transcript, and a copy of the bail bond shall be delivered to the clerk of courts.

**(2) The individual accepting a bail deposit shall not inquire of the depositor whether he or she consents to have the deposit retained to be applied toward the defendant's fines, costs, or restitution, if any.**

\* \* \* \* \*

#### Comment

[This rule is not intended to change current practice.

**A ] Paragraph (A) was amended in 2004 to make it clear that the clerk of courts or other official accepting a deposit of cash bail is not permitted to request that the depositor agree to have the cash bail deposit retained after the full and final disposition of the case to be applied toward the payment of the defendant's fines, costs, or restitution, if any. See, e.g., *Commonwealth v. McDonald*, 382 A.2d 124 (Pa. 1978), which held that a deposit of cash to satisfy a defendant's monetary bail condition that is made by a person acting as a surety for the defendant may not be**

retained to pay for the defendant's court costs and/or fines. [See *Commonwealth v. McDonald*, 382 A.2d 124 (Pa. 1978). ]

\* \* \* \* \*

**Official Note:** Former Rule 4015, previously Rule 4009, adopted November 22, 1965, effective June 1, 1966; renumbered Rule 4015, former paragraph (b) integrated into paragraph (a) and new paragraph (b) adopted July 23, 1973, effective 60 days hence; rescinded September 13, 1995, effective January 1, 1996, and replaced by present Rule 4015. Present Rule 4015 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 535 and amended March 1, 2000, effective April 1, 2001; amended April 20, 2000, effective July 1, 2000; **amended \_\_\_\_\_, 2004, effective \_\_\_\_\_, 2004.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Report explaining the proposed changes to paragraph (A) of the rule published at 33 Pa.B. 6409 (December 27, 2003).**

## REPORT

### *Proposed Amendment to Pa.R.Crim.P. 535*

#### APPLICATION OF BAIL DEPOSIT TO FINES, COSTS, RESTITUTION

##### I. Introduction

The Criminal Procedural Rules Committee is proposing that Pa.R.Crim.P. 535 (Receipt for Deposit; Return of Deposit) be amended to provide in the text of the rule the specific prohibition that the court official who accepts a deposit of bail may not inquire of the depositor whether the depositor consents to have the cash bail deposit retained to be applied toward the defendant's fines, costs, or restitution, if any. This proposed amendment is not a change in the current law concerning the use of bail money deposits, but rather is a clarification of the provision in the Rule 535 Comment cross-referencing *Commonwealth v. McDonald*, 382 A.2d 124 (Pa. 1978), in which the Court held that "a deposit of cash to satisfy a defendant's monetary bail condition that is made by a person acting as a surety for the defendant may not be retained to pay for the defendant's court costs and/or fines."<sup>1</sup>

The Committee undertook a review of the issue of using monetary bail deposits to pay a defendant's court costs and fines following an inquiry from the Common Pleas Court Management System (CPCMS) staff whether the monetary bail deposit may be retained to offset the defendant's fines, costs, restitution, and attorney's fees. The CPCMS staff noted monetary bail deposits are being retained for this purpose in some judicial districts notwithstanding the language in the Rule 535 Comment, and these judicial districts asked that the CPCMS be designed to accommodate the practice.

##### II. Discussion

The Committee approached the issue from two perspectives: (1) whether the practice in some judicial districts of using bail deposits to offset fines, costs, and restitution is

<sup>1</sup> This provision was added to the bail rules in 1995 as part of the general reorganization and revision of the bail rules. See Committee explanatory Final Report, 35 Pa.B. 4116 (September 30, 1995).

permissible under the rules and (2) if not, whether the rules should be amended to permit the practice. From a review of the Criminal Rules and law, the members concluded that the practice is contrary to the purpose of bail, which is to ensure a defendant's appearance at all court proceedings, and conflicts with Rule 535(D), which provides that the deposit shall be returned to the depositor, less any bail-related fees or commissions authorized by law, and the reasonable costs, if any, of administering the percentage cash bail program.

In considering whether Rule 535 should be amended to permit a court official to ask a bail depositor to agree to the use of the bail deposit to offset fines, costs, and restitution, the members identified a number of practical concerns about such a practice:

(1) using bail as an offset is contrary to the purpose of bail;

(2) requesting the depositor to agree may be coercive on and confusing to the bail depositor, who frequently will not fully understand the nature and consequences of the agreement he or she is being asked to make;

(3) requesting the defendant's agreement easily could become an improper condition of release on bail;

(4) permitting the practice could lead to the unintended and unacceptable collateral consequences of police officers no longer exercising their discretion to release defendants pursuant to Rule 519(B) or bail authorities no longer utilizing ROR or conditional release in order to ensure the collection of fines and costs; and

(5) such a practice is inequitable and unfair because, for example, some defendants are given ROR and others are required to post a monetary condition of bail for the same offenses, such as when you have a resident defendant and a non-resident defendant.

In view of these considerations, the Committee agreed the rules should not be amended to permit the practice; rather, the rules should be amended to include a specific prohibition against the practice. The Committee further agreed the amendment should be incorporated into the text of Rule 535 and should be limited to a prohibition on the request for consent to use the bail deposit to offset fines, costs, and restitution at the time the monetary bail deposit is made,<sup>2</sup> leaving the questions about when, if ever, the bail deposits may be used to offset fines, costs, and restitution to the courts.<sup>3</sup>

The proposed new language being added is new paragraph (A)(2), with a correlative explanatory paragraph added to the current provision in the Comment citing *Commonwealth v. McDonald*. In addition, although the new provision is not a change in the intent of the rules, because it is a change in what is the current practice in some judicial districts, the Committee agreed the first sentence of the Comment that provides "this rule is not intended to change current practice" should be deleted.

[Pa.B. Doc. No. 03-2443. Filed for public inspection December 26, 2003, 9:00 a.m.]

<sup>2</sup> The Committee also agreed to advise the Administrative Offices of Pennsylvania Courts (AOPC) that, to ensure compliance with the rules concerning using bail to offset fines, costs, and restitution, there should not be any type of form either sanctioned by the rules or AOPC or produced by the CPCMS that could be used to obtain the consent of the depositor.

<sup>3</sup> The members also discussed the practice of some attorneys entering into an agreement with their client for the use of the bail deposit for attorneys' fees. Because this is an agreement between the attorney and the defendant, the Committee did not think the practice should be addressed in the rules.

[234 PA. CODE CH. 5]

Modification of Bail By Issuing Authority Prior to Preliminary Hearing

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 529 (Modification of Bail Order Prior to Verdict) to provide that an issuing authority may modify a bail order at anytime following the preliminary arraignment through the preliminary hearing. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed rule changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel,

Anne T. Panfil, Chief Staff Counsel
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no later than Friday, January 23, 2004.

By the Criminal Procedural Rules Committee

JOHN J. DRISCOLL,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART C(1). Release Procedures

Rule 529. Modification of Bail Order Prior to Verdict.

(A) [A bail order may be modified by an issuing authority at any time before the preliminary hearing upon the request of the defendant with the consent of an attorney for the Commonwealth, or at the preliminary hearing upon the request of either party.] The proper issuing authority, upon request of the defendant or the attorney for the Commonwealth, or upon the issuing authority's own motion, and after notice to the defendant and the attorney for the Commonwealth and an opportunity to be heard, may modify a bail order at anytime before the preliminary hearing.

(B) A bail order may be modified by an issuing authority at the preliminary hearing.

(C) The existing bail order may be modified by a judge of the court of common pleas:

\* \* \* \* \*

[(C) ] (D) \* \* \*

\* \* \* \* \*

[(D) ] (E) \* \* \*

Comment

\* \* \* \* \*

The procedures for modification of a bail order by the issuing authority were amended in 2004 to permit the issuing authority to modify bail at any time before the preliminary hearing on the issuing authority's own motion or request of a party when, for example, new information becomes available concerning the defendant that would affect the issuing authority's decision concerning the type of release and the conditions of release imposed at the preliminary arraignment.

Pursuant to this rule, the motion, notice, and hearing requirements in paragraphs [(B) ](C)(1) and [(C) ](D)(2) must be followed in all cases before a common pleas court judge may modify a bail order unless the modification is made on the record in open court either when all parties are present at a pretrial hearing—such as a suppression hearing—or during trial.

\* \* \* \* \*

Official Note: Former Rule 4008 adopted July 23, 1973, effective 60 days hence; rescinded September 13, 1995, effective January 1, 1996, and replaced by Rule [ 530 ] 4010. Present Rule 4008 adopted September 13, 1995, effective January 1, 1996. The January 1, 1996 effective dates extended to April 1, 1996; the April 1, 1996 effective dates extended to July 1, 1996; renumbered Rule 529 and amended March 1, 2000, effective April 1, 2001; amended \_\_\_\_\_, 2004, effective \_\_\_\_\_, 2004.

Committee Explanatory Reports:

\* \* \* \* \*

Report explaining the proposed changes concerning "pre-preliminary hearing" modification of bail by the issuing authority published at 33 Pa.B. 6410 (December 27, 2003).

REPORT

Amendments to Pa.R.Crim.P. 529

MODIFICATION OF BAIL BY ISSUING AUTHORITY PRIOR TO PRELIMINARY HEARING

Introduction

The Criminal Procedural Rules Committee is proposing the Court amend Rule 529 (Modification of Bail Order Prior to Verdict) to provide that an issuing authority may modify a bail order at anytime following the preliminary arraignment through the preliminary hearing. These changes address what the Committee learned is a systemic problem caused by the unavailability at the preliminary arraignment of the relevant information an issuing authority must have in making a bail decision and determining the appropriate type of release.

The Committee's initial discussions were prompted by correspondence and inquiries we received from several individuals concerning a tragic case in which a police officer, during a routine traffic stop, was shot and killed by an individual who had a criminal record, was on parole, and who had been released on \$1,000/10% bail in a "recent" weapons case because the district justice setting the bail in that case was not provided with the defendant's criminal history nor did the district justice have any other access to the defendant's criminal history.

One of the correspondents, Mike Schwoyer, Chief Counsel for the House Judiciary Committee, asked the Committee to consider a modification of the complaint form to provide a check off box for the police to indicate that they had done a criminal history check and had provided/would provide the information to the district justice. During the Committee's consideration of Mr. Schwoyer's suggestion, we also explored the possibility of requiring the bail authority to complete a form indicating the release criteria considered in determining the type of release under Rule 523. During our discussion of these two possible rule changes, the Committee agreed the problem that needed to be addressed is the unavailability of adequate bail-related information at the preliminary arraignment when the issuing authority is making a bail determination and that simply requiring a box be checked or the completion of a form would not resolve the problem. We also thought the rules cannot mandate which agency is to provide the relevant bail information at the preliminary arraignment, and, therefore, considered other means of addressing this problem. We agreed providing the issuing authority the opportunity to modify bail following the preliminary arraignment and before the preliminary hearing, when for example, information that could affect the defendant's bail status becomes known to the issuing authority, would provide a reasonable, equitable resolution to the problem. Because Rule 529(A) only permits an issuing authority to modify bail between the preliminary arraignment and the preliminary hearing when there is a request from the defendant and the consent of an attorney for the Commonwealth, the Committee turned its attention to modifying Rule 529.

The Committee reviewed the history of Rule 529<sup>1</sup> and found that when the rule originally was adopted in 1973 it provided, "Bail may be modified by the issuing authority at the preliminary hearing when counsel for either party makes known to him facts relating to the standards set forth in Rule 4004 (current Rule 523) which were not known or which were misrepresented when bail was originally set, or which have changed since the setting of bail."<sup>2</sup> In spite of the literal wording of the rule, however, district justices were resetting bail at a time before the preliminary hearing, which raised concerns of "district justice shopping" and that the "non-sanctioned practice" provided a means for collusion between a bondsman and a district justice or for a bondsman to obtain a bail reduction unbeknownst to a defendant and charge a premium based on the higher bail amount. This non-compliance with the rules and the concerns about the abuses led to the 1983 amendment that prohibited the pre-preliminary hearing modification of bail by an issuing authority except when requested by the defendant with the consent of the district attorney. See the Committee Explanatory Report 13 Pa.B. 125 (January 8, 1983).

In discussing the rule history, the Committee noted there existed, and exist today, legitimate reasons why an issuing authority might want to modify bail between the preliminary arraignment and preliminary hearing: for example, there often are cases in which a defendant, who would be considered "a good bail risk," has a high bail set because of the lack of adequate information about the defendant, or a "duty" magistrate who is not familiar with

the defendant sets a high monetary condition of bail and the "proper" issuing authority who knows the defendant would have set a lower monetary condition of bail. In these situations, the present "defendant request/Commonwealth consent" requirement is an inadequate provision for allowing the issuing authority to modify the amount of bail because it results in unnecessary detention until 1) the defendant makes the request to modify bail and the attorney for the Commonwealth gives consent, 2) a motion is heard in the court of common pleas, or 3) the time of the preliminary hearing. Similarly, there may be equally important and compelling reasons the issuing authority would want to increase the amount of bail, such as in the case that triggered the Committee's discussions.

In view of the rule's history, the procedures in other jurisdictions that permit their courts to modify bail "on their own motion," the problems concerning the lack of opportunity for the issuing authorities to modify bail, and the Committee's position that the issuing authorities should be able to modify bail during the time period between the preliminary arraignment and the preliminary hearing, the Committee agreed to propose an amendment to Rule 529.

#### Discussion of Proposed Changes to Rule 529

The Committee agreed that to emphasize the changes, the new provision should be set forth as a separate paragraph, new paragraph (A), that would apply to the time period subsequent to the preliminary arraignment and prior to the preliminary hearing.

The Committee considered including in the proposal an "additional information" requirement; that is, the issuing authority's authority to modify the bail before the preliminary arraignment would be limited to when he or she receives additional information about the defendant that would affect the defendant's bail status. And we contemplated that there are a variety of ways in which the additional information could be made known to the issuing authority: from the Commonwealth, the defense attorney, a third party, the court system, other judges, or other people in the system, electronically, or from the newspapers. Upon reconsideration, however, the Committee agreed such a limitation should not be proposed because it would create other problems such as when bail is set by a "duty" or "on-call" issuing authority who does not know the defendant, but when the "proper issuing authority" is made aware of the case, he or she could modify bail accordingly. We also agreed that there should be the requirement of notice to the defendant<sup>3</sup> and the attorney for the Commonwealth, and provide them with an opportunity to be heard. In this way, a formal motion procedure, which could lead to unnecessary delays, would not be required, but the "opportunity to be heard" would allow the defendant or attorney for the Commonwealth who opposes the change to "state his or her reasons." Thus under this new procedure the modification issue could be originated by the defendant, or the attorney for the Commonwealth, or even the issuing authority, as long as there is notice to the other parties, and an opportunity for them to be heard. Although the specific consent requirement would be deleted as no longer necessary, new paragraph (A) encompasses the consent situation. In addition, a new paragraph would be added to the Comment that would further explain the new procedures modify existing practice to permit the issuing authority to

<sup>1</sup> Rule 529 originally was numbered Rule 4005, was renumbered Rule 4008 in 1995, and renumbered Rule 529 in 2000.

<sup>2</sup> The Committee also reviewed statutes and rules in other jurisdictions to find out whether they address similar procedures in their criminal procedures. We found that some jurisdictions allow the court sua sponte to modify bail, see, e.g., Arizona Rule of Criminal Procedure 7.4(b) and Ohio Rule of Criminal Procedure 46(E), but that most jurisdictions require a motion by the defendant or prosecuting attorney, see, e.g., Connecticut Rule of Criminal Procedure 38-14 and New Jersey Rule of Criminal Procedure 46.1(b)(2).

<sup>3</sup> We did not add a requirement for the attorney for the defendant to receive notice because oftentimes at this stage of the proceedings, the defendant does not have counsel.



modify bail before the preliminary hearing upon the issuing authority's "own motion" or the request of one of the parties.

New paragraph (B) would retain, as a separate provision, the current paragraph (A) provision that a bail order may be modified by the issuing authority at the preliminary hearing. However, the requirement that modification occur "upon the request of either party" would be deleted as no longer necessary. The Committee believes the issuing authority has the authority to modify bail without the request being made by a party.

[Pa.B. Doc. No. 03-2444. Filed for public inspection December 26, 2003, 9:00 a.m.]

### [234 PA. CODE CH. 7]

#### Concurrent Sentences and Credit for Time Served

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 705 (Imposition of Sentence). These changes would require the sentencing judge to state the date the sentence is to commence and to address credit for time served, and provide that a concurrent sentence commences on the date of imposition. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed rule changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel,

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no later than Friday, January 23, 2004.

By the Criminal Procedural Rules Committee

JOHN J. DRISCOLL,  
Chair

#### Annex A

#### TITLE 234. RULES OF CRIMINAL PROCEDURE

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

#### PART A. Sentencing Procedures

#### Rule 705. Imposition of Sentence.

**(A) When imposing a sentence to imprisonment, the judge shall state the date the sentence is to commence, and shall address credit for time served as provided by law.**

**(B) Whenever more than one sentence is imposed at the same time on a defendant, or whenever a sentence is imposed on a defendant who is sentenced for another offense, the judge shall state whether the sentences shall run concurrently or consecutively. If the sentence is to run concurrently, the sentence shall commence from the date of imposition unless otherwise ordered by the court.**

#### Comment

**[ In ] This rule was amended in 1996, [ paragraph (a) was amended and paragraph (c) was deleted ] to eliminate language that created a presumption that certain sentences run concurrently unless the judge states otherwise. The rule now requires the judge to state whether sentences run concurrently or consecutively, and by deleting former paragraph (B) as unnecessary. [ Paragraph (b) was deleted as unnecessary. ]**

**The 2004 amendments adding new paragraph (A) and adding language to paragraph (B) clarifies the procedures for determining the date of commencement of sentences of imprisonment.**

The computation of sentences and credit for time served also are **[ governed by ]** addressed in the Sentencing Code. See 42 Pa.C.S. §§ 9760 and 9761.

**Official Note:** Rule 1406 adopted July 23, 1973, effective 90 days hence; amended March 21, 1975, effective March 31, 1975; amended November 7, 1996, effective January 1, 1997; renumbered Rule 705 and Comment revised March 1, 2000, effective April 1, 2001; **amended \_\_\_\_\_, 2004, effective \_\_\_\_\_, 2004.**

*Committee Explanatory Reports:*

\* \* \* \* \*

**Report explaining the proposed amendments concerning concurrent sentences and credit for time served published with the Court's Order at 33 Pa.B. 6412 (December 27, 2003).**

#### REPORT

#### *Amendments to Pa.R.Crim.P. 705*

#### CONCURRENT SENTENCES AND CREDIT FOR TIME SERVED

#### Introduction

The Criminal Procedural Rules Committee is proposing the Court amend Rule 705 (Imposition of Sentence) to provide that when a judge is imposing a sentence to imprisonment, the judge shall state the date of the commencement of sentence and address the credit for time served as provided by law. The Committee also is proposing a clarification that, when the sentence imposed is a concurrent sentence, the sentence commences from the date of imposition unless otherwise ordered by the court. These changes are intended to fill in the gaps in procedures that were created in 1996 when then paragraphs (b) and (c) of the rule (then Rule 1406) were deleted.<sup>1</sup>

The Committee received correspondence pointing out that since Rule 1406 (now 705) was amended in 1996 "there is no statute or Rule providing that sentences ordered to run concurrently with sentences imposed on a prior date must run from the date of imposition," even though the Report explaining the 1996 changes indicated this area of sentencing procedure is governed by statute.

<sup>1</sup> See Committee Explanatory Final Report at 23 Pa.B. 5694 (November 23, 1996) explaining the 1996 changes to then-Rule 1406.

The correspondent noted that, because there is no guidance anywhere concerning these sentencing issues, there is a good deal of confusion among members of the bench and bar, and defendants who are sentenced. The Committee was asked to consider adding to the rule language similar to the language that was deleted from then Rule 1406 in 1996 concerning 1) the time when a concurrent sentence commences, and 2) the defendant receiving credit for time served.

In view of this correspondence, the Committee took a look at the Sentencing Code and the rules and confirmed there are no other provisions that sentences ordered to run concurrently with sentences imposed on a prior date must run from the date of imposition. Because we agree that these sentencing issues are confusing, the Committee concluded an amendment to Rule 705 would be helpful to the bench, bar, and defendants.

#### Discussion of Rule 705 Changes

During our discussions, the Committee considered changing Rule 705 by adding language that 1) if a sentence imposed is concurrent with another of the defendant's sentences, the sentence shall commence from the date of imposition and 2) the judge shall address credit for time served as provided for by law. We noted, however, that the language concerning commencement of sentences that had been in the rule prior to the 1996 changes addressed all sentences, not just concurrent sentences. We agreed, therefore, that the changes concerning commencement of the sentence should apply to all sentences, and incorporated into new paragraph (A) the concept from former Rule 1406(b) that the judge must state the date a sentence to imprisonment commences. The Committee also has added at the end of paragraph (A) the language "and shall address credit for time served as provided by law" to make it clear that when a judge imposes a sentence or sentences that are concurrent and states that the defendant is to receive credit for time served, the "credit time" is calculated as provided by law.

Paragraph (B) would retain the present Rule 705 language, with the additional provision "If the sentence is to run concurrently, the sentence shall commence from the date of imposition unless otherwise ordered by the court." This language makes it clear that the "starting date" for the sentence is the date of imposition, and from that point forward the sentence runs concurrently.

[Pa.B. Doc. No. 03-2445. Filed for public inspection December 26, 2003, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### MONTGOMERY COUNTY

#### Offender Supervision Fee; No. MS 875 Oct. 03

#### Administrative Order

*And Now*, this 4th day of December, 2003, pursuant to 18 P. S. § 11.1102, the Court hereby increases the Offender Supervision Fee from twenty-five (\$25) dollars per month to thirty (\$30) dollars per month, assessed against all offenders placed on probation, parole, accelerated rehabilitative disposition, probation without verdict or intermediate punishment. Said increase is to be effective January 1, 2004, for those offenders sentenced on or after

January 1, 2004. Offenders sentenced prior to the effective date of this increase will continue to be assessed a twenty-five (\$25) dollar per month Offender Supervision Fee.

The fee is being charged in accordance with the following Guidelines.

*By the Court*

S. GERALD CORSO,  
*President Judge*

#### Guidelines for the Collection of Offender Supervision Fees

1. All offenders placed on probation, parole, intermediate punishment, ARD or Section 17 Probation without verdict shall be assessed \$30 for every month on probation, parole or intermediate punishment (I.P.) as a condition to be paid on a monthly basis, unless otherwise ordered. The \$30 fee will be assessed against offenders sentenced on or after January 1, 2004. Offenders sentenced prior to January 1, 2004 will continue to be assessed a \$25 per month offender supervision fee, pursuant to the Court's prior directive.

2. At time of sentencing, current legal residence shall be established and made part of the sentence sheet and/or record.

3. The Clerk of Courts shall establish a supervision fee collection account for all Montgomery County residents pursuant to 18 P. S. § 11.1102.

4. Out-of-county/state residents will be required to submit fines, costs and/or restitution payments to the Clerk of Courts on a monthly basis. Supervision fees shall be collected by the county/state of supervision.

5. When an offender is transferred into Montgomery County from another jurisdiction for supervision purposes, or has been an out-of-county case and moves into the county, supervision fees shall be established from the date the case is accepted for supervision.

6. Any cases placed under the supervision of the Pennsylvania Board of Probation and Parole shall pay the supervision fee to the Board in accordance with the Act. Any fines, costs or restitution ordered shall be paid through the Clerk of Courts.

7. Where an offender has multiple cases, supervision fees shall be assessed on each offender only once. The fee shall be assessed on the case with the longest period of supervision or the case which extends furthest into the future.

8. Any offender who enters inpatient drug, alcohol, medical or psychiatric treatment shall have their fees deferred until their release.

9. Any offenders committed to prison for probation, parole or I.P. violation shall have their supervision fees accrue until such time as the Court revokes said probation or parole. Upon reprobation, supervision fees shall be re-computed and collected by the appropriate department.

10. Petitions of Hardship (inability to pay) shall be considered by the Chief Adult Probation Officer or his designee upon the offender's submission of supporting documentation and compliance with 18 P. S. § 11.1102(e)(2). Any recommendation of fee reduction or waiver shall be submitted to the Court for approval.

11. Failure to pay supervision fees as a condition of probation and/or parole, intermediate punishment, ARD or Section 17 probation without verdict shall be consid-

ered a technical violation of the conditions of sentence/ order and may result in the revocation of said sentence/ order.

[Pa.B. Doc. No. 03-2446. Filed for public inspection December 26, 2003, 9:00 a.m.]

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## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Mark A. Rock having been disbarred from the practice of law in the State of Ohio by Order dated June 16, 2003, the Supreme Court of Pennsylvania issued an Order on December 10, 2003, disbar-ring Mark A. Rock from the Bar of this Commonwealth, effective January 9, 2003. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 03-2447. Filed for public inspection December 26, 2003, 9:00 a.m.]

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### Notice of Suspension

Notice is hereby given that on December 10, 2003, Francis X. Gavin, who was suspended from the practice of law in the state of New Jersey for a period of three

months, by Order dated May 20, 2003, was Suspended by the Supreme Court of Pennsylvania for a period of three months, to run consecutive to the suspensions imposed by this Court by Orders dated August 1, 2002, and October 31, 2002. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 03-2448. Filed for public inspection December 26, 2003, 9:00 a.m.]

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### Notice of Suspension

Notice is hereby given that on December 10, 2003, James Samuel Debosh, who was suspended from the practice of law in the state of New Jersey for a period of three months, by Order dated June 2, 2003, was Sus-pended by the Supreme Court of Pennsylvania for a period of three months, to run consecutive to the suspen-sion imposed by this Court by Order dated April 29, 2002. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Common-wealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 03-2449. Filed for public inspection December 26, 2003, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 7—AGRICULTURE

### MILK MARKETING BOARD

#### [7 PA. CODE CH. 150]

#### Milk Marketing Fees

The Milk Marketing Board (Board) amends Chapter 150 (relating to milk marketing fees) to read as set forth in Annex A. The authority for this final-form rulemaking is section 3 of the Milk Marketing Fee Act (act) (31 P. S. § 700k-3).

Notice of proposed rulemaking was published at 32 Pa.B. 3953 (August 10, 2002) with an invitation to submit written comments within 30 days. During the public comment period, the Board received comments from the Pennsylvania Association of Milk Dealers (PAMD) and from a milk hauler. The Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee offered no comments, suggestions or objections to the proposed rulemaking. The Independent Regulatory Review Commission (IRRC) did offer comments, which are discussed fully in this preamble.

In final-form rulemaking, the Board considered the comments and suggestions of the PAMD, the milk hauler and IRRC.

#### *Purpose*

The principal purpose of the final-form rulemaking is to adjust fees as necessary to reflect the administrative costs of issuing licenses, and to meet the Board's budget requirements. Article XI of the Milk Marketing Law (31 P. S. §§ 700j-1101—700j-1104) provides that all money collected by the Board from license fees and other sources shall be placed in a separate fund known as the Milk Marketing Fund (Fund), which is annually appropriated to the Board to pay its expenses. The Board is therefore self-supporting, receiving no revenues from the General Fund. Its chief source of revenue is license and certification fees. Monetary penalties paid by licensees in settlement of prosecution actions and miscellaneous income such as interest provide minor supplemental income. Of these sources, only license and certification fees are capable of meaningful adjustment to offset projected shortfalls. Under current funding, the Board projects steadily declining balances in the Fund. The Board is increasing fees at this time to cover projected deficits in the coming years.

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

#### *Comments*

Both the PAMD and IRRC objected to the size of the fee increases, and the hundredweight fees in particular. IRRC also questioned the need for the fee increase for the 2003-2004 fiscal year, when a deficit was not projected until the 2005-2006 fiscal year. The PAMD suggested that the increase should be phased in over time, and IRRC recommended that the hundredweight fee increase be reduced by at least 1/2 of the proposed increase.

The fee increase is necessary at this time to cure projected deficits in the Fund in the "out" years. The size of the proposed increase was simply the result of the Board following its historical practices. Traditionally, fee increases have been sufficient to sustain the Board for 10

years or more. The last previous fee increase was effective for the 1992-1993 license year, 11 years ago. The proposed increase was projected to sustain the Board through the license year 2013-2014.

However, in response to the comments from the PAMD and IRRC, the Board has decided to reduce the hundredweight fee increase by 1/2 of what was originally proposed, and to delay the increases for 1 year. The final-form rulemaking sets the hundredweight fee for milk for which the Board sets wholesale or retail prices at \$.045, and for milk for which the board does not set these prices at \$.0057. The hundredweight fee increases will take effect with the 2004-2005 license year (July 1, 2004—June 30, 2005); the increase in certification fees for milk weighers and samplers will take effect commencing with the 2004 certification year (January 1, 2004—December 31, 2004). These fees are projected to sustain the Board through the 2008-2009 license year.

IRRC suggested that the final-form rulemaking should designate the name or number of the form required by each provision, where the forms can be obtained and whether the forms are available from the Board's website. This suggestion has been implemented in the final-form rulemaking.

IRRC also suggested that the word "substantially" be removed from § 150.13(b) (relating to time for payment of fees). This change has been made in the final-form rulemaking.

The only other comment received was from a milk hauler who suggested that the milk hauler license and the weigher/sampler certificate be renewed every 2 years rather than the current 1-year period. The annual renewal of the milk hauler license and the weigher/sampler certificate is a requirement of the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302) and cannot be changed by rulemaking. A letter to this effect was sent to the milk hauler who submitted this comment.

#### *Additional Changes in the Final-Form Rulemaking from the Proposed Rulemaking*

Some additional changes have been made to the final-form rulemaking from the proposed rulemaking. These changes were made to improve consistency within and between sections, to clarify an ambiguity regarding the payment of monthly hundredweight fees by new applicants for milk dealer's licenses and to correct typographical errors which were found in the proposed rulemaking.

Since the term "fixed fee" is the term now being used throughout Chapter 150 to describe the annual fee that all applicants pay upon application or renewal, that term has been used to replace "annual fee" or "annual license renewal fee" in the text whenever these fees are referred to, and wherever necessary to distinguish between the fixed fee and other types of fees. This applies to §§ 150.11—150.13, 150.21—150.23 and 150.51—150.53. Similarly, the term "hundredweight fee" has been added to the text of § 150.13, and "quart-equivalent fee" has been added to the text of §§ 150.22 and 150.23 (relating to quart-equivalent fees; and time for payment of fees) to distinguish between these fees and the fixed fee.

In the proposed rulemaking, it was not clear that a new applicant for a milk dealer's license was subject to the monthly payment of the hundredweight fee. This was the result of the addition of § 150.11(b) (relating to fixed fees), which establishes a lower fee for an applicant for

annual renewal of a milk dealer's license. Section 150.12(b) (relating to hundredweight fees), which imposes the monthly hundredweight fee payments on dealers who were not licensed for the entire preceding calendar year, was amended in the proposed rulemaking by the addition of the clause "In addition to the annual license renewal fee imposed under § 150.11(b)..." Taken together, the additions to these two sections would imply that the monthly hundredweight fee was applicable only to applicants for annual renewal under § 150.11(b), but not to new applicants under § 150.11(a). Adding further confusion, the language added to § 150.13(c), regarding time for payment of fees, provided that "[a]n applicant for renewal of a milk dealer's license subject to the requirements of § 150.12(b)..." would be required to pay the monthly hundredweight fee. As stated previously, the implication is that only applicants for renewal are subject to the requirements of § 150.12(b).

To clarify this issue, the final-form rulemaking amends the first sentence of § 150.12(b) to read "In addition to the fixed fee imposed under § 150.11 (relating to fixed fees), a milk dealer that was not licensed for the entire calendar year preceding license application or renewal shall pay a monthly hundredweight fee as set forth in paragraphs (1) and (2)." Additionally, § 150.13(a) was amended to state that "A new applicant for a milk dealer's license shall pay the fixed fee imposed under § 150.11(a)... and shall submit the monthly hundredweight fee imposed under § 150.12(b)..." Finally, § 150.13 was amended by the removal of the phrase "subject to the requirements of § 150.12(b)" from subsection (c), accompanied by the addition of language to subsections (b) and (c) that will still differentiate between applicants who were licensed for the entire preceding calendar year (who pay the annual hundredweight fee at time of application) and those who were not licensed for the entire preceding calendar (who pay the monthly hundredweight fee each month).

The final-form rulemaking makes minor changes to § 150.12 to correct errors which appeared in the proposed rulemaking. In subsections (a)(2) and (b)(2) of the proposed rulemaking, the word "produced" was erroneously deleted from the text. This error has been corrected in the final-form rulemaking. In the same two paragraphs of the proposed rulemaking, the phrase "that is not included under paragraph (1) and that the milk dealer" appeared as an addition to the text. Upon further consideration, this phrase has been removed since it is redundant. Also, subsection (b)(1) and (2) of the proposed rulemaking both contained the phrase "for which the license is issued." This phrase does not appear in these paragraphs in the existing regulations and was not intended to be included in the proposed rulemaking. Since it was mistakenly included in the proposed rulemaking, the final-form rulemaking has simply omitted this phrase.

#### *Paperwork Estimates*

There will be no additional paperwork requirements for milk dealers, subdealers, milk haulers, milk testers or milk weighers and samplers.

#### *Effective Date*

This rulemaking will become effective 30 days after final-form publication in the *Pennsylvania Bulletin*.

#### *Sunset date*

There is no sunset date.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 3953, to IRRC and to the Senate Committee on Agriculture and Rural Affairs and the House Agriculture and Rural Affairs Committee for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of comments received by the Board relating to the proposed regulation and the Board's response to those comments.

In preparing this final form rulemaking, the Board has considered the comments received from all commentators.

#### *Contact Person*

The contact person is Lynda J. Bowman, Executive Secretary, Milk Marketing Board, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 787-4194.

#### *Findings*

The Board finds that:

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

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

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

#### *Order*

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 7 Pa. Code Chapter 150, are amended by amending §§ 150.1, 150.11—150.13, 150.21—150.23, 150.51—150.53, 150.61, 150.62, 150.71, 150.72 and 150.81; by adding § 150.2a; and by deleting §§ 150.41 and 150.42 to read as set forth in Annex A.

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

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

(d) This order shall take effect January 26, 2004.

BEVERLY R. MINOR,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 33 Pa.B. 2831 (June 14, 2003).)*

**Fiscal Note:** Fiscal Note 47-10 remains valid for the final adoption of the subject regulations.

#### **Annex A**

#### **TITLE 7. AGRICULTURE**

#### **PART VI. MILK MARKETING BOARD**

#### **CHAPTER 150. MILK MARKETING FEES**

#### **GENERAL PROVISIONS**

#### **§ 150.1. Definitions.**

When used in this chapter, terms defined in section 103 of the act (31 P. S. § 700j-103) have the meanings given to them in that section, unless the context clearly indicates otherwise.

**§ 150.2a. License year; certification year.**

(a) The license year for milk dealers, subdealers and milk haulers is the period beginning on July 1 of a given year and ending on June 30 of the succeeding year.

(b) The certification year for milk testers and milk weighers and samplers is a calendar year.

**LICENSE FEES OF MILK DEALERS**

**§ 150.11. Fixed fees.**

(a) A new applicant for a milk dealer's license shall pay a fixed fee of \$100 for a license issued on or after July 1 but before October 1 of the same year or a proportionate fixed fee as follows:

(1) \$75 for a license issued on or after October 1 but before January 1 of the succeeding year.

(2) \$50 for a license issued on or after January 1 but before April 1 of the same year.

(3) \$25 for a license issued on or after April 1 but before July 1 of the same year.

(b) An applicant for annual renewal of a milk dealer's license shall pay a fixed fee of \$50.

**§ 150.12. Hundredweight fees.**

(a) In addition to the fixed fee imposed under § 150.11 (relating to fixed fees), a milk dealer that was licensed for the entire calendar year preceding license renewal shall pay an annual hundredweight fee as set forth in paragraphs (1) and (2).

(1) For milk for which the Board has fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is \$.045 per hundredweight.

(2) For milk for which the Board has not fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the calendar year preceding the period for which the license is issued, the fee is \$.0057 per hundredweight.

(b) In addition to the fixed fee imposed under § 150.11, a milk dealer that was not licensed for the entire calendar year preceding license application or renewal shall pay a monthly hundredweight fee as set forth in paragraphs (1) and (2). Monthly payments shall continue until the milk dealer has been licensed for an entire calendar year and for each month thereafter until the next license year begins. Annual payments shall then commence under subsection (a).

(1) For milk for which the Board has fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the preceding month, the fee is \$.045 per hundredweight.

(2) For milk for which the Board has not fixed a minimum wholesale or retail price, received, produced or brought into this Commonwealth during the preceding month, the fee is \$.0057 per hundredweight.

(c) In computing hundredweight fees under subsections (a) and (b), the Board will ascertain and fix the fluid milk equivalent of milk other than fluid milk by dividing the pounds of butterfat in cream by 3.5 and the pounds of nonfat solids in condensed and concentrated milk by 8.8. For farm-separated sour cream used exclusively in making butter to be marketed or ultimately sold as such, the Board will compute the total quantity of milk based on pounds of butterfat or sour cream rather than on the fluid milk equivalent.

(d) Milk that was purchased by a milk dealer located in or outside this Commonwealth from an out-of-State producer, and was diverted to an out-of-State milk dealer, is not subject to a hundredweight fee. As used in this subsection, "diverted" means that the purchasing milk dealer took possession of producer milk at the farm, from which location it was delivered to another milk dealer without entering the purchasing milk dealer's plant.

**§ 150.13. Time for payment of fees.**

(a) A new applicant for a milk dealer's license shall pay the fixed fee imposed under § 150.11(a) (relating to fixed fees) when the applicant submits the milk dealer/subdealer license application (available from the Board Office or website), and shall submit the monthly hundredweight fee imposed under § 150.12(b) (relating to hundredweight fees) with the monthly report milk dealers must file under § 147.10 (relating to monthly reports).

(b) An applicant for renewal of a milk dealer's license that was licensed for the entire calendar year preceding license renewal shall pay the fixed fees imposed under § 150.11(b) and the annual hundredweight fee imposed under § 150.12(a) when the applicant submits the milk dealer/subdealer license renewal application (available from the Board Office or website). Fees exceeding \$2,000 may be paid in four equal installments, the first to be submitted with the milk dealer/subdealer license renewal application and the remaining three to be received in the Board office on or before September 15, December 15 and March 15, respectively, or the next business day if the 15th falls on a day when Commonwealth offices are closed.

(c) An applicant for renewal of a milk dealer's license that was not licensed for the entire calendar year preceding license renewal shall pay the fixed fee imposed under § 150.11(b) when the applicant submits the milk dealer/subdealer license renewal application, and shall submit the monthly hundredweight fee imposed under § 150.12(b) with the monthly report milk dealers shall file under § 147.10.

**LICENSE FEES OF SUBDEALERS**

**§ 150.21. Fixed fees.**

(a) A new applicant for a subdealer's license shall pay a fixed fee of \$50 for a license issued on or after July 1 but before October 1 of the same year or a proportionate fixed fee as follows:

(1) \$37.50 for a license issued on or after October 1 but before January 1 of the succeeding year.

(2) \$25 for a license issued on or after January 1 but before April 1 of the same year.

(3) \$12.50 for a license issued on or after April 1 but before July 1 of the same year.

(b) An applicant for annual renewal of a subdealer's license shall pay a fixed fee of \$25.

**§ 150.22. Quart-equivalent fee.**

(a) In addition to the fixed fee imposed under § 150.21(b) (relating to fixed fees), an applicant for annual renewal of a subdealer's license shall pay an annual quart-equivalent fee calculated by dividing the total quarts of milk purchased during the previous calendar year by the number of months in which the subdealer engaged in business. The Board will assess the fee in accordance with the following schedule:

<i>Avg. Qts. Purchased per Month</i>	<i>Annual Fee</i>
1—29,999	\$ 50
30,000—59,999	100
60,000—119,999	150
120,000—149,999	200
150,000—199,999	250
200,000—299,999	300
300,000—399,999	400
400,000—599,999	500
600,000—799,999	800
800,000—999,999	1,200
1,000,000 and over	1,400

(b) As used in subsection (a), “quarts” means the total volume of milk for which the Board sets a wholesale price expressed in quart equivalents.

**§ 150.23. Time for payment of fees.**

(a) A new applicant for a subdealer’s license shall pay the fixed fee imposed under § 150.21(a) (relating to fixed fees) when the applicant submits the milk dealer/subdealer license application.

(b) An applicant for renewal of a subdealer’s license shall pay the fixed fees imposed under § 150.21(b) and the quart-equivalent fee imposed under § 150.22 (relating to quart-equivalent fee) when the applicant submits the milk dealer/subdealer license renewal application.

**§ 150.41. (Reserved).**

**§ 150.42. (Reserved).**

**LICENSE FEES OF MILK HAULERS**

**§ 150.51. Fixed fees.**

A new applicant for a milk hauler’s license and an applicant for annual renewal of a milk hauler’s license shall pay a fixed fee of \$30.

**§ 150.52. Hundredweight fee.**

In addition to the fixed fee imposed under § 150.51 (relating to fixed fees), a milk hauler shall pay a fee of \$.005 per hundredweight for milk hauled during the license year. The fee shall apply to:

(1) Milk picked up at a producer’s farm located in this Commonwealth and delivered to a milk dealer located in this Commonwealth.

(2) Milk picked up at a producer’s farm located outside this Commonwealth and delivered to a milk dealer located in this Commonwealth.

(3) Milk picked up at a producer’s farm located in this Commonwealth and delivered to a milk dealer located outside this Commonwealth.

**§ 150.53. Time for and manner of payment of fees.**

(a) A new applicant for a milk hauler’s license and an applicant for renewal of a milk hauler’s license shall pay the fixed fee imposed under § 150.51 (relating to fixed fees) when the applicant files the license application, Form PMMB-77B or Form PMMB-77 (available from the Board Office or website).

(b) Payment of the hundredweight fee shall be remitted by a licensed milk hauler in full to be received in the office of the Board by the 30th day of the month immediately succeeding the month in which the milk was hauled or the nearest business day thereafter (March 1 for January reports). The payment shall accompany the

Milk Hauler’s Monthly Report, Form PMMB-79 (available from the Board Office or website), which is also due on that date.

**CERTIFICATION FEES OF MILK TESTERS**

**§ 150.61. Examination fee.**

The fee to take the Board-approved examination for a certificate of proficiency in milk testing is \$25, payable when the examination is taken. The examination fee is not refundable and may not be applied toward payment of the fixed fees in § 150.62 (relating to fixed fees for new and renewed certificates).

**§ 150.62. Fixed fees for new and renewed certificates.**

A new applicant for a milk tester’s certificate and an applicant for renewal of a milk tester’s certificate shall pay a fee of \$20, which shall accompany the milk tester certificate application (available from the Board Office or website).

**CERTIFICATION FEES OF MILK WEIGHERS AND SAMPLERS**

**§ 150.71. Examination fee.**

The fee to take the Board-approved examination for a certificate of proficiency in milk weighing and sampling is \$25, payable when the examination is taken. The examination fee is not refundable and may not be applied toward payment of the fixed fees in § 150.72 (relating to fixed fees for new and renewed certificates).

**§ 150.72. Fixed fees for new and renewed certificates.**

A new applicant for a milk weigher and sampler’s certificate and an applicant for renewal of a milk weigher and sampler’s certificate shall pay a fee of \$20, which shall accompany the milk weigher/sampler certificate application (available from the Board Office or website).

**OTHER FEES**

**§ 150.81. Transfer fee.**

The fee to transfer a license under section 407 of the act (31 P. S. § 700j-407) is \$50.

**§ 150.82. Fees for copying and certifying Board documents.**

Fees for providing copies of, or for certification of, Board documents will be in an amount that will fully offset the costs incurred by the Board in providing the documents or certification.

[Pa.B. Doc. No. 03-2450. Filed for public inspection December 26, 2003, 9:00 a.m.]

## Title 25—ENVIRONMENTAL PROTECTION

### INSURANCE DEPARTMENT UNDERGROUND STORAGE TANK INDEMNIFICATION BOARD

[25 PA. CODE CH. 977]

#### Owner and Operator Fees

The Insurance Department (Department) and the Underground Storage Tank Indemnification Board (Board) amend § 977.12 (relating to owner and operator fees) to read as set forth in Annex A. Sections 206, 506, 1501 and

1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) provide the Insurance Commissioner with the authority to promulgate regulations governing the enforcement of the laws relating to insurance. Section 705 of the Storage Tank and Spill Prevention Act (35 P. S. § 6021.705) provides the Board with the authority to promulgate regulations concerning the establishment of fees to be paid by participants in the Underground Storage Tank Indemnification Fund (Fund). Public notice of this amendment is impractical and unnecessary because the proposed changes are needed to ensure the solvency of the Fund and any input from the public would not decrease the necessity to increase the fees collected.

Notice of proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)) (CDL). In accordance with section 204(3) of the CDL, notice of proposed rulemaking may be omitted when the agency for good cause finds that public notice of its intention to amend an administrative regulation is, under the circumstances, impracticable and unnecessary.

#### *Purpose*

This final-omitted rulemaking will bring the fees to the appropriate levels as recommended by an actuarial report that was completed on September 25, 2003. After reviewing this report, the Board determined that this increase is necessary to maintain the solvency of the Fund for the public health and safety of this Commonwealth's citizens and their environment. The actuarial study, performed by Milliman USA, determined that an increase in the gallon and capacity fees was necessary to maintain the actuarial soundness of the Fund in the future.

#### *Explanation of Regulatory Requirements*

Section 977.12 is being amended to reflect the fees that the Board approved after extensive review and discussion of the report.

#### *Fiscal Impact*

An owner or operator transacting business in this Commonwealth will be affected by this final-omitted rulemaking. The fee increases approved by the Board are not significant, however, because despite these increases, the fees are only slightly higher than half as much of what they were when the program began in 1994.

The local municipalities will see an increase of approximately \$15.54 per quarter or \$62.17 per year (\$137,700 divided by 2,215 municipalities, including school districts). State-owned tanks are exempt from all Fund fees.

#### *General Public*

Because the public is a consumer of goods and services provided by owners and operators of an underground storage tank (UST) or a heating oil tank (HOT), any increase to the fees could result in higher prices to consumers. However, it is expected that this increase in fees will result in an additional \$.08 per month to motorists, in accordance with a survey on vehicle fuel consumption and expenditures by United States' households, conducted by the Energy Information Administration, Office of Energy Markets and End Use.

This increase is proposed to keep the Fund solvent after an actuarial study completed in September 2003 indicated the need for additional revenue, to maintain the Fund's actuarial soundness.

#### *Effectiveness/Sunset Date*

This final-omitted rulemaking will become effective January 1, 2004.

#### *Paperwork*

Adoption of this final-omitted rulemaking should not require any significant paperwork for the owners or operators of USTs or HOTs. The paperwork necessary after the increase is expected to be the same as before the increase was implemented.

#### *Persons Regulated*

This final-omitted rulemaking applies to all owners or operators of USTs and HOTs in this Commonwealth.

#### *Contact Person*

Questions regarding the final-omitted rulemaking may be addressed to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. Questions may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 14, 2003, the agency submitted a copy of the amendment with the proposed rulemaking omitted to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. On the same date, the amendment was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

In accordance with section 5(c) of the Regulatory Review Act, the amendment was deemed approved by the Senate Banking and Insurance Committee on December 17, 2003, and deemed approved by the House Insurance Committee on December 17, 2003. The Attorney General approved the regulation on December 10, 2003. IRRC met on December 18, 2003 and approved the amendment.

#### *Findings*

The Insurance Commissioner finds that:

(1) There is good cause to amend § 977.12 effective upon publication with the proposed rulemaking omitted. Deferral of the effective date of this final-omitted rulemaking would be impractical and not serve the public interest. Under section 204(3) of the CDL, there is no purpose to be served by deferring the effective date. An effective date of January 1, 2004, will best serve the public interest by ensuring that fees have the full potential that the actuarial study predicted.

(2) There is good cause to forego public notice of the intention to amend Chapter 977, Subchapter B (relating to fees and collection procedures), because notice of the amendment under the circumstances is unnecessary and impractical because the changes proposed are necessary to ensure the solvency of the Fund and any input from the public would not decrease the necessity to increase the fees collected.

#### *Order*

The Insurance Commissioner, acting under the authority in sections 206, 506, 1501 and 1502 of The Administrative Code of 1929, orders that:

(a) The regulations of the Department, 25 Pa. Code Chapter 977, are amended by amending § 977.12 to read as set forth in Annex A.

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



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

(d) This order shall take effect January 1, 2004.

M. DIANE KOKEN,  
*Insurance Commissioner*

E. BRUCE SHELLER,  
*Chairperson*

*Underground Storage Tank Indemnification Board*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. (December 27, 2003).)

**Fiscal Note:** 11-219. (2) Implementing Year 2003-04 is \$68,850; (3) 1st Succeeding Year 2004-05 is \$137,700; 2nd Succeeding Year 2005-06 is \$140,454; 3rd Succeeding Year 2006-07 is \$143,263; 4th Succeeding Year 2007-08 is \$146,128; 5th Succeeding Year 2008-09 is \$149,051; (4) 2002-03 Program—\$69,466,774; 2001-02 Program—\$65,921,722; 2000-01 Program—\$49,971,701; (8) recommends adoption. The costs outlined are aggregate costs for municipalities, including school districts, with storage tanks. The gallon and capacity fee increases were recommended by an actuarial report. The increases should be considered a minimum step and assumes a continued unfunded liability.

## Annex A

### TITLE 25. ENVIRONMENTAL PROTECTION

#### PART VIII. UNDERGROUND STORAGE TANK INDEMNIFICATION BOARD

#### CHAPTER 977. UNDERGROUND STORAGE TANK INDEMNIFICATION FUND

#### Subchapter B. FEES AND COLLECTION PROCEDURES

#### § 977.12. Owner and operator fees.

(a) *Annual fees.* The Board may charge fees established in this section, based on an annual actuarial review.

(b) *Tank and gallon fees.* A UST owner or operator storing gasoline, new motor oil, hazardous substances, gasohol, aviation fuel, mixture, farm diesel and other types of substances based on the tank registration information maintained by the DEP may be assessed the following fees:

(1) *Tank fee.* A tank fee of \$0 per UST per year.

(2) *Gallon fee.* A gallon fee on all regulated substances entering a UST of \$.011 per gallon. (For example, 10,000 gallons at \$.011 per gallon equals \$110).

(c) *Nonretail bulk storage.* Total fees paid by an owner or operator of a nonretail bulk storage or wholesale distribution UST storing gasoline are established using the method described in subsection (b) and are capped at \$5,000 per UST per year in accordance with section 705(d)(3) of the act (35 P. S. § 6021.705(d)(3)).

(d) *Capacity fee.* An owner or operator which stores regulated substances including diesel, heating oil, used motor oil, kerosene and unknown substances based on the tank registration information maintained by the DEP may be assessed a capacity fee of \$.0825 per gallon of capacity, which amount is established in accordance with section 705(d)(2) of the act (35 P. S. § 6021.705(d)(2)).

(For example, 10,000 gallons at \$.0825 per gallon equals \$825).

[Pa.B. Doc. No. 03-2451. Filed for public inspection December 26, 2003, 9:00 a.m.]

## Title 31—INSURANCE

### INSURANCE DEPARTMENT

#### [31 PA. CODE CH. 84d]

#### Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

The Insurance Department (Department) adopts Chapter 84d (relating to recognition of the 2001 CSO mortality table for use in determining minimum reserve liabilities and nonforfeiture benefits) to read as set forth in Annex A.

#### *Statutory Authority*

The final-form rulemaking is adopted under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), section 301(c)(1) of The Insurance Department Act of 1921 (40 P. S. § 71(c)(1)), section 410F(e)(8)(F) of The Insurance Company Law (40 P. S. § 510.1(e)(8)(F)) and 31 Pa. Code § 84c.5(a) and (b) (relating to general requirements for basic reserves and premium deficiency reserves). Likewise, this final-form rulemaking is made under the Department's rulemaking authority under the Unfair Insurance Practices Act (UIPA) (40 P. S. §§ 1171.1—1171.15) (as that authority is further explained in *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977)), because the Insurance Commissioner (Commissioner) has determined that, in and of itself, it is not a violation of the UIPA for a company to determine nonforfeiture benefits for the same type of policy of life insurance on both a sex-distinct and sex-neutral basis. See section 5(a)(7) of the UIPA (40 P. S. § 1171.5(a)(7)).

#### *Comments and Response*

Notice of proposed rulemaking was published at 33 Pa.B. 4297 (August 30, 2003) with a 30-day comment period. During the 30-day comment period, comments were received from the American Council of Life Insurers (ACLI) and the Insurance Federation of Pennsylvania, Inc. (IFP). Although the IFP commented on the preamble, neither the ACLI nor the IFP provided any substantive comments on the Annex and both parties supported the adoption of the rulemaking. The Independent Regulatory Review Commission (IRRC) did not submit any comments to the Department during its review. Therefore, no substantive changes were made to the Annex A in the final-form rulemaking.

However, the Department, in reviewing the proposed rulemaking as submitted and as printed, noticed two minor errors. The table of contents indicated that the definitions section is § 84d.1 and the purpose section is § 84d.2, while the body of the rulemaking had this reversed. The proper order is in the final-form rulemaking.

Also, when submitted, the term "regulation" was used in § 84d.3(a) (relating to 2001 CSO Mortality Table) but when published in proposed form, this term was changed

to "section." "Section" would not be appropriate here as the conditions in § 84d.3 apply to the entire chapter and not just this section. It was noted that the same term "regulation" was changed to "chapter" in several other subsections; therefore, the Department is requesting that the term "section" as used in § 84d.3(a) be changed to "chapter."

As these changes are relatively minor, the Department does not believe that the final-form rulemaking has changed substantially enough to request further comments.

*Affected Parties*

This final-form rulemaking will apply to insurers issuing life insurance coverage in this Commonwealth.

*Fiscal impact*

*State Government*

This final-form rulemaking will not increase costs to the Department due to the use of the new mortality table since the extent of the analysis performed by the Department is not affected by the mortality table used in the calculation of nonforfeiture benefits and reserves.

*General Public*

It is unlikely that there will be any adverse fiscal impact on consumers who purchase life insurance coverage. The use of the 2001 CSO Mortality Table may result in a reduction in nonforfeiture benefit amounts; however, with the highly competitive life insurance market in this Commonwealth, there will most likely be a reduction in the cost of insurance due to improved mortality recognized by the 2001 CSO Mortality Table.

*Political Subdivisions*

There will be no fiscal impact on political subdivisions, as insurers will continue to maintain adequate reserves and provide adequate nonforfeiture benefits. Adequate reserves have the potential to minimize insurer insolvencies that could result in less erosion of the tax base since insurers pay premium taxes on premium income and pay salaries that are taxed.

*Private Sector*

The final-form rulemaking will likely have no fiscal impact on insurance companies issuing life insurance coverage. Insurers will be required to expend some time to prepare and submit to the Department forms using the 2001 CSO Mortality Table.

*Paperwork*

This final-form rulemaking will not impose additional paperwork on the Department or the insurance industry. The final-form rulemaking provides for the use of an additional mortality table, and does not impose additional requirements resulting in additional paperwork.

*Effectiveness/Sunset Date*

This final-form rulemaking becomes effective on January 1, 2004. The Department continues to monitor the effectiveness of its regulations on a triennial basis; therefore no sunset date has been assigned.

*Contact Person*

Questions regarding this final-form rulemaking should be directed to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, fax (717) 705-3873, psalvatore@state.pa.us.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 19, 2003, the Department submitted a copy of this final-form rulemaking to IRRC and to the Chairpersons of the House Insurance Committee and the Senate Banking and Insurance Committee.

In preparing this final-form rulemaking, the Department considered all comments received from IRRC, the Committees and the public. This final-form rulemaking was deemed approved by the House and Senate Committees on December 17, 2003. In accordance with section 5a(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), IRRC met on December 18, 2003, and deemed approved the final-form rulemaking in accordance with section 5a(e) of the Regulatory Review Act.

*Findings*

The Commissioner finds that:

(1) Public notice of intention to adopt this rulemaking as amended 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 this rulemaking in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statutes.

*Order*

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

(a) The regulations of the Department, 31 Pa. Code, are amended by adding §§ 84d.1—84d.6 to read as set forth in Annex A.

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

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

(d) The regulation adopted by this order shall take effect January 1, 2004.

M. DIANE KOKEN,  
*Insurance Commissioner*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. 6472 (December 27, 2003).)

**Fiscal Note:** Fiscal Note 11-21B remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 31. INSURANCE**

**PART IV. LIFE INSURANCE**

**CHAPTER 84d. RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS**

Sec.	
84d.1.	Purpose.
84d.2.	Definitions.
84d.3.	2001 CSO Mortality Table.
84d.4.	Applicability of the 2001 CSO Mortality Table to Chapter 84c (relating to valuation of life insurance policies).
84d.5.	Gender-blended tables.
84d.6.	Permitted usage.

**§ 84d.1. Purpose.**

This chapter implements section 301(c)(1) of the act (40 P. S. § 71(c)(1)), section 410A(e)(8)(F) of the law (40 P. S. § 510.1(e)(8)(F)) and § 84c.5(a) and (b) (relating to general requirements for basic reserves and premium deficiency reserves) which authorize the Commissioner to promulgate regulations specifying tables adopted after 1980 by the NAIC for use in determining minimum nonforfeiture standards and minimum valuation standards.

**§ 84d.2. Definitions.**

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

*Act*—The Insurance Department Act of 1921 (40 P. S. §§ 1–324).

*Actuarial Standards Board*—The board established by the American Academy of Actuaries, or a successor thereto, to develop and promulgate standards of actuarial practice.

*Commissioner*—The Insurance Commissioner of the Commonwealth.

*Composite Mortality Tables*—The mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

*Law*—The Insurance Company Law of 1921 (40 P. S. §§ 341–991).

*NAIC*—The National Association of Insurance Commissioners.

*Smoker and Nonsmoker Mortality Tables*—The mortality tables with separate rates of mortality for smokers and nonsmokers.

*2001 CSO Mortality Table*—The mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the 2001 CSO Mortality Table includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

*2001 CSO Mortality Table (F)*—The mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

*2001 CSO Mortality Table (M)*—The mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

**§ 84d.3. 2001 CSO Mortality Table.**

(a) At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this chapter, the 2001 CSO Mortality Table may be used as the minimum nonforfeiture standard and the minimum valuation standard for policies issued on or after January 1, 2004, and before the date specified in subsection (b). If the company elects to use the 2001 CSO Mortality Table, it shall do so for both nonforfeiture and valuation purposes.

(b) Subject to the conditions stated in this chapter, the 2001 CSO Mortality Table shall be used as the minimum nonforfeiture standard and the minimum valuation standard for policies issued on and after January 1, 2009.

(c) For each policy form with separate rates for smokers and nonsmokers a company may use the 2001 CSO Mortality Tables in one of the following ways:

(1) The Composite Mortality Tables as the minimum nonforfeiture standard and the minimum valuation standard.

(2) The Composite Mortality Tables as the minimum nonforfeiture standard and to determine the minimum reserves required by section 301 of the act (40 P. S. § 71) and the Smoker and Nonsmoker Mortality Tables as the minimum valuation standard to determine the additional minimum reserves, if any, required by section 303 of the act (40 P. S. § 73).

(3) The Smoker and Nonsmoker Mortality Tables as the minimum nonforfeiture standard and the minimum valuation standard.

(d) For each policy form without separate rates for smokers and nonsmokers the Composite Mortality Tables shall be used as the minimum nonforfeiture standard and the minimum valuation standard.

(e) Subject to the restrictions of § 84d.4 (relating to applicability of the 2001 CSO Mortality Table to Chapter 84c (relating to valuation of life insurance policies)) and Chapter 84c, the 2001 CSO Mortality Table may, at the option of the company for each policy form, be used in its ultimate or select and ultimate form as the minimum nonforfeiture standard and the minimum valuation standard.

(f) When the 2001 CSO Mortality Table is the minimum reserve standard for any policy form for a company, the actuarial opinion in the annual statement filed with the Commissioner shall be based on an asset adequacy analysis as specified in Chapter 84b (relating to actuarial opinion and memorandum). The Commissioner may exempt a company from this requirement if it only does business in this Commonwealth.

**§ 84d.4. Applicability of the 2001 CSO Mortality Table to Chapter 84c (relating to valuation of life insurance policies).**

(a) The 2001 CSO Mortality Table shall be used in applying Chapter 84c (relating to valuation of life insurance policies) in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table in § 84d.3(a) (relating to 2001 CSO Mortality Table) and § 84d.3(b).

(1) The net level reserve premium referenced in § 84c.2(b)(2)(ii) (relating to applicability) shall be based on the ultimate mortality rates in the 2001 CSO Mortality Table.

(2) All calculations in § 84c.4(b)(1) (relating to segmented and unitary reserve methods) shall be made using the 2001 CSO Mortality Table. The value of “qx+k+t-1” is the valuation mortality rate for deficiency reserves in policy year k+t, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

(3) The basic reserves minimum standard in § 84c.5(a) (relating to general requirements for basic reserves and premium deficiency reserves) shall be the 2001 CSO Mortality Table.

(4) The deficiency reserves minimum standard in § 84c.5(b) shall be the 2001 CSO Mortality Table. If select mortality rates are used, they may be multiplied by X% for durations in the first segment, subject to the conditions specified in § 84c.5(b)(3)(i)—(ix). In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant standards of practice as promulgated by the Actuarial Standards Board.

(5) The valuation mortality table used in determining the tabular cost of insurance in § 84c.6(c) (relating to minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies)) shall be the ultimate mortality rates in the 2001 CSO Mortality Table.

(6) The calculations specified in § 84c.6(e)(4) shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

(7) The calculations specified in § 84c.6(f)(4) shall use the ultimate mortality rates in the 2001 CSO Mortality Table.

(8) The net premiums referenced in § 84c.6(g)(2) shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

(9) The 1-year valuation premium in § 84c.7(a)(1)(ii) (relating to minimum valuation standard for universal life insurance policies that contain provisions resulting in the ability of a policy owner to keep a policy in force over a secondary guarantee period) shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table.

(b) Nothing in this section expands the applicability of Chapter 84c to include life insurance policies exempted under § 84c.2(b).

#### § 84d.5. Gender-blended tables.

(a) For any ordinary life insurance policy delivered or issued for delivery in this Commonwealth on and after January 1, 2004, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances when applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each policy form, be substituted for the 2001 CSO Mortality Table as the minimum nonforfeiture standard. The blended tables may not be used as the minimum valuation standard.

(b) If blended tables are used as the minimum nonforfeiture standard, the company shall choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

#### § 84d.6. Permitted usage.

In and of itself, it is not a violation of the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15) for a company to determine nonforfeiture benefits for the same type of policy of life insurance on both a sex-distinct and sex-neutral basis.

[Pa.B. Doc. No. 03-2452. Filed for public inspection December 26, 2003, 9:00 a.m.]

## Title 61—REVENUE

### DEPARTMENT OF REVENUE

#### [61 PA. CODE CHS. 113 AND 121]

#### Employer Withholding Provisions

The Department of Revenue (Department), under the authority contained in section 354 of the Tax Reform Code of 1971 (TRC) (72 P. S. § 7354), by this order amends §§ 113.2, 113.3, 113.3a, 113.3b, 113.4, 113.16 and 121.16 to read as set forth in Annex A.

#### *Purpose of this Final-Form Rulemaking*

This final-form rulemaking is intended to serve the following purposes:

1. Section 113.3(c) and (d) (relating to computing withholding of Pennsylvania Personal Income Tax) is being amended to add the provisions of the act of May 7, 1997 (P. L. 85, No. 7) (Act 7) relating to cafeteria plans and other employee compensation arrangements. See section 301(d) of the TRC (72 P. S. § 7301(d)).

2. The amendments establish new employer identification number requirements to facilitate the Department's Keystone Integrated Tax System.

3. The amendments establish new employer registration requirements to facilitate the common employer registration form of the Department and the Department of Labor and Industry.

4. The amendments change W-2 filing requirements in order to facilitate the Department's new Infoimage System and make more use of electronic and magnetic media.

5. The Federal employee reporting and withholding requirements for tip income are being adopted so that businesses will not have to deal with conflicting requirements at the Federal and State level.

6. The addition of § 113.16 (relating to enforceable trust fund) will enhance the Department's enforcement powers.

#### *Explanation of the Final-Form Rulemaking*

Section 113.2 (relating to compensation subject to withholding) is amended by adding a new paragraph (3) relating to tips. Employers are required to deduct and withhold tax on tips of which the employer has the control, receipt, custody or payment or that are reported by the employee and only to the extent that the employer can collect the tax by deducting it from the employee's compensation exclusive of tips.

Section 113.3 (relating to computing withholding of Pennsylvania Personal Income Tax) is amended by adding a new subsection (c) that addresses special situations pertaining to the deduction or payment of amounts by an employer for or on behalf of an employee. A new subsection (d) provides that amounts specified in a cafeteria plan as being available to the employee for purposes of selecting or purchasing benefits under a plan or as additional cash remuneration received in lieu of coverage are excludible from tax and withholding if certain enumerated conditions are met.

Section 113.3a (relating to employer identification number) is added to explain the various rules relating to Federal and State employer identification numbers.

Section 113.3b (relating to registration) details when an employer shall register with the Department.

Section 113.4 (relating to time and place for filing reconciliation and withholding statements) has been amended by deleting unnecessary language relating to the completion of W-2's for tax year 1971. Subsection (b) is updated to provide for the filing of quarterly withholding returns. Subsection (c) is amended by providing that reconciliation statements with accompanying withholding statements for each employee can be forwarded to the Department by means of first class mail or electronic or magnetic media. The subsection is further amended to provide that if an employer is required to file 250 or more withholding statements, the reconciliation statement with accompanying withholding statements shall be forwarded via electronic or magnetic media as specified in the instructions of the Department available on its website or at its Harrisburg or district offices.

Section 113.16 is added to provide guidance regarding deducted and withheld tax.

Finally, § 121.16 (relating to Form W-2) is deleted in its entirety, consistent with the changes regarding W-2 filing requirements previously referenced.

#### *Affected Parties*

Affected parties are employers, employees and tax professionals.

#### *Comment and Response Summary*

Notice of proposed rulemaking was published at 31 Pa.B. 4956 (September 1, 2001). This proposal is being adopted with changes to read as set forth in Annex A.

No comments were received from the public during the public comment period. No comments were received from the House and Senate Finance Committees. The Department did receive comments from the Independent Regulatory Review Commission (IRRC).

Amendments to the proposed rulemaking in response to comments are as follows:

1. In the proposal, the Department added § 113.3(d) and (e) to explain statutory trust fund provisions. In its comments, IRRC suggested that the trust fund provisions should be moved to a separate and distinct section. The Department agrees with IRRC's suggestion and creates a new § 113.16. The new language clarifies who may be held liable for withheld tax and how the amount of the liability is determined.

2. With regard to § 113.3(f)(3), since the nontaxable payments referenced are delineated in existing § 101.6 (relating to compensation), IRRC recommended that the Department insert a reference to § 101.6. The Department agrees and amends paragraph (3) accordingly.

3. In § 113.3b, IRRC suggested that the Department modify the section to state how employers can access a registration form. The Department agrees with IRRC's suggestion and amends the section accordingly.

4. Section 113.4(c) states that when employers file withholding statements by means of electronic or magnetic media, the date shall be forwarded as specified in the instructions of the Department. IRRC suggested that the Department explain what the instructions are and where they can be found. The Department agrees with IRRC's suggestion and amends subsection (c) accordingly.

Comment that did not result in an amendment to the regulation is as follows:

IRRC raised a concern with regard to proposed § 113.3(f) which provides that certain amounts specified in a cafeteria plan document are excluded from tax and

withholding if the enumerated conditions are met. IRRC indicated that paragraph (3) should appear as a separate subsection because it addresses payments that are outside of a qualifying cafeteria plan but are still nontaxable for Pennsylvania Personal Income Tax purposes. It is the Department's position that paragraph (3) should be read in conjunction with subsection (f)(1) and (2) and not as a separate, stand alone statement; therefore, no revision was made to the paragraph.

#### *Fiscal Impact*

This final-form rulemaking establishes specific requirements for the reporting and withholding of tips income. Instead of being remitted with the taxpayers' estimated or annual payments, tips income will be withheld by employers. As a result, tax collection on tips income will be accelerated to the extent that employers comply with the withholding requirements. This accelerated tax collection should result in tax savings and improved tax compliance of tips income earners.

Using an effective date of January 2004 (for calculation purposes only), and using an average interest rate at which the Commonwealth invests funds, the Department has estimated a tax revenue gain of about \$8.2 million for Fiscal Year 2003-04 and about \$0.5 million additional revenue in interest thereafter. This estimate may be overstated because actual interest earnings will depend on cash balances in the Treasury's funds and some taxpayers may qualify for 100% tax forgiveness. The estimate could be understated because the estimate assumes that these persons are reporting all of the tip income currently. To the extent that they are not, there could be an additional revenue increase.

#### *Paperwork*

This final-form rulemaking will not require additional paperwork for the public or the Commonwealth. This final-form rulemaking will reduce paperwork requirements in that form W-2 will no longer be required to be filed with each individual return.

#### *Effectiveness/Sunset Date*

This final-form rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. This final-form rulemaking is scheduled for review within 5 years of publication. No sunset date has been assigned.

#### *Contact Person*

The contact person for an explanation of the amendments is Anita M. Doucette, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 17, 2001, the Department submitted a copy of the notice of proposed rulemaking, published at 31 Pa.B. 4956, to IRRC and the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment. In compliance with section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation.

In preparing this final-form rulemaking, the Department has considered the comments received from IRRC, the Committees and the public.

This final-form rulemaking was deemed approved by the Committees on November 5, 2003, and was approved

by IRRC on November 6, 2003, in accordance with section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5a(e)).

*Findings*

The Department finds that:

(1) Public notice of intention to amend the regulations 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 amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

*Order*

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

(a) The regulations of the Department, 61 Pa. Code Chapters 113 and 121, are amended by amending §§ 113.2, 113.3, 113.4; by adding §§ 113.3a, 113.3b and 113.16; and by deleting § 121.16 to read as set forth in Annex A.

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

(c) The Secretary of the Department 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*.

GREGORY C. FAJT,  
*Secretary*

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

**Fiscal Note:** Fiscal Note 15-418 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 61. REVENUE**

**PART I. DEPARTMENT OF REVENUE**

**Subpart B. GENERAL FUND REVENUES**

**ARTICLE V. PERSONAL INCOME TAX**

**CHAPTER 113. WITHHOLDING OF TAX**

**§ 113.2. Compensation subject to withholding.**

All compensation shall be subject to withholding of tax by an employer. Regulations for residents and nonresidents shall be as follows:

(1) *Residents.* The following procedure shall be utilized by employers withholding Commonwealth Income Tax from a resident:

(i) If a Commonwealth resident renders service in this Commonwealth, his employer shall withhold Commonwealth tax from his compensation.

(ii) If the employer is subject to the jurisdiction of this Commonwealth and a Commonwealth resident is rendering services as his employee in another state, the following procedure shall be followed:

(A) If the other state does not have an income tax, he shall withhold on the compensation he pays to the employee.

(B) If the other state does have an income tax and the employer is withholding the tax, the employer is not be required to withhold Commonwealth tax.

(C) If the employer is not withholding income tax for the state in which the services are rendered, he shall withhold Commonwealth tax.

(iii) If a Commonwealth resident is rendering services partly within and partly outside this Commonwealth, the following procedure shall be followed:

(A) If the other state does not have an income tax, he shall withhold on the entire compensation he pays to the employee.

(B) If the other state does have an income tax and the employer is withholding the tax, the following employer shall also withhold the following Commonwealth income tax on compensation for services rendered within this Commonwealth:

(I) The amount of compensation attributable to services within this Commonwealth shall be that proportion of the total compensation which the total number of working days employed within this Commonwealth bears to the total number of working days employed both within and outside this Commonwealth, exclusive of nonworking days. Nonworking days are normally considered to be Saturdays, Sundays, holidays, and days of absence because of illness or personal injury, vacation, or leave with or without pay.

(II) With respect to earnings of a traveling salesman or other employee whose compensation depends directly on the volume of business transacted by him, the amount attributable to services within this Commonwealth shall be that proportion of the compensation received which the volume of business transacted by him within this Commonwealth bears to the total volume of business transacted by him both within and outside this Commonwealth.

(C) If the employer is not withholding income tax for the state in which the services are rendered, he shall withhold Commonwealth tax on the entire compensation.

(2) *Nonresident.* The following procedure shall be utilized by employers withholding Commonwealth income tax from a nonresident:

(i) The tax shall be deducted and withheld on compensation paid to nonresident employees for services performed in this Commonwealth. Accordingly, if a nonresident employee performs all of his services in this Commonwealth, the tax shall be deducted and withheld from all compensation paid him.

(ii) If a nonresident employee performs services partly within and partly outside this Commonwealth, only compensation for services within this Commonwealth shall be subject to withholding.

(A) The amount of compensation attributable to services within this Commonwealth shall be that proportion of the total compensation which the total number of working days employed within this Commonwealth bears to the total number of working days employed both within and outside this Commonwealth, exclusive of nonworking days. Nonworking days are normally considered to be Saturdays, Sundays, holidays, and days of absence because of illness or personal injury, vacation, or leave with or without pay.

(B) With respect to earnings of a traveling salesman or other employee whose compensation depends directly on the volume of business transacted by him, the amount

attributable to services within this Commonwealth shall be that proportion of the compensation received which the volume of business transacted by him within this Commonwealth bears to the total volume of business transacted by him both within and outside this Commonwealth.

(iii) The portion of compensation allocable to the Commonwealth may be determined by the employer on the basis of the preceding year's experience, or on the basis of an estimate for the current year made by the employee or his employer. In either case, the employer shall make any necessary adjustment during the year to assure that the proper amount is withheld for the current year.

(iv) An employer shall withhold on all compensation paid to a nonresident who works partly within and partly outside this Commonwealth unless the employer maintains adequate current records to determine accurately the amount of compensation from Commonwealth sources.

(3) *Tips.*

(i) Every employee who, in the course of his employment, receives in any calendar month cash tips which are wages as defined in section 3401(a) of the IRC (26 U.S.C.A. § 3401(a)) shall report those tips in one or more written statements furnished to his employer on or before the 10th day following that month.

(ii) Employers are required to deduct and withhold tax only on tips of which the employer has the control, receipt, custody or payment or tips that are reported by the employee and only to the extent that the employer can collect the tax by deducting it from the employee's compensation exclusive of tips.

**§ 113.3. Computing withholding of Pennsylvania Personal Income Tax.**

(a) The Pennsylvania Personal Income Tax to be withheld shall be at the rate prescribed in Article III of the TRC (72 P.S. §§ 7301—7361). For example, the rate applicable to the first pay period beginning on or after:

January 1, 1983 is 2.45

July 1, 1984 is 2.35

January 1, 1986 is 2.20

September 1, 1986 is 2.10

(1) *Regular compensation.* Computation of withholding tax on regular compensation shall be made in accordance with the following:

(i) For a payroll period an employer shall compute the tax to be withheld from the compensation of an employee by multiplying the compensation by the rate prescribed in Article III of the TRC.

(ii) The term "payroll period" means a period for which a payment of compensation is ordinarily made to an employee by his employer and may be a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual or annual period.

(2) *Supplemental or other compensation.* If supplemental, such as commissions, overtime pay, vacation pay, bonuses, and so forth, or other compensation is received by an employee, an employer shall determine the tax to be withheld by adding the supplemental or other compensation for the current payroll period and multiplying the amount by the rate prescribed in Article III of the TRC.

(b) In addition to the tax required to be withheld, an employer and employee may agree that an additional

amount be withheld from the employee's compensation. The agreement shall be in writing, and the amount deducted and withheld under the agreement between the employer and employee shall be considered as tax required to be deducted and withheld, and statutes and regulations applicable to the tax are applicable with respect to an amount deducted and withheld under the agreement.

(c) Except as provided in subsection (d):

(1) Any amount lawfully deducted by an employer from the remuneration of an employee shall be deemed to be a part of the employee's remuneration and to have been paid to the employee as compensation at the time the deduction is made.

(2) Any amount paid by an employer on behalf of an employee without deduction from the remuneration of, or other reimbursement from, the employee on account of any liability or obligation of, or payment required from, an employee shall be deemed to be paid to the employee as compensation at the time the payment is made.

(3) Any payment made to an employee, third party or fund under a cash or deferred arrangement under which an employee may unilaterally elect to have the employer make payments to the third party or fund for the benefit of the employee or to the employee directly in cash shall be deemed to be paid to the employee as compensation at the time the payment is made.

(4) Any payment made to an employee, third party or fund under an arrangement under which an employee may unilaterally choose between two or more benefits consisting either of cash and coverage under a plan or coverage under two or more plans shall be deemed to be paid to the employee as compensation at the time the payment is made.

(d) Amounts specified in a cafeteria plan document as being available to the employee for the purpose of selecting or purchasing benefits under a plan or as additional cash remuneration received in lieu of coverage under a plan are excludible from tax and withholding if the following apply:

(1) They were not actually or constructively received, after taking section 125 of the IRC (26 U.S.C.A. § 125) into account.

(2) The benefits selected or purchased are nontaxable under the IRC when offered under a cafeteria plan described in section 125 of the IRC.

(3) The payments made for the plan would be nontaxable under § 101.6 (relating to compensation) if made by the employer outside a cafeteria plan described in section 125 of the IRC.

**§ 113.3a. Employer identification number.**

An employer shall use both the Federal and Pennsylvania employer identification numbers to report all Pennsylvania withholding. Employers who have not yet received a Federal employer identification number will be assigned a temporary Pennsylvania number until the Federal employer identification number is obtained, at which time the Department shall be notified. If an employer has multiple divisions using the same Pennsylvania employer identification number but remitting and reconciling withholding tax separately, the employer shall request a separate Pennsylvania number for each division.

**§ 113.3b. Registration.**

Every employer having an office or transacting business within this Commonwealth and making payment of

wages for the first time to one or more nonresident individuals performing services on behalf of the employer within this Commonwealth or to one or more resident individuals shall, within 10 business days of the payment, register with the Department by completing and filing Form PA-100 Pennsylvania Combined Registration Form available on its website or at its Harrisburg or district offices.

**§ 113.4. Time and place for filing reconciliation and withholding statements.**

(a) An employer shall submit a wage and tax withholding statement to each of his employees on or before January 31 following the year of payment of compensation, or within 30 days from the date of the last payment of compensation if employment or the business is terminated.

(1) An employer shall use the combined Federal-State Wage and Tip Withholding Statement (Form W-2) issued by the Internal Revenue Service or one that conforms thereto with the word "Commonwealth" printed, stamped or typed thereon. The statement shall show the name of employer, address and identification number of the employer; the name, address and Social Security number of the employee; the total compensation paid during the taxable year; and the total amount of Pennsylvania tax withheld during the taxable year.

(2) The wage and tax withholding statements required in this chapter shall be in addition to a requirement of the Federal or a local government.

(b) A completed Reconciliation Statement (Return Form PA-W3), reconciling Personal Income Tax withheld with related quarterly withholding returns and deposit and employee withholding statements shall be submitted by the following:

(1) A going business for tax withheld in the prior year, annually, by January 31.

(2) A terminated business within 30 days after the end of the month in which business or payment of compensation ceased.

(c) Reconciliation Statements (Form PA-W3), with accompanying withholding statements (Form W-2) for each employee shall be forwarded by means of first class mail with sufficient postage or electronic or magnetic media as specified in instructions of the Department to the Department. If an employer is required to file 250 or more withholding statements, the reconciliation statement, with accompanying withholding statements shall be forwarded by means of electronic or magnetic media as specified in the instructions of the Department available on its website or at its Harrisburg or district offices.

**§ 113.16. Enforceable trust fund.**

(a) For purposes of assessment and collection of deducted tax and withheld tax that is not paid over to the Department, all taxes deducted and withheld from employees under this article or under color of this article shall constitute a trust fund for the Commonwealth and shall be enforceable against the employer, his representative, any person knowingly receiving a disbursement of any part of the fund, any person receiving a disbursement of any part of the fund without giving fair and valuable consideration therefore or any other person who is required to collect, account for and pay over the tax. The taxes will not be enforceable against a person receiving a disbursement from an employer if, before the negligent failure to truthfully account for and pay it over to the Commonwealth is discovered, the money is expended in payment of a genuine, uncontested and enforceable obligation, judgment, claim, lien or other liability of the person existing at the time the money was obtained or otherwise superior to the rights of the Commonwealth.

(b) Tax deducted from the State wages of an employee shall be considered to have been withheld at the time of payment of the State wages against which the deduction was charged.

(c) If an employer fails or refuses to pay over any withheld tax or to deposit it in a separate account in trust for and payable to the Department or otherwise identify and segregate it from other funds, it shall be deemed that:

(1) Withheld tax would be on deposit in the general operating account of the employer at the time of payment of the State wages from which deduction was made.

(2) The employer would disburse withheld tax last.

(3) Once withheld tax is disbursed, subsequent deposits would not replenish it.

(4) The lowest intermediate balance of cash on deposit in the general operating account is withheld tax that constitutes a trust fund for the Commonwealth that is enforceable against the employer or any person receiving any part of the fund.

(5) Any excess of the tax deducted over the lowest intermediate balance is withheld tax that has been received by the employer and disbursed.

**CHAPTER 121. FINAL RETURNS**

**§ 121.16. (Reserved).**

[Pa.B. Doc. No. 03-2453. Filed for public inspection December 26, 2003, 9:00 a.m.]



# STATEMENTS OF POLICY

## Title 55—PUBLIC WELFARE

### DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CHS. 3270, 3280 AND 3290]

#### Emergency Plan

##### *Scope*

This statement of policy applies to child day care centers, group child day care homes, family child day care homes and other interested parties.

##### *Purpose*

The purpose of this statement of policy is to clarify that the Department of Public Welfare (Department) interprets §§ 3270.21, 3280.20 and 3290.18 (relating to general health and safety), to require that each child day care center, group child day care home and family child day care home must have an emergency plan.

##### *Background*

In this Commonwealth and around the country, emergency preparedness is receiving a great deal of attention in light of recent National and world events. The Department recognizes that an emergency plan in child day care facilities is vital to ensure the health and safety of children enrolled in child day care facilities. To respond to a variety of emergency events, each child day care center, group child day care home and family child day care home operator shall develop an emergency plan that addresses the facility's specific needs.

##### *Discussion*

An emergency plan enables the facility operator and staff persons to respond to a variety of events, including the following:

- Fire
- Bomb threat, threatening call or message
- Utility disruption (water, heat, electricity)
- Flood
- Medical emergency
- Severe weather (snow, ice storms, tornado, high wind, temperature extremes)
- Security/lockdown (civil disturbance, threat of violence, intruder, hostage, disgruntled employees or parents/guardians)
- Hazardous material spills
- Nuclear emergency
- Missing child
- Other emergencies

A facility operator should work with the Department's regional day care office and with the county Emergency Management Agency (EMA) in developing an emergency plan. Each county EMA is responsible for overseeing emergency plans in that county. The EMA coordinator can provide information to assist the facility operator in preparing an emergency plan specific to the needs of the facility and may be able to assist in determining appropriate alternative shelter, both on and off the child care site.

A facility operator should also consider the Department's regulatory requirements in developing the emergency plan. By regulation, an operator shall have procedures regarding fire drills, emergency medical care, emergency contact information and release of children to

a designated adult. In developing an emergency plan, the facility operator should consider the size and location of the facility, the needs of children in care and any unique circumstances that pertain to the facility which would require special attention. A facility operator may also want to request help in writing the emergency plan from available community resources and qualified National resources. In addition, the operator should involve parents of children in care in developing the plan.

The facility operator shall reevaluate the emergency plan at least annually and update the plan based on changes at the facility or in the community. The facility operator shall train facility persons as described in the applicable statement of policy.

##### *Comments*

Comments and questions regarding this statement of policy should be directed to Diana Ramiez, Bertolino Building, 4th Floor, Harrisburg, PA 17105, (717) 787-8082.

##### *Effective Date*

This statement of policy takes effect June 24, 2004.

ESTELLE B. RICHMAN,  
*Secretary*

*(Editor's Note: The regulations of the Department, 55 Pa.Code Chapters 3270, 3280 and 3290, are amended by adding a statement of policy in §§ 3270.21a, 3280.20a and 3290.18a to read as set forth in Annex A.)*

**Fiscal Note:** 14-BUL-064. No fiscal impact; (8) recommends adoption.

#### **Annex A**

#### **TITLE 55. PUBLIC WELFARE**

#### **PART V. CHILDREN, YOUTH AND FAMILIES MANUAL**

#### **Subpart D. NONRESIDENTIAL AGENCIES, FACILITIES AND SERVICES**

#### **ARTICLE I. LICENSING/APPROVAL**

#### **CHAPTER 3270. CHILD DAY CARE CENTERS**

#### **GENERAL REQUIREMENTS**

#### **§ 3270.21a. Emergency plan.**

(a) The facility shall have an emergency plan that provides for:

- (1) Shelter of children during an emergency.
- (2) Evacuation of children from the facility.

(3) A method for facility persons to contact parents as soon as reasonably possible when an emergency situation arises.

(4) A method for facility persons to inform parents that the emergency has ended and to provide instruction as to how parents can safely be reunited with their children.

(b) The operator shall review the emergency plan at least annually and update the plan as needed. The operator shall document in writing each review and update of the emergency plan.

(c) The operator shall assure that each facility person receives training regarding the emergency plan at the time of initial employment, on an annual basis and at the time of each plan update. The operator shall document

the date of each training and the names of all facility persons who received the training.

(d) The operator shall post the emergency plan in the facility at a conspicuous location.

(e) The operator shall provide to the parent of each enrolled child a letter explaining the emergency procedures described in subsection (a). The operator shall also provide to the parent of each enrolled child a letter explaining any subsequent update to the plan.

(f) The operator shall send a copy of the emergency plan and subsequent plan updates to the county emergency management agency.

#### **CHAPTER 3280. GROUP CHILD DAY CARE HOMES**

##### **GENERAL REQUIREMENTS**

##### **§ 3280.20a. Emergency plan.**

(a) The facility shall have an emergency plan that provides for:

- (1) Shelter of children during an emergency.
- (2) Evacuation of children from the facility.

(3) A method for facility persons to contact parents as soon as reasonably possible when an emergency situation arises.

(4) A method for facility persons to inform parents that the emergency has ended and to provide instruction as to how parents can safely be reunited with their children.

(b) The operator shall review the emergency plan at least annually and update the plan as needed. The operator shall document in writing each review and update of the emergency plan.

(c) The operator shall assure that each facility person receives training regarding the emergency plan at the time of initial employment, on an annual basis and at the time of each plan update. The operator shall document the date of each training and the names of all facility persons who received the training.

(d) The operator shall post the emergency plan in the facility at a conspicuous location.

(e) The operator shall provide to the parent of each enrolled child a letter explaining the emergency proce-

dures described in subsection (a). The operator shall also provide to the parent of each enrolled child a letter explaining any subsequent update to the plan.

(f) The operator shall send a copy of the emergency plan and subsequent plan updates to the county emergency management agency.

#### **CHAPTER 3290. FAMILY CHILD DAY CARE HOMES**

##### **GENERAL REQUIREMENTS**

##### **§ 3290.18a. Emergency plan.**

(a) The facility shall have an emergency plan that provides for:

- (1) Shelter of children during an emergency.
- (2) Evacuation of children from the facility.

(3) A method for facility persons to contact parents as soon as reasonably possible when an emergency situation arises.

(4) A method for facility persons to inform parents that the emergency has ended and to provide instruction as to how parents can safely be reunited with their children.

(b) The operator shall review the emergency plan at least annually and update the plan as needed. The operator shall document in writing each review and update of the emergency plan.

(c) The operator shall assure that each facility person receives training regarding the emergency plan at the time of initial employment, on an annual basis and at the time of each plan update. The operator shall document the date of each training and the names of all facility persons who received the training.

(d) The operator shall post the emergency plan in the facility at a conspicuous location.

(e) The operator shall provide to the parent of each enrolled child a letter explaining the emergency procedures described in subsection (a). The operator shall also provide to the parent of each enrolled child a letter explaining any subsequent update to the plan.

(f) The operator shall send a copy of the emergency plan and subsequent plan updates to the county emergency management agency.

[Pa.B. Doc. No. 03-2454. Filed for public inspection December 26, 2003, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending December 16, 2003.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
12-12-03	National Penn Bancshares, Inc., Boyertown, to acquire 100% of the voting shares of HomeTowne Heritage Bank, Lancaster	Boyertown	Effective

##### Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-12-03	NPB Interim Bank Boyertown Berks County	Boyertown	Effective
Interim bank being formed solely to facilitate the acquisition of HomeTowne Heritage Bank, Lancaster, by National Penn Bancshares, Inc., Boyertown.			

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-12-03	HomeTowne Heritage Bank, Lancaster, and NPB Interim Bank, Boyertown Surviving Institution—HomeTowne Heritage Bank, Lancaster	Lancaster	Effective
12-15-03	National Penn Bank, Boyertown, and HomeTowne Heritage Bank, Lancaster Surviving Institution—National Penn Bank, Boyertown	Boyertown	Effective

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
12-8-03	Landmark Community Bank Pittston Luzerne County	1320 Wyoming Avenue Forty Fort Luzerne County	Opened
12-9-03	Community Bank and Trust Company Clarks Summit Lackawanna County	Route 611 Tannersville Pocono Township Monroe County	Opened

#### SAVINGS INSTITUTIONS

No activity.

#### CREDIT UNIONS

##### Conversions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
12-10-03	St. Basil Parish Credit Union Pittsburgh Allegheny County	Pittsburgh	Filed

Application represents a request to convert to a community chartered credit union to include a field of membership beyond the parishioners of St. Basil Parish.

**Change in Place of Business**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
12-10-03	Erie Community Credit Union Erie Erie County	Change in Place of Business filed with the Department of State to provide for address change <i>From</i> : 135 East 6th Street; <i>To</i> : 1129 State Street, both locations in Erie, Erie County	Approved and Effective

A. WILLIAM SCHENCK, III  
*Secretary*

[Pa.B. Doc. No. 03-2455. Filed for public inspection December 26, 2003, 9:00 a.m.]

## DEPARTMENT OF EDUCATION

### Request for Proposals for Evaluation of the Pennsylvania Teacher Quality Enhancement Grant

The Department of Education announces this Request for Proposals (RFP) to seek candidates to evaluate the effectiveness of its Accelerated Certification Program for Teachers (ACT) and components of the Aligning Curriculum to Standards in Pennsylvania Program (ACTS in PA). The goal of ACT and ACTS in PA is to aid in the recruitment, preparation and retention of quality teachers in high-need academic areas for preidentified school districts in this Commonwealth: Philadelphia school district (awarded to Eastern University/Chestnut Hill College/Gwynedd Mercy College, Cheyney University of Pennsylvania and Holy Family University); the Pittsburgh school district (awarded to the University of Pittsburgh/Duquesne University); and the school districts of Harrisburg, Allentown, Reading, York and Lancaster (awarded to Eastern University). This RFP will provide for an independent, formal and comprehensive evaluation of ACT, as well as examine specific aspects of ACTS in PA.

#### *Funding Source and Eligibility Requirements*

ACT and ACTS in PA are funded by the Department's successful application to the United States Department of Education Teacher Quality Enhancement Grant under Title II, Section 202 of the Higher Education Act. The

Commonwealth has up to \$90,000 per year to fund a comprehensive evaluation of the sponsored programs. Awards will be available for the term of the contract, up to 3 years. Funding is available on a competitive basis to any institution in this Commonwealth of postsecondary or higher education offering an approved teacher education program. However, postsecondary institutions directly connected to the implementation of ACT or ACTS in PA are ineligible.

#### *Important Dates and Application Deadline*

The contract period is from March 1, 2004, through September 30, 2006. There will be a pre-proposal conference on January 15, 2004. Proposals must be submitted by February 20, 2004, to receive consideration. Electronic or faxed copies of the application will not be accepted. Prospective contractors may download application materials from the Department's website: [www.teaching.state.pa.us](http://www.teaching.state.pa.us).

#### *Contact and Additional RFP Information*

To receive a paper copy of the complete RFP or to ask additional questions about the application process, contact Helen Rodriguez, Bureau of Teacher Certification and Preparation, Division of Teacher Education, Department of Education, 333 Market Street, 3rd Floor, Harrisburg, PA 17126-0333, (717) 772-3566, [c-hrodrigu@state.pa.us](mailto:c-hrodrigu@state.pa.us).

VICKI L. PHILLIPS, Ed.D.,  
*Secretary*

[Pa.B. Doc. No. 03-2456. Filed for public inspection December 26, 2003, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

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

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

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

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

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

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

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

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

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

### **I. NPDES Renewal Applications**

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0222585	Brokenstraw Valley Area Authority R. R. 2, Box 284 Youngsville, PA 16371-0284	Pleasant Township Warren County	Allegheny River 16-B	Y
PA0222623	CSX Transportation New Castle Rail Yard 500 Water Street (J275) Jacksonville, FL 32202	Taylor Township Lawrence County	Shenango River 20-A	Y

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

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

**PA0043443**, Sewage, **Alexandria Borough-Porter Township Joint Sewer Authority**, P. O. Box 113, Alexandria, PA 16611-0113. This facility is in Porter Township, **Huntingdon County**.

Description of activity: Renewal of an NPDES permit for existing discharge of treated sewage.

The receiving stream, Frankstown Branch Juniata River, is in Watershed 11-A and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Newport Borough Water Authority is on the Juniata River, approximately 95 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.240 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	0.5		1.6
Dissolved Oxygen		minimum of 5.0 at all times	
pH		from 6.0 to 9.0 inclusive	
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		77,000/100 ml as a geometric average	

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

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

**PA0252531**, Sewage, **Independence-Cross Creek Joint Sewer Authority**, P. O. Box 156, 34 Campbells Run Road, Avella, PA 15312. This application is for issuance of an NPDES permit to discharge treated sewage from Independence-Cross Creek Joint Sewer Authority Wastewater Treatment Plant in Cross Creek Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as North Fork Cross 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 City of Wheeling.

*Outfall 001: new discharge, design flow of 0.236 mgd.*

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>				
(5-1 to 10-31)	15	22.5		30
(11-1 to 4-30)	20	30		40
Suspended Solids	30	45		60
Ammonia Nitrogen	2.0	3.0		4.0
(5-1 to 10-31)				
(11-1 to 4-30)	4.0	6.0		8.0
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 mg/l		
pH		not less than 6.0 nor greater than 9.0		

The EPA waiver is in effect.

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

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

**WQM Permit No. 6703411**, Sewerage, **Jackson Township Sewer Authority**, 439 Roth's Church Road, Spring Grove, PA 17362. This proposed facility is in Jackson Township, **York County**.

Description of Proposed Action/Activity: Construction of pump station and sewer extension to serve the Roth's Farm Village Condominiums.

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

**WQM Permit No. 0303404**, Sewerage, **Mahoning Township Supervisors**, R. D. 1 Box 110A, New Bethlehem, PA 16242. This proposed facility is in Mahoning Township, **Armstrong County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewerage treatment plant to serve the Village of Distant and nearby community of Seminole.

The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, has been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

**WQM Permit No. 0373405-A1**, Sewerage, **United Mobile Homes Inc.**, Juniper Business Plaza, 349 Route 9 North, Suite 3C, Freehold, NJ 07728. This proposed facility is in Kiskiminetas Township, **Armstrong County**.

Description of Proposed Action/Activity: Application for the modification and operation of the Pine Valley Estates Mobile Home Park sewerage treatment plant.

**WQM Permit No. 0403403**, Sewerage, **Keller Land Development Company LLC**, 2002 McMinn Street, Aliquippa, PA 15001. This proposed facility is in Conway Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewerage treatment plant to serve the Birchwood Falls Plan of Lots.

**WQM Permit No. 0484408-A1**, Sewerage, **New Brighton Borough Sanitary Authority**, 610 Third Avenue, New Brighton, PA 15066. This proposed facility is in New Brighton Borough, **Beaver County**.

Description of Proposed Action/Activity: Application for the construction and operation of the New Brighton Sanitary Authority Sewerage Treatment Plant.

**WQM Permit No. 1103404**, Sewerage, **Eugene Cuomo**, 177 Fairway Drive, Cresson, PA 16630. This proposed facility is in Dean Township, **Cambria County**.

Description of Proposed Action/Activity: Application for the construction and operation of a single residence sewerage treatment plant to serve the Cuomo residence.

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

**WQM Permit No. 2503431**, Sewerage, **LeRoy G. and Rebecca L. Wells**, 15630 Tionesta Road, Pleasantville, PA 16341. This proposed facility is in North East Township, **Erie County**.

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

**WQM Permit No. 4303420**, Sewerage, **Brenda K. and Mark J. DelMaramo**, 217 Morneweck Road, Greenville, PA 16125. This proposed facility is in Perry Township, **Mercer County**.

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

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAI132210	City of Bethlehem 10 E. Church St. Bethlehem, PA 18018	Northampton	City of Bethlehem	Monocacy Creek HQ-CWF Saucon Creek HQ-CWF Lehigh River WWF East Branch of Saucon Creek CWF Black River CWF	Y

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Department Protocol (Y/N)</i>
PAG136118	Pitcairn Borough 582 Sixth Street Pitcairn, PA 15140	Allegheny	Pitcairn Borough	Y

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032103007	GVH (Carlisle) LP 323 Union Street, Suite 300 Nashville, TN 37201	Cumberland	Carlisle Borough	Letort Spring Run HQ-CWF

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**VII. List of NOIs for NPDES and/or Other General Permit Types**


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PAG-12 CAFOs  
 PAG-13 Stormwater Discharges from MS4

**PUBLIC WATER SUPPLY (PWS)  
 PERMIT**

Under the Pennsylvania Safe Drinking Water Act, the following parties have applied for a PWS permit to construct or substantially modify a public water system.

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

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

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

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

**SAFE DRINKING WATER**

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**Applications Received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17)**


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*Southeast Region: Water Supply Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Permit No. 0903507**, Public Water Supply.

Applicant	<b>Milford Township Water Authority</b>
Township	Milford
Responsible Official	Harry Koenig P. O. Box 516 Spinnerstown, PA 18968
Type of Facility	PWS
Consulting Engineer	Pennoni Associates, Inc. 875 North Easton Road, Suite 10 Doylestown, PA 18901
Application Received Date	December 10, 2003

Description of Action	Construction of a well house to meter and disinfect water from Milford Township Water Authority Well No. 5 and to augment the existing water supply system.
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*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 2803509**, Public Water Supply.

Applicant	<b>Molly Pitcher Mini Mall</b>
Municipality	Antrim Township
County	<b>Franklin</b>
Responsible Official	John D. Turner, Owner 650 Marpete Drive Hampstead, MD 21074
Type of Facility	PWS
Consulting Engineer	Stephen R. Morse, P. E. Skelly and Loy, Inc. 2601 North Front Street Harrisburg, PA 17110-1185
Application Received Date	October 30, 2003

Description of Action	Installation of GAC treatment to address MTBE and VOC contamination. In addition to the GAC system, the chlorination system will be upgraded.
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*Central Office: Bureau Director, Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467.*

**Permit No. 9996472**, Public Water Supply.

Applicant	<b>Northern Springs, Inc.</b>
Township or Borough	Brentwood, NH
Responsible Official	Joseph Cimino, President
Type of Facility	Out-of-State Bottled Water System
Application Received Date	December 4, 2003

Description of Action	Applicant requesting Department approval to sell bottled water in this Commonwealth under the brand names Northern Springs Natural Spring Water, IGA Pure and Natural Spring Water, Richfood Natural Spring Water and Whole Foods Market Spring Water.
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**MINOR AMENDMENT**

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


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*Southeast Region: Water Supply Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Application No. 0903506**, Minor Amendment.

Applicant	<b>Warminster Municipal Authority</b>
Township	Warminster



Responsible Official Geoffrey Smith  
415 Gibson Avenue  
Warminster, PA 18974

Type of Facility PWS

Consulting Engineer CKS Engineers, Inc.  
88 South Main Street  
Doylestown, PA 18901

Application Received Date December 5, 2003

Description of Action An interconnect water main between Warminster Municipal Authority and Warminster Heights.

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

**Application No. 0203506, Minor Amendment.**

Applicant **East Deer Township**  
927 Freepoint Road  
Creighton, PA 15030

Township or Borough East Deer Township

Responsible Official Anthony Taliani, President  
Board of Commissioners  
East Deer Township  
927 Freepoint Road  
Creighton, PA 15030

Type of Facility Water Treatment Plant

Consulting Engineer Senate Engineering Company  
U-PARC  
420 William Pitt Way  
Pittsburgh, PA 15238

Application Received Date December 11, 2003

Description of Action Emergency Interconnect with Fawn Frazer Joint Water Authority.

**LAND RECYCLING AND  
ENVIRONMENTAL REMEDIATION  
UNDER ACT 2, 1995  
PREAMBLE 1**

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

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

intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

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

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

*Northcentral Region: Environmental Cleanup Program, 208 West Third Street, Williamsport, PA 17701.*

**Pennsylvania State University—Eastview Terrace Housing Complex—Soil**, State College Borough, Centre County. Meiser & Earl, Inc., on behalf of The Pennsylvania State University, Office of Physical Plant, University Park, PA 16802, has submitted a Notice of Intent to Remediate soil contaminated with fuel oil no. 2. The applicant proposes to remediate the site soils to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Centre Daily Times* on November 14, 2003.

**OPERATE WASTE PROCESSING OR DISPOSAL  
AREA OR SITE**

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

*Southeast Region: Regional Solid Waste Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Permit Application No. 101226. Savoy's Transfer Station**, P. O. Box 339, Claymont, DE 19703-0339, Chester Township, **Delaware County**. The application

was received for a renewal of a permit for a new 10-year term. The application was received by the Southeast Regional Office on December 8, 2003.

**AIR QUALITY**

**PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS**

**NEW SOURCES AND MODIFICATIONS**

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

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

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

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

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

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

**PLAN APPROVALS**

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

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

**62-032A: Ellwood National Forge Co.** (1 Front Street, Irvine, PA 16329) for post-construction plan approval of a baghouse to control particulate emissions from the crankshaft file and grind process at their facility in Brokenstraw Township, **Warren County**.

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

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

**61-007B: IA Construction—Franklin Hot Mix Plant** (Routes 8 and 62, Franklin, PA 16323) for modification of existing Permit 61-007A by replacing burner, dryer, baghouse, including exhaust fan and automatic damper in Sugar Creek Township, **Venango County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval to modify existing Permit 61-007A by replacing burner, dryer, baghouse, including exhaust fan and automatic damper. The plant will increase rated capacity from 180 tons to 400 tons per hour. Alternative fuels: reprocessed fuel no. 5 (RFO 5), no. 2 fuel oil, liquid propane and natural gas will be burned. This is the Franklin Hot Mix Asphalt Plant in Sugar Creek Township, Venango County. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

1. This facility is limited to producing 400 tons per hour and an annual cap of 495,000 tons of hot mix asphalt paving materials to be produced during any 12 consecutive months.
2. Particulate emissions from the source shall not exceed 0.02 grain/dscf and the visible emissions shall not exhibit 20% opacity or greater. EPA Method 9 shall be used to determine opacity.
3. The facility shall be permitted to use the following fuels: RFO 5, no. 2 fuel oil, liquid propane or natural gas.
4. Air pollutant emissions from the source from the use of no. 2 fuel oil shall not exceed:

Criteria Pollutants	Emission	
	Limit Lbs/ton	Emission Limit Tons/year 12-Month Rolling Total
SOx	0.088	21.78
CO	0.4	99.00
NOx	0.120	29.70
VOC	0.0082	2.03

5. Air pollutant emissions from the source from the use of RFO 5 shall not exceed:

Criteria Pollutants	Emission	
	Limit Lbs/ton	Emission Limit Tons/year 12-month rolling total
SOx	0.088	21.78
CO	0.4	99.00
NOx	0.12	29.70
VOC	0.036	8.91

6. The source shall comply with 25 Pa. Code §§ 123.1, 123.31 and 123.41.

7. The plant entrance road must be maintained to keep fugitive emissions to a minimum. The road shall be routinely swept or dust suppressant shall be applied on an as needed basis. A log shall be kept onsite documenting road maintenance.

8. A magnehelic gauge shall be permanently installed and maintained at a conveniently readable location to indicate the pressure drop across the collector.

9. The pressure drop across the collector shall be recorded on a daily basis. A daily log shall be maintained and kept on file for at least 2 years and made available to Department personnel upon request.

10. Whenever a condition in this permit requires the measurement of pressure drop across any part of the unit or its control device, the gauge employed shall have a scale so that the expected normal reading shall be no less than 20% of full scale.

11. The operating range for pressure drop of the collector shall be determined within 30 days of startup of the control device and shall be indicated to the Department in writing. If stack testing is required, the pressure drop range developed during compliant stack testing shall become standard operating parameters for the control device. The pressure drop ranges shall be made part of the facility operating permit.

12. An inspection/maintenance log for the collector shall be maintained onsite. The log shall contain all records of maintenance, as suggested by the manufacturer. The records shall be kept on file for 5 years and shall be made available to the Department personnel upon request.

13. The company shall maintain hourly production rates for both base coarse and wearing coarse (top) types of mixes. The records shall be kept on file for 5 years and shall be made available to the Department personnel upon request.

14. Twenty percent of the total number of bags in the baghouse is required to be onsite (157 bags).

15. The two aboveground storage tanks (1-10,000 gallon for no. 2 fuel oil and 1-20,000 gallon for RFO 5) are subject to New Source Performance Standards, Subpart Kb—Standards of Performance for Volatile Organic Liquid Storage Vessels for which Construction, Reconstruction, or Modification Commenced after July 23, 1984. Specifically, the tank is subject to 40 CFR 60116b—monitoring of operations.

16. Within 7 days of changing to a permitted fuel that has not been used before, the Department shall be notified in writing.

17. The company shall not accept shipment of RFO 5 without an analysis. This analysis shall meet the specifications listed in Attachment A. This documentation must be kept on file for 2 years and shall be made available to the Department personnel upon request.

18. Within 30 days after the affected facility will be operated using RFO 5 or no. 2 fuel oil as a fuel, test procedures for PM, CO, SO<sub>x</sub>, NO<sub>x</sub> and VOC including a sketch with dimensions indicating the location of sampling ports and other data to ensure the collection of representative samples shall be submitted to the Department.

19. Within 45 days of the Department's approval of the test protocol or a schedule approved by the Department,

stack tests shall be performed in accordance with 25 Pa. Code Chapter 139 to demonstrate compliance with Conditions 5, 7 and 8.

a. EPA Reference Method 5 shall be used to determine the particulate matter concentration.

b. During the stack tests, opacity observations shall be conducted in accordance with EPA Reference Method 9.

20. At least one of the runs of the stack tests for particulate emissions and opacity shall be performed while top mix or the product produced by the facility containing the greatest percentage of sand is being produced at the maximum rate possible. The production rate during the stack tests will then become the legal operating limit of the plant for each type of fuel used for this particular product.

21. After the protocol has been approved and at least 2 weeks prior to the test, the Department shall be informed of the date and time of the test.

22. Within 30 days after completion of the test, two copies of the complete test report, including all operating conditions, shall be submitted to the Department for approval.

23. If the results of the stack tests performed in conformance with the conditions of this plan approval exceed the emission levels specified in any condition of this approval, the permittee shall take appropriate corrective actions. The permittee shall submit a description of these corrective actions to the Department, within 30 days of receipt of the test results. The permittee shall take appropriate action to minimize emissions from the affected facility while the corrective actions are being implemented. The Department shall notify the permittee with 30 days, if the corrective actions taken are deficient. The permittee shall submit a description of additional corrective actions taken to the Department within 30 days of receipt of the notice of deficiency. The Department reserves the authority to use enforcement activities to resolve noncompliant stack tests.

24. If the results of the stack tests performed in conformance with the conditions of this plan approval exceed the emission levels specified in any condition of this approval, a retest to demonstrate compliance shall be performed within 120 days of receipt of the original test results. Should the permittee demonstrate to the Department that retesting in 120 days is not practicable, the Department may extend the deadline. Failure of the second test to demonstrate compliance with the appropriate approval conditions may be grounds for immediate revocation of the approval to operate the affected facility.

25. Within 30 days of changing to a permitted fuel other than RFO 5 or no. 2 fuel oil that has not been previously used at the facility, a procedure for stack testing shall be submitted and a stack test performed as required by Conditions 22—27. The Company may request in writing to the Department, a waiver of stack testing when switching fuels. The Department in its sole discretion may grant a waiver on a case by case basis.

26. This facility may process recycled asphalt product (RAP). A maximum of 25% RAP will be added to the mix. Records will be kept of amounts of RAP processed and the percentage of RAP used in both top and base mixes. At least one of the runs during stack testing shall be performed when the maximum percentage of RAP is being added to the mix. This percentage of RAP will become the legal operating limit of RAP for the plant.

27. This source is subject to Subpart I of the Standards of Performance for New Stationary Sources and shall comply with all applicable requirements of this subpart; 40 CFR 60.4 requires submission of copies of all requests, reports, applications, submittals and other communications to both the EPA and the Department. The EPA copies shall be forwarded to Director; Air, Toxics and Radiation Division; US EPA, Region III; 1650 Arch St.; Philadelphia, PA 19103-2029.

**37-013E: CEMEX, Inc.—Wampum Plant** (2001 Portland Park, Wampum, PA 16157) for modification of Plan Approval PA-37-013A (slag feed equipment), to allow the slag feed equipment to be used to feed cement kiln dust and other raw materials into their kiln in Wampum Borough, **Lawrence County**. This will result in an additional 2.3 tpy of particulate emissions. This is a Title V facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b and will demonstrate Best Available Technology for the source: existing Plan Approval PA-37-013A with no additional requirements.

**37-322A: Joseph A. Tomon, Jr. Funeral Home** (123-5th Street, Ellport, PA 16117) to construct a human cremation retort in Ellport, **Lawrence County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

1. The source shall comply with 25 Pa. Code §§ 121.1 and 121.31 for fugitive and odor emissions, respectively.

2. Particulate matter emissions from the source shall not exceed 0.08 grain per dry standard cubic foot, corrected to 7% O<sub>2</sub>.

3. The temperature of the secondary chamber shall be maintained at a minimum 1,800°F with a minimum gas residence time of 1 second during all periods of operation.

4. A temperature recorder shall be installed to measure and record primary and secondary combustion chamber temperatures. Temperatures shall be continually monitored and recorded during all periods of operation. Sensors shall be so that the flames from the burners do not impinge on the sensors. Continuous monitoring shall be conducted in accordance with 25 Pa. Code Chapter 139 and shall be approved by the Department.

5. Records of temperatures shall be maintained for a minimum of 5 years and shall be made available to the Department upon request.

6. Visible air contaminants shall not be emitted in a manner that the opacity of the emissions is equal to or greater than 10% for a period or periods aggregating more than 3 minutes in any 1 hour, or equal to or greater than 30% at any time.

7. The firing of the burners and the combustion air shall be modulated automatically to maintain the required temperature.

8. The source shall process human remains and containers only. No radioactive, infectious/hospital, municipal or industrial, or any significant amount of plastic waste shall be burned.

9. The stack shall be constructed with a minimum discharge height of 28 feet above grade.

**42-117A: Zippo Manufacturing Corp.** (Congress Street Extension, Bradford, PA 16701) for post-construction of several buffing machine sources controlled by dust collectors at the Zippo Manufacturing site in the Township of Bradford, **McKean County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the intends to issue a plan approval. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date.

Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

1. The buffing and soft grinding operations shall comply with Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions, respectively.

2. The following sources shall be controlled by the indicated dust collectors:

<i>Source</i>	<i>Air Pollution Control Device</i>
Old Harper Edge Buffing Machine	East Dust Collector
Six Polishing Lathes	East Dust Collector
Old High Polish Buffing Machine	Center Dust Collector
New High Polish Buffing Machine	Center Dust Collector
Acme Edge Buffing Machine	West Dust Collector

3. Particulate emissions from the sources shall not exceed 0.02 grain/dscf.

4. The sources shall not operate when the control device is not operating.

5. A magnehelic gauge shall be permanently installed and maintained at a conveniently readable location to indicate the pressure drop across each collector.

6. Whenever a condition in this permit requires the measurement of pressure drop across any part of the unit or its control device, the gauge employed shall have a scale so that the expected normal reading shall be no less than 20% of full scale.

7. The pressure drop across the filters shall be maintained in the appropriate pressure drop range, as dictated by the gauge manufacturer and previous gauge operating parameters. Readings will be recorded weekly and a record of the readings and a maintenance log, which would include when filters are changed, will be kept for 5 years.

8. The facility shall maintain sufficient replacement filters (20% or 32 filters for each collector) for the dust collection systems onsite or shall have immediate access to spare cartridges in the event of failure.

9. The facility shall comply with 25 Pa. Code § 127.25 as follows:

No person shall cause or permit the operation of the sources unless the source and air cleaning devices are operated and maintained in accordance with specifications in the Plan Approval application and Condition Nos.

1—8. A person may not cause or permit the operation of this source in a manner inconsistent with good operating practices.

### OPERATING PERMITS

#### Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**06-03015: FM Brown's Sons** (P. O. Box 67, South Furnace Street, Birdsboro, PA 19508) for operation of their feed mill in Birdsboro Borough, **Berks County**. The facility has a potential to emit 14.2 tons/yr. of a PM (PM10). The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**36-03035: Stiegel Castings, Inc.** (411 West Stiegel Street, Manheim, PA 17545) for operation of a foundry in Manheim Borough, **Lancaster County**. This is a non-Title V State-only facility. The State-only operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

### PUBLIC HEARINGS

*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Edward Brown, Facilities Permitting Chief, (610) 832-6242.*

**OP-15-0104: Tasty Baking Oxford, Inc.** (700 Lincoln Street, Oxford, PA) for revision to their State implementation plan for VOCs in Oxford Township, **Chester County**.

The Department has made a preliminary determination to approve a Reasonably Available Control Technology (RACT) plan as an amendment to the State Implementation Plan (SIP) for the aforementioned facility. The proposed SIP revision does not adopt any regulations. The SIP revision incorporates the provisions and requirements contained in the RACT approval for the aforementioned facility to comply with current regulations. This preliminary determination, if finally approved, will be incorporated into an Operating Permit (OP-15-0104) for the facility and will be submitted to the EPA as a revision to the Commonwealth's SIP.

The preliminary RACT determination for this facility will include a 48.8 tons/year VOC emission limitation, require good housekeeping techniques and operation in accordance with manufacturer's specifications.

Copies of the application, the Department's analysis and other documents used in the evaluation are available for public inspection between of 8 a.m. and 4 p.m. weekdays at the Department of Environmental Protection, Southeast Regional Office, 555 North Lane, Lee Park, Suite 6010, Conshohocken, PA 19428. To make an appointment, contact Records Management at (610) 832-6003. After January 15, 2004, the Department's new address will be 2 East Main Street, Norristown, PA 19401, (484) 250-5900.

Individuals wishing to provide the Department with additional information they believe should be considered

may submit the information to the previous addresses. Written comments should be directed to Francine Carlini, Air Quality Program Manager by February 16, 2004. Written comments should include the name, address and telephone number of the person submitting comments, identification of proposed Permit No. OP-15-0104 and a concise statement regarding the relevancy of the information or any objections to issuance of the Operating Permit.

A public hearing will be held for the purpose of receiving comments on the proposed RACT operating permit at 2 p.m. on February 18, 2004, in the Schuylkill River Room, Southeast Regional Office, 2 East Main Street, Norristown, Montgomery County.

Individuals wishing to present testimony at the hearing should contact Lynda Rebarchak, Community Relations Coordinator, (610) 832-6219 (until January 15, 2004), (484) 250-5820 (after January 15, 2004), lrebarchak@state.pa.us to register by February 16, 2004. Individuals with questions on a proposal should contact Lynda Rebarchak prior to the hearing date. Individuals with a disability should call Lynda Rebarchak to discuss how the Department may accommodate their needs.

### COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

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

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

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

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition to the previous, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25

Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of the NPDES permit 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 those requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal

conference must contain the name, address and telephone number of requestor; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

#### *Coal Applications Received*

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

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

\* The parameter is applicable at all times.

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

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**49830202R4. Split Vein Coal Company, Inc.** (R. R. 1, Drawer 2, Paxinos, PA 17860), renewal of an existing coal refuse reprocessing operation in Coal Township, **Northumberland County**, affecting 276.5 acres. Receiving stream: none. Application received December 8, 2003.

**49931601R2. Black Creek Breaker Company** (R. R. 2 Box 630, Shamokin, PA 17872), renewal of an existing coal preparation plant operation in West Cameron Township, **Northumberland County**, affecting 5.7 acres. Receiving stream: none. Application received December 9, 2003.

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**32841303. NPDES Permit No. PA0001775, Helvetia Coal Company** (400 Overview Drive, P. O. Box 219, Shelocta, PA 15774), to revise the permit for the Lucerne No. 6 Mine in Center Township, **Indiana County**, to change the post-mining land use. No additional discharges. Application received November 4, 2003.

**30010701. NPDES Permit No. PA0235440, RAG Cumberland Resources, L. P.** (158 Portal Road, Waynesburg, PA 15370), to revise the permit for the Cumberland Mine No. 2 Coal Refuse Disposal Facility in Whiteley Township, **Greene County**, to add acreage for the construction and operation of a coarse coal refuse conveyor belt. CRDP Support Acres Proposed 18. No additional discharges. Application received November 10, 2003.

**11991301. NPDES Permit No. PA0215210, Rosebud Mining Company** (301 Market Street, Kittanning, PA 16201), to revise the permit for the Twin Rocks Mine in Blacklick Township, **Cambria County**, to add and delete

underground permit acres and add subsidence control plan acres. Underground Acres Proposed 2705, SCP Acres Proposed 2705. No additional discharges. Application received November 17, 2003.

**30810703. NPDES Permit No. PA0092894, Consol Pennsylvania Coal Company** (1800 Washington Road, Pittsburgh, PA 15241-1421), to revise the permit for the Bailey Central Mine Complex Coal Refuse Disposal Area No. 1 in Richhill Township, **Greene County**, to add acreage for the conveyor system. CRDP Support Acres Proposed 8.0. No additional discharges. Application received December 2, 2003.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**33990103 and NPDES Permit No. PA0227986. Falls Creek Energy Co., Inc.** (R. D. 6, Box 231, Kittanning, PA 16201). Renewal of an existing bituminous strip operation in McCalmont Township, **Jefferson County**, affecting 71.6 acres. Receiving streams: Camp Run (CWF). There are no potable surface water supply intakes within 10 miles of downstream. This renewal is for reclamation only. Application received December 5, 2003.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**03990101 and NPDES Permit No. PA0202436. Reichard Contracting, Inc.** (212 Olean Trail, New Bethlehem, PA 16242). Renewal application for reclamation only of an existing bituminous surface mine, in Redbank Township, **Armstrong County**, affecting 91.5 acres. Receiving stream: unnamed tributary to Nolf Run (CWF). The first potable water supply intake within 10 miles downstream from the point of discharge: Hawthorn Municipal Authority. Renewal application received December 8, 2003.

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**17970112 and NPDES Permit No. PA0220680. Hilltop Coal Company** (12 Dutchtown Road, Houtzdale, PA 16651). Renewal and transfer of an existing bituminous surface mine-auger permit from Cougar Contracting, Inc. The permit is in Bigler Township, **Clearfield County**

and affects 209 acres. Receiving streams: unnamed stream to Muddy Run (CWF). Application received October 17, 2003.

**17960198 and NPDES Permit No. PA0220337. Hilltop Coal Company** (12 Dutchtown Road, Houtzdale, PA 16651). Transfer of an existing bituminous surface mine permit from Cougar Contracting, Inc. The permit is in Bigler Township, **Clearfield County** and affects 13.7 acres. Receiving streams: unnamed streams to Muddy Run (CWF). Application received October 21, 2003.

**17030116 and NPDES Permit No. PA0243621. Hepburnia Coal Company** (P. O. Box I, Grampian, PA 16838). Commencement, operation and restoration of a bituminous surface mine-auger permit in Jordan Township, **Clearfield County**, affecting 173 acres. Receiving streams: North Witmer Run, tributaries to North Witmer Run, unnamed tributaries to Wilson (CWF). The first downstream potable water supply intake from the point of discharge is: none. Application received November 10, 2003.

#### *Noncoal Applications Received*

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

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*	greater than 6.0; less than 9.0		

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum of 0.5 ml/l applied to surface runoff resulting from a precipitation event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**35030301. Pioneer Aggregates, Inc.** (202 Main Street, Laflin, PA 18702), commencement, operation and restoration of a quarry operation in Fell Township, **Lackawanna County**, affecting 230.0 acres. Receiving stream: none. Application received December 2, 2003.

**21022801. Mostoller Landfill, Inc.** (7095 Glades Pike, Somerset, PA 15502), Stage I and II bond release for a quarry operation in Hopewell Township, **Cumberland County**, affecting 2.5 acres on property owned by WSI—Community Refuse Service, LLC. Application received December 8, 2003.

**28940804. Carl L. Robinson** (7633 Dusty Road, Mercersburg, PA 17236), Stage I and II bond release for a quarry operation in Montgomery Township, **Franklin County**, affecting 3.5 acres on property owned by Jonathan L. Souders. Application received December 10, 2003.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**37800303. Slippery Rock Materials, Inc.** (R. D. 2, Box 228, Golf Course Road, Volant, PA 16156). Renewal of NPDES Permit No. PA0122734, Plain Grove Township, **Lawrence County**. Receiving streams: Taylor Run (WWF). There are no potable surface water supply in-

takes within 10 miles downstream. NPDES Renewal application received December 5, 2003.

**10940306 and NPDES Permit No. PA0212091. Quality Aggregates, Inc.** (200 Neville Road, Neville Island, PA 15225). Revision to an existing limestone operation for a land use in Marion Township, **Butler County**. The land use is to change cropland to unmanaged natural habitat on the Vilma Obidean property. Receiving streams: unnamed tributaries to Slippery Rock Creek and unnamed tributaries to Blacks Creek (CWF). There are no potable surface water supply intakes within 10 miles downstream. Application received October 7, 2003.

#### **ABANDONED MINE RECLAMATION**

Under Act 181 of 1984, the Department of Environmental Protection (Department) gives notice of an unsolicited proposal received from Commonwealth Stone, Somerset, PA, to reclaim an abandoned surface mine in Jenner Township, Somerset County. The Department intends to enter into negotiations with Commonwealth Stone to contract for site reclamation, if funding is available.

The project, Beahr Mine, involves reclamation of an existing abandoned mine area abandoned by Laura D. Coal, Inc., where the Department under Surface Mining Permit No. 56920107 collected bonds.

Commonwealth Stone proposes to revegetate about 4 acres. All areas will be regraded to promote surface drainage and provide integration with surrounding unmined areas.

All interested parties should send comments to Steven C. Faish, Bureau of Mining Operations, 286 Industrial Park Road, Ebensburg, PA 15931-4119 by 4 p.m. on January 20, 2004.

#### **FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401**

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the office noted before the application.

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

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the FWPCA (33 U.S.C.A. § 1341(a)).**

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**E15-711. Wilkinson Builders**, 1020 Broad Run Road, Landenberg, PA 19350, East and West Brandywine Township, **Chester County**, ACOE Philadelphia District.

To perform the following activities associated with the proposed Hide-A-Way Farm residential development:

1. To construct and maintain a 70-foot long, 12-foot span and 5-foot rise reinforced concrete box culvert and associated wingwalls at Patriot Lane over an unnamed tributary to Culbertson Run (HQ-TSF-MF) impacting 98 linear feet of stream and 0.07 acre of adjacent wetlands (PFO).

2. To construct and maintain twin 63-foot long, 19-foot 5-inch span and 6-foot 9-inch rise reinforced concrete arch culverts and associated wingwalls at Randolph Drive over an unnamed tributary to Culbertson Run impacting 93 linear feet of stream and 0.18 acre of adjacent wetlands (PFO). This work includes the installation of the associated utilities.

3. To construct and maintain triple 54-foot long, 18-foot 1-inch span and 4-foot 9-inch rise reinforced concrete arch culverts and associated wingwalls at Emima Court over an unnamed tributary to Culbertson Run impacting 80 linear feet of stream and 0.32 acre of wetlands (PEM). This work includes the installation of the associated utilities.

4. To construct and maintain triple 54-foot long, 20-foot 8-inch span and 5-foot 5-inch rise reinforced concrete arch culverts and associated wingwalls at Willow Oak Way over an unnamed tributary to Culbertson Run impacting 75 linear feet of stream and 0.15 acre of wetlands (PEM). This work includes the installation of the associated utilities and the removal of the existing culvert.

5. To construct and maintain a 101-foot long, 30-inch diameter reinforced concrete pipe culvert and associated wingwalls at Emma Court over an unnamed tributary to Culbertson Run impacting 139 linear feet of stream.

6. To construct and maintain a 6-foot wide pedestrian bridge across an unnamed tributary to Culbertson Run.

7. To construct an 8-inch sanitary sewer line across 0.01 acre of wetlands (PEM) at four locations.

8. To construct a sanitary sewer force main across an unnamed tributary to Culbertson Run impacting 10 linear feet of stream and 0.01 acre of adjacent wetlands (PEM).

9. To construct and maintain various temporary cofferdams associated with the previous activities.

The project proposes to directly impact a total of 0.35 acre of watercourse and 0.91 acre of wetlands. The site is just northwest of the intersection of Special School Road and Little Washington Road (Wagontown, PA USGS Quadrangle N: 10.3 inches; W: 2.8 inches) in East and West Brandywine Townships, Chester County.

**E09-868. Tinicum Township**, 163 Municipal Road, Pipersville, PA 18947, Tinicum Township, **Bucks County**, ACOE Philadelphia District.

To restore, stabilize and maintain approximately 130 linear feet of eroded streambank along the Tinicum Creek (EV) utilizing bioengineering methods. Work will also include the installation of riprap current deflectors to abate future erosion. The site is along Sheep Hole Road, between Geigel Hill Road and Headquarters Road (Bedminster USGS Quadrangle N: 19.0 inches; W: 3.1 inches).

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

**E48-338. Hornstein Enterprises, Inc.**, 1150 Cedarcrest Boulevard, Allentown, PA 18103 in Forks Township, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain three stormwater outfall structures in Bushkill Creek (HQ-TSF) which are associated with the proposed Penn's Ridge planned residential development. The project is approximately 0.4 mile north of the intersection of SR 2019 (Bushkill Drive) and SR 2036 (Zucksville Road) (Easton, PA-NJ Quadrangle N: 17.9 inches; W: 16.9 inches).

**E64-243. Wayne Memorial Hospital**, West and Park Streets, Honesdale, PA 18431 in Honesdale Borough, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a single-span prefabricated steel truss pedestrian bridge, having a span of 140 feet and an underclearance of approximately 17 feet, across West Branch Lackawaxen River (HQ-CWF). The bridge will provide access to a parking area on the south side of the river. The project is south of the intersection of SR 0006 (Park Street) and West Street (Honesdale, PA Quadrangle N: 13.7 inches; W: 1.3 inches).

**E48-337. Lower Saucon Township**, 3700 Old Philadelphia Pike, Bethlehem, PA 18015 in Lower Saucon Township, **Northampton County**, U. S. Army Corps of Engineers, Philadelphia District.

To repair and maintain an existing two-span cast iron pony truss pedestrian bridge across Saucon Creek (CWF). The proposed work consists of structural upgrades to the superstructure and rehabilitation of the concrete and stone center pier. The project is northeast of the intersection of Old Mill Road and Reading Road (Hellertown, PA Quadrangle N: 11.1 inches; W: 13.7 inches).

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

**E36-767: City of Lancaster**, 120 N. Duke Street, Lancaster, PA 17608 in the City of Lancaster, **Lancaster County**, ACOE Philadelphia District.

To: (1) construct and maintain an 8-foot by 6-foot precast concrete combined sewer overflow outfall discharging to the channel of the Conestoga River (WWF); and (2) regrade 200 lineal feet of roadway shoulder within 100-year floodplain of the Conestoga River at a point approximately 550 feet south of the intersection of SR 324



and SR 222 (Lancaster, PA Quadrangle N: 3.9 inches; W: 7.7 inches) in the City of Lancaster, Lancaster County.

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

**E08-409. Troy Borough**, 110 Elmira Street, Troy, PA 16947. Bridge Replacement in Troy Borough, **Bradford County**, ACOE Baltimore District (Troy, PA Quadrangle N: 6.38 inches, W: 5.5 inches).

To: (1) remove the existing single-span concrete encased I-beam bridge with a steel I-beam, timber deck structure with a clear span length of 23 feet 4 inches and a measured vertical under clearance of 5.5 feet to 5.9 feet; a waterway opening of 130 square feet on a skew of 81 degrees; and (2) construct and maintain a single-span concrete encased I-beam bridge with steel I-beams and a

timber deck structure with a clear span length of 23 feet 4 inches and a vertical underclearance of 6 feet. The original abutment walls to be used to support the proposed superstructure will be raised slightly to improve the underclearance. The project will not impact wetlands or waterways while no earth disturbance is anticipated. The West Branch of Sugar Creek is a trout stocked fisheries.

**E17-390. Huston Township**, 12024 Bennetts Valley Highway, P. O. Box 38, Penfield, PA 15849. Huston Township Bridge Operation and Maintenance in Huston Township, **Clearfield County**, ACOE Baltimore District (Penfield, PA Quadrangle N: 15.1 inches; W: 10.3 inches).

To operate and maintain nine existing municipal bridges across Bennett's Branch and its tributaries. The operation and maintenance of the nine municipal bridges line may require in-stream activity at locations as follows:

<i>Township Road and Stream Name</i>	<i>Water Quality Designation</i>	<i>Latitude Coordinates</i>	<i>Longitude Coordinates</i>
T-518 over Bennetts Branch	CWF	41° 10' 56"	78° 36' 20"
T-518 over South Branch, Bennetts Branch	HQ-CWF	41° 10' 39"	78° 36' 11"
T-512 over South Branch, Bennetts Branch	HQ-CWF	41° 10' 42"	78° 36' 10"
T-519 over Mountain Run	CWF	41° 11' 38"	78° 36' 04"
T-815 over Moose Run	CWF	41° 12' 26"	78° 34' 16"
T-815 over Moose Run	CWF	41° 12' 22"	78° 34' 11"
T-527 over Laurel Run	HQ-CWF	41° 09' 46"	78° 32' 01"
T-522 over Middle Branch, Wilson Run	HQ-CWF	41° 13' 20"	78° 35' 14"
T-525 over Mill Run	CWF	41° 13' 47"	78° 33' 02"

Maintenance activities shall be limited to abutment underpinning, debris and deposition removal, inlet and outlet stream bank protection, wearing surface refurbishment and concrete footer grouting. All bridge maintenance activities shall be conducted during stream low flow conditions and shall be conducted from the stream banks to the extent possible. Since Bennetts Branch and Wilson Run are stocked trout streams, no maintenance work shall be conducted in or along the stream channels between March 1 and June 15 without prior written approval from the Fish and Boat Commission. Since Mountain Run and Wilson Run are wild trout fisheries, no maintenance work shall be conducted in or along the stream channels between October 1 and December 15 without prior written approval from the Fish and Boat Commission. This permit also authorizes construction, operation, maintenance and removal of temporary maintenance access roads, causeways, cofferdams and rock stream diversions for abutment underpinning and footer grouting. All rock used for temporary structures shall be only be clean nonpolluting rock.

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

**E10-388, Department of Transportation District 10-0**, 2500 Oakland Avenue, Indiana, PA 15701-0429, South Bear Creek Bridge No. 2 replacement Project in Fairview Township, **Butler County**, ACOE Pittsburgh District (Chicora, PA Quadrangle N: 20.18 inches; W: 15.14 inches).

To remove the existing reinforced concrete slab bridge having a clear span of 22 feet a minimum under clearance of 1.7 feet and to construct and maintain a precast concrete box culvert having an effective waterway opening 21 feet in length with a 3.5-foot rise and an instream length of 40 feet and to fill approximately .02 acre of PEM and PFO wetlands (de minimis) at a point along SR

1010, Section 250 Segment 310 Offset 0016 within the South Branch of Bear Creek (CWF).

**E10-389, Department of Transportation, District 10-0**, 2500 Oakland Avenue, Indiana, PA 15701-0429, South Bear Creek Bridge No. 2 replacement Project in Karns City Borough, **Butler County**, ACOE Pittsburgh District (Chicora, PA Quadrangle N: 19.53 inches; W: 14.19 inches).

To remove the existing reinforced concrete slab bridge having a clear span of 21.8 feet a minimum under clearance of 2.4 feet and to construct and maintain a precast concrete box culvert having an effective waterway opening 21.3 feet in length with a 4.0-foot rise and an instream length of 40.5 feet and to fill approximately .0023 acre of Riverine wetlands (de minimis) at a point along SR 1010, Section 251 Segment 310 Offset 1828 within the South Branch of Bear Creek (CWF).

**E10-390, Key Properties Holdings, L. P.**, 939 Sheraton Drive, Mars, PA 16046. Summit Square of Cranberry Commercial Development in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 12.6 inches; W: 14.1 inches).

The applicant proposes to fill 0.49 acre of PEM and PEM/PSS wetlands for the construction of commercial and office buildings approximately 0.6 mile north of the intersection of U. S. Route 19 and SR 228. The project includes relocating and enclosing a total of 855 feet of stream channel of three unnamed tributaries to Brush Creek (WWF) each with a drainage area less than 100 acres and filling 80 linear feet of an unnamed tributary to Brush Creek with a drainage area less than 100 acres. The project proposes to directly affect 0.49 acre of PEM and PEM/PSS wetlands and 935 linear feet of stream. Wetland creation of 0.59 acre and stream conservation

easements for 350 linear feet of an onsite UNT to Brush Creek and 850 feet on an UNT to Glade Run are proposed.

**E25-675, CSX Transportation**, 1 Bell Crossing Rd., Selkirk, NY 12158. UNT Twelvemile Creek Crossing in Harborcreek Township, **Erie County**, ACOE Pittsburgh District (Harborcreek, PA Quadrangle N: 13.15 inches; W: 3.8 inches).

The applicant proposes to remove the steel girder superstructure of the existing railroad bridge and to construct and maintain a 60-foot long, 15.25-foot wide multiplate open bottom arch with a maximum underclearance of 11.41 feet in a UNT to Twelvemile Creek (HQ, CWF, MF, perennial) approximately 0.5 mile southeast of the intersection of U. S. Route 20 and Moorheadville Road. The proposed structure would be set on the existing stone masonry abutments. The project proposes to directly affect a total of approximately 60 linear feet of stream channel.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section VII	NPDES	NOI for coverage under NPDES general permits

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

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

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

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

**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

**I. NPDES Renewal Permit Actions**

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0217361 Sewage	East Huntingdon Township P. O. Box 9 Alverton, PA 15612-0009	Westmoreland County East Huntingdon Township	Jacobs Creek	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0210510	Jim Fedor Plaza 14504 West Ridge Road West Springfield, PA 16443	Springfield Township Erie County	Unnamed tributary to Turkey Creek 15	Y

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

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

**NPDES Permit No. PA0087742**, Sewage, **E/P Campground, Inc.**, 10305 U. S. No. 1, Sebastian, FL 32958. This proposed facility is in Millcreek Township, **Lebanon County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of Furnace Creek in Watershed 3-C.

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

**NPDES Permit No. PAS706101-A1**, Industrial, **Derry Construction Company, Inc.**, R. D. 5, Box 34, Latrobe, PA 1565. This proposed facility is in Salem Township, **Westmoreland County**.

Description of Proposed Action/Activity: Addition of Outfall 003.

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

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*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**WQM Permit No. 4603414**, Sewerage, **Lower Providence Township Sewer Authority**, 100 Parklane Drive, Eagleville, PA 19408. This proposed facility is in Lower Providence Township, **Montgomery County**.

Description of Proposed Action/Activity: Reconstruction and upgrading of wastewater pumping station facility and equipment.

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

**WQM Permit No. 3703405**, Sewerage, **Neshannock Township Sewer Department**, 3131 Mercer Road, New Castle, PA 16105. This proposed facility is in City of New Castle, **Lawrence County**.

Description of Proposed Action/Activity: This project is for the construction of the Shenango Interceptor and sewer extension for the West Bank Sewer Project.

**WQM Permit No. 2703403**, Sewerage, **Department of General Services**, 18th and Herr Streets, Harrisburg, PA 17120. This proposed facility is in Jenks Township, **Forest County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage lift station to serve a new 2,000-bed State correctional institute. Flows will be pumped to new conveyance facilities to be constructed by Jenks Township.

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## IV. NPDES Stormwater Discharges from MS4 Permit Actions

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## V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024003003	Back Mountain Recreation, Inc. 1183 Old Route 115 P. O. Box 244 Lehman, PA 18627	Luzerne	Lehman Township	Harveys Creek HQ-CWF
PAI025803002	Department of General Services 18th and Herr Streets Harrisburg, PA 17120	Susquehanna	New Milford Township	Salt Lick Creek HQ-CWF

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

Indiana County Conservation District: 1432 Route 286 Highway E, Indiana, PA 15701-1467, (724) 463-8547.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI053203001	Indiana County Municipal Services Authority 827 Water Street Indiana, PA 15701	Indiana	Cherry Tree Borough	Cush Cushion Creek WWF/HQ-CWF

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

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

### List of NPDES and/or Other General Permit Types

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

#### General Permit Type—PAG-2

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Northampton County Washington Township	PAG2004803024	Bruce Lauerman Nestle Water North American, Inc. 405 Nestle Way Breinigsville, PA 18031	Martins Creek TSF	Northampton County Conservation District (610) 746-1971
Northampton County Lower Nazareth Township	PAG2004803035	Mark Babbitt Higgins Development Partners 1420 Spring Hill Rd. Suite 470 McLean, VA 22102	Shoeneck Creek WWF	Northampton County Conservation District (610) 746-1971
Union Township Lebanon County	PAG2003803028	Victor Diener R. D. 3 Jonestown, PA 17038	Swatara Creek WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908
North Annville, North Londonderry and Swatara Townships Lebanon County	PAR10P176	Texas Eastern Transmission LP 5400 Westheimer Court Houston, TX 77056	Swatara and Little Swatara Creeks WWF	Lebanon County Conservation District 2120 Cornwall Road Suite 5 Lebanon, PA 17042 (717) 272-3908

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
East Pennsboro Township Cumberland County	PAG2002103045	Yingst Homes Inc. Magaro Hills 4712 Smith Road Harrisburg, PA 17109	Holtz Run WWF	Cumberland County Conservation District 43 Brookwood Avenue Suite 4 Carlisle, PA 17013 (717) 240-7812
Bradford County Athens Township	PAG2000803005	Beldon and Blake Corp. 22811 Titusville Rd. Pleasantville, PA 16341	Tutelow Creek WWF	Bradford County Conservation District R. R. 5, Box 5030C Stoll Natural Resource Center Towanda, PA 18848 (570) 265-5539, Ext. 205
Lycoming County Woodward Township	PAG2004103013	Lycoming County Water and Sewer Authority 216 Old Cement Rd. Montoursville, PA 17754	Susquehanna River, UNT WWF Daugherty's Run WWF	Lycoming County Conservation District 542 County Farm Rd. Suite 202 Montoursville, PA 17754 (570) 433-3003
Tioga County Mansfield Borough	PAG2005903019	New Corey Creek Apartments Inc. 555 Virginia Dr. Fort Washington, PA 19034	Tioga River WWF	Tioga County Conservation District 29 East Ave. Wellsboro, PA 16901 (570) 724-1801
Centre County College, Ferguson and Patton Townships	PAG2001403040	Bellefonte Central Rail Trail 0107 Physical Plant Bldg. University Park, PA 16802	Big Hollow CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Centre County Spring Township	PAG2001403048	Pleasant Gap Elementary School Park 1309 Blanchard St. Bellefonte, PA 1823	UNT Logan Branch CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Armstrong County Mahoning Township	PAG2000303007	Mahoning Township R. D. 1 Box 110A New Bethlehem, PA 16242	Redbank Creek TSF Mahoning Creek WWF	Armstrong County Conservation District (724) 548-3425
Fayette County Smithfield Borough	PAG002603019	Dean Marunyak and Art Jarrett 701 Old Frame Rd. Smithfield, PA 15478	Georges Creek WWF	Fayette County Conservation District (724) 438-4497
Luzerne Township Brownsville Borough Fayette County	PAG2102603010	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476	Dunlap Creek WWF	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311
Dunbar Township Fayette County	PAG2102603009	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476	UNT to Dickerson Run CWF UNT to Youghioghney River CWF	BAMR P. O. Box 8476 Harrisburg, PA 17105-8476 (717) 783-1311

NOTICES

6449

*General Permit Type—PAG-3*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
East Huntingdon Township Westmoreland County	PAR116104	Sony Electronics Inc. 1001 Technology Drive Mt. Pleasant, PA 15666	Belson Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Hempfield Township Westmoreland County	PAR116117	Carbidie Corp. 425 Arona Road Irwin, PA 15642	UNT to Little Sewickley Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
East Huntingdon Township Westmoreland County	PAR806229	Sony Electronics Inc. 1001 Technology Drive Mt. Pleasant, PA 15666	Belson Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-4*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Cecil Township Washington County	PAG046168	Art and Sheila Harding 245 County Line Road Bridgeville, PA 15017	Swale to Coal Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
South Fayette Township Allegheny County	PAG046170	Michael and Dawna Raimondi 414 Coal Pit Run Road Bridgeville, PA 15017	Coal Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-5*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Cornplanter Township Venango County	PAG058328	Pennzoil-Quaker State Co.—Plant No. 2 260 Elm Street P. O. Box 99 Oil City, PA 16301	Oil Creek Watershed 16-E	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-8*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Contact Office and Telephone No.</i>
West Pennsboro Township Cumberland County	PAG083585	Newville Borough Water and Sewer Authority 99 Cove Avenue Newville, PA 17241	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-13*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG136140	Town of McCandless 9957 Grubbs Road Wexford, PA 15090	Allegheny	McCandless Township	Pine Creek Basin, Source to North Park Dam CWF Lowries Run TSF Girty's Run WWF Pine Creek Basin, North Park Lake Dam to Mouth of Allegheny River TSF	Y
PAG136263	Bradford Woods Borough 4908 Wexford Run Road Bradford Woods, PA 15015	Allegheny	Bradford Woods Borough	Pine Creek WWF	Y
PAG136271	Brentwood Borough 3624 Brownsville Road Pittsburgh, PA 15227	Allegheny	Brentwood Borough	Saw Mill Run WWF Streets Run WWF Tributaries to the Monongahela River	Y
PAG136274	Moon Township 1000 Beaver Grade Road Coraopolis, PA 15108	Allegheny	Moon Township	Boggs Run, Flaugherty Run WWF Shouse Run WWF Spring Run, Narrows Run WWF Thorn Run WWF McCabe Run WWF Montour Run TSF McClarens Run, Trout Run, Ohio River WWF	Y

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG136281	Hampton Township 3101 McCully Road Allison Park, PA 15101	Allegheny	Hampton Township	Pine Creek TSF Montour Run TSF Willow Run TSF Crouse Run TSF Gourdhead Run TSF McCaslin Run TSF Little Pine Creek TSF UNT to Pine Creek TSF UNT to West Branch of Deer Creek WWF Cedar Run WWF Shafers Run WWF	Y
PAG136285	Jefferson Hills Borough 925 Old Clairton Road Clairton, PA 15025-3143	Allegheny	Jefferson Hills Borough	Lick Run TSF Peters Creek TSF Lewis Run TSF Lobbs Run WWF Beams Run, Monongahela WWF	Y
PAG136287	City of Clairton 551 Ravensburg Blvd. Clairton, PA 15025-1297	Allegheny	Clairton City	Monongahela River WWF Peters Creek TSF	Y
PAG136306	Marshall Township P. O. Box 2094 Warrendale, PA 15086	Allegheny	Marshall Township	Pine Creek CWF East Branch of Big Sewickley Creek TSF Big Sewickley Creek TSF UNT to Brush Creek WWF	Y

## **PUBLIC WATER SUPPLY (PWS) PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Safe Drinking Water Act for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35

P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the



*Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

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

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

### SAFE DRINKING WATER

#### Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).

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

#### Permit No. 3603506, Public Water Supply.

Applicant	<b>Kitchen Kettle Foods Inc.</b>
Municipality	Leacock Township
County	<b>Lancaster</b>
Type of Facility	Installation of new carbon bed treatment to treat for VOC contamination and replacement of the existing disinfection system with sodium hypochlorite. Project also request approval for the existing softening and nitrate treatment system.
Consulting Engineer	Charles A. Kehew II, P. E. James R. Holley & Assoc., Inc. 18 South George St. York, PA 17401
Permit to Construct Issued	October 31, 2003

#### Permit No. 6703510 MA, Public Water Supply.

Applicant	<b>Windsor Borough</b>
Municipality	Windsor Borough
County	<b>York</b>
Type of Facility	Installation of approximately 8,800 LF of 8-inch distribution mains and associated valves and the construction of a booster pump station to augment fire flows.
Consulting Engineer	Gordon L. Brown Jr., P. E. Gordon L. Brown & Assoc. Inc. 2238 South Queen Street York, PA 17402
Permit to Construct Issued	July 11, 2003

#### Permit No. 6702502, Public Water Supply.

Applicant	<b>Department of Conservation and Natural Resources</b>
Municipality	Warrington Township
County	<b>York</b>
Type of Facility	Construction of a modified raw water intake on Pinchot Lake, a new 0.094 mgd membrane filtration facility, chemical treatment, sodium hypochlorite disinfection and a 0.096 mg finished water storage tank.
Consulting Engineer	Peter Lusardi, P. E. CET Engineering Services 1240 N. Mountain Rd. Harrisburg, PA 17112
Permit to Construct Issued	November 14, 2003

#### Permit No. 3603503 MA, Minor Amendment, Public Water Supply.

Applicant	<b>West Earl Water Authority</b>
Municipality	West Earl Township
County	<b>Lancaster</b>
Type of Facility	New Akron Hill Water Storage Tank
Consulting Engineer	David T. Lewis, P. E. ARRO Consulting Inc. 270 Granite Run Drive Lancaster, PA 17601
Permit to Construct Issued	April 25, 2003

#### Permit No. 3603504, Public Water Supply.

Applicant	<b>Columbia Water Company</b>
Municipality	Manor Township
County	<b>Lancaster</b>
Type of Facility	Installation of a 1 million gallon storage tank and chlorine booster pump station.
Consulting Engineer	David T. Lewis, P. E. ARRO Consulting Inc. 270 Granite Run Drive Lancaster, PA 17601
Permit to Construct Issued	June 30, 2003

#### Permit No. 2103504 E, Public Water Supply.

Applicant	<b>Pennsylvania Suburban Water Company</b>
Municipality	Monroe Township
County	<b>Cumberland</b>
Type of Facility	Emergency permit for use of well no. 4.
Consulting Engineer	Peter Lusardi, P. E. CET Engineering Services 1240 N. Mountain Rd. Harrisburg, PA 17112
Permit to Construct Issued	November 21, 2003

**Permit No. 3602522**, Public Water Supply.  
 Applicant **West Earl Water Authority**  
 Municipality West Earl Township  
 County **Lancaster**  
 Type of Facility Construction of a 133,000 gpd booster pumping station at Old Akron Road and Tobacco Road. Project will also include a booster chlorine station.

Consulting Engineer David T. Lewis, P. E.  
 ARRO Consulting Inc.  
 270 Granite Run Drive  
 Lancaster, PA 17601

Permit to Construct Issued March 25, 2003

**Permit No. 3603502**, Public Water Supply.  
 Applicant **Quarryville Presbyterian Home**  
 Municipality East Drumore Township  
 County **Lancaster**  
 Type of Facility The addition of Cornfield Well to augment the existing sources of supply. The project will also include the addition of reverse osmosis, softening and UV disinfection to the system.

Consulting Engineer David T. Lewis, P. E.  
 ARRO Consulting Inc.  
 270 Granite Run Drive  
 Lancaster, PA 17601

Permit to Construct Issued June 24, 2003

**Permit No. 2803502**, Public Water Supply.  
 Applicant **Mont Alto Municipal Authority**  
 Municipality Quincy Township  
 County **Franklin**  
 Type of Facility Construction Permit Application for a proposed 436,000-gallon finished water storage tank, 8- and 10-inch DIP to connect the tank to the existing system and a chlorine booster station.

Consulting Engineer William T. Hemsley, P. E.  
 Nasaux-Hemsley, Inc.  
 56 N. 2nd St.  
 Chambersburg, PA 17201

Permit to Construct Issued September 17, 2003

**Permit No. 0698508-T1, Minor Amendment**, Public Water Supply.  
 Applicant **Donald D. Klopp and Randy M. Klopp**  
 Municipality Bethel Township  
 County **Berks**  
 Type of Facility Permit transfer for Shikellamy Springs Bulk Water Hauling Facility.

Permit to Construct Issued December 10, 2003

**Operations Permit** issued to **Bear Valley Franklin County Pennsylvania Joint Authority**, 7280043, Peters, **Franklin County** on December 9, 2003, for the operation of facilities approved under Construction Permit No. 2801504 MA.

**Operations Permit** issued to **Spring Grove Water Company**, 7670091, Spring Grove, **York County** on November 26, 2003, for the operation of facilities approved under Construction Permit No. 6703516 MA.

**Operations Permit** issued to **Borough of Everett Area Municipal Authority**, Everett Borough, **Bedford County** on November 21, 2003, for the operation of facilities approved under Construction Permit No. 0502508.

**Operations Permit** issued to **Thompsontown Municipal Authority**, Thompsontown Borough, **Juniata County** on November 19, 2003, for the operation of facilities approved under Construction Permit No. 3402501.

**Operations Permit** issued to **Ephrata Mennonite School**, Ephrata Borough, **Lancaster County** on June 25, 2003, for the operation of facilities approved under Construction Permit No. 3602524.

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

**Permit No. 3203501**, Public Water Supply.  
 Applicant **Homer City OL1-OL8, LLC**  
 1750 Power Plant Road  
 Homer City, PA 15748-9558

Borough or Township Center Township  
 County **Indiana**  
 Type of Facility Improvements to water system

Consulting Engineer Dakota Engineering Etna  
 Technical Center, Suite 200  
 35 Wilson Street  
 Pittsburgh, PA 15223

Permit to Construct Issued December 10, 2003

**Permit No. 0403502**, Public Water Supply.  
 Applicant **Beaver Falls Municipal Authority**  
 1425 8th Avenue  
 P. O. Box 400  
 Beaver Falls, PA 15010

Borough or Township Eastvale Borough  
 County **Beaver**  
 Type of Facility Clearwell/Eastvale WTP

Consulting Engineer Michael Baker Jr., Inc.  
 4301 Dutch Ridge Road  
 P. O. Box 280  
 Beaver, PA 15009

Permit to Construct Issued December 10, 2003

#### SEWAGE FACILITIES ACT PLAN APPROVAL

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)**

## Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Peters Township	610 East McMurray Road McMurray, PA 15317	Washington

Plan Description: The approved plan provides for construction of a 600-gallon per day single residence sewage treatment plant to serve enlargement of the existing Santa Lucia single family home. The property is at 262 Justabout Road, Peters Township, Washington County. The proposed discharge point is a tributary of Brush Run (WWF). 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 applicant as appropriate.

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

## Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Upper Milford Township	Municipal Building Box 210 Zionsville, PA 18068	Lehigh

Plan Description: The approved plan provides for a small flow treatment facility to repair a malfunctioning cesspool which currently serves a single family residence on a 2.3-acre lot. The proposed treatment facility will include a two-compartment septic tank with a Zabel® filter on the tank outlet, an Eco-Flow® St-650 peat filter followed by an ultraviolet radiation disinfection unit. The discharge will be to Indian Creek, a tributary to Hosensack Creek, which flows into the Perkiomen Creek. The residence is at 6005 Woodlawn Drive, Upper Milford Township, Lehigh County.

*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>
New Buffalo Borough	P. O. Box 245 New Buffalo, PA	Perry

Plan Description: The approved plan provides for the construction of a 17,500 gpd wastewater treatment facility and a gravity sanitary sewer collection and conveyance system. The proposed wastewater treatment facility will be in Watts Township with a discharge to the Susquehanna River. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

## Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Ontelaunee Township	P. O. Box 746 Leesport, PA 19533	Berks

Plan Description: The approved plan provides for the construction of sewage collection and conveyance systems to serve areas of the township as depicted on Drawing Number D-012A (dated June 2, 2003) of the Official Plan. This Plan constitutes a change from the previous plan

(DEP Code No. A1-06949-ACT) due to modifications of the service areas that will be tributary to the Maiden Creek Township Authority wastewater treatment facility and the Leesport Borough Authority wastewater treatment facility. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

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

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

The Department has received the following plans and reports:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Strathman Lumber Company**, Southampton Township, **Bucks County**. Jennifer Sherman, GHR Consulting Services, Inc., 300 Welsh Rd., Bldg. 3, Horsham, PA 19044, on behalf of Peter Iliff, 620 Knowles Ave., Southampton, PA 18966, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with BTEX and PHC. The Final Report did not demonstrate attainment of the Statewide Health Standard and was disapproved by the Department on December 2, 2003.

**Former Mrs. Paul's Kitchen Facility (Groundwater)**, Doylestown Borough, **Bucks County**. Ethan E. Prout, P. G., American Resource Consultants, Inc., P. O. Box 579, Quakertown, PA 18951, on behalf of Telford Industrial Development Authority, Pat Hunn, Esq., 119 Keys Town Dr., Montgomeryville, PA 18936, has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 1, 2003.

**Aspire, Inc.**, Falls Township, **Bucks County**. John M. Ash, P. G., URS Corp., 2325 Maryland Rd., Willow Grove, PA 19090, on behalf of Mickey Briggs, Esq., Attorney for PA Building, LLC c/o Cox, Hodgman & Gianmarco PC, 101 W. Big Beaver Rd., Columbia Center, Troy, MI 48084, has submitted a Final Report concerning the remediation of site soil contaminated with MTBE and unleaded gasoline and groundwater contaminated with lead, MTBE and unleaded gasoline. The Final Report demonstrated attainment of Statewide Health and Site-Specific Standards and was approved by the Department on December 2, 2003.

**Former Sears Auto Center**, North Coventry Township, **Chester County**. David Side, GHR Consulting Services, Inc. has submitted a Final Report concerning remediation of site soil and groundwater contaminated with leaded gasoline, lead, MTBE and unleaded gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 3, 2003.

**407 South Chester Pike Property**, Glenolden Borough, **Delaware County**. Paul Ledebur, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Marie Panna, 302 E. Poplar St., Unit A., Wildwood, NJ 08260, has submitted a Final Report concerning remediation of site soils contaminated with inorganics. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 3, 2003.

**Former Quaker Chemical Facility**, Conshohocken Borough, **Montgomery County**. Christopher Orzechowski, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Quaker Park Associates, LP, 1200 River Rd., Suite 1303, Conshohocken, PA 19428, has submitted a Final Report concerning remediation of site soils contaminated with PAH and site groundwater contaminated with heavy metals and VOCs. The Final Report demonstrated attainment of Statewide Health and Site-Specific Standards and was approved by the Department on December 8, 2003.

**10 Union Avenue**, Lower Merion Township, **Montgomery County**. Samuel J. Kucia, Environmental Consulting Inc., 500 E. Washington St., Norristown, PA 19401, on behalf of Fred Weitzman, 10 Union Ave., Associates, LP and Wynnewood Development Inc., 33 Rock Hill Rd., Bala Cynwyd, PA 19004, has submitted a Final Report concerning remediation of site soil contaminated with fuel oil no. 2. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 3, 2003.

**Former Hajoca Building**, City of Philadelphia, **Philadelphia County**. Bruce Middleman, P. G., Jacques Whitford Co., Inc., 450 S. Gravers Rd., Suite 105, Plymouth Meeting, PA 19462, on behalf of University of Pennsylvania, Attn: Kyle Rosato, 3160 Chestnut St., Philadelphia, PA 19104-6287, has submitted a Final Report concerning the remediation of site soil contaminated with fuel oil no. 2 and lead; and site groundwater contaminated with fuel oil no. 2. The Final Report demonstrated attainment of Statewide Health and Site-Specific Standards and was approved by the Department on November 13, 2003.

**Anzon Facility**, City of Philadelphia, **Philadelphia County**. Christopher Orzechowski, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Cookson America, Inc., 1 Cookson Pl., Providence, RI 12903, has submitted a Final Report concerning remediation of site soil contaminated with inorganics, lead, other organics and PAH; and site groundwater contaminated with chlorinated solvents, inorganics, lead, MTBE, other organics and PAH. The Final Report demonstrated attainment of Site-Specific Standards and was approved by the Department on November 25, 2003.

**Rosenberg Tract**, City of Philadelphia, **Philadelphia County**. James M. Barish, CPG, Gannett Fleming, Inc., Research Park, 202 Wall St., Princeton, NJ 08540, on behalf of Paul Rosenberg, 2204 S. Christopher Columbus Blvd., Philadelphia, PA 19148, has submitted a Final Report concerning remediation of site soil contaminated with inorganics, lead, other organics and PAH; and site groundwater contaminated with inorganics, lead and other organics. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on December 3, 2003.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.*

**Wilhold Facility (former) a/k/a NewellRubbermaid Sunbury Site**, City of Sunbury, **Northumberland County**. Cummings/Riter Consultants on behalf of NewellRubbermaid, 6833 Stalter Drive, Suite 101, Rockford, IL 61108, has submitted a Final Report concerning soil contaminated with heavy metals and solvents. This Final Report demonstrated attainment of the site to meet the Statewide Health Standard and was approved by the Department on December 4, 2003.

#### 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. WMGR016D001. Kulp Foundry Inc.**, 30 Stokes Ave., East Stroudsburg, PA 18301-0179. For the beneficial use of waste molding sand from gray and ductile iron foundries for use as pipe bedding. The Department issued the determination of applicability on November 26, 2003

Persons interested in reviewing the general permit may contact the General Permits/Beneficial Use Section, Division of Municipal Waste, 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.

## MUNICIPAL AND RESIDUAL WASTE TRANSPORTER AUTHORIZATION

**Issued applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act (27 Pa.C.S. §§ 6201–6209) and regulations to transport municipal or residual waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.*

**Lykens Valley Ag.**, 279 Picnic Road, Lykens, PA 17048. Authorization No. WH4032. Effective December 8, 2003.

**Back In Black Transport, LLC**, P. O. Box 134, Branford, CT 06405. Authorization No. WH5637. Effective December 8, 2003.

**Great Valley Auto Salvage Inc.**, 59 East Lancaster Ave., Malvern, PA 19355. Authorization No. WH5564. Effective December 8, 2003.

**Stan Godshall Excavating Inc.**, 674 Haldeman Road, Harleysville, PA 19438. Authorization No. WH5639. Effective December 8, 2003.

**Joseph C. Shelmet**, P. O. Box 471, Langhorne, PA 19047-0471. Authorization No. WH5651. Effective December 8, 2003.

**Rent A Dumpster**, 1704 Olive St., Scranton, PA 18510. Authorization No. WH5653. Effective December 8, 2003.

**Alicia Transport Inc.**, Apt. 6T, 1230 Ave. X, Brooklyn, NY 11235. Authorization No. WH5654. Effective December 8, 2003.

**Max Trucking**, 624 N. Poplar St., Allentown, PA 18102. Authorization No. WH5655. Effective December 8, 2003.

**Quirino Sanchez**, 211 Fulton St., Elizabeth, NJ 07206. Authorization No. WH5656. Effective December 8, 2003.

**Michael P. Taddy**, 1415 12th St., Altoona, PA 16601. Authorization No. WH5657. Effective December 8, 2003.

**Ross Transport Co., Inc.**, 4220 Almond St., Philadelphia, PA 19137. Authorization No. WH3880. Effective December 10, 2003.

**East Lake Contracting**, P. O. Box 536, Ridley Park, PA 19078. Authorization No. WH5663. Effective December 10, 2003.

**ARVI Logistics Inc.**, 24 Old Berwick Road, Drums, PA 18222. Authorization No. WH5664. Effective December 10, 2003.

**Ralph E. Hoover Excavating**, 345 Treasure Lake, DuBois, PA 15801-9007. Authorization No. WH5665. Effective December 10, 2003.

**Nicholas Evanoff**, P. O. Box 4222, 997 Peiffers Lane, Harrisburg, PA 17109. Authorization No. WH5666. Effective December 10, 2003.

**Christian Trucking**, 151 Tracy Dale Road, Howard, PA 16841. Authorization No. WH5668. Effective December 10, 2003.

**C-Sar Transport Inc.**, Apt. B, 143 Duncan Ave., Jersey City, NJ 07306. Authorization No. WH5669. Effective December 10, 2003.

**V Express Trucking Corp.**, 43 Hilton St., Clifton, NJ 07011. Authorization No. WH5670. Effective December 10, 2003.

**Victor S. Bennett**, 1603 17th Ave., Beaver Falls, PA 15010. Authorization No. WH5671. Effective December 10, 2003.

**John Rotundo**, R. R. 4, Box 4782, Honesdale, PA 18431. Authorization No. WH5581. Effective November 24, 2003.

**William Haggerty**, 427 Montana Road, Washington, NJ 07882. Authorization No. WH5602. Effective December 9, 2003.

**Tipperary Enterprises, Inc.**, 901 Bushkill Drive, Easton, PA 18042. Authorization No. WH5605. Effective December 9, 2003.

**S & B Transfer, Inc.**, 146 Bellport Ave., Medford, NJ 11763. Authorization No. WH5606. Effective December 9, 2003.

**Union City Express, Inc.**, 412 35th St., Union City, NJ 07087. Authorization No. WH5615. Effective December 9, 2003.

**La Gavoita Transport, Inc.**, 411 Demarest Ave., Cloister, NJ 07624. Authorization No. WH5616. Effective December 9, 2003.

**BMP Express Inc.**, 376 Duncan Ave., Jersey City, NJ 07306. Authorization No. WH5216. Effective December 11, 2003.

**Bucktail Excavators Inc.**, 282 Belsole Road, Saint Marys, PA 15857. Authorization No. WH5667. Effective December 11, 2003.

**J & S Trucking**, 18 Heritage Lane, Berkley, MA 02779. Authorization No. WH5688. Effective December 11, 2003.

**Juan Calle**, 226 Garside St., Newark, NJ 07104. Authorization No. WH5626. Effective December 11, 2003.

**Skyline Investments**, 409 Evergreen Circle, Tobyhanna, PA 18466. Authorization No. WH3683. Effective December 11, 2003.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**GP1-06-05096B: The Reading Hospital and Medical Center** (Sixth Avenue and Spruce Street, Reading, PA 19611) on December 9, 2003, authorized to operate three small gas and two oil fired combustion units under GP1 in West Reading Borough, **Berks County**.

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

**42-203: M and M Royalty, Ltd.—Hamilton Township Plant** (Forestry Road 455, McKean, PA 16426) on November 30, 2003, for installation of a second gas fired compressor in Hamilton Township, **McKean County**.

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**Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B regarding construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**09-0024C: Waste Management of PA** (200 Bordertown Rd., Tullytown, PA 19007) on December 11, 2003, for operation of a landfill in Tullytown Borough, **Bucks County**.

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

**62-150A: Superior Tire and Rubber** (1818 Pennsylvania Avenue, West, Warren, PA 16365) on December 4, 2003, for construction of an adhesive spray and finish coating operation in Warren, **Warren County**.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.*

**65-00659B: Better Materials Corp.** (Salem Place, Suite 340, 390 Route 22, Delmont, PA 15626) on December 8, 2003, to construct an asphalt plant in Hempfield Township, **Westmoreland County**. This plan approval was extended.

**04-00226B: Better Materials Corp.** (Salem Place, Suite 340, 290 Route 22, Delmont, PA 15626) on December 8, 2003, to construct an asphalt batch plant in Economy Borough, **Beaver County**. This plan approval was extended.

**56-00025E: New Enterprise Stone and Lime** (P. O. Box 77, New Enterprise, PA 16664) on December 8, 2003, to install a crusher at the Bakersville Quarry/Hot Mix Asphalt Plant in Jefferson Township, **Somerset County**. This plan approval was extended.

**03-00023A: Allegheny Energy Supply Co., LLC** (4350 Northern Pike, Monroeville, PA 15146) on December 3, 2003, to install two coal fired boilers at the Armstrong Power Station, Washington Township, **Armstrong County**.

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

**25-974A: Hi-Tech Plating Co., Inc.** (1015 West 18th Street, Erie, PA 16502) on October 31, 2003, for post construction of chrome plating operations in Erie, **Erie County**.

**24-083E: Carbone of America—Graphite Materials Div.** (1032 Trout Run Road, Saint Marys, PA 15857) on October 31, 2003, for installation of a scrubber in Benzinger Township, **Elk County**.

**24-083D: Carbone of America—Graphite Materials Div.** (1032 Trout Run Road, Saint Marys, PA 15857) on October 31, 2003, for installation of a scrubber in Benzinger Township, **Elk County**.

**10-021J: INDSPEC Chemical Corp.** (133 Main Street, Petrolia, PA 16050) on October 31, 2003, for modifications to Reactor 507 in Petrolia, **Butler County**.

**43-170E: Werner Co.** (93 Werner Road, Greenville, PA 16125) on October 31, 2003, for modifications to the pultrusion process in Sugar Grove Township, **Mercer County**.

**25-090B: Zurn Industries, Inc.** (1301 Raspberry Street, Erie, PA 16502) on October 31, 2003, for modification of the cupola and installation of a scrubber in Erie, **Erie County**.

**43-152A: Sharon Tube Co.** (134 Mill Street, Sharon, PA 16146) on December 3, 2003, for installation of a baghouse in Sharon, **Mercer County**.

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**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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

**42-00009: Pittsburgh Corning Corp.** (701 North Main Street, Port Allegany, PA 16743-0039) on December 2, 2003, to reissue a Title V Permit to operate a pressed and blown glass manufacturing facility in Port Allegany Borough, **McKean County**. The facility's major emission sources include melting furnace, cellululating furnace, glass block edge coaters, distributors, foreheaters, presses/sealers, crushing, grinding and dispense system, batch mixer, mold release application. The facility is a major facility due to its potential to emit of NOx and VOCs.

**25-00924: Erie Forge and Steel, Inc.** (1341 West 16th Street, Erie, PA 16512-1522) on December 2, 2003, to reissue a Title V Permit to operate an iron and steel forging manufacturing facility in the City of Erie, **Erie County**. The facility's major emission sources include natural gas steam boilers, electric arc furnaces, refining furnaces, heat treat furnaces, forge furnaces, preheaters, grinder units, hood furnace, vacuum degassing, torch cutting operation, furnace baghouse and scrubber. The furnace baghouse is subject to the Compliance Assurance Monitoring rule. The facility is a major facility due to its potential to emit NOx and CO.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**07-03040: Pennfield Corp.** (711 Rohrerstown Road, Lancaster, PA 17603) on December 9, 2003, for operation of a feed mill in Martinsburg Borough, **Blair County**.

**36-05129: Haines and Kibblehouse, Inc.** (2052 Lucon Road, P. O. Box 196, Skippack, PA 19474) on December 8, 2003, for operation of their asphalt plant at their Silver Hill Quarry in Brecknock Township, **Lancaster County**.

**38-05018: Department of Veterans Affairs** (1700 South Lincoln Avenue, Lebanon, PA 17042) on December 9, 2003, for operation of their Lebanon VA Medical Center in South Lebanon Township, **Lebanon County**.

**67-03018: Penn Mar Castings, Inc.** (500 Broadway Avenue, Hanover, PA 17331) on December 8, 2003, for operation of their iron foundry in Hanover Borough, **York County**.

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

**25-00197: TSK Partners, Inc.—Erie Bronze and Aluminum Co.** (6300 West Ridge Road, P. O. Box 8099, Erie, PA 16505) on November 26, 2003, for an administrative amendment due to a change in ownership. The Natural Minor operating permit is for a bronze and aluminum foundry in Fairview Township, **Erie County**.

**25-00972: Insul Board** (2120 Colonial Avenue, Erie, PA 16505) on December 2, 2003, for a Natural Minor Permit to operate an expanded polystyrene manufacturing plant in Millcreek Township, **Erie County**.

**37-00181: New Castle Industries, Inc.—Tanner Plating Division** (925 Industrial Street, New Castle, PA) on December 9, 2003, a Natural Minor operating permit for a hard chromium electroplating facility in the City of New Castle, **Lawrence County**.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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

**25-00891: Corry Contract Inc.** (21 Maple Avenue, Corry, PA 16407) on December 9, 2003, to modify the Synthetic Minor Permit to operate an office furniture manufacturing facility in City of Corry, **Erie County**. The facility's major emission sources include miscellaneous natural gas usage, boiler, third floor paint booths (five), three touch-up booths, batch oven touch up, cure oven, pyrolysis oven, five paint booths in plant II and plant II curing oven. The modification includes the five paint booths presently emitting VOC from liquid spray paint. Previously the source was insignificant because the paint booths were used for only powder coating operation and exhausted inside.

**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 Bitumi-**

**nous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).**

*Coal Permit Actions*

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**30743704. NPDES Permit NA, Duquesne Light Company** (P. O. Box 457, Greensboro, PA 15338), to revise the permit for the Warwick Mine No. 2 Coal Refuse Disposal Area in Monongahela Township, **Greene County**, to reclaim 72 acres and add beneficial ash and biosolids. No additional discharges. Permit issued December 5, 2003.

**6323707. NPDES Permit No. PA0215520, Maple Creek Mining, Inc.** (Spinner Shaft—918 Route 917, Bentleyville, PA 15314), to revise the permit for the Ginger Hill Refuse Area II in Carroll, Fallowfield and Nottingham Townships, **Washington County**, to add 34 acres and delete 21 acres. No additional discharges. Permit issued December 8, 2003.

**32961302. NPDES Permit No. PA0214949, AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), to revise the permit for the Ondo Mine in Brush Valley Township, **Indiana County** and to delete 193.5 SCP acres. Underground Acres Proposed 38.3, SCP Acres Proposed 94.8. No additional discharges. The first downstream potable water supply intake from the point of discharge is Pennsylvania American Water Company and Two Lick Creek. Permit issued December 11, 2003.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**24820107 and NPDES Permit No. PA0605085. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650). Renewal of an existing bituminous strip and auger operation in Horton Township, **Elk County**, affecting 134.0 acres. Receiving streams: unnamed tributaries to Brandy Camp Run. Application received September 8, 2003. Permit issued December 4, 2003.

*Noncoal Permit Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**7473SM2AC9 and NPDES Permit No. PA0118460. Hercules Cement Co., LP d/b/a Hercules Cement Company** (P. O. Box 69, Stockertown, PA 18082), correction to an existing quarry and NPDES Permit in Upper Nazareth Township, **Northampton County**, affecting 301.3 acres. Receiving stream: Bushkill and Schoeneck Creeks. Application received July 7, 2003. Correction issued December 8, 2003.

**58012806. Steven Jones** (R. R. 2 Box 69, New Milford, PA 18834), commencement, operation and restoration of a quarry operation in New Milford Township, **Susquehanna County**, affecting 3.0 acres. Receiving stream:

unnamed. Application received September 13, 2001. Permit issued December 9, 2003.

**28030301 and NPDES Permit No. PA0613371. D. L. George & Sons Construction Co., Inc.** (13321 Midvale Road, Waynesboro, PA 17268), commencement, operation and restoration of a quarry operation and for discharge of treated mine drainage in Antrim Township, **Franklin County**, affecting 43.0 acres. Receiving stream: Paddy Run. Application received December 30, 2002. Permit issued December 10, 2003.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**37020301. Mayberry Sand & Gravel, Inc.** (442 18 South, New Castle, PA 16102). Transfer of an existing sand and gravel operation from William H. Mayberry in North Beaver Township, **Lawrence County**, affecting 120.7 acres. Receiving streams: unnamed tributaries to Beaver River. Application received May 13, 2003. Permit issued December 5, 2003.

**37020306. The East Fairfield Coal Co.** (10900 South Avenue, P. O. Box 217, North Lima, OH 44452). Commencement, operation and restoration of a limestone operation in North Beaver Township, **Lawrence County**, affecting 169.4 acres. Receiving streams: unnamed tributaries to Honey Creek. Application received November 13, 2002. Permit issued December 4, 2003.

*Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.*

**18031001. Glenn O. Hawbaker, Inc.** (711 E. College Avenue, Bellefonte, PA 16823), authorization to extract industrial minerals in Bald Eagle Township, **Clinton County**, to supply fill material for the First Quality Tissue Construction Project—Edwards property. Receiving streams: Plunket Run, tributary to Bald Eagle Creek to West Branch Susquehanna River. Authorization approved: October 30, 2003.

**18031002. Glenn O. Hawbaker, Inc.** (711 E. College Avenue, Bellefonte, PA 16823), authorization to extract industrial minerals in Bald Eagle Township, **Clinton County**, to supply fill material for the First Quality Tissue Construction Project—Keystone Central property. Receiving streams: unnamed tributary to Bald Eagle Creek, tributary to Bald Eagle Creek to West Branch Susquehanna River. Authorization approved: November 4, 2003.

**18031003. Glenn O. Hawbaker, Inc.** (711 E. College Avenue, Bellefonte, PA 16823), authorization to extract industrial minerals in Bald Eagle Township, **Clinton County**, to supply fill material for the First Quality Tissue Construction Project—Clark property. Receiving streams: unnamed tributary to Bald Eagle Creek, tributary to Bald Eagle Creek to West Branch Susquehanna River. Authorization approved: November 18, 2003.

**08030804. Brian M. Edsall, R. R. 2, Box 94A, Towanda, PA 18848.** Commencement, operation and restoration of a Small Industrial Minerals (Bluestone) permit in Asylum Township, **Bradford County**, affecting 5 acres. Receiving streams: Bennetts Creek, tributary to the Susquehanna River. Application received August 18, 2003. Permit issued October 28, 2003.

#### ACTIONS ON BLASTING ACTIVITY APPLICATIONS

**Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151–161) and 25 Pa. Code § 211.124. Blasting activity performed as**

**part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**21034067. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in Silver Spring Township, **Cumberland County**, with an expiration date of December 25, 2004. Permit issued December 5, 2003.

**01034013. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Gateway at Gettysburg in Straban Township, **Adams County**, with an expiration date of December 25, 2004. Permit issued December 5, 2003.

**360340119. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Sanitary Sewer Replacement in East Cocalico Township, **Lancaster County**, with an expiration date of December 31, 2004. Permit issued December 5, 2003.

**360340117. Warren's Excavating & Drilling, Inc.** (P. O. Box 189, Bowmansville, PA 17507), construction blasting at Somerset Crossing Phase III, Village Homes in East Donegal Township, **Lancaster County**, with an expiration date of December 25, 2008. Permit issued December 5, 2003.

**15034045. Allan A. Myers, L. P.** (P. O. Box 98, Worcester, PA 19490), construction blasting at West Chester High School/Bayard Rustin High in Westtown Township, **Chester County**, with an expiration date of December 25, 2005. Permit issued December 8, 2003.

**46034052. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), construction blasting at Indian Valley Greenes in Franconia Township, **Montgomery County**, with an expiration date of December 25, 2004. Permit issued December 8, 2003.

**45034052. Ron Lutz, West End Drilling & Blasting** (P. O. Box 1646, Brodheadsville, PA 18322) and **Austin Powder Company** (Route 329, P. O. Box 289, Northampton, PA 18067), construction blasting at Nottingham Manor in Pocono Township, **Monroe County**, with an expiration date of December 31, 2004. Permit issued December 8, 2003.

**67034075. Handwerk Contractors** (P. O. Box 236, Hummelstown, PA 17036) and **Douglas Explosives, Inc.** (P. O. Box 77, Philipsburg, PA 16866), construction blasting at Mazi Gabe Elementary School in Windsor Township, **York County**, with an expiration date of January 21, 2004. Permit issued December 5, 2003.

**40034040. Popple Construction Co., Inc.** (202 Main Street, Laflin, PA 18702) and **D. C. Guelich Explosive Co.** (P. O. Box 29, Bloomsburg, PA 17815), construction blasting at F.E. Walters Dam Access Project in Bear Creek and Kidder Townships, **Luzerne and Carbon Counties**, with an expiration date of November 30, 2004. Permit issued December 5, 2003.

**21034068. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting at Bard Meadows in Shippensburg Township, **Cumberland County**, with an expiration date of December 25, 2006. Permit issued December 9, 2003.

**28034042. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting at Licking Creek Estates in Montgom-



ery Township, **Franklin County**, with an expiration date of December 25, 2008. Permit issued December 9, 2003.

**28034041. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting at MelRose Meadows/Phase II in Antrim Township, **Franklin County**, with an expiration date of December 25, 2008. Permit issued December 9, 2003.

**06034058. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for an animal waste storage facility in Marion Township, **Berks County**, with an expiration date of January 25, 2004. Permit issued December 10, 2003.

**48034028. Rock Work, Inc.** (1257 DeKalb Pike, R. D. 2, Blue Bell, PA 19422), construction blasting at Saddle Creek in Upper Mt. Bethel Township, **Northampton County**, with an expiration date of November 30, 2006. Permit issued December 10, 2003.

**06034059. PAVEX Inc.** (4400 Gettysburg Road, Camp Hill, PA 17011) and **Kesco, Inc.** (127 Oneida Valley Road, Butler, PA 16001), construction blasting at Morgantown Industrial Park Development in the City of Reading, **Berks County**, with an expiration date of January 25, 2004. Permit issued December 10, 2003.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**10034005. Mark Mashuda Excavating** (113 Lakeland Drive, Mars, PA 16046). Blasting Activity Permit to blast Penn Detroit Diesel—Allison in Cranberry Township, **Butler County**, for 90 days. Application received November 21, 2003. Permit issued December 8, 2003.

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

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

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

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment approval and requests for Water Quality

Certification under section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State water quality standards.

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

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

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

### Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

#### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**E46-947. REIT Management and Research**, Centre Square, 1500 Market Street, Lower Mezzanine, Philadelphia, PA 19102-2100, ACOE Philadelphia District.

To perform the following activities associated with the REIT Stormwater Improvement Project within the floodway of Rap Run (TSF) and another unnamed tributary of the Pine Run:

1. Excavation and grading within the floodway to accommodate the construction of two retention basins and underground infiltration stormwater pipes and trenches.
2. Minor filling within the floodway to facilitate the construction of berms and spreader basins connected to outfall structures.

3. Construction of three outfall structures to discharge water from retention basin into the streams.

The project will temporarily impact approximately 1,440 feet of streambanks and approximately 480 feet of streambank permanently. The site is approximately 690 feet east of intersection of Delaware and Virginia Drives and within the Virginia Drive roadway loop bounded on the east and west by Virginia Drive (Ambler, PA Quadrangle N: 2.03 inches; W: 10.00 inches).

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

**E41-531: Edward and Susan Myers**, 539 Fink Road, Trout Run, PA 17771. Small Projects Water Obstruction and Encroachment Joint Permit Application in Lewis Township, **Lycoming County**, ACOE Susquehanna River Basin District (Cogan Station, PA Quadrangle N: 21.08 inches; W: 9.9 inches).

To construct and maintain a 20 feet wide by 36 feet long nonresidential structure in the floodway of Lycoming Creek, all of which is 1.0 mile south of Trout Run along Fink Road in Lewis Township, Lycoming County. The construction granted under this permit is a pole barn to take the place of four onsite existing structures; the new construction will not increase the overall enclosed area on the property. This permit was issued under section 105.13(e) "Small Projects."

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

**E03-415. Gilpin Township**, R. D. 1, Box 269, Leechburg, PA 15656. Elder Run box culvert in Gilpin Township, **Armstrong County**, Pittsburgh ACOE District (Leechburg, PA Quadrangle N: 8.7 inches; W: 13.3 inches) (Latitude: 40° 40' 22" —Longitude: 79° 35' 45"). To remove the existing structure and to construct and maintain a 27.0-foot long, 1.0-foot depressed 10.0-foot by 8.0-foot concrete box culvert in Elder Run (WWF) for the purpose of improving transportation safety and roadway standards. The project is on Hillview Manor Road.

**SPECIAL NOTICES**

**Categorical Exclusion**

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

Location: Leechburg Borough, 260 Market Street, Leechburg, PA 15656.

Description: The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's

State Revolving Fund, is intended to be the funding source for this project. The Borough proposes to replace a portion of their combined sewer system and to abandon a combined sewer overflow. The Department of Environmental Protection's (Department) review of the project and the information received has not identified any significant, adverse environmental impact resulting from this proposal. The Department hereby categorically excludes this project from the State Environmental Review Process.

**Proposed Permit Transfers for Facilities**

**Bethlehem Steel Corporation to ISG Plate Inc.**

The Department of Environmental Protection (Department) proposes to transfer certain permits, licenses and approvals at the following facilities. Certain permits, licenses and approvals previously issued to Bethlehem Steel Corporation are proposed to be transferred to ISG Plate Inc. A complete listing of the permits, licenses and approvals proposed for transfer follows. Questions should be directed to the following contact person. This list is also available on the Department's website: www.dep.state.pa.us (DEP Keyword: Bethlehem Steel Corporation).

Persons wishing to comment on the proposed permit transfers are invited to submit comments to the following contact person within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determination regarding the proposed transfers. 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 the comment and the relevant facts upon which it is based. A public hearing may be held if the Department considers the public response significant.

Following the 30-day comment period, the Department will make a final decision concerning the permit, license and approval transfers. Notice of this determination will be published in the *Pennsylvania Bulletin*, at which time the determination may be appealed to the Environmental Hearing Board (Board).

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

*Central Office: Lori Althoff, Bureau Director, Bureau of Regional Coordination and Program Evaluation, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-7402.*

<i>Facility</i>	<i>Permit, License, Approval</i>	<i>Permit or ID No.</i>	<i>Municipality</i>	<i>County</i>
Bethlehem Steel Corporation	Residual Waste Landfill	300176	Coatesville	Chester
	NPDES Permit	PA0011568		
	NPDES Permit	1590201		
	NPDES Permit	1676202		
	AQ Title 5 Permit	15-00010		
	Dam Permit	1573601		
	NPDES Permit	PA0050326		
AQ Title 5 Permit	46-00011			

**Proposed Permit Transfers for Facilities**

**Brandywine Valley Railroad Company to ISG Railways, Inc.**

The Department proposes to transfer certain permits, licenses and approvals at the following facilities. Certain permits, licenses and approvals previously issued to Brandywine Valley Railroad Company are proposed to be transferred to ISG

Railways, Inc. A complete listing of the permits, licenses and approvals proposed for transfer follows. Questions should be directed to the following contact person. This list is also available on the Department's website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Bethlehem Steel Corporation).

Persons wishing to comment on the proposed permit transfers are invited to submit their comments to the following contact person within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determination regarding the proposed transfers. 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 the comment and the relevant facts upon which it is based. A public hearing may be held if the Department considers the public response significant.

Following the 30-day comment period, the Department will make a final decision concerning the permit, license and approval transfers. Notice of this determination will be published in the *Pennsylvania Bulletin*, at which time the determination may be appealed to the Board.

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

*Central Office: Lori Althoff, Bureau Director, Bureau of Regional Coordination and Program Evaluation, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-7402.*

<i>Facility</i>	<i>Permit, License, Approval</i>	<i>Permit or ID No.</i>	<i>Municipality</i>	<i>County</i>
Brandywine Valley Railroad Company	NPDES Permit	PAR800076	South Coatesville	Chester

#### **Proposed Permit Transfers for Facilities**

##### **Bethlehem Steel Corporation to ISG Steelton Inc.**

The Department proposes to transfer certain permits, licenses and approvals at the following facilities. Certain permits, licenses and approvals previously issued to Bethlehem Steel Corporation are proposed to be transferred to ISG Steelton Inc. A complete listing of the permits, licenses and approvals proposed for transfer follows. Questions should be directed to the following contact person. This list is also available on the Department's website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Bethlehem Steel Corporation).

Persons wishing to comment on the proposed permit transfers are invited to submit their comments to the following contact person within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determination regarding the proposed transfers. 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 the comment and the relevant facts upon which it is based. A public hearing may be held if the Department considers the public response significant.

Following the 30-day comment period, the Department will make a final decision concerning the permit, license and approval transfers. Notice of this determination will be published in the *Pennsylvania Bulletin*, at which time the determination may be appealed to the Board.

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

*Central Office: Lori Althoff, Bureau Director, Bureau of Regional Coordination and Program Evaluation, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-7402.*

<i>Facility</i>	<i>Permit, License, Approval</i>	<i>Permit or ID No.</i>	<i>Municipality</i>	<i>County</i>
Bethlehem Steel Corporation	Residual Waste GP	WMGR065	Steelton	Dauphin
	NPDES Permit	PA0008303		
	AQ Title 5 Permit	22-05012		
	Hazardous Waste Permit	PAD003026531		

#### **Proposed Permit Transfers for Facilities**

##### **Bethlehem Steel Corporation to Tecumseh Redevelopment, Inc.**

The Department proposes to transfer certain permits, licenses and approvals at the following facilities. Certain permits, licenses and approvals previously issued to Bethlehem Steel Corporation are proposed to be transferred to Tecumseh Redevelopment, Inc. A complete listing of the permits, licenses and approvals proposed for transfer follows. Questions should be directed to the following contact person. This list is also available on the Department's website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Bethlehem Steel Corporation).

Persons wishing to comment on the proposed permit transfers are invited to submit their comments to the following contact person within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determination regarding the proposed transfers. 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 the comment and the relevant facts upon which it is based. A public hearing may be held if the Department considers the public response significant.

Following the 30-day comment period, the Department will make a final decision concerning the permit, license and approval transfers. Notice of this determination will be published in the *Pennsylvania Bulletin*, at which time the determination may be appealed to the Board.

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

*Central Office: Lori Althoff, Bureau Director, Bureau of Regional Coordination and Program Evaluation, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-7402.*

Facility	Permit, License, Approval	Permit or ID No.	Municipality	County
Bethlehem Works	NPDES Permit NPDES Permit NPDES Permit	PAR10U134 PAR202236 PAR202237	Bethlehem	Northampton
Riders Disposal Area	Hazardous Waste Facility NPDES Permit	PAD004344222 PA0002992	Johnstown	Cambria

### Proposed Permit Transfers for Facilities

#### Bethlehem Steel Corporation to Tow Path Valley Business Park Corporation

The Department proposes to transfer certain permits, licenses and approvals at the following facilities. Certain permits, licenses and approvals previously issued to Bethlehem Steel Corporation are proposed to be transferred to Tow Path Valley Business Park Corporation. A complete listing of the permits, licenses and approvals proposed for transfer follows. Questions should be directed to the following contact person. This list is also available on the Department's website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Bethlehem Steel Corporation).

Persons wishing to comment on the proposed permit transfers are invited to submit their comments to the following contact person within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determination regarding the proposed transfers. 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 the comment and the relevant facts upon which it is based. A public hearing may be held if the Department considers the public response significant.

Following the 30-day comment period, the Department will make a final decision concerning the permit, license and approval transfers. Notice of this determination will be published in the *Pennsylvania Bulletin*, at which time the determination may be appealed to the Board.

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

*Central Office: Lori Althoff, Bureau Director, Bureau of Regional Coordination and Program Evaluation, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-7402.*

Facility	Permit, License, Approval	Permit or ID No.	Municipality	County
Bethlehem Steel Corporation	NPDES Permit Storage Tanks Registration	PA0040614 48-08814	City of Bethlehem Bethlehem	Lehigh Northampton

[Pa.B. Doc. No. 03-2457. Filed for public inspection December 26, 2003, 9:00 a.m.]

### Board and Committee Meeting Schedules for 2004

The following is a list of 2004 meetings of advisory and other boards and committees associated with the Department of Environmental Protection (Department). Notice of these meetings is being given in accordance with 65 Pa.C.S. §§ 701—716 (relating to Sunshine Act).

These schedules and an agenda for each meeting, including meeting materials, will be available through the Public Participation Center on the Department's website at <http://www.dep.state.pa.us> (DEP Keyword: Participate).

Most of the meetings will be held in the Rachel Carson State Office Building, 400 Market Street, Harrisburg, across from the AMTRAK station. Public parking is available in the Chestnut Street Parking Garage.

#### Agricultural Advisory Board

The Agricultural Advisory Board meetings for 2004 will be held at 10 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg. The meeting dates are as follows:

February 18, 2004  
April 21, 2004  
June 16, 2004

August 25, 2004  
October 20, 2004  
December 15, 2004

*Contact:* Dean Auchenbach, Bureau of Watershed Management, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 772-5668, [dauchenbac@state.pa.us](mailto:dauchenbac@state.pa.us).

#### Air Quality Technical Advisory Committee (AQTAC)

The AQTAC will meet at 8:30 a.m. as follows on the dates and at the following locations:

February 27, 2004	Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA
April 27, 2004	Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA
June 29, 2004	Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA
August 10, 2004	Field Trip—location to be announced
October 28, 2004	2nd Floor Training Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA

December 14, 2004 2nd Floor Training Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA

*Contact:* Terry L. Black, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-2030, tblack@state.pa.us.

*Certification Program Advisory Committee*

The Certification Program Advisory Committee has selected the following dates for meetings in 2004:

February 19, 2004  
March 18, 2004  
October 6, 2004  
December 9, 2004

The meetings will begin at 10 a.m. and be held in the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

*Contact:* Lynn Rice, Bureau of Office Systems and Services, P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 787-5326, mlrice@state.pa.us.

*Chesapeake Bay Advisory Committee*

The Chesapeake Bay Advisory Committee will hold quarterly meetings on the following dates. All meetings will begin at 9 a.m. and be held in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

March 4, 2004  
June 3, 2004  
September 2, 2004  
December 2, 2004

*Contact:* Dave Reed, Bureau of Watershed Management, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 772-5649, davreed@state.pa.us.

*Citizens Advisory Council (CAC)*

Meetings of the CAC will be held in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meetings typically begin at 10:30 a.m. unless otherwise noted on the CAC's website at <http://www.cacdep.state.pa.us>. The meeting dates are as follows:

January 20, 2004  
February 17, 2004  
March 16, 2004  
April 20, 2004  
May 18, 2004  
June 23, 24, 25, 2004 (Erie Regional Meeting)  
July 20, 2004  
September 21, 2004  
October 19, 2004  
November 16, 2004

*Contact:* Stephanie Mioff, Citizens Advisory Council, P. O. Box 8459, Harrisburg, PA 17105-8459, (717) 787-4527, smioffstate.pa.us.

*Cleanup Standards Scientific Advisory Board (CSSAB)*

Meetings of the CSSAB will begin at 9:30 a.m., Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

May 6, 2004  
September 24, 2004  
December 16, 2004

*Contact:* Marilyn Wooding or Thomas Fidler, Bureau of Land Recycling and Waste Management, (717) 783-7509, mwooding@state.pa.us, tfidler@state.pa.us.

*Coal and Clay Mine Subsidence Insurance Fund Board*

The annual meeting of the Coal and Clay Mine Subsidence Insurance Fund Board will begin at 10 a.m., 10th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting date is as follows:

December 16, 2004

*Contact:* Lawrence Ruane, Bureau of Mining and Reclamation, P. O. Box 8462, Harrisburg, PA 17105-8462, (717) 783-9590, lruane@state.pa.us.

*Coastal Zone Advisory Committee*

Meetings of the Coastal Zone Advisory Committee will begin at 9:30 a.m., 2nd Floor Training Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting date is:

January 21, 2004

*Contact:* Andrew Zemba, Coastal Zone Bureau, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 772-5633, azemba@state.pa.us.

*Environmental Justice Advisory Board*

The meetings for the Environmental Justice Advisory Board will begin at 10:30 a.m., Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

February 3, 2004  
April 6, 2004  
June 1, 2004  
August 3, 2004  
October 5, 2004  
December 7, 2004

*Contact:* Lorraine Wagner, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-1566, lowagner@state.pa.us.

*Environmental Quality Board (EQB)*

Meetings of the EQB will begin at 9 a.m. the third Tuesday of each month in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. Meetings will only be held when there are a sufficient number of agenda items for consideration.

Meeting dates are as follows:

January 20, 2004 (Cancelled)	July 20, 2004
February 17, 2004	August 17, 2004
March 16, 2004	September 21, 2004
April 20, 2004	October 19, 2004
May 18, 2004	November 16, 2004
June 15, 2004	December 21, 2004

*Contact:* Sharon Trostle or Michele Tate, Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526, shtrorstle@state.pa.us or mtate@state.pa.us.

*Laboratory Accreditation Advisory Committee*

Meetings of the Laboratory Accreditation Advisory Committee will begin at 10 a.m. and be held in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

February 10, 2004  
April 13, 2004  
June 8, 2004  
August 12, 2004  
October 12, 2004  
December 14, 2004

*Contact:* Richard H. Sheibley, Bureau of Laboratories, P. O. Box 1467, Harrisburg, PA 17105-1467, (717) 705-2425, rsheibley@state.pa.us.

*Low-Level Waste Advisory Committee (LLWAC)*

The annual meeting of the LLWAC will begin at 9 a.m. and be held on the following date:

September 23, 2004 Room 105, Rachel Carson State Office Building, Harrisburg PA

*Contact:* Rich Janati, Bureau of Radiation Protection, (800) 232-2786 (toll-free), (717) 787-2163, e-mail rjanati@state.pa.us.

*Mining and Reclamation Advisory Board (MRAB)*

The MRAB will hold quarterly meetings in the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA will begin at 10 a.m. The meeting dates and locations are as follows:

January 8, 2004 16th Floor Delaware Room, Rachel Carson State Office Building, Harrisburg, PA  
 April 22, 2004 Room 105, Rachel Carson State Office Building, Harrisburg, PA  
 July 8, 2004 Field Meeting—location and time to be announced  
 October 28, 2004 Room 105, Rachel Carson State Office Building, Harrisburg, PA

*Contact:* G. Nevin Strock or Lara Logan, Bureau of Mining and Reclamation, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5103, gstrock@state.pa.us or llogan@state.pa.us.

*Nonpoint Source Liaison Workgroup (NPS)*

Meetings of the NPS will begin at 10 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

June 2, 2004  
 October 21, 2004

*Contact:* Fran Koch, Bureau of Watershed Management, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 783-2289, fkoch@state.pa.us.

*Oil and Gas Technical Advisory Board*

Meetings of the Oil and Gas Technical Advisory Board will begin at 10 a.m., 10th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

April 22, 2004  
 October 28, 2004

*Contact:* James E. Erb or Joyce Williams, Bureau of Oil and Gas Management, P. O. Box 8765, Harrisburg, PA 17105-8765, (717) 772-2199, jerb@state.pa.us or joywilliam@state.pa.us.

*Pennsylvania Association of Sewage Enforcement Officers (PASEO)/DEP Work Group*

Meetings of the PASEO/DEP Work Group will be held at 10 a.m., Ramada Inn in State College, PA. The meeting dates are as follows:

April 13, 2004  
 October 5, 2004

*Contact:* John McHale, Bureau of Water Supply and Wastewater Management, P. O. Box 8774, Harrisburg, PA 17105-8774, (717) 787-8184, jomchale@state.pa.us.

*Radiation Protection Advisory Committee (RPAC)*

Meetings of the RPAC will begin at 9 a.m. and be held in the 12th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

April 22, 2004  
 October 7, 2004

*Contact:* Louis Ray Urciuolo, Bureau of Radiation Protection, P. O. Box 8469, Harrisburg, PA 17105-8469, (717) 787-3720, lurciuolo@state.pa.us.

*Recycling Fund Advisory Committee (RFAC)*

Meetings of the RFAC will begin at 10 a.m. as follows:

March 11, 2004 Room 105, Rachel Carson State Office Building, Harrisburg, PA  
 July 8, 2004 Room 105, Rachel Carson State Office Building, Harrisburg, PA  
 November 4, 2004 Room 105, Rachel Carson State Office Building, Harrisburg, PA

*Contact:* Tammy Snyder or Gayle Leader, Bureau of Land Recycling and Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9871, tasnyder@state.pa.us, gleader@state.pa.us.

*Sewage Advisory Committee (SAC)*

Meetings of the SAC will begin at 10 a.m. in Room 105, Rachel Carson State Office Building. The meeting dates are as follows:

March 31, 2004  
 October 6, 2004

*Contact:* Jay Africa, Bureau of Water Supply and Wastewater Management, P. O. Box 8774, Harrisburg, PA 17105-8774, (717) 787-8184, jafrika@state.pa.us.

*Small Business Compliance Advisory Committee*

Meetings of the Small Business Compliance Advisory Committee will hold quarterly meetings as follows. The meetings will begin at 10 a.m., 14th Floor Conference Room of the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. Prior to the meeting, check the meeting information at the Department's website, <http://www.dep.state.pa.us> (DEP Keyword: Small Business) to confirm meeting date, time and location.

January 28, 2004  
 April 28, 2004  
 July 28, 2004  
 October 27, 2004

*Contact:* Jon Miller, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-7019, jonmiller@state.pa.us.

*Solid Waste Advisory Committee (SWAC)*

The SWAC meetings will be held the second Thursday of every other month; additional meetings may be scheduled to accommodate the agenda items for the Committee. All meetings are expected to begin at 10 a.m. and will be held at the following locations, on the following dates:

January 8, 2004 Room 105, Rachel Carson State Office Building, Harrisburg, PA  
 \*April 8, 2004 14th Floor, Rachel Carson State Office Building, Harrisburg, PA  
 May 13, 2004 Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA

September 9-10, 2004 King's Gap Environmental Education Center, Carlisle, PA

*Contact:* Tammy Snyder or Gayle Leader, Bureau of Land Recycling and Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9871, [tasnyder@state.pa.us](mailto:tasnyder@state.pa.us), [gleader@state.pa.us](mailto:gleader@state.pa.us).

\*Note: State Solid Waste Plan Subcommittee Meeting.

*State Board for Certification of Sewage Enforcement Officers*

Meetings of the State Board for Certification of Sewage Enforcement Officers will begin at 10 a.m. in the 10th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

March 19, 2004  
June 18, 2004  
September 17, 2004  
December 17, 2004

*Contact:* Renee Nease, Certification, Licensing and Bonding, P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 787-6045, [mnease@state.pa.us](mailto:mnease@state.pa.us).

*State Board for Certification of Water and Wastewater Systems Operators*

The State Board for Certification of Water and Wastewater Systems Operators has selected the following dates for meetings in 2004:

January 9, 2004  
March 11, 2004  
May 21, 2004  
July 30, 2004  
October 15, 2004  
December 10, 2004

The meetings will begin at 9 a.m. and be held in the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

*Contact:* Lynn Rice, Bureau of Office Systems and Services, P. O. Box 8454, Harrisburg, PA 17105-8454, (717) 787-5326, [mlrice@state.pa.us](mailto:mlrice@state.pa.us).

*Storage Tank Advisory Committee (STAC)*

Meetings of the STAC will begin at 10 a.m. in the 10th Floor Conference Room, Rachel Carson State Office Building. The meeting dates are as follows:

March 2, 2004  
June 1, 2004  
September 14, 2004  
December 7, 2004

*Contact:* Ruth M. Carmen, Bureau of Land Recycling and Waste Management, P. O. Box 8762, Harrisburg, PA 17105-8762, (717) 772-5831, (800) 42-TANKS (within PA), [rcarmen@state.pa.us](mailto:rcarmen@state.pa.us).

*Stormwater Manual Oversight Committee*

Meetings of the Stormwater Manual Oversight Committee will begin at 10 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

January 27, 2004  
March 2, 2004  
May 4, 2004  
July 27, 2004  
September 28, 2004  
December 8, 2004

*Contact:* Kenneth Reisinger, Bureau of Watershed Management, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 787-6827, [kereisinger@state.pa.us](mailto:kereisinger@state.pa.us).

*Technical Advisory Committee on Diesel-Powered Equipment*

Meetings of the Technical Advisory Committee on Diesel-Powered Equipment will begin at 10 a.m. in the Fayette County Health Center, Uniontown, PA. The meeting dates are as follows:

January 20, 2004  
April 20, 2004  
July 20, 2004  
October 19, 2004

*Contact:* Allison Gaida, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401, (724) 439-7469, [agaida@state.pa.us](mailto:agaida@state.pa.us).

*Small Water Systems Technical Assistance Center Advisory Board*

The Small Water Systems Technical Assistance Center Board announces its schedule of 2004 meetings. The meetings will begin at 10 a.m. as follows:

February 12, 2004 Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA  
May 13, 2004 Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA  
August 19, 2004 Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA  
November 4, 2004 Susquehanna Room B, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg

*Contact:* Ray Braun, Bureau of Water and Wastewater Management, (717) 787-0122, [rbraun@state.pa.us](mailto:rbraun@state.pa.us).

*Water Resources Advisory Committee (WRAC)*

Meetings of the WRAC will begin at 9:30 a.m., Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

January 14, 2004  
March 10, 2004  
May 12, 2004  
July 14, 2004  
September 8, 2004  
November 10, 2004

*Contact:* Carol Young, Bureau of Water Supply and Wastewater Management, (717) 787-9637, [cayoung@state.pa.us](mailto:cayoung@state.pa.us).

*Wetlands Protection Advisory Committee (WETPAC)*

Meetings of the WETPAC will begin at 10 a.m., Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The meeting dates are as follows:

February 19, 2004  
May 20, 2004  
August 26, 2004  
November 23, 2004

*Contact:* Kelly Heffner, Bureau of Watershed Management, (717) 772-5970, [kheffner@state.pa.us](mailto:kheffner@state.pa.us).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should

contact the individual listed for each board or committee, 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. 03-2458. Filed for public inspection December 26, 2003, 9:00 a.m.]

### Proposed Revision to the State Implementation Plan for Ozone for the Philadelphia Ozone Nonattainment Area; Public Hearing

Ground-level ozone concentrations above the Federal health-based standard are a serious human health threat and can also cause damage to crops, forests and wildlife. The Department of Environmental Protection (Department) is seeking public comment on a State Implementation Plan (SIP) revision for the Philadelphia ozone nonattainment area (Bucks, Chester, Delaware, Montgomery and Philadelphia Counties).

The Clean Air Act requires the Philadelphia area to have made incremental reductions in the emissions that cause ground-level ozone through 2005. The United States Environmental Protection Agency (EPA) approved the most recent "rate of progress" demonstration in October 2001. In January 2002, the EPA revised the methodology by which highway vehicle emissions are calculated. The Department is now proposing to revise its SIP to include a demonstration that the area continues to meet the 2005 rate of progress requirements with this new methodology.

This proposal is available through the following contact persons or on the Department's website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Clean Air Plans).

The Department will hold a public hearing to receive comments on the SIP revision on Thursday, January 29, 2004, at 1 p.m. at the Delaware Valley Regional Planning Commission, The Bourse Building, 111 South Independence Mall East, 8th Floor, Philadelphia. Directions can be found at [www.dvrpc.org](http://www.dvrpc.org).

Persons wishing to present testimony at the hearing should reserve a time by contacting Susan Ferree, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9495. Persons who do not reserve a time will be able to testify after pre-registrants. Witnesses should keep testimony to 10 minutes and should also provide two written copies of their testimony at the hearing. Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact Wick Havens, (717) 787-9495. TDD users may contact the AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Written comments on the proposed revisions to the SIP should be sent to Wick Havens, Chief, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468 by the close of business on January 30, 2004.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 03-2459. Filed for public inspection December 26, 2003, 9:00 a.m.]

### Request for Proposals for Professional Ethics Course

The Department of Environmental Protection (Department) is seeking a consultant to create a professional ethics course for licensed professional engineers and geologists, unlicensed engineering and geologic staff and supervisors and managers of employees in engineering or geologic job classifications. The purpose of the course is to: (1) provide information on ethical conduct of licensed professionals, practice of licensed professionals and professional in charge at the Department; (2) differentiate situations where a clear answer is possible from situations where "professional judgment" applies; (3) educate and develop unlicensed engineering and geologic staff regarding ethical conduct on their path toward getting licenses; and (4) educate licensed engineers and geologists, unlicensed engineering and geologic staff and their supervisors and managers regarding Act 367. The contact is for 3 years with a 2-year renewal.

To request a copy of the Request for Proposals (RFP), contact the Bureau of Human Resources, Department of Environmental Protection, Rachel Carson State Office Building, 400 Market Street/2nd Floor, Harrisburg, PA 17105-2357, (717) 783-5374, (717) 787-2938, [nhuizinga@state.pa.us](mailto:nhuizinga@state.pa.us). A pre-proposal conference will be held on Tuesday, January 20, 2004, at 11 a.m. in the 14th Floor Conference Room, Rachel Carson State Office Building. A written response to the RFP must be delivered to the previous address by 2 p.m. on Wednesday, March 3, 2004.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 03-2460. Filed for public inspection December 26, 2003, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Evangelical Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Evangelical Community Hospital has requested an exception to the requirements of 28 Pa. Code § 51.23 (relating to positron emission tomography).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, [ra-paexcept@state.pa.us](mailto: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 a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation



to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 03-2461. Filed for public inspection December 26, 2003, 9:00 a.m.]

### Application of Southwestern Endoscopy Center, LLC for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Southwestern Endoscopy Center, LLC has requested an exception to the requirements of 28 Pa. Code § 551.3 (relating to definitions).

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 a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 03-2462. Filed for public inspection December 26, 2003, 9:00 a.m.]

### Health Policy Board Meetings

The Health Policy Board has set its calendar for the year 2004. The meeting dates are scheduled as follows:

March 17, 2004  
June 16, 2004  
September 15, 2004  
December 15, 2004

All meetings will begin at 10 a.m. in Room 812, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA.

These meetings are subject to cancellation without notice.

For additional information or persons with a disability who wish to attend the meetings and require an auxiliary aid, service or other accommodation to do so, contact Joseph May, (717) 772-5298, for speech and/or hearing

impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,  
*Secretary*

[Pa.B. Doc. No. 03-2463. Filed for public inspection December 26, 2003, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Payment for Nursing Facility Services; Change of the Definition of MA Day of Care

The purpose of this announcement is to provide advance notice under 42 CFR 447.205 that the Department of Public Welfare (Department) intends to make changes in its methods and standards for payment of Medical Assistance (MA) nursing facility services beginning fiscal year 2003-2004. More specifically, the Department intends to publish a proposed rulemaking which, if adopted, will amend 55 Pa. Code § 1187.2 (relating to definitions) by changing the definition of "MA day of care."

The expansion of the HealthChoices Program and the expansion of the Long Term Care Capitated Assistance Program (LTCCAP) has increased the likelihood that an MA recipient who is admitted to a nursing facility will be enrolled in either a managed care organization (MCO) under contract with the Department or the LTCCAP. As a result, MCOs and LTCCAP providers will pay nursing facilities for a greater number of resident days of care.

Neither an MCO or LTCCAP paid day of care qualifies as an MA day of care as the term is currently defined in 55 Pa. Code § 1187.2. The Department intends to propose amendments to the regulatory definition that would expand the definition of an MA day of care to include days of care for which an MCO under contract with the Department or LTCCAP provider pays 100% of the negotiated rate or fee for the MA resident's care in a nursing facility and days of care for which the resident and an MCO under contract with the Department or LTCCAP provider pays 100% of the negotiated rate or fee for the MA resident's care in the nursing facility. In addition, the Department intends to propose amendments that would further expand the definition of an "MA day of care" to include days of care for which the Department makes payment for MA residents receiving hospice services in a nursing facility.

The Department will propose that this change in the definition of an "MA day of care" should take effect January 1, 2004, and should apply to disproportionate share incentive payments for fiscal periods ending on and after December 31, 2003, and to the MA case-mix index for picture dates beginning February 1, 2004.

#### *Fiscal Impact*

If these proposed amendments to the definition of an "MA day of care" are adopted, the Department estimates that annual aggregate expenditures for MA nursing facility services for FY 2003-2004 will increase by \$500,000 (\$212,000 in State funds).

#### *Public Comment*

A copy of this notice is available for review by contacting Gail Weidman, Long Term Care Policy Section, (717) 705-3705. Interested persons are invited to submit writ-

ten comments regarding this notice to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to Department of Public Welfare, Division of Long-Term Care Client Services, Attn: Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105.

Following review and consideration of any comments received in response to this notice, the Department intends to publish notice of proposed rulemaking in the *Pennsylvania Bulletin* announcing the proposed change in the definition of "MA day of care."

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-376. (1) General Fund; (2) Implementing Year 2003-04 is \$212,000; (3) 1st Succeeding Year 2004-05 is \$237,000; 2nd Succeeding Year 2005-06 is \$245,000; 3rd Succeeding Year 2006-07 is \$252,000; 4th Succeeding Year 2007-08 is \$260,000; 5th Succeeding Year 2008-09 is \$268,000; (4) 2001-02 Program—\$761,877,000; 2000-01 Program—\$722,565,000; 1999-00 Program—\$693,625,000; (7) Medical Assistance—Long Term Care; (8) recommends adoption. Funding for these changes has been provided through the Department's Intergovernmental Transfer Agreement for fiscal years 2003-04 and 2004-05.

[Pa.B. Doc. No. 03-2464. Filed for public inspection December 26, 2003, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Approved Speed-Timing Devices and Appointment of Maintenance and Calibration Stations

The Department of Transportation (Department), Bureau of Motor Vehicles, under the authority of 75 Pa.C.S. § 3368 (relating to speed timing devices), has approved for use, until the next comprehensive list is published, subject to interim amendment, the following electronic speed-timing devices (radar and nonradar) which measure elapsed time between measured road surface points by using two sensors and electronic speed timing devices (nonradar), which calculate average speed between any two points.

Under 75 Pa.C.S. § 3368(c)(2), the Department has approved, for use only by members of the State Police, the following electronic speed-timing devices (radar) when used in the stationary mode only:

(1) Falcon Radar (identified on the radar housing as FALCON). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, Kansas 66215.

(2) H.A.W.K. Traffic Safety Radar System (identified on the radar housing as H.A.W.K.). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, Kansas 66215.

(3) KR-10, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, Kansas 66215.

(4) KR-10, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Electronics, Incorporated, 8320 Nieman Road, Lenexa, Kansas 66214.

(5) KR-10SP, Stationary Radar (identified on the radar housing as KR-10SP). Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, Kansas 66215.

(6) KR-10SP, Stationary Radar (identified on the radar housing as KR-10). Manufactured by Kustom Electronics, Incorporated, 8320 Nieman Road, Lenexa, Kansas 66214.

(7) Model 100, Decatur RA-GUN (identified on the radar housing as RA-GUN). Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, Illinois 62522.

(8) Genesis-I. Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, Illinois 62522.

(9) Genesis Handheld (GHS). Manufactured by Decatur Electronics, Incorporated, 715 Bright Street, Decatur, Illinois 62522.

(10) Stalker Dual, Manufactured by Applied Concepts, Incorporated, 730 F, Avenue, Suite 200, Plano, Texas 75074.

(11) Stalker Dual SL. Manufactured by Applied Concepts, Incorporated, 730 F, Avenue, Suite 200, Plano, Texas 75074.

(12) Stalker Dual DSR, Manufactured by Applied Concepts, Incorporated, 730 F, Avenue, Suite 200, Plano, Texas 75074.

(13) TS-3. Manufactured by MPH Industries, Incorporated, 316 East 9th Street, Owensboro, Kentucky 42303.

(14) Vindicator (VH-1) (Identified on the radar housing as Vindicator). Manufactured by MPH Incorporated, 316 East 9th Street, Owensboro, Kentucky 42303.

(15) MPH Model K-15. Manufactured by MPH Industries, Incorporated, 316 East 9th Street, Owensboro, Kentucky 42303.

(16) Stalker. Manufactured by Applied Concepts, Incorporated, 730 F, Avenue, Suite 200, Plano, Texas 75074.

(17) Eagle Plus. Manufactured by Kustom Signals, Incorporated, 9325 Pflumm, Lenexa, Kansas 66215-3347.

Under 75 Pa.C.S. § 3368(c)(3), the Department has approved, for use by any police officer, the following electronic speed-timing devices (nonradar) which measure elapsed time between measured road surface points by using two sensors:

(1) Electrical Speed Timing System. Manufactured by Richard Hageman, 98 South Penn Dixie Road, Nazareth, Pennsylvania 18064.

(2) Model TK 100, Excessive Speed Preventor. Manufactured by Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Pennsylvania 18822.

(3) Model TK 100, Excessive Speed Preventor. Manufactured by Targetron, Incorporated, 190 Angletown Road, Muncy, Pennsylvania 17756.

(4) Speed Chek (identified on the housing as Speed Chek model one, Mfd. for: The Union Agency, Unionville, Pa. 19375). Manufactured by Sterner Lighting Systems, Incorporated, 351 Lewis Avenue, Winsted, Minnesota 55395.

(5) Model TK 100, Excessive Speed Preventor Infrared. Manufactured by Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Pennsylvania 18822.

(6) Model TK 100, Excessive Speed Preventor Infrared. Manufactured by Targetron, Incorporated, 190 Angletown Road, Muncy, Pennsylvania 17756.

(7) Enradd, Model EJU-91. Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, P. O. Box 3044, York, Pennsylvania 17404.

(8) Enradd, Model EJU-91 with Non-Contact Road Switch System. Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, P. O. Box 3044, York, Pennsylvania 17404.

(9) Enradd, Model EJU-91 Wireless System. Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, P. O. Box 3044, York, Pennsylvania 17404.

Under 75 Pa.C.S. § 3368(c)(1) and (3), the Department has approved the use of electronic and mechanical stopwatches as speed-timing devices for use by any police officer. The Department has approved these speed-timing devices upon submission of a certificate of stopwatch accuracy indicating that a stopwatch has been successfully tested in accordance with the requirements of 67 Pa. Code Chapter 105 (relating to mechanical, electrical and electronic speed-timing devices). The Department issues an approved speed-timing device certificate for the device, as required by § 105.72 (relating to equipment approval procedure). The Department does not publish a listing of these approved speed-timing devices because they are approved individually by serial number and police department. Therefore, if a citation is contested, it is necessary for the police department to show both the certificate of stopwatch accuracy, which was issued within 60 days of the citation, and an approved speed-timing device certificate issued by the Department.

Under 75 Pa.C.S. § 3368(c)(3), the Department has approved, for use by any police officer, the following electronic speed-timing device (nonradar) which calculates average speed between any two points:

(1) VASCAR-plus. Manufactured by Traffic Safety Systems, a division of Power Systems & Controls, Incorporated, 3206 Lanvale Avenue, Richmond, Virginia 23230.

(2) VASCAR-plus II. Manufactured by Traffic Safety Systems, a division of Power Systems & Controls, Incorporated, 3206 Lanvale Avenue, Richmond, Virginia 23230.

(3) VASCAR-plus III. Manufactured by Traffic Safety Systems a division of Power Systems & Controls, Incorporated 3206 Lanvale Avenue, Richmond, Virginia 23230.

(4) V-SPEC. Manufactured by Y.I.S. Incorporated, 1049 Hartley Street, P. O. Box 3044, York, Pennsylvania 17404.

(5) Tracker by Patco. Manufactured by Kustom Signals, Incorporated, 9325 Pflumm Lenexa, Kansas 66215.

The Department, under 75 Pa.C.S. § 3368(d), has appointed the following stations for calibrating and testing speed-timing devices until the next comprehensive list is published, subject to interim amendment.

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for radar devices, which may only be used by members of the State Police:

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969 (Appointed: 12/22/01, Station R8).

Guth Laboratories, Incorporated, 590 North 67th Street, Harrisburg, Dauphin County, PA 17111-4511 (Appointed: 01/27/97, Station R2).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063 (Appointed: 08/15/03, Station R11).

Simco Electronics, 2125 South West 28th Street, Allentown, Lehigh County, PA 18103 (Appointed: 09/19/96, Station R9).

Thomas Associates R & E Inc., 65 S Mountain Boulevard, Mountain Top, Luzerne County, PA 18707 (Appointed: 03/28/83, Station R7).

Wisco Calibration Services, Inc. 1002 Mckee Road, Oakdale, Allegheny County, PA 15071 (Appointed: 07/14/99, Station R10).

YIS Inc., 1049 North Hartley Street, York, York County, PA 17402 (Appointed: 01/14/75, Station R3).

The Department has appointed, under 75 Pa.C.S. § 3368(b), the following Official Speedometer Testing Stations:

Auto Electric & Speedometer Service, 7019 Beaver Dam Road, Levittown, Bucks County, PA 19057 (Appointed: 03/14/74, Station S54).

Auto Technology-Vocational Technical School Laboratory, 540 North Harrison Road, Pleasant Gap, Centre County, PA 16823 (Appointed: 02/10/69, Station S22).

Bob's Speedometer Service, Incorporated, 1920 West Marshall Street, Norristown, Montgomery County, PA 19403 (Appointed: 11/15/77, Station S79).

Briggs-Hagenlocher, 1110 Chestnut Street, Erie, Erie County, PA 16501 (Appointed: 03/25/93, Station S39).

James M. Coulston, Incorporated, 2915 Swede Road, Norristown, Montgomery County, PA 19401 (Appointed: 02/11/75, Station S49).

Dave's Service Center, 3617 Nicholas Street, Easton, Northampton County, PA 18045 (Appointed: 10/29/76, Station S33).

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 11/25/63, Station S19).

Gabe's Speedometer Service, 2635 West Passyunk Avenue, Philadelphia, Philadelphia County, PA 19145 (Appointed: 06/03/97, Station S85).

Humenicks Auto Electric, 646 East Diamond Avenue, Hazleton, Luzerne County, PA 18201 (Appointed: 11/13/67, Station S74).

Izer Garage, 4616 Buchanan Trail East, Zullinger, Franklin County, PA 17272 (Appointed: 02/23/53, Station S106).

George's Garage, 868 Providence Road, Scranton, Lackawanna County, PA 18508 (Appointed: 04/15/98, Station S8).

K & M Automotive Electric Service, 1004-24th Street, Beaver Falls, Beaver County, PA 15010 (Appointed: 11/13/67, Station S23).

Mack Enterprises of Reading, 4226 Pottsville Pike, Reading, Berks County, PA 19605 (Appointed: 05/15/79, Station S1).

Mahramus Specialty Auto Service, 286 Muse Bishop Road, Canonsburg, Washington County, PA 15317 (Appointed: 01/03/84, Station S7).

Melody Lakes Tire & Auto Care, Incorporated, 1113 North West End Boulevard, Quakertown, Bucks County, PA 18951 (Appointed: 09/15/71, Station S38).

North Boro Speedometer Service, 547 California Avenue, Pittsburgh, Allegheny County, PA 15202 (Appointed: 11/02/78, Station S69).

Powl's Speedometer Service, Incorporated, 2340 Dairy Road, Lancaster, Lancaster County, PA 17601—Also authorized to use mobile units (Appointed: 06/09/97, Station S82).

Rabold's Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 06/29/62, Station S67).

S & D Calibration Services, 1963 Route 837, Monongahela, Washington County, PA 15063—Also authorized to use mobile units (Appointed: 03/22/83, Station S35).

Stewart's Speedometer & Auto Parts, 112 South Third Street, Youngwood, Westmoreland County, PA 15601 (Appointed: 03/20/80, Station S58).

Thoman Auto Electric, Incorporated, 227 Valley Street, Lewistown, Mifflin County, PA 17044 (Appointed: 10/03/78, Station S104).

Thomas Auto Electric, 109 North 9th Street, Stroudsburg, Monroe County, PA 18360 (Appointed: 07/24/89, Station S105).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for nonradar devices, which measure elapsed time between measured road surface points by using two sensors:

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 04/07/93, Station EL3).

Rabolds Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 02/27/92, Station EL22).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063—Also authorized to use mobile units (Appointed: 03/14/02, Station EL1).

S & D Calibration Services, 115 Walnut Drive, Eighty Four, Washington County, PA 15330—Also authorized to use mobile units (Appointed: 09/14/82, Station EL11).

Speed Enforcement, Incorporated, R. D. 1, Box 32, Randolph Road, Great Bend, Susquehanna County, PA 18821—Also authorized to use mobile units (Appointed: 03/26/85, Station EL14).

Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Susquehanna County, PA 18822—Also authorized to use mobile units (Appointed: 12/01/78, Station EL2).

Targetron, Incorporated, 190 Angletown Road, Muncy, Lycoming County, PA 17756—Also authorized to use mobile units (Appointed: 05/07/91, Station EL21).

Mahramus Specialty Auto Service, 285 Muse Bishop Road, Cannonsburg, Washington County, PA 15317 (Appointed: 07/31/97, Station EL18).

YIS/Cowden Group, 1049 North Hartley Street, York, York County, PA 17404—Also authorized to use mobile units (Appointed: 02/20/80, Station EL7).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Stopwatch Testing Stations:

Beebower Incorporated, 1546 East Pleasant Valley Boulevard, Altoona, Blair County, PA 16602 (Appointed: 09/02/77, Station W14).

George L. Cogley, 1222 Liberty Avenue, Natrona Heights, Allegheny County, PA 15065 (Appointed: 09/27/77, Station W9).

Department of General Services Metrology, Room B-124, Transportation and Safety Building, Harrisburg, Dauphin County, PA 17120 (Appointed: 03/09/79, Station W18).

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 10/28/77, Station W29).

Green Jewelers, Route 819, Armbrust, Westmoreland County, PA 15616 (Appointed: 06/23/78, Station W41).

Hostetter's Jewelers, 2 Hill Street, Shrewsbury, York County, PA 17361 (Appointed: 11/18/77, Station W30).

Leitzel's Jewelry, 422 East, Myerstown, Lebanon County, PA 17067 (Appointed: 09/01/87, Station W58).

Leitzel's Jewelry Store, 296 Center Street, Millersburg, Dauphin County, PA 19061 (Appointed: 07/28/77, Station W7).

Mountz Jewelers, 153 North Hanover Street, Carlisle, Cumberland County, PA 17013 (Appointed: 09/21/87, Station W59).

Precision Watch Repair Company, 1015 Chestnut Street, Room 1010, Philadelphia, Philadelphia County, PA 19107 (Appointed: 09/24/80, Station W54).

Rabold's Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 09/15/86, Station W56).

Oscar Roth Jewelers, 659 Memorial Highway, Dallas, Luzerne County, PA 18612 (Appointed: 09/22/78, Station W47).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063—Also authorized to use mobile units (Appointed: 03/14/02, Station W1).

S & D Calibration, 115 Walnut Drive, Eighty Four, Washington County, PA 15330—Also authorized to use mobile units (Appointed: 10/10/89, Station W61).

Servinsky Jewelers, 610 Second Street, Cresson, Cambria County, PA 16630 (Appointed: 05/18/78, Station W40).

Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Susquehanna County, PA 18822—Also authorized to use mobile units (Appointed: 04/22/91, Station W63).

Targetron, Incorporated, 190 Angletown Road, Muncy, Lycoming County, PA 17756—Also authorized to use mobile units (Appointed: 05/07/91, Station W64).

Wolf's Jewelry, 314 Market Street, Lewisburg, Union County, PA 17837 (Appointed: 10/06/77, Station W22).

YIS/Cowden Group, 1049 North Hartley Street, York, York County, PA 17404—Also authorized to use mobile units (Appointed: 08/30/89, Station W60).

The Department has appointed, under 75 Pa.C.S. § 3368(d), the following Official Electronic Device Testing Stations for nonradar devices which calculates average speed between any two points:

Davidheiser's Speedometer Repair, Incorporated, 181 Ridge Road, Telford, Montgomery County, PA 18969—Also authorized to use mobile units (Appointed: 02/11/93, Station EM23).

Rabolds Services, 2034 Boas Street, Harrisburg, Dauphin County, PA 17103—Also authorized to use mobile units (Appointed: 02/27/92, Station EM22).

S & D Calibration Services, 29 Prosperity Street, Monongahela, Washington County, PA 15063—Also authorized to use mobile units (Appointed: 03/14/02, Station EM1).

S & D Calibration, 115 Walnut Drive, Eighty Four, Washington County, PA 15330—Also authorized to use mobile units (Appointed: 09/14/82, Station EM6).

Speed Enforcement, Incorporated, R. D. 1, Box 32, Randolph Road, Great Bend, Susquehanna County, PA 18821—Also authorized to use mobile units (Appointed: 02/27/85, Station EM13).

Systems Innovation, Incorporated, Steam Hollow Road, R. D. 2, Hallstead, Susquehanna County, PA 18822—Also authorized to use mobile units (Appointed: 10/02/80, Station EM2).

Mahramus Specialty Auto Service, 285 Muse Bishop Road, Canonsburg, Washington County, PA 15317 (Appointed: 08/13/97, Station EM12).

Targetron, Incorporated, 190 Angletown Road, Muncy, Lycoming County, PA 17756—Also authorized to use mobile units (Appointed: 05/07/91, Station EM21).

YIS/Cowden Group, 1049 North Hartley Street, York, York County, PA 17404—Also authorized to use mobile units (Appointed: 12/20/80, Station EM5).

Comments, suggestions or questions should be directed to Peter Gertz, Manager, Administrative and Technical Support Section, Vehicle Inspection Division, Bureau of Motor Vehicles, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, (717) 783-5842.

ALLEN D. BIEHLER, P. E.,  
*Secretary,*

[Pa.B. Doc. No. 03-2465. Filed for public inspection December 26, 2003, 9:00 a.m.]

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### Finding Wayne County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Federal Highway Administration and the Department of Transportation (Department) plan to replace the Mill Creek Bridge carrying SR 0191 over Mill Creek in Haags Mill, Dreher Township, Wayne County. The subject project will require use of the National Register-listed Mill Creek Bridge.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize effects. To minimize the harm to the Section 2002 property impacted by the project, the following measures will be taken.

Prior to demolition or construction activities for the Mill Creek Bridge replacement, the Department will ensure that the bridge is documented in its existing setting and context in accordance with State level recordation standards that documentation will be submitted to

the State Archives for retention. Landscaping and designs for the new bridge will be developed in consultation with the State Historic Preservation Officer to ensure that the work is compatible with the character of the Lower Mill Creek Historic District. The Department will ensure the salvage of the upstream keystone and the date stone located in the upstream parapet of the bridge during demolition/construction. The Department will ensure the design and installation, on the top of the upstream north stream bank, of a permanent display pedestal veneered with stone salvaged from the arch and incorporating the keystone, date stone and an interpretive plaque. The Department will ensure the design, manufacture and installation of two permanent locational road signs on the north and south approaches to the historic district on SR 0191. The Department will ensure that additional copies of the Phase I Cultural Resources Survey Report are prepared for distribution to local schools, libraries and historic groups.

The Secretary has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize the effect.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 03-2466. Filed for public inspection December 26, 2003, 9:00 a.m.]

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## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, December 18, 2003, and announced the following:

#### *Regulation Approved*

Underground Storage Tank Indemnification Board #11-219: Fees and Collection Procedures (amends 25 Pa. Code Chapter 977)

#### *Regulations Deemed Approved*

Insurance Department #11-218: Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits (amends 31 Pa. Code Chapter 84b)

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### Approval Order

Public Meeting held  
December 18, 2003

*Commissioners Voting:* John R. McGinley, Jr., Esq., Chairperson; Alvin C. Bush, Vice Chairperson; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq., recused

*Department of Transportation—Vehicle Equipment and Inspection; Regulation No. 18-385*

On November 14, 2003, the Independent Regulatory Review Commission (Commission) received this regula-

tion from the Underground Storage Tank Indemnification Board (Board). This rulemaking amends 25 Pa. Code Chapter 977. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted regulation raises the gallon and capacity fees charged by the Board. Upon review of the annual actuarial report, the Board is increasing these fees by 10% to maintain the solvency of the Underground Storage Tank Indemnification Fund.

We have determined this regulation is consistent with the statutory authority of the Board (35 P. S. § 6021.705) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

*By Order of the Commission:*

This regulation is approved.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 03-2467. Filed for public inspection December 26, 2003, 9:00 a.m.]

**Notice of Comments Issued**

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

Reg. No.	Agency/Title	Close of the	
		Public Comment Period	IRRC Comments Issued
7-385	Environmental Quality Board Bond Adjustment and Bituminous Mine Subsidence Control Standards (33 Pa.B. 4554 (September 13, 2003))	11/12/03	12/12/03

**Environmental Quality Board Regulation No. 7-385  
Bond Adjustment and Bituminous Mine Subsidence Control Standards  
December 12, 2003**

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Environmental Quality Board (EQB) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on November 12, 2003. If the final-form regulation is not

delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

**Coordination of State and Federal final regulations.—Statutory authority; Implementation procedures.**

This rulemaking satisfies conditions set forth by the Federal Office of Surface Mining and Reclamation and Enforcement (OSM). Section 503(a) of the Federal Surface Mining Control and Reclamation Act (30 U.S.C.A. § 1253(a)) permits a state to assume primacy if its laws and regulations are consistent with Federal laws and regulations. The Commonwealth must meet these conditions to maintain primary enforcement authority over coal mining.

The OSM initiated two rulemakings to assist the Commonwealth in this task. The first OSM rulemaking (68 FR 55134—55137 (December 27, 2001)) will supercede six portions of the Bituminous Mine Subsidence and Land Conservation Act (BMSLCA) (52 P. S. §§ 1406.1—1406.21) that are less effective than their Federal counterparts. The second OSM rulemaking (68 FR 55106—55134 (September 22, 2003)) seeks comments on the EQB's proposed regulations regarding the BMSLCA.

The EQB's existing regulations were promulgated under the statutory authority of the BMSLCA and other Commonwealth statutes. We believe that the EQB does not have the statutory authority to promulgate this regulation until the first OSM rulemaking is in effect. Promulgation of the EQB's rulemaking before the relevant portions of the BMSLCA are superceded by the first OSM rulemaking would result in a conflict between the EQB's regulations and the BMSLCA. Therefore, we recommend that the EQB does not deliver this rulemaking in its final-form until the first OSM rulemaking has been finalized.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 03-2468. Filed for public inspection December 26, 2003, 9:00 a.m.]

**INSURANCE DEPARTMENT**

**Application for Increase in Underwriting Authority of a Domestic Stock Casualty Insurance Corporation**

Franklin Homeowners Assurance Company (Franklin Homeowners), a domestic stock property insurance company, has filed an application to increase its approved classes of underwriting authorities. The class of insurance that Franklin Homeowners has applied to add is as mentioned in 40 P. S. § 382(c)(5). Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 13 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Straw-

berry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 03-2469. Filed for public inspection December 26, 2003, 9:00 a.m.]

### Coal Mine Compensation Rating Bureau; Workers' Compensation Loss Cost Filing; Rate Filing

On December 11, 2003, the Insurance Department (Department) received from the Coal Mine Compensation Rating Bureau (CMCRB) a filing for a loss cost level change for Workers' Compensation insurance. This filing is made in accordance with section 705 of the act of July 2, 1993 (P. L. 190, No. 44). The CMCRB requests an overall 9.6% increase in collectible loss costs, effective April 1, 2004, on a new and renewal basis. Also, the CMCRB has calculated the employer assessment factor effective April 1, 2004, to be 4.44%, compared to 5.41% presently in effect.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

The entire April 1, 2004, loss cost filing is also available for review on the Department's website: [www.ins.state.pa.us](http://www.ins.state.pa.us). To access the filing, click on "Company Information," then click on "Information from the Office of Insurance Product Regulation and Market Enforcement" and then click on "Notices of filings pending before the Insurance Department (published in the PA Bulletin)."

Interested parties are invited to submit written comments, suggestions or objections to Ken Creighton, ACAS, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, [kcreighton@state.pa.us](mailto:kcreighton@state.pa.us) within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 03-2470. Filed for public inspection December 26, 2003, 9:00 a.m.]

### List of Names of Qualified Unlicensed Reinsurers

Under section 319.1 of The Insurance Company Law of 1921 (40 P. S. § 442.1), the Insurance Commissioner (Commissioner) hereby lists reinsurers not licensed by the Insurance Department (Department) which shall be considered qualified to accept reinsurance from insurers licensed by the Department.

This listing of qualified unlicensed reinsurers shall be published in the *Pennsylvania Bulletin* when additions to or deletions from the listing are made by the Commissioner. This present listing shall replace in their entirety previously published listings of qualified unlicensed reinsurers which appeared at 6 Pa.B. 2423 (September 25, 1976); 6 Pa.B. 3140 (December 18, 1976); 7 Pa.B. 501 (February 19, 1977); 7 Pa.B. 1766 (June 25, 1977); 8 Pa.B. 276 (January 28, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 3461 (December 2, 1978); 9 Pa.B. 4235 (December 22, 1979); 11 Pa.B. 38 (January 3, 1981); 12 Pa.B. 37 (January 2, 1982); 12 Pa.B. 2368 (July 23, 1982); 13 Pa.B. 657 (February 5, 1983); 13 Pa.B. 2826 (September 10, 1983); 14 Pa. B. 1053 (March 24, 1984); 14 Pa.B. 3065 (August 18, 1984); 15 Pa.B. 402 (February 2, 1985); 15 Pa.B. 3214 (September 7, 1985); 16 Pa.B. 290 (January 25, 1986); 17 Pa.B. 461 (January 24, 1987); 17 Pa.B. 5368 (December 26, 1987); 18 Pa.B. 5540 (December 10, 1988); 19 Pa.B. 713 (February 18, 1989); 19 Pa.B. 3129 (July 22, 1989); 19 Pa.B. 5476 (December 23, 1989); 20 Pa.B. 6227 (December 15, 1990); 21 Pa.B. 3286 (July 20, 1991); 21 Pa.B. 5445 (November 23, 1991); 22 Pa.B. 4591 (September 5, 1992); 23 Pa.B. 60 (January 2, 1993); 23 Pa.B. 5678 (November 27, 1993); 24 Pa.B. 4151 (August 13, 1994); 24 Pa.B. 6033 (December 3, 1994); 25 Pa.B. 5799 (December 16, 1995); 26 Pa.B. 5665 (November 16, 1996); 27 Pa.B. 2593 (May 24, 1997); 27 Pa.B. 6019 (November 15, 1997); 28 Pa.B. 5733 (November 14, 1998); 28 Pa.B. 5922 (December 5, 1998); 29 Pa.B. 5965 (November 20, 1999); 30 Pa.B. 5033 (November 18, 2000); 31 Pa.B. 205 (January 13, 2001); 31 Pa.B. 6251 (November 10, 2001); 31 Pa.B. 7083 (December 29, 2001) and 33 Pa.B. 92 (January 4, 2003).

### Qualified Reinsurers List

1. 10651 AIG Global Trade & Political Risk Insurance Company, Parsippany, New Jersey
2. 37990 American Empire Insurance Company, Cincinnati, Ohio
3. 26883 American International Specialty Lines Insurance Company, Anchorage, Alaska
4. 10316 Appalachian Insurance Company, Johnston, Rhode Island
5. 22680 Aspen Insurance UK Limited, London, England
6. 27189 Associated International Insurance Company, Woodland Hills, California
7. 50687 Attorneys' Title Insurance Fund, Inc., Orlando, Florida
8. 19925 Audubon Indemnity Company, Ridgeland, Mississippi
9. 36552 AXA Corporate Solutions Reinsurance Company, Wilmington, Delaware
10. 36951 Century Surety Company, Columbus, Ohio
11. 39993 Colony Insurance Company, Richmond, Virginia
12. 40371 Columbia Mutual Insurance Company, Columbia, Missouri
13. 27955 Commercial Risk Re-Insurance Company, South Burlington, Vermont
14. 40509 EMC Reinsurance Company, Des Moines, Iowa
15. 90670 ERC Life Reinsurance Corporation, Jefferson City, Missouri
16. 39020 Essex Insurance Company, Wilmington, Delaware
17. 35378 Evanston Insurance Company, Evanston, Illinois
18. 97071 Generali USA Life Reassurance Company, Lansing, Michigan
19. 92673 Gerling Global Life Insurance Company, Los Angeles, California
20. 87017 Gerling Global Life Reinsurance Company, Los Angeles, California

21. 37532 Great American E & S Insurance Company, Wilmington, Delaware
22. 41858 Great American Fidelity Insurance Company, Wilmington, Delaware
23. 88340 Hannover Life Reassurance Company of America, Orlando, Florida
24. 10241 Hannover Ruckversicherungs-Aktiengesellschaft, Hannover, Germany
25. 93505 Hartford International Life Reassurance Corporation, Hartford, Connecticut
26. 78972 Healthy Alliance Life Insurance Company, St. Louis, Missouri
27. 42374 Houston Casualty Company, Houston, Texas
28. 27960 Illinois Union Insurance Company, Chicago, Illinois
29. 22829 Interstate Fire & Casualty Company, Chicago, Illinois
30. 35637 Landmark Insurance Company, Los Angeles, California
31. 19437 Lexington Insurance Company, Wilmington, Delaware
32. 41939 Liberty Northwest Insurance Corporation, Portland, Oregon
33. Lloyd's Underwriters, London, England
34. 10744 Markel International Insurance Company Limited, London, England
35. 32089 Medmarc Mutual Insurance Company, Montpelier, Vermont
36. 14591 Milwaukee Mutual Insurance Company, Milwaukee, Wisconsin
37. 33189 Monticello Insurance Company, Wilmington, Delaware
38. 20079 National Fire & Marine Insurance Company, Omaha, Nebraska
39. 41629 New England Reinsurance Corporation, Hartford, Connecticut
40. 17400 Noetic Specialty Insurance Company, Chicago, Illinois
41. 31143 Old Republic Union Insurance Company, Chicago, Illinois
42. 88099 Optimum Re Insurance Company, Dallas, Texas
43. 38636 Partner Reinsurance Company of the U. S., New York, New York
44. 88536 Protective Life and Annuity Insurance Company, Birmingham, Alabama
45. 29807 PXRE Reinsurance Company, Hartford, Connecticut
46. 10679 St. Paul Reinsurance Company, Limited, London, England
47. 21911 San Francisco Reinsurance Company, Novato, California
48. 87572 Scottish Re (U. S.), Inc., Wilmington, Delaware
49. 41297 Scottsdale Insurance Company, Columbus, Ohio
50. 23388 Shelter Mutual Insurance Company, Columbia, Missouri
51. 10743 Sphere Drake Insurance Company Limited, Brighton, England
52. 10932 Starr Excess Liability Insurance Company, Ltd., Wilmington, Delaware
53. 39187 Suecia Insurance Company, Nanuet, New York
54. 19887 Trinity Universal Insurance Company, Dallas, Texas
55. 37982 Tudor Insurance Company, Keene, New Hampshire
56. 10292 Unionamerica Insurance Company Limited, London, England
57. 36048 Unione Italiana Reinsurance Company of America, Inc., New York, New York
58. 28053 United Coastal Insurance Company, Phoenix, Arizona
59. 13021 United Fire & Casualty Company, Cedar Rapids, Iowa
60. 10172 Westchester Surplus Lines Insurance Company, Atlanta, Georgia
61. 13196 Western World Insurance Company, Keene, New Hampshire
62. 10242 Zurich Specialties London Limited, London, England

#### **Changes to the Qualified Unlicensed Reinsurers List**

The following company has been added since the list was published at 33 Pa.B. 92:

Aspen Insurance UK Limited

The following companies have been removed from the list since it was published at 33 Pa.B. 92:

Eagle Insurance Company  
E & S Ruckversicherungs Aktiengesellschaft

The following companies have been removed from the list because they merged into a licensed companies since the list was published at 33 Pa.B. 92:

Clarica Life Insurance Company  
Swiss-Am Reassurance Company

The following company has been removed from the list because it became licensed in this Commonwealth after the list was published at 33 Pa.B. 92:

National Security Life and Annuity Company

The following company changed its name since the list was published at 33 Pa.B. 92:

Clarica Life Reinsurance Company changed its name to  
Generali US Life Reassurance Company

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The following companies were removed from the list because they were placed in liquidation since it was published at 33 Pa.B. 92:

Legion Indemnity Company by the Illinois Insurance Department

US International Reinsurance Company by the New Hampshire Insurance Department

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 03-2471. Filed for public inspection December 26, 2003, 9:00 a.m.]

#### **Tim and Sue Marti; Prehearing**

**Appeal of Tim and Sue Marti under 40 P. S.  
§§ 991.2101—991.2193; HealthAssurance; File No.  
03-167-09620; Doc. No. HC03-12-001**

A prehearing telephone conference initiated by the Administrative Hearings Office shall be conducted on February 3, 2004, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before December 24,



2003. A date for a hearing shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before January 20, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene shall be filed on or before January 27, 2004.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 03-2472. Filed for public inspection December 26, 2003, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Frank S. Konya; file no. 03-182-11849; Hartford Insurance Company of the Midwest; doc. no. P03-12-011; January 21, 2004, 10 a.m.

The following hearings will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Mark C. English; file no. 03-124-10583; Erie Insurance Exchange; doc. no. PI03-12-013; February 6, 2004, 10 a.m.

Appeal of Richard and Scarlet Brandt; file no. 03-303-72432; Hartford Fire Insurance Company; doc. no. PI03-12-010; February 6, 2004, 1 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 03-2473. Filed for public inspection December 26, 2003, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board lease will expire:

Mercer County, Wine & Spirits Shoppe #4303, Hadley Road, 7 Greenville Plaza, Greenville, PA 16125.

*Lease Expiration Date:* November 30, 2004

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 serving the Greenville area. Site is required to have off-street parking and good loading facilities.

*Proposals due:* January 16, 2004, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222  
**Contact:** Thomas Deal, (412) 565-5130

JONATHAN H. NEWMAN,  
*Chairperson*

[Pa.B. Doc. No. 03-2474. Filed for public inspection December 26, 2003, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
PA Department of Community and Economic Development  
374 Forum Building  
Harrisburg, PA 17120  
800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services

Location: Harrisburg, Pa.

Duration: 12/1/93-12/30/93

Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

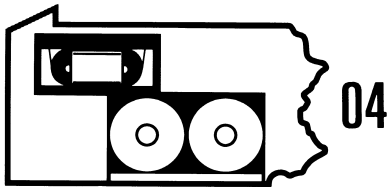
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room 201 Finance Building  
 Harrisburg, PA 17120  
 717-787-4586  
 1-800-252-4700  
 BizOutlet@patreasury.org

BARBARA HAFER,  
*State Treasurer*



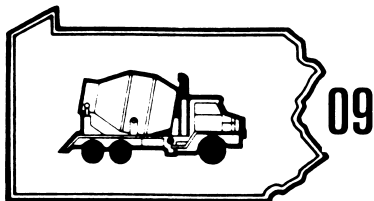
### Audio/Video

**1103-62a** Blaisdell Hall, Communications, Art and Technology Building, Theater Addition, Phase II, University of Pittsburgh—Bradford Campus: Avid Non-linear Editors w/DV Decks; Equipment must be purchased and installed as a system from one supplier.

**Department:** Education  
**Location:** University of Pittsburgh at Bradford, Bradford, PA  
**Contact:** Heidi A. Anderson, C.P.M., (814) 362 7538

**1103-62** Blaisdell Hall, Communications, Art and Technology Building, Theater Addition, Phase II, University of Pittsburgh—Bradford Campus: Radio Station Laboratory System; Equipment must be purchased and installed as a system from one supplier.

**Department:** Education  
**Location:** University of Pittsburgh at Bradford, Bradford, PA  
**Contact:** Heidi A. Anderson, C.P.M., (814) 362 7538



### Construction & Construction Maintenance

**63-0167R** West Chester University of the State System of Higher Education is soliciting sealed bids in the Construction Procurement Office, 201 Carter Drive, Suite 200, West Chester University, West Chester, PA 19383, for East Campus Parking and Roads Project No. 63-0167R. The work consists of the construction of East Campus Drive, a surface parking lot, South High Street roadway improvements, improvements at Matlack Street and an area east of Matlack Street requiring reconfiguration; extension of utilities to service a new School of Music and Performing Arts Center and a new Parking Structure and associated site amenities including a storm water management system, site utilities, site lighting and site planting. The bids are due and will be publicly opened at 11:00 a.m. on January 23, 2004 at 201 Carter Drive, Suite 200, West Chester, PA. A Pre-Bid Meeting/Site Visit will be conducted at 10:00 a.m. on December 19, 2003 meeting at Facilities Planning and Construction Office, 201 Carter Dr., Suite 300, West Chester, PA Separate Prime Bids for General Construction and Electrical work. Prevailing Wages apply. A 10% Bid Bond and 100% Contract Bonds will be required. All responsible bidders are invited to participate, including MBE/WBE firms. Plans and specifications are available from West Chester University by calling 610-436-2705, faxing the request to 610-436-2720 or via e-mail to mpeffall@wcupa.edu. Estimated cost \$1,600,000.00.

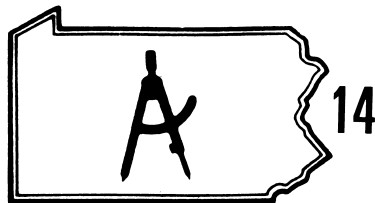
**Department:** State System of Higher Education  
**Location:** West Chester, PA  
**Duration:** 180 days from Notice to Proceed  
**Contact:** Marianne Peffall, (610) 436-2705

**62-0003** West Chester University of the State System of Higher Education is soliciting sealed bids in the Construction Procurement Office, 201 Carter Dr., Suite 200, West Chester, PA 19383 for Goshen Facade Repair, Project No. 62-0003. Removal and replacement of cast stone cladding and capstone, brick replacement, sealing of masonry joints at various locations on a seven story high rise residence hall. In addition, provide new weep holes and continuous wall flashing, provide remedial anchorage for existing brick masonry and removal of existing masonry, cast stone, joints, re-point and/or reseal pre-cast stone cladding and/or brick masonry. The bids are due and will be publicly opened at 11:00 a.m. on January 20, 2004. A Pre-Bid Meeting will be conducted at 10:00 a.m. on January 6, 2004 in the Goshen Hall parking lot, 125 N. Campus Dr., West Chester, PA. Prevailing wages will apply. A bid bond and contract bonds will be required.

**Department:** State System of Higher Education  
**Location:** West Chester University, West Chester, PA 19383  
**Duration:** Work to begin on May 10, 2004, and be completed by August 30, 2004.  
**Contact:** Barbara Cooper, (610) 436-2706

**IN-842 Room 133 Geology Lab—Weyandt Hall** Work under this project is for Room 133 Geology Lab in Weyandt Hall at IUP Main Campus. Work will include but is not limited to removal of existing ceilings, cabinets, lighting, wiring, outlets, etc., furnishing and installing new doors, air handling system, exhaust fans, fume hood, wiring, conduit, lighting, outlets, electrical service, etc. Work includes furnishing of all labor, superintendence, materials, tools and equipment and performing all work necessary to complete the project at the satisfaction of, and subject to approval by IUP Engineering and Construction Group and the Pennsylvania State System of Higher Education. See our web site at [www.iup.edu/engonstution/list.shtm](http://www.iup.edu/engonstution/list.shtm) for this complete Notice to Contractors.

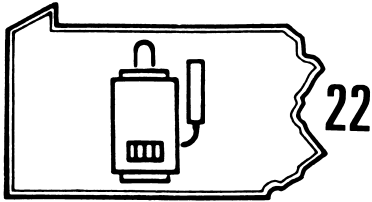
**Department:** State System of Higher Education  
**Location:** Indiana University of Pennsylvania, Weyandt Hall, 75 Oakland Avenue, Indiana, PA 15705  
**Duration:** Bids are due January 20, 2004 at 2:00 p.m. Length of time to complete the project will be 100 days beginning at time of Notice to Proceed. The University anticipates issuance of the NTP around March 1, 2004.  
**Contact:** Ronald E. Wolf, (724) 357-2289



### Engineering Services

**PennDOT-ECMS** The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at [www.dot2.state.pa.us](http://www.dot2.state.pa.us).

**Department:** Transportation  
**Location:** Various  
**Contact:** [www.dot2.state.pa.us](http://www.dot2.state.pa.us)



### HVAC Services

**IN-849 HVAC Renovations Whitmyre Hall** Work under this project is for HVAC Renovations in Whitmyre Hall consisting of demolition of existing steam heating and hot water systems and installation of new HVAC systems including: hot and chilled water piping, packaged domestic and heating water systems, packaged chilled water pumping system, fan coils, air handling units, ductwork and controls, motors, starters, panels, etc. Work includes furnishing of all labor, superintendence, materials, tools and equipment and performing all work necessary to complete the project at the satisfaction of, and subject to approval by IUP Engineering and Construction Group and the Pennsylvania State System of Higher Education. The project work schedule is specific and must be met. See our web site at [www.iup.edu/engconstruction/list.shtm](http://www.iup.edu/engconstruction/list.shtm) for the complete Notice to Contractors.

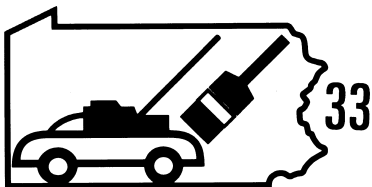
**Department:** State System of Higher Education  
**Location:** Indiana University of Pennsylvania, Whitmyre Hall, 290 Pratt Drive, Indiana, PA 15705  
**Duration:** Bids are due January 21, 2004 at 2:00 p.m. Length of time to complete the project is 215 days beginning at time of Notice to Proceed. IUP anticipates issuance of NTP about March 1, 2004.  
**Contact:** Ronald E. Wolf, (724) 357-2289



### Personnel, Temporary

**SU-03-08** Shippensburg University is seeking bids for a vendor to provide temporary personnel services for the Head Start Program for the period May 1, 2004 through April 30, 2005. The Contractor will employ and pay the staff for the University's Head Start Program. Duties include payment of salaries, mailing checks, withholding of all lawful deductions, provide worker's compensation, liability insurance, handle unemployment claims, prepare earnings records, tax reports, etc. Requests for bid package should be faxed to Deborah K. Martin at FAX: (717) 477-4004. Proposals are due NLT 4:00 PM on January 22, 2004. The University encourages responses from small, minority and women owned firms.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg, PA 17257  
**Duration:** May 1, 2004, through April 30, 2005  
**Contact:** Deborah K. Martin, (717) 477-1121



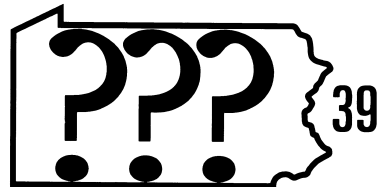
### Property Maintenance

**014-063** Mowing of various state routes within Mercer County. Mowing will include 5 foot strips left and right of each side of the roadways as specified or as directed by the County Manager. All grass areas shall be cut to a height of four (4) inches. The contract will include four mowing cycles per contract period. The first cycle will begin around May 1st with the second cycle to begin around August 1st. This will be a 2-year contract with one 2-year renewal by mutual consent of both parties at the same contract price. Each cycle shall be completed within 56 calendar days. The Department reserves the right to increase or decrease the route mileage mowed.

**Department:** Transportation  
**Location:** Mercer County  
**Duration:** Contract Period May 1, 2004, through April 30, 2006  
**Contact:** Cynthia L. Supel, (724) 662-5350

**CL-576, Repair Rhoades Walls** Clarion University is soliciting bids for repairs to the exterior and interior walls of Rhoades Hall located on the Venango Campus in Oil City, PA. The project includes selective demolition, excavation to lower exterior grade on South side of building, installation of new exterior control joints, recaulking of control joints and coping stone joints, painting of exposed wall and seeding and landscaping of affected areas. Interior work includes restoration of gymnasium with all cracked block replaced; cracked mortar joints re-pointed and existing control joints cleaned and re-caulked; installation of new control joints; and repainting of walls. Pre-bid Meeting: 10 a.m., January 13, 2004 at Rhoades Hall, Venango Campus, Oil City, PA. Bids Due: 2:00 p.m., January 27, 2004. Plans Cost: \$20 non-refundable fee for first bid package. Additional charge for multiple copies.

**Department:** State System of Higher Education  
**Location:** Clarion University, Venango Campus, Venango County, Oil City, PA  
**Duration:** 75 Days for Notice to Proceed  
**Contact:** Judy McAninch, Contract Specialist, (814) 393-2240



### Miscellaneous

**18186** The State Correctional Institution at Pittsburgh requests proposals for a Chaplain to provide chaplaincy services approximately 24 hours per week for inmates of the Protestant Faith. Selection of vendor will be based on the following factors: 1—Correctional Experience; 2—Response to a Corrections Scenario; 3—Contract Amount; 4—Training and Theology. Date of award for this contract will commence for 36 months through SCI-Pittsburgh's transition (downsizing) and possible closure. Any questions, contact Father William Terza or Marlene Stewart at 412/761-1955.

**Department:** Corrections  
**Location:** State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233  
**Duration:** Date of award, proceeding for thirty-six months  
**Contact:** Nancy Keller/Purchasing, (412) 761-1955, ext 378

[Pa.B. Doc. No. 03-2475. Filed for public inspection December 26, 2003, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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DONALD T. CUNNINGHAM, Jr.  
*Secretary*